CITY OF ONTARIO

Regular City Council/Housing Authority Meeting
JULY 19, 2022

City Hall
303 East B Street, Ontario, CA 91764

MAYOR PAUL S. LEON • MAYOR PRO TEM ALAN D. WAPNER
COUNCIL MEMBERS JIM W. BOWMAN, DEBRA DORST-PORADA AND RUBEN VALENCIA

CITY CLERK SHEILA MAUTZ • TREASURER JAMES R. MILHISER
CITY MANAGER SCOTT OCHOA • CITY ATTORNEY RUBEN DURAN

WELCOME TO A MEETING OF THE ONTARIO CITY COUNCIL

Teleconferencing Location:
119 E. Belmont Street
Ontario, CA 91761

All documents for public review are on file with the Records Management/City Clerk's Department located at 303 East B Street, Ontario, CA 91764.

Anyone wishing to speak in person during public comment or on a particular item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Clerk will not accept blue slips after that time.

To comment by email, submit your comments 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. All comments received by the deadline will be forwarded to the City Council for consideration before action is taken on the matter and will be entered into the record.

Comments will be limited to 3 minutes. Speakers will be alerted when they have 1 minute remaining and when their time is up. Speakers are then to return to their seats and no further comments will be permitted.

In accordance with State Law, remarks during public comment are to be limited to subjects within Council's jurisdiction. Remarks on other agenda items will be limited to those items. Remarks from those seated or standing in the back of the chamber will not permitted. All those wishing to speak including Council and Staff need to be recognized by the Chair before speaking.

ORDER OF BUSINESS

The regular City Council and Housing Authority meeting begins with Public Comment at 6:30 p.m. immediately followed by the Regular Meeting and Public Hearings. No agenda item will be introduced for consideration after 10:00 p.m. except by majority vote of the City Council. (EQUIPMENT FOR THE HEARING IMPAIRED AVAILABLE IN THE RECORDS MANAGEMENT OFFICE)

CALL TO ORDER *(OPEN SESSION)*

ROLL CALL

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

PLEDGE OF ALLEGIANCE

Mayor pro Tem Wapner

INVOCATION

Pastor Pete Edwardson, Calvary Baptist Church

PUBLIC COMMENTS 6:30 P.M.

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

To comment by email, 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 comment to 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 and entered into the record. As previously noted -- if you wish to address the Council, fill out one of the blue slips at the rear of the chambers and give it to the City Clerk.

AGENDA REVIEW/ANNOUNCEMENTS

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

CONSENT CALENDAR

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

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

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1. APPROVAL OF MINUTES

Minutes for the Regular Meetings of the City Council and Housing Authority of June 21, 2022, and approving same as on file in the Records Management Department.

ATTACHMENT: 20220621 (Not official until approved).pdf

2. BILLS & PAYROLL

Bills June 17, 2022 through June 30, 2022, and Payroll June 5, 2022 through June 18, 2022, when audited by the Finance Department.

3. CONTRACT AWARD FOR EMERGENCY MASS NOTIFICATION SYSTEM

That the City Council approve a contract for up to five years for a not-to-exceed amount of $300,000 ($60,000 annually) with Everbridge, Inc. to maintain and enhance the current Emergency Mass Notification System (AlertOntario).

4. A CONSTRUCTION CONTRACT AND AN AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT FOR THE 2022 STREET MAINTENANCE SLURRY SEAL, CAPE SEAL & CDBG PAVEMENT MANAGEMENT REHABILITATION PROJECT

That the City Council:

A. Award a construction contract (on file in the Records Management Department) with Pavement Coatings Co. of Jurupa Valley, California, for the 2022 Street Maintenance Slurry Seal, Cape Seal & CDBG Pavement Rehabilitation Project (Project) in the amount of $2,004,074 and authorize the City Manager, or his designee, to execute said contract and all related documents, and file a notice of completion at the conclusion of all construction activities; and

B. Approve and authorize the City Manager, or his designee, to execute an amendment to the Professional Services Agreement (on file in the Records Management Department) with Group Delta Consultants, Inc. of Anaheim, California, to provide on-call geotechnical consulting and materials testing for the Project in the amount of $4,375, for a revised total authorized expenditure of $490,836.

ATTACHMENT: Exhibit A.pdf

5. **AN AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH KLEINFELDER, INC. FOR ON-CALL GEOTECHNICAL CONSULTING, MATERIALS TESTING AND COMPACTION TESTING SERVICES**

That the City Council approve and authorize the City Manager, or his designee, to execute Amendment No. 18 to the on-call Professional Services Agreement (on file in the Records Management Department) with Kleinfelder, Inc., of Ontario, California, to provide on-call geotechnical consulting, materials testing and compaction testing services for the 2022 Fall Pavement Rehabilitation Project in the amount of $50,000 for a revised not-to-exceed total of $1,642,115, and extend the term contract through December 31, 2023 for the completion of this construction project and other ongoing construction projects, unless earlier terminated to allow for existing contracts to finalize.

6. **A PROFESSIONAL SERVICES AGREEMENT FOR THE MASTER PLAN OF DRAINAGE UPDATE PROJECT**

That the City Council approve a Professional Services Agreement (on file in the Records Management Department) with Michael Baker International, Inc., of Ontario, California to provide professional engineering services for the Master Plan of Drainage Update Project in the amount of $483,758; and authorize the City Manager, or his designee, to execute said Agreement and future amendments within the authorization limits.

7. **AN AMENDMENT TO THE GOODS & SERVICES AGREEMENT FOR PARTS AND REPAIRS OF REFUSE TRUCK BODIES WITH AMREP MANUFACTURING COMPANY**

That the City Council authorize the City Manager or his designee to execute Amendment No. 2 (on file with the Records Management Department) to the Goods & Services Agreement with AMREP Manufacturing Company of Ontario, California, in the amount of $200,000, increasing the not-to-exceed amount to $1,650,000 for parts and repairs of refuse truck bodies.

8. **AN AMENDMENT TO THE SERVICE AGREEMENT WITH GRANICUS, LLC FOR THE PURCHASE OF NEW HARDWARE AND ADDITIONAL SUBSCRIPTION**

That the City Council authorize the City Manager to execute an Amendment to the existing three-year Service Agreement (on file with the Records Management Department) with Granicus, LLC, of Saint Paul, Minnesota, for the purchase of new hardware and subscription for a total not-to-exceed $105,912.

9. **AUTHORIZE THE PURCHASE OF FLEET VEHICLES**

That the City Council authorize the cooperative purchase and delivery of 10 Ford Police Utility Vehicles for the Police Department in the amount of $416,865 from National Auto Fleet Group of Watsonville, California, consistent with the terms and conditions of the Sourcewell Cooperative Contract No. 091521-NAF.

10. **DECLARATION OF MANDATORY WATER RESTRICTIONS - STAGE 3**

That the City Council implement Stage 3 of the City's Municipal Code Water Conservation Plan.

11. AN AMENDMENT TO ON-CALL DESIGN SERVICES AGREEMENT FOR SEWER IMPROVEMENTS FOR THE PIEMONTE OVERLAY AND SURROUNDING AREAS

That the City Council approve and authorize the City Manager to execute Amendment No. 8 to the On-Call Design Services Agreement (on file in the Records Management Department) with Stantec Consulting Services, Inc., of Irvine, California, in the amount of $280,609.

ATTACHMENT: Exhibit A.pdf

12. AN AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT FOR MAINTENANCE AND REPAIRS OF THE COMPRESSED NATURAL GAS FUELING STATION WITH CLEAN ENERGY

That the City Council approve and authorize the City Manager or his designee to execute Amendment No. 1 (on file with the Records Management Department) to the Maintenance Services Agreement with Clean Energy of Newport Beach, California, in the amount of $87,386, increasing the not-to-exceed amount to $175,000 and extending the term of the Agreement to June 30, 2023, for maintenance and repairs of the City's compressed natural gas (CNG) fueling station.

13. PROFESSIONAL SERVICES AGREEMENT FOR THE EVALUATION OF AN ADVANCED WASTEWATER PURIFICATION FACILITY

That the City Council approve and authorize the City Manager or his designee to execute a Professional Services Agreement (on file in the Records Management Department) with Stetson Engineering Inc. of Covina, California, for the Evaluation of an Advanced Wastewater Purification Facility Alternative Supply Program for an amount not-to-exceed $186,148.

14. AN AMENDMENT TO THE GOODS & SERVICES AGREEMENT FOR TIRE REPAIR AND RETREADING WITH DANIELS TIRE SERVICE

That the City Council authorize the City Manager or his designee to execute Amendment No. 4 (on file with the Records Management Department) to the Goods & Services Agreement with Daniels Tire Service of Santa Fe Springs, California, in the amount of $200,000, increasing the not-to-exceed amount to $600,000 and extending the term of the Agreement to June 30, 2023, for tire repair and retreading.

15. AN AMENDMENT TO THE GOODS & SERVICES AGREEMENT FOR THE PROCUREMENT OF NEW TIRES AND TIRE CASINGS WITH DANIELS TIRE SERVICE

That the City Council authorize the City Manager or his designee to execute Amendment No. 3 (on file with the Records Management Department) to the Goods & Services Agreement with Daniels Tire Service of Santa Fe Springs, California, in the amount of $220,000, increasing the not-to-exceed amount to $740,000 and extending the term of the Agreement to June 30, 2023, for the procurement of new tires and tire casings.

16. AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH THE 20/20 NETWORK FOR COMMUNICATIONS CONSULTING

That the City Council approve and authorize the City Manager or his designee to execute Amendment No. 1 to the Professional Services Agreement (on file in the Records Management Department) with The 20/20 Network of Upland, California, for three additional years at $60,000 per year, $180,000 total, and a new total not-to-exceed contract amount of $232,000.

17. PROFESSIONAL SERVICES AGREEMENT WITH RON IVIE, CONSULTANT, FOR BROADBAND STRATEGY, DEVELOPMENT, AND OPERATIONS SERVICES

That the City Council authorize the City Manager or his designee to execute a Professional Services Agreement (on file in the Records Management Department) for up to five years with Ron Ivie, Consultant, of Boise, Idaho, for broadband strategy, development and operations support consulting services for a not-to-exceed amount of $900,000.

18. APPROVAL OF ALLOCATION AND SPENDING PLAN FOR THE BUREAU OF JUSTICE ASSISTANCE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM FOR FISCAL YEAR 2021

That the City Council approve and authorize the City Manager to execute all documents necessary to participate in the Bureau of Justice Assistance (BJA) Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and approve the proposed $47,878 grant spending plan.

19. PURCHASE OF WATER METERS AND REPAIR PARTS

That the City Council approve and authorize the sole source purchase of new water meters and repair parts for a total not-to-exceed amount of $2,700,000 from HydroPro Solutions of Ontario, California.

20. A RESOLUTION APPROVING FOUR SEPARATE GROUND LEASES BETWEEN THE CITY OF ONTARIO AND OTC LOT A OWNER, LLC, THE CITY OF ONTARIO AND OTC LOT B OWNER, LLC, THE CITY OF ONTARIO AND OTC LOT C OWNER, LLC, AND THE CITY OF ONTARIO AND OTC LOT D OWNER, LLC

That that the City Council ("City") consider and:

A. Adopt a Resolution approving four separate Ground Leases (each a "Ground Lease" and collectively, the "Ground Leases") between the City of Ontario and OTC Lot A Owner, LLC, the City of Ontario and OTC Lot B Owner, LLC, the City of Ontario and OTC Lot C Owner, LLC, and the City of Ontario and OTC Lot D Owner, LLC (each a "Tenant") for City-owned property located at 4000 East Ontario Center Parkway and the southeast and southwest corners of Via Piemonte and Via Villagio (APNs: 0210-205-01, 0210-204-38, and 0210-204-39) (on file with the Records Management Department).
B. Authorize the City Manager or his designee to further negotiate and execute the

Ground Leases and sign all documents necessary to implement the Ground Leases (on file with the Records Management Department).

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FOUR SEPARATE GROUND LEASES, TO WIT: BETWEEN THE CITY OF ONTARIO AND OTC LOT A OWNER, LLC, BETWEEN THE CITY OF ONTARIO AND OTC LOT B OWNER, LLC, BETWEEN THE CITY OF ONTARIO AND OTC LOT C OWNER, LLC, AND BETWEEN THE CITY OF ONTARIO AND OTC LOT D OWNER, LLC WITH RESPECT TO APPROXIMATELY 10.49 ACRES OF LAND LOCATED AT 4000 EAST ONTARIO CENTER PARKWAY AND THE SOUTHEAST AND SOUTHWEST CORNERS OF VIA PIEMONTE AND VIA VILLAGIO (APNS: 0210-205-01, 0210-204-38, AND 0210-204-39).

ATTACHMENT: Exhibit A^01
ATTACHMENT: Adept Agreement - CC Reso - 7.19.22.docx

21. PROFESSIONAL SERVICES AGREEMENTS WITH KENGRAPHICS, ECLIPSE PRINTING AND GRAPHICS, LLC DBA JAMES LITHO, AND ULTIMATE PRINT SOURCE FOR PRINT SERVICES

That the City Council award, approve, and authorize the City Manager, or his designee to execute three (3) separate Professional Services Agreements (on file in the Records Management Department) with Kengraphics of Upland, California; Eclipse Printing and Graphics, LLC dba James Litho of Ontario, California; and Ultimate Print Source of Ontario, California to provide Print Services for up to five years for a total not-to-exceed amount of $500,000 for all three vendors.

22. A RESOLUTION FOR PLACEMENT OF SPECIAL ASSESSMENTS ON THE SAN BERNARDINO COUNTY TAX ROLLS

That the City Council adopt a Resolution for recovery of fees and costs incurred in abating property and dangerous building violations, as well as administrative citations and civil penalties associated with property maintenance violations, and placing assessments on the San Bernardino County Tax Rolls.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A REPORT REQUESTING THE PLACEMENT OF SPECIAL ASSESSMENTS ON PROPERTY TAX BILLS FOR CIVIL PENALTIES OR RECOVERY OF COSTS INCURRED FOR ABATEMENT OF VIOLATIONS OF CITY CODES AND ORDINANCES.

ATTACHMENT: Comm Imp Special Assessments for County Tax Rolls 01^RESO^RM
ATTACHMENT: Comm Imp Special Assessments for County Tax Rolls^02 EXH A
ATTACHMENT: Comm Imp Special Assessments for County Tax Rolls^03 EXH B
ATTACHMENT: Comm Imp Special Assessments for County Tax Rolls^04 EXH C

23. ADOPTION OF AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO NON-WASTE REPORTING REQUIREMENTS

That the City Council consider and adopt an Ordinance amending Chapter 3 of Title 6 of the

Ontario Municipal Code related to Non-Waste Reporting Requirements and finding the action exempt from CEQA.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 3 (INTEGRATED SOLID WASTE MANAGEMENT) OF TITLE 6 (SANITATION AND HEALTH) OF THE ONTARIO MUNICIPAL CODE RELATING TO NON-WASTE REPORTING REQUIREMENTS.

ATTACHMENT: Solid Waste and Non-waste Distinction Reporting^ORD^RM

24. APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH SECURITAS SECURITY SERVICES USA, INC REFERENCE UNARMED SECURITY SERVICES AT CITY LOCATIONS

That City Council authorize the City Manager to execute a Professional Services Agreement with Securitas Security Services USA, Inc ("Securitas") for unarmed Security Services at various City locations for up to 5 years, for an amount not to exceed $5,418,006 which includes an optional two-year extension.

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. Affidavits of posting compliance, for all items below, are on file with the Records Management Department.

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25. A PUBLIC HEARING TO CONSIDER ORDINANCES APPROVING A DEVELOPMENT AGREEMENTS (FILE NOS. PDA22-003-A, B, C, AND D) BETWEEN THE CITY OF ONTARIO AND OTC LOT OWNER, LLC, TO ESTABLISH THE TERMS AND CONDITIONS ASSOCIATED WITH A DEVELOPMENT PLAN (FILE NO. PDEV22-014)

That the City Council introduce and waive further reading of Ordinances approving a Development Agreements (File No.'s PDA22-003-A, B, C, and D) to establish the terms and conditions associated with a Development Plan (File No. PDEV22-014) to construct up to 694 residential units and 71,500 square feet of commercial/office/retail uses on 10.49 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corners of Via Piemonte and Via Villagio, within the Mixed-Use land use district (Subareas 8, 11, 16, and 17) of the Piemonte Overlay of the Ontario Center Specific Plan.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA22-003-A, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC LOT A OWNER LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 384 RESIDENTIAL UNITS AND UP TO 25,256 SQUARE FEET OF COMMERCIAL/OFFICE/RETAIL USES, ON APPROXIMATELY 4.83 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF ONTARIO CENTER PARKWAY AND

CONCOURS STREET, WITHIN MIXED-USE SUBAREA 16 OF THE PIEMONTE OVERLAY OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: NORTHEAST PORTION OF 0210-205-01.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA22-003-B, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC LOT B OWNER LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 112 RESIDENTIAL UNITS AND UP TO 20,802 SQUARE FEET OF COMMERCIAL/OFFICE/RETAIL USES, ON APPROXIMATELY 1.69 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF ONTARIO CENTER PARKWAY AND FERRARI LANE, WITHIN MIXED-USE SUBAREA 17 OF THE PIEMONTE OVERLAY OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: SOUTHEAST PORTION OF 0210-205-01.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA22-003-C, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC LOT C OWNER LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 94 RESIDENTIAL UNITS AND UP TO 11,047 SQUARE FEET OF COMMERCIAL/OFFICE RETAIL USES, ON APPROXIMATELY 1.93 ACRES OF LAND FOR LOCATED AT THE SOUTHWEST CORNER OF ONTARIO VIA PIEMONTE AND VIA VILLAGIO, WITHIN MIXED-USE SUBAREA 8 OF THE PIEMONTE OVERLAY OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0210-204-39.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FILE NO. PDA22-003-D, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC LOT D OWNER, LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 104 RESIDENTIAL UNITS AND UP TO 14,095 SQUARE FEET OF COMMERCIAL/OFFICE/RETAIL USES, ON APPROXIMATELY 2.04 ACRES OF LAND LOCATED AT THE SOUTHEAST CORNER OF ONTARIO VIA PIEMONTE AND VIA VILLAGIO WITHIN THE MIXED-USE SUBAREA 11 OF THE PIEMONTE OVERLAY OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0210-204-38.

ATTACHMENT: File No. PDA22-003-A OTC Owner LLC^01 EXHIBITS A,B,C & D
ATTACHMENT: File No. PDA22-003 OTC Owner LLC^02 PC Back-up
ATTACHMENT: File No. PDA22-003-A OTC Owner LLC 03 ORD A^RM
ATTACHMENT: File No. PDA22-003-A OTC Owner LLC^04 DA
ATTACHMENT: File No. PDA22-003-B OTC Owner LLC^05 ORD B^RM
ATTACHMENT: File No. PDA22-003-B OTC Owner LLC^06 DA
ATTACHMENT: File No. PDA22-003-C OTC Owner LLC 07^ORD C^RM
ATTACHMENT: File No. PDA22-003-C OTC Owner LLC^08 DA
ATTACHMENT: File No. PDA22-003-D OTC Owner LLC^09 ORD D^RM
ATTACHMENT: File No. PDA22-003-D OTC Owner LLC^10 DA

26. ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICT NOS.

1 AND 2 FOR FISCAL YEAR 2022-23.

That the City Council conduct a combined public hearing for the districts and take the following actions pertaining to the levy of assessments within Street Lighting Maintenance Districts (SLMD) Nos. 1 and 2 and:

A. Adopt a Resolution approving the Engineer's Reports relating to the levy of assessments for each district;
B. Adopt a Resolution confirming the diagram and assessment and providing for the assessment levy within Street Lighting Maintenance District 1; and
C. Adopt a Resolution confirming the diagram and assessment and providing for the assessment levy within Street Lighting Maintenance District 2.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND 2 FOR FISCAL YEAR 2022-23.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2022-23.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 2 FOR FISCAL YEAR 2022-23.

ATTACHMENT: SLMD Levy^01 EXH A Levy Table.pdf
ATTACHMENT: SLMD Levy^02 Vicinity Maps.pdf
ATTACHMENT: SLMD Levy^04 RESO - Confirming Assessment SLMD 1^RM
ATTACHMENT: SLMD Levy^05 RESO - Confirming Assessment SLMD 2^RM

27. ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICT NOS. 1, 2, 3 AND 4 FOR FISCAL YEAR 2022-23

That the City Council conduct a combined public hearing for the districts and take the following actions pertaining to the levy of assessments within Ontario Parkway Maintenance Assessment Districts (OPMAD) Nos. 1, 2, 3 and 4 and:

A. Adopt a Resolution approving the Engineer's Reports relating to the levy of assessments for each district;
B. Adopt a Resolution confirming the diagrams and assessments and providing for the assessment levy within Ontario Parkway Maintenance Assessment Districts Nos. 1, 2, & 3; and
C. Adopt a Resolution confirming the diagram and assessment and providing for the assessment levy within Ontario Parkway Maintenance Assessment District No. 4.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2, 3 AND 4 FOR FISCAL YEAR 2022-23.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAMS AND ASSESSMENTS, AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3 FOR FISCAL YEAR 2022-23.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICT NO. 4 FOR FISCAL YEAR 2022-23.

ATTACHMENT: OPMAD Levy^01 EXH A.pdf
ATTACHMENT: OPMAD Levy^02 Vicinity Maps.pdf
ATTACHMENT: OPMAD Levy^03 RESO - Approving Engineers Report OPMAD 1, 2, 3, and 4^RM
ATTACHMENT: OPMAD Levy^04 RESO - Confirming Assessment OPMAD 1, 2, and 3^RM
ATTACHMENT: OPMAD Levy^05 RESO - Confirming Assessment OPMAD 4^RM

28. A PUBLIC HEARING TO REVIEW INITIAL DRAFT DISTRICTING MAPS FOR THE DISTRICT-BASED ELECTIONS UNDER THE CALIFORNIA VOTING RIGHTS ACT AND INTRODUCE AN ORDINANCE TO ADOPT A MAP

That the City Council open a Public Hearing, review, consider, and provide direction regarding the initial draft maps and introduce an Ordinance to adopt a map.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING A NEW ARTICLE 3 TO TITLE 2 OF VOLUME 1 OF THE ONTARIO MUNICIPAL CODE TO CHANGE THE CITY'S ELECTORAL SYSTEM FROM AT-LARGE TO BY-DISTRICT ELECTIONS WITH RESPECT TO ELECTING CITY COUNCIL MEMBERS AND MAINTAINING AN ELECTIVE MAYOR, ESTABLISHING DISTRICT BOUNDARIES, SCHEDULING ELECTIONS WITHIN THE DISTRICTS, AND MAKING CERTAIN FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

ATTACHMENT: Map 1 - Form for Posting online-c1.pdf
ATTACHMENT: Map 2 - Form for Posting online-c1.pdf
ATTACHMENT: Map 3 - Form for Posting online-c1.pdf
ATTACHMENT: Map 4 - Form for Posting online-c1.pdf
ATTACHMENT: Map 5 - Form for Posting online-c1.pdf
ATTACHMENT: Map 6 - Form for Posting online-c1.pdf
ATTACHMENT: Map 7 - Form for Posting online-c1.pdf
ATTACHMENT: Map 8 - Form for Posting online-c1.pdf

ATTACHMENT: Map 9 - Form for Posting online-c1.pdf
ATTACHMENT: Map 10 - Form for Posting online-c1.pdf
ATTACHMENT: Map 11 - Form for Posting online-c1.pdf
ATTACHMENT: Map 12 - Form for Posting online-c1.pdf
ATTACHMENT: Map 13 - Form for Posting online-c1.pdf
ATTACHMENT: Map 14 - Form for Posting online-c1.pdf
ATTACHMENT: Map 15 - Form for Posting online-c1.pdf
ATTACHMENT: Map 16 - Form for Posting online-c1.pdf
ATTACHMENT: Changing to By District Election^ORD^RM

29. A PUBLIC HEARING TO CONSIDER THE PROPOSED CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF THE EXISTING SPECIAL TAX FOR COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES), AND A PUBLIC HEARING TO CONSIDER THE AMENDMENT OF RESOLUTION NO. 2017-124 TO INCREASE THE MAXIMUM AGGREGATE AMOUNT OF BONDED INDEBTEDNESS THAT COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES) IS AUTHORIZED TO INCUR

That the City Council consider and:

A. Adopt a Resolution calling a special election for proposed changes to the Rate and Method of Apportionment (the "RMA") of the existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South-Facilities),
B. Adopt a Resolution declaring results of the special election, determining that changes to the Rate and Method of Apportionment of the existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South-Facilities) are lawfully authorized and directing recording of an amendment to Notice of Special Tax Lien,
C. Introduce and waive further reading of an Ordinance amending and restating Ordinance No. 3082 levying special taxes within City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South-Facilities).
D. Adopt a Resolution deeming it necessary to amend Resolution No. 2017-124 in order to increase the maximum aggregate amount of bonded indebtedness that Community Facilities District No. 35 (Countryside Phase 2 South-Facilities) is authorized to incur;
E. Adopt a Resolution calling a special election for Community Facilities District No. 35 (Countryside Phase 2 South-Facilities); and
F. Adopt a Resolution declaring the results of the special election.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING A SPECIAL ELECTION FOR PROPOSED CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF THE EXISTING SPECIAL TAX OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES).

A RESOLUTION OF CHANGE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION, DETERMINING THAT CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF THE EXISTING SPECIAL TAX OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35

(COUNTRYSIDE PHASE 2 SOUTH-FACILITIES) ARE LAWFULLY AUTHORIZED AND DIRECTING RECORDING OF AN AMENDMENT TO NOTICE OF SPECIAL TAX LIEN.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING AND RESTATING ORDINANCE NO. 3082 LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES).

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO AMEND RESOLUTION NO. 2017-124 IN ORDER TO INCREASE THE MAXIMUM AGGREGATE AMOUNT OF BONDED INDEBTEDNESS THAT CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES) IS AUTHORIZED TO INCUR.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES).

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION OF COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES).

ATTACHMENT: CFD No. 35 Countryside Phase 2 So-Fac 01 RESO Calling Special^RM
ATTACHMENT: CFD No. 35 Countryside Phase 2 So-Fac^01A EXH A RMA.pdf
ATTACHMENT: CFD No. 35 Countryside Phase 2 So-Fac 02 RESO Declaring Results^RM
ATTACHMENT: CFD No. 35 Countryside Phase 2 So-Fac 03^ORD^RM
ATTACHMENT: CFD No. 35 Countryside Phase 2 So-Fac 04 RESO Deeming it Necessary to Incur^RM
ATTACHMENT: CFD No. 35 Countryside Phase 2 So-Fac 05 RESO^Calling Special Election^RM
ATTACHMENT: CFD No. 35 Countryside Phase 2 So-Fac 06 RESO^Declaring Results of Special Election^RM

30. A PUBLIC HEARING TO CONSIDER A DEVELOPMENT CODE AMENDMENT (FILE NO. PDCA22-004) PROPOSING CERTAIN CLARIFICATIONS AND REVISIONS TO THE CITY OF ONTARIO DEVELOPMENT CODE PERTAINING TO CHINO AIRPORT

That the City Council introduce and waive further reading of the Ordinance approving File No. PDCA22-004, a Development Code Amendment proposing certain clarifications and revisions to the City of Ontario Development Code, establishing the Chino Airport Overlay zoning district and Reference L, Chino Airport Land Use Compatibility Plan.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA22-004, A DEVELOPMENT CODE AMENDMENT FOR CERTAIN REVISIONS TO THE CITY OF ONTARIO DEVELOPMENT CODE, ESTABLISHING THE CHINO AIRPORT OVERLAY ZONING DISTRICT AND REFERENCE L, CHINO AIRPORT LAND USE COMPATIBILITY PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF.

ATTACHMENT: File No. PDCA22-004 ^01 PC Back-up
ATTACHMENT: File_No._PDCA22-004_02_ORD_RM.pdf

STAFF MATTERS

City Manager Ochoa

COUNCIL MATTERS

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

ADJOURNMENT

ONTARIO CITY COUNCIL/
ONTARIO HOUSING AUTHORITY
MINUTES
JUNE 21, 2022
(Not Official Until Approved)

JOINT MEETINGS

The regular meetings of the Ontario City Council and Housing Authority were held on Tuesday, June 21, 2022 at Ontario City Hall, 303 E. B Street Ontario, California.

CALL TO ORDER

Mayor Leon called the joint meetings to order at 6:04 p.m.

ROLL CALL

PRESENT:	Mayor/Chairman	Paul S. Leon
	Mayor pro Tem/Vice Chair:	Alan D. Wapner
	Council/Authority Members:	Jim W. Bowman, Debra Dorst-Porada and Ruben Valencia
ABSENT:	Council/Authority Members:	None.

Also present were City Manager / Executive Director Scott Ochoa, Assistant City Attorney/Legal Counsel Ryan Guiboa, and City Clerk / Secretary Sheila Mautz.

CLOSED SESSION PUBLIC COMMENT

Mayor Leon inquired whether persons were present who wished to speak to the Closed Sessions item. Hearing no one, Assistant City Attorney Guiboa announced the matters for discussion as listed on the agenda. He also announced that property negotiations with OTC Owner, LLC below was pulled from the Closed Session agenda:

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
  Property: APN: 0210-205-01; 0210-204-38; 0210-204-39; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: OTC Owner, LLC; Under negotiation: Price and terms of payment – Item Pulled from Closed Session and not discussed.

The City Council recessed to Closed Session at 6:05 p.m. for discussion of the following:

CLOSED SESSION

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: Jay Spicer v. City of Ontario, et al., Superior Court of California, County of San Bernardino, Case No. CIVDS1711812

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
  Property: APN: 1048-481-06; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: David D. Miller and Denyse Miller, as Trustees of the Miller Living Trust; Under negotiation: Price and terms of payment.

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
  Property: APN: 1048-481-07; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: Jose G. Jimenez; Under negotiation: Price and terms of payment.

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
  Property: APN: 1048-481-27; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: Bhupendrakumar M. Patel and Hansaben B. Patel, as Trustees of the B. Patel Family Trust; Under negotiation: Price and terms of payment.

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
  Property: APN: 1048-481-28; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: Maan F. Harb; Under negotiation: Price and terms of payment.

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
  Property: APN: 1048-481-29; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: Dali III, LLC; Under negotiation: Price and terms of payment.

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
  Property: APN: 1048-562-03; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: Rubel Family Trust; Under negotiation: Price and terms of payment.

- GC 54956.9(1)(d) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION Center for Community Action and Environmental Justice v. City of Ontario, et al., Superior Court of California, County of San Bernardino, Case No. CIVSB2206058

CALL TO ORDER – OPEN SESSION

Mayor Leon called the meetings to order at 6:42 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Dorst-Porada.

INVOCATION

The Invocation was led by Senior Pastor Brian E. Kennedy, Mt. Zion Baptist Church.

REPORT ON CLOSED SESSION

Assistant City Attorney Guiboa announced that property negotiations regarding OTC Owner, LLC was pulled from the Closed Session agenda and not discussed. There was no reportable action regarding the other matters listed.

PUBLIC COMMENTS

There were seventeen emailed comments:

Katherine De La Rosa regarding Ontario Fast Pitch Softball

Robert Barragan in opposition of the TOP 2050 General Plan.

Vanessa Yambot in opposition of the TOP 2050 General Plan.

Ilianna Romero in opposition of the TOP 2050 General Plan.

Verlynn Gojit in opposition of the TOP 2050 General Plan.

Inmi Chao in opposition of the TOP 2050 General Plan.

Katie Crofford in opposition of the TOP 2050 General Plan.

Elvira Rios in opposition of the TOP 2050 General Plan.

Aldo Velazco in opposition of the TOP 2050 General Plan.

Inez Cardenas in opposition of the TOP 2050 General Plan.

Carline Lanspa in opposition of the TOP 2050 General Plan.

Daniel Lo in opposition of the TOP 2050 General Plan.

Antoinette Anderson in opposition of the TOP 2050 General Plan.

Danielle Martinez in opposition of the TOP 2050 General Plan.

Cynthia Serrano in opposition of the TOP 2050 General Plan.

Tina Silva in opposition of the TOP 2050 General Plan.

Malina Shaw in opposition of the TOP 2050 General Plan.

Mayor Leon called on the first speaker:

Luciano Quezada, Representative of Norma Torres' office, introduced himself and stated he looks forward to collaborating with the City.

Armando Rodriguez, announced upcoming event with the Hispanic Chamber of Commerce and requested assistance from the City regarding recent break-ins.

Randy Bekendam spoke in opposition of the TOP 2050 General Plan.

Norberto Corona, spoke on overcrowding in local high schools.

Maribel Nunez, spoke in opposition of the TOP 2050 General Plan.

Ana Gonzalez, spoke in opposition to the TOP 2050 General Plan.

Yasmin Ramirez, spoke in opposition to the TOP 2050 General Plan.

Celina Lopez, was not present when called upon.

Jairus Martinez, spoke in opposition to the TOP 2050 General Plan.

AGENDA REVIEW/ANNOUNCEMENTS

City Manager Ochoa made no announcements.

CONSENT CALENDAR

MOTION: Moved by Council Member Bowman, seconded by Council Member Dorst-Porada and carried by unanimous vote 5-0, to approve the Consent Calendar as presented.

1. APPROVAL OF MINUTES

Minutes for the Regular Meetings of the City Council, Housing Authority, Successor Agency to the Ontario Redevelopment Agency, and Ontario Financing Authority of May 17, 2022 and Special Meeting of May 26, 2022, and approving the same as on file in the Records Management Department.

2. BILLS & PAYROLL

Bills from May 20, 2022 through June 2, 2022 in the amount of $23,646,748.64 and Payroll from May 8, 2022 through May 21, 2022 in the amount of $3,963,550.84, when audited by the Finance Department.

3. PROFESSIONAL SERVICES AGREEMENTS WITH BPR CONSULTING SERVICES, CSG CONSULTANTS, INC., AND WILLDAN ENGINEERING FOR

ON-CALL BUILDING INSPECTION SERVICES, BUILDING PLAN CHECK SERVICE, BUILDING PERMIT TECHNICIAN SERVICES, AND BUILDING OFFICE SERVICES

The City Council awarded, approved and authorized the City Manager, or his designee, to:

A. Execute a three-year Professional Services Agreements with BPR Consulting Services of El Dorado Hills, California; CSG Consultants, Inc. of Orange, California; and, Willdan Engineering of Industry, California, to provide on-call inspection, plan check, permit technician, and building office services for a not-to-exceed amount of $500,000 per year per vendor, with a not-to-exceed amount of $1,500,000 per vendor and a total expenditure of $4,500,000 over the initial three years of the contract; and
B. Extend the Agreements for up to two (2) additional one (1) year periods, at the City's discretion, for an estimated annual expenditure of $1,500,000 per year, consistent with City Council approved budgets for each respective fiscal year.

4. PROFESSIONAL SERVICES AGREEMENT FOR COMMUNITY IMPROVEMENT DEPARTMENT LEGAL SERVICES

The City Council awarded, approved and authorized the City Manager, or his designee, to:

A. Execute a three-year Professional Services Agreement with the Law Offices of Charisse L. Smith for Community Improvement Department Legal Services in an amount not to exceed $100,000 per year and a total not to exceed amount of $300,000 for the initial term of the agreement; and
B. Authorize the option to extend the agreement, at the City's sole discretion, for up to two additional one-year terms, consistent with approved budgets for each respective fiscal year.

5. EMERGENCY ON-CALL BOARD UPS AND ABATEMENTS CONTRACTOR AGREEMENTS

The City Council awarded, approved and authorized the City Manager, or his designee, to:

A. Execute three-year construction agreements with SLS Property Solutions, Inc. of Santa Ana, CA and Belfor USA Group, Inc. of Birmingham, MI, for a not-to-exceed amount of $100,000 per year per vendor, with a not-to-exceed amount of $300,000 per vendor for three years and a total not-to-exceed amount of $600,000 for both vendors over the initial three years of the contract, consistent with approved budgets for each respective fiscal year; and

B. Authorize the option to extend each agreement for up to two additional one-year terms, consistent with approved budgets for each respective fiscal year.

6. A DESIGN SERVICES AGREEMENT FOR THE SAN ANTONIO STORM DRAIN PROJECT

The City Council approved a Design Services Agreement with EXP US Services, Inc., of San Bernardino, California to provide engineering design services for the San Antonio Storm Drain Project in the amount of $940,047, plus a ten percent (10%) contingency of $94,005 for a total amount of $1,034,052; and authorize the City Manager to execute said Agreement and future amendments within the authorization limits.

7. AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 1, CHAPTER 6 OF TITLE 2, AND CHAPTERS 1 AND 2 OF TITLE 3 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE PROCUREMENT OF ON-CALL SERVICES, APPROVAL AND MANUAL SIGNATURE REQUIREMENTS, AND FEES LOCATED IN THE CITYWIDE FEE SCHEDULE

The City Council considered and adopted an Ordinance to amend Chapter 2 of Title 1, Chapter 6 of Title 2, and Chapters 1 and 2 of Title 3 of the Ontario Municipal Code relating to the procurement of on-call services, approval and manual signature requirements, and fees located in the Citywide Fee Schedule. Introduction and first reading took place at a regular meeting on June 7, 2022.

ORDINANCE NO. 3211 CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 2 OF TITLE 1, CHAPTER 6 OF TITLE 2, AND CHAPTERS 1 AND 2 OF TITLE 3 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE PROCUREMENT OF ON-CALL SERVICES, APPROVAL AND MANUAL SIGNATURE REQUIREMENTS, AND FEES LOCATED IN THE CITYWIDE FEE SCHEDULE.

8. ONE-YEAR ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT ("CDBG"), HOME INVESTMENT PARTNERSHIPS ("HOME"), AND EMERGENCY SOLUTIONS GRANT ("ESG") PROGRAMS FOR FISCAL YEAR 2022-23

The City Council:

A. Approved the One-Year Action Plan for Fiscal Year 2022-23 for the Community Development Block Grant ("CDBG"), HOME Investment Partnerships ("HOME"), and Emergency Solutions Grant ("ESG") Programs (on file in the Records Management Department);
B. Directed Staff to prepare and transmit the final documents to U.S. Department of Housing and Urban Development ("HUD"); and
C. Authorized the City Manager, or his designee, to take all actions necessary or desirable to implement the One-Year Action Plan for Fiscal Year 2022-23 and Subrecipient Agreements.

9. ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICT NOS. 1 AND 2 FOR FISCAL YEAR 2022-23

The City Council adopted Resolutions pertaining to the levy of assessments within Street Lighting Maintenance District (SLMD) Nos. 1 and 2:

A. A Resolution initiating proceedings and ordering the preparation of an Engineer's Report for each district relating to the annual levy of assessments;
B. A Resolution giving preliminary approval of the Engineer's Reports; and
C. A Resolution for each district declaring the City's intention to levy the special assessments for Fiscal Year 2022-23 and set the date of July 19, 2022, for a Public Hearing on each district in accordance with the Landscaping and Lighting Act of 1972.

RESOLUTION NO. 2022-053 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ORDERING THE PREPARATION OF THE ASSESSMENT ENGINEER'S REPORTS PURSUANT TO THE PROVISIONS OF DIVISION 15, PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA, FOR PROCEEDINGS FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND NO. 2 FOR FISCAL YEAR 2022-23.

RESOLUTION NO. 2022-054 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ASSESSMENT ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND NO. 2 FOR FISCAL YEAR 2022-23.

RESOLUTION NO. 2022-055 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING ITS INTENTION TO PROVIDE FOR AN ANNUAL LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2022-23 IN ONTARIO STREET LIGHTING MAINTENANCE DISTRICT NO. 1 PURSUANT TO THE PROVISIONS OF DIVISION 15, PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA, AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON.

RESOLUTION NO. 2022-056 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING ITS INTENTION TO PROVIDE FOR AN ANNUAL LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2022-23 IN ONTARIO STREET LIGHTING MAINTENANCE DISTRICT NO. 2, PURSUANT TO THE PROVISIONS OF DIVISION 15, PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA, AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON.

10. ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICT NOS. 1, 2, 3 AND 4 FOR FISCAL YEAR 2022-23.

The City Council adopted Resolutions pertaining to the levy of assessments within Ontario Parkway Maintenance Assessment District (OPMAD) Nos. 1, 2, 3 and 4:

A. A Resolution initiating proceedings and ordering the preparation of an Engineer's Report for each district relating to the annual levy of assessments;
B. A Resolution giving preliminary approval of the Engineer's Report;
C. A Resolution for District Nos. 1, 2 and 3, and a Resolution for District No. 4, declaring the City's intention to levy the special assessments for Fiscal Year 2022-23 and set the date of July 19, 2022 for a Public Hearing on each district in accordance with the Landscaping and Lighting Act of 1972.

RESOLUTION NO. 2022-057 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ORDERING THE PREPARATION OF THE ASSESSMENT ENGINEER'S REPORTS PURSUANT TO THE PROVISIONS OF DIVISION 15, PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA, FOR PROCEEDINGS FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2, 3 AND 4 FOR FISCAL YEAR 2022-23.

RESOLUTION NO. 2022-058 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ASSESSMENT ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2, 3 AND 4 FOR FISCAL YEAR 2022-23.

RESOLUTION NO. 2022-059 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING ITS INTENTION TO PROVIDE FOR AN ANNUAL LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2022-23 IN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3, PURSUANT TO THE PROVISIONS OF DIVISION 15, PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA, AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON.

RESOLUTION NO. 2022-060 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING ITS INTENTION TO PROVIDE FOR AN ANNUAL LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2022-23 IN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICT NO. 4, PURSUANT TO THE PROVISIONS OF DIVISION 15, PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA, AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON.

11. AN AMENDMENT TO THE INFORMATION TECHNOLOGY CONTRACT FOR THE SECURITY CAMERAS, ACCESS CONTROL, PAGING/DURESS INSTALLATION, REPAIR AND MAINTENANCE AGREEMENT

The City Council authorized the City Manager to execute Amendment (Change Order) No. 3 in the amount of $31,500 to the existing Information Technology Contract for Security Camera, Access Control, Paging/Duress Installation, Repair and Maintenance Services with American Threat Assessment Consulting, Inc. of Rancho Cucamonga, California, for Fiscal Year 2022-23.

12. AN AMENDMENT TO THE ARCHITECTURAL DESIGN SERVICES AGREEMENT FOR THE NEW CARLSON EXHIBIT AND THE NEW ART STORAGE FACILITY

The City Council authorized the City Manager to execute an Amendment (Change Order) No. 1 in the amount of $29,000 to the existing Architectural Design Services Agreement for the Architectural Design Services for the New Carlson Exhibit and the New Art Storage Facility with Architectural Resources Group, Inc. of San Francisco, California, for Fiscal Year 2022-23.

13. AN AMENDMENT TO THE GOODS AND SERVICES AGREEMENT FOR THE ONTARIO MUNICIPAL SERVICES CENTER MODULAR PURCHASE

The City Council authorized the City Manager or his designee to execute Amendment No. 1 to the Goods and Services Agreement with Williams Scotsman Inc. of Baltimore, Maryland, in the amount of $82,553, increasing the not-to-exceed amount from $825,555 to $908,108 for additional installation services at the Ontario Municipal Services Center Modular and to extend the Agreement for an additional 12 months.

14. AN AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR LEGAL AND TECHNICAL SERVICES PERTAINING TO WATER AND WASTEWATER MATTERS

The City Council approved and authorized the City Manager or his designee to execute Amendment No. 4 to the Professional Services Agreement with Nossaman LLP of Los Angeles, California, in the not-to-exceed amount of $400,000 for legal and technical services with respect to matters relating to sewer disposal, water supply and water rights, and extending the term of the Agreement for Fiscal Year 2022-23.

15. A PROFESSIONAL SERVICES AGREEMENT FOR THE SOUTH ARCHIBALD ALTERNATIVE WATER SUPPLY PROGRAM

The City Council approved and authorized the City Manager or his designee to execute a Professional Services Agreement with EEC Environmental of Orange, California, to provide operations and maintenance services for the South Archibald Alternative Water Supply Program for a total not-to-exceed amount of $3,776,000,

with an initial term of three years (FY 2022-23 - $673,000, FY 2023-24 - $716,500, and FY 2024-25 - $765,000), and authorized the option to extend the Agreement for up two consecutive one-year periods (FY 2025-26 - $796,500, and FY 2026-27 - $825,000).

16. A PROFESSIONAL SERVICES AGREEMENT FOR SAMPLING AND ANALYTICAL SERVICES

The City Council approved and authorized the City Manager or his designee to execute a Professional Services Agreement with Babcock Laboratories, Inc., of Riverside, California, for industrial user sampling and wastewater analytical laboratories services for a total not-to-exceed amount of $397,090, with an initial term of three years (FY 2022-23 to FY 2024-25 - $78,000 per FY), and authorized the option to extend the Agreement for up to two consecutive one-year periods with up to 3% increases (FY 2025-26 -$80,340, and FY 2026-27 - $82,750).

17. A DEVELOPMENT CODE AMENDMENT (FILE NO. PDCA22-003) PROPOSING CERTAIN CLARIFICATIONS AND REVISIONS TO THE CITY OF ONTARIO DEVELOPMENT CODE

The City Council considered and adopted an Ordinance approving File No. PDCA22-003, a Development Code Amendment proposing certain clarifications and revisions to the City of Ontario Development Code, addressing time extensions for discretionary projects; public notification requirements for minor variances; administrative exceptions; specific plan minor amendments; housing and reasonable accommodations; accessory dwelling units; minimum useable rear yard area for single-family dwellings; banquet facilities on historic properties; retail sales events; conversion of garages to accommodate accessory dwelling units; the definition for “garage;” and, single-family two-unit projects and urban lot splits, rescinding urgency Ordinance No. 3200 and adopting standards, and certain allowed land uses. First reading and introduction took place at a regular Council meeting on June 7, 2022.

ORDINANCE NO. 3212 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA22-003, A DEVELOPMENT CODE AMENDMENT REVISING AND CLARIFYING CERTAIN PROVISIONS ADDRESSING [1] TIME EXTENSIONS FOR DISCRETIONARY PROJECTS (SECTION 2.02.025.B.2.C); [2] PUBLIC NOTIFICATION REQUIREMENTS FOR MINOR VARIANCES (SECTION 2.03.010); [3] ADMINISTRATIVE EXCEPTIONS (SECTIONS 4.02.020 AND 4.03.050, AND TABLES 2.02-1 AND 2.03-1); SPECIFIC PLAN MINOR AMENDMENTS (SECTION 4.02.080); [5] HOUSING AND REASONABLE ACCOMMODATIONS (SECTIONS 4.02.035 AND 4.03.055, AND TABLES 2.02-1 AND 2.03-1); [6] ACCESSORY DWELLING UNITS (SECTION 5.03.010); [7] MINIMUM USEABLE REAR YARD AREA FOR SINGLE-FAMILY DWELLINGS (SECTION 5.03.011); [8] BANQUET FACILITIES ON HISTORIC PROPERTIES (SECTION 5.03.067); RETAIL SALES EVENTS (SECTION 5.03.395 AND TABLE 8.01-1); [10] CONVERSION OF GARAGES TO ACCOMMODATE ACCESSORY DWELLING UNITS (SECTION

6.01.010); [11] DEFINITION FOR "GARAGE" (SECTION 9.01.010.G); [12] SINGLE-FAMILY TWO-UNIT PROJECTS AND URBAN LOT SPLITS, RESCINDING URGENCY ORDINANCE NO. 3200 AND ADOPTING STANDARDS (SECTIONS 5.03.403 AND 6.08.060, AND TABLES 2.02-1 AND 2.03-1); AND [13] CERTAIN ALLOWED LAND USES (TABLE 5.02-1), AND MAKING FINDINGS IN SUPPORT THEREOF.

18. ADOPTION OF AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 6 OF VOLUME I OF THE ONTARIO MUNICIPAL CODE REGARDING INTEGRATED SOLID WASTE MANAGEMENT COLLECTION FREQUENCY

The City Council considered and adopted an Ordinance amending Chapter 3 of Title 6 of Volume I of the Ontario Municipal Code regarding integrated solid waste management collection frequency and finding the action exempt from CEQA. First reading and introduction took place at a regular Council meeting on June 7, 2022.

ORDINANCE NO. 3213 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 3 OF TITLE 6 OF VOLUME I OF THE ONTARIO MUNICIPAL CODE REGARDING INTEGRATED SOLID WASTE MANAGEMENT COLLECTION FREQUENCY AND FINDING THE ACTION EXEMPT FROM CEQA.

PUBLIC HEARINGS

19. A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT (FILE NO. PDA21-007) BETWEEN THE CITY OF ONTARIO AND REMINGTON APG LLC, TO ESTABLISH THE TERMS AND CONDITIONS ASSOCIATED WITH A DEVELOPMENT PLAN (FILE NO. PDEV21-024) TO CONSTRUCT THREE INDUSTRIAL BUILDINGS TOTALING 200,322 SQUARE FEET ON 10.2 ACRES OF LAND, LOCATED AT THE NORTHEAST CORNER OF REMINGTON AVENUE AND THE CUCAMONGA CREEK FLOOD CONTROL CHANNEL, WITHIN THE INDUSTRIAL (PA-3) LAND USE DISTRICT OF THE COLONY COMMERCE CENTER EAST SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF - APNS: 0218-311-07 AND 0218-311-13

The City Council introduced and waived further reading of an Ordinance approving a Development Agreement (File No. PDA21-007) between the City of Ontario and Remington APG, LLC, to establish the terms and conditions associated with a Development Plan (File No. PDEV21-024) to construct three industrial buildings totaling 200,322 square feet on 10.2 acres of land, located at the northeast corner of Remington Avenue and the Cucamonga Creek Flood Control Channel, within the Industrial (PA-3) land use district of the Colony Commerce Center East Specific Plan.

ORDINANCE NO. 3214 (FIRST READING) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A

DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND REMINGTON APG, LLC, TO ESTABLISH THE TERMS AND CONDITIONS ASSOCIATED WITH A DEVELOPMENT PLAN (FILE NO. PDEV21-024) TO CONSTRUCT THREE INDUSTRIAL BUILDINGS TOTALING 200,322 SQUARE FEET ON 10.2 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF REMINGTON AVENUE AND THE CUCAMONGA CREEK FLOOD CONTROL CHANNEL, WITHIN THE INDUSTRIAL (PA-3) LAND USE DISTRICT OF THE COLONY COMMERCE CENTER EAST SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 0218-311-07 AND 0218-311-13.

Notice of public hearing was duly given and affidavits of compliance are on file in the Records Management Department. There were no written communications.

Mayor Leon opened the public hearing asking those persons interested in this item to speak. Hearing no one wishing to speak, Mayor Leon closed the public hearing and opened the item for Council discussion.

MOTION: Moved by Council Member Dorst-Porada, seconded by Council Member Bowman and carried by unanimous vote of 5-0, to introduce Ordinance No. 3214.

20. A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 66 (OLIVE AND OLEANDER); ADOPTION OF A RESOLUTION TO INCUR BONDED INDEBTEDNESS; AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

The City Council considered and:

A. Adopted a Resolution of Formation of Community Facilities District No. 66 (Olive and Oleander), authorizing the levy of special taxes within the community facilities district, and establishing an appropriations limit for the community facilities district;
B. Adopted a Resolution deeming it necessary to incur bonded indebtedness within Community Facilities District No. 66 (Olive and Oleander);
C. Adopted a Resolution calling a special election for City of Ontario Community Facilities District No. 66 (Olive and Oleander);
D. Adopted a Resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
E. Introduced and waived further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 66 (Olive and Oleander); and
F. Adopted a Resolution authorizing the execution and delivery of an acquisition and funding agreement with Shea Homes Limited Partnership, a California limited partnership.

RESOLUTION NO. 2022-061 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO

COMMUNITY FACILITIES DISTRICT NO. 66 (OLIVE AND OLEANDER), AUTHORIZING THE LEVY OF A SPECIAL TAX.

RESOLUTION NO. 2022-062 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 66 (OLIVE AND OLEANDER).

RESOLUTION NO. 2022-063 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 66 (OLIVE AND OLEANDER).

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department. There were no written communications.

Mayor Leon opened the public hearing asking those persons interested in this item to speak. Hearing no one wishing to speak, Mayor Leon closed the public hearing and opened the item for Council discussion.

MOTION: Moved by Council Member Bowman, seconded by Council Member Valencia and carried by unanimous vote of 5-0, to adopt Resolutions No. 2022-061, 2022-062, and 2022-063.

RESOLUTION NO. 2022-064 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 66 (OLIVE AND OLEANDER).

City Clerk Mautz opened the ballot and announced the ballot was in favor of the formation.

MOTION: Moved by Council Member Dorst-Porada, seconded by Council Member Bowman and carried by unanimous vote of 5-0, to adopt Resolution No. 2022-064.

ORDINANCE NO. 3215 (FIRST READING) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN COMMUNITY FACILITY DISTRICT NO. 66 (OLIVE AND OLEANDER).

MOTION: Moved by Council Member Bowman, seconded by Council Member Dorst-Porada and carried by unanimous vote of 5-0, to introduce Ordinance No. 3215.

RESOLUTION NO. 2022-065 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AND FUNDING AGREEMENT WITH SHEA HOMES LP OF CALIFORNIA.

MOTION: Moved by Council Member Bowman, seconded by Council Member

Dorst-Porada and carried by unanimous vote of 5-0, to adopt Resolution No. 2022-065.

21. PUBLIC HEARING #3 REVIEW OF INITIAL DRAFT DISTRICTING MAPS FOR THE DISTRICT-BASED ELECTIONS UNDER THE CALIFORNIA VOTING RIGHTS ACT

The City Council opened the Public Hearing to, review, consider, and provide direction regarding the initial draft maps.

Notice of public hearing has been duly given and affidavits of compliance are on file in the Records Management Department. There were 12 written communications.

Lory Masonis in opposition of district based elections.

Raymond Smith in favor of map #10.

Melissa May in favor of map #10.

Martha Lopez in favor of map #10.

Stephen May in favor of map #10.

Stephany Barbosa in favor of map #5.

Erma Gardner in favor of map #10.

Sue Chappell in favor of map #10.

Lolofi Soakai in favor of map #10.

Temis Laguna in favor of map #10.

Lina Mira in favor of map #10.

Betsy Starbuck in favor of map #10.

Mayor Leon opened the public hearing asking those persons interested in this item to speak.

Assistant City Attorney Guiboa and demographer Stephanie Smith gave a presentation.

Mayor pro Tem Wapner spoke on his desire to see all maps at the same time.

City Manager Ochoa clarified the intent to show the 10 maps that were submitted thus far, receive public input, and get Council direction on existing maps.

Mayor pro Tem Wapner expressed his desire for a fair process in the review of maps.

Mayor Leon echoed Mayor pro Tem Wapner's desire to have a fair review process.

Council Member Valencia asked the Assistant City Attorney for clarification regarding the process.

Assistant City Attorney Guiboa explained the process required a total of four public hearings two to occur before the mapping tool was released and two after and noted this was the first of the two required public hearings after the mapping tool is released and noted this purpose of the public hearing was an overview and that an action was not necessarily required.

Mayor Leon further expressed his desire to have a fair process in the view maps.

Demographer Smith further clarified the two hearings held after maps are submitted was to provide Council the opportunity to review maps and avoid a disadvantage should public comment refer to any specific map.

Mayor pro Tem Wapner inquired when residents would have the opportunity to speak on maps submitted after this meeting.

Demographer Smith indicated additional maps would be presented at the July 19, 2022 City Council meeting.

Mayor pro Tem Wapner inquired if new maps and current maps would be reviewed at the same time.

Demographer Smith confirmed all maps would be reviewed at the July 19th meeting.

Mayor Leon reiterated his concern over having a fair process in the review of maps.

Council Member Dorst-Porada indicated her desire to hear from the public.

Mayor pro Tem Wapner asked if there is a tool to see maps with labeled streets.

Demographer Smith continued her presentation demonstrating maps indicating all maps are legally compliant and noted Council had the option to either provide input on a map or just hear from the public. Finally, she demonstrated how to utilize the google map link tool.

Ted Burnett, spoke about his desire to see maps discussed and spoke on his desire to see a fair process in the selection of a districting map.

Marisela Casas, not present when called upon.

Maribel Nunez, spoke in support of map #10 based on their view of communities of interest.

Maria Galvan, spoke in support of map #10 and expressed communities of interest included De Anza park, Spanish speaking community, historical districts, and downtown.

Yasmin Ramirez, spoke in support of map #10 expressing it took into consideration communities of interest.

Ana Gonzalez, spoke in support of map #10 noting the map addressed communities of interest.

Chris Robles, discussed his submitted maps #2, 3, 4, noting they take communities of interest into consideration and requested his maps be labeled.

Melissa May, not present when called upon.

Joaquin Castillegos, spoke in support of map #10.

Hearing no one else wishing to speak, Mayor Leon closed the public hearing and opened the item for Council discussion.

Council Member Dorst-Porada inquired if the City was in violation of the Brown Act. Assistant City Attorney Guiboa clarified there are no violations.

Mayor Leon expressed at this point he did not favor one map over another.

Council Member Valencia expressed he would take every single map into consideration.

Mayor pro Tem Wapner inquired of the Assistant City Attorney if there was something in the law that required anonymity if the submitter wants to remain anonymous or that there is no requirement for the map to be labeled. Assistant City Attorney Guiboa confirmed there as no requirement that the map be labeled. Mayor pro Tem went on to express his desire for members of the public to remain comfortable in submitting maps and clarified we cannot require maps be labeled.

Council Member Valencia clarified if a member of the public wanted to have their map labeled they could. Assistant City Attorney Guiboa further clarified if a person submitting the map requested their map to be labeled, they could.

Mayor Leon thanked the members of the public for their input.

STAFF MATTERS

City Manager Ochoa made no comments.

COUNCIL MATTERS

Council Member Bowman had no comments.

Mayor pro Tem Wapner had no comments.

Council Member Valencia asked for Council consensus to close in memory of City of Ontario Employee Isaac Jackson. He also expressed his condolences for the family members of the El Monte police officers who were fatally shot in the line of duty.

Mayor Leon thanked residents for the public comments and spoke of the Concerts in the Park.

ADJOURNMENT

Mayor Leon adjourned the meetings of the Joint Agencies at 8:14 p.m. in memory of Ontario Employee Isaac Johnson and announced the next regular meeting to be held on Tuesday, July 5, 2022.

Respectfully submitted,

_____
SHEILA MAUTZ, CITY CLERK/SECRETARY

APPROVED:

_____
PAUL S. LEON, MAYOR/CHAIRMAN

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Fire Department Prepared By: Sagar Patel Staff Member Presenting: Ray Gayk, Fire Chief Reviewed By: Jordan T Villwock Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 3

SUBJECT: CONTRACT AWARD FOR EMERGENCY MASS NOTIFICATION SYSTEM

RECOMMENDATION: That the City Council approve a contract for up to five years for a not-to-exceed amount of $300,000 ($60,000 annually) with Everbridge, Inc. to maintain and enhance the current Emergency Mass Notification System (AlertOntario).

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Maintain the Current High Level of Public Safety

FISCAL IMPACT: The Fiscal Year 2021-22 Adopted Operating Budget includes appropriations in the Information Technology Fund that annually earmark $63,000 to provide emergency mass notification service to the Ontario community. Under this proposed contact award amount, Staff recommends the appropriation be modified to $60,000 annually for a three-year contract with an optional fourth and fifth year, for a total not-to-exceed amount of $300,000 over five years.

BACKGROUND & ANALYSIS: In 2013, the City entered into a contract with Everbridge, Inc. to provide the City of Ontario a citywide Emergency Mass Notification System capable of quickly delivering alert, warning and instructional messages to City residents and businesses during times of emergency. This system, AlertOntario, has been in place and advertised to residents, business owners, and visitors alike since that time. Internally, the City has the ability to send emergency alert notifications to employees (when necessary) for emergency recall to staff the Emergency Operations Center and/or other needs, such as public safety staffing emergency recalls that are identified by those agencies.

In March 2022, the City solicited proposals through the City' s bid management system and received four viable proposals. The incumbent vendor, Everbridge, Inc., was recommended by a review committee consisting of representatives from the Fire Department and Information Technology Agencies. Everbridge, Inc. has been contracting with the City since 2013 and the City has been very satisfied with the level of services provided, as well as the pricing and the value received.

Through this competitive bidding process, Staff determined the proposal provided by Everbridge Inc. also provided a service no other competing vendor was able to offer, the Resident Connection

Package. In AlertOntario's current form, the system may be used to contact residents through the following methods: home phone, work phone, cell phone, email and/or text message. Landline phone numbers are purchased from E911 database vendors, but all other phone numbers and email addresses must be registered by the resident or business by 'opting-in' to AlertOntario through the public portal. This public 'opt-in' feature has made it particularly challenging to reach parts of the community that are either unaware of this platform or do not possess landline phone numbers that can be reached. As part of the new proposal, the Resident Connection data package includes monthly updates of verified, fully geo-coded contact data which includes wireless, landline, and VoIP phone numbers for residential and business locations. The inclusion of this unique package offered by no other competitor would increase our contact data by nearly 125,000 contacts in the City of Ontario.

The addition of this service package provides a greater value at a slightly lower cost than previously paid for annually. Therefore, Staff is recommending awarding the Emergency Mass Notification System contract to Everbridge Inc.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Engineering Prepared By: Yesenia Lopez Staff Member Presenting: Scott Murphy, Executive Director Community Development Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 4

SUBJECT: **A CONSTRUCTION CONTRACT AND AN AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT FOR THE 2022 STREET MAINTENANCE SLURRY SEAL, CAPE SEAL & CDBG PAVEMENT MANAGEMENT REHABILITATION PROJECT**

RECOMMENDATION: That the City Council:

A. Award a construction contract (on file in the Records Management Department) with Pavement Coatings Co. of Jurupa Valley, California, for the 2022 Street Maintenance Slurry Seal, Cape Seal & CDBG Pavement Rehabilitation Project (Project) in the amount of $2,004,074 and authorize the City Manager, or his designee, to execute said contract and all related documents, and file a notice of completion at the conclusion of all construction activities; and
B. Approve and authorize the City Manager, or his designee, to execute an amendment to the Professional Services Agreement (on file in the Records Management Department) with Group Delta Consultants, Inc. of Anaheim, California, to provide on-call geotechnical consulting and materials testing for the Project in the amount of $4,375, for a revised total authorized expenditure of $490,836.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget includes appropriations for slurry and cape seal construction in the amount of $1,885,000 from Measure I, Community Development Block Grant (CDBG), Road Maintenance and Rehabilitation Account (RMRA-SB1), and Gas Tax. The total recommended expenditure authorization for Pavement Coatings Co. consists of $1,821,885 plus a ten percent (10%) contingency of $182,189, for a total of $2,004,074. The additional $119,074 will be funded from RMRA-SB1 fund balance.

The proposed Amendment 10 with Group Delta Consultants, Inc. will also be funded from RMRA-SB1 fund balance. The proposed Amendment 10 increases the Agreement amount by $4,375 for a revised not-to-exceed total of $490,836.

Upon approval, the additional appropriations from RMRA-SB1 will be included in the Fiscal Year 2022-23 First Quarter Budget Update.

BACKGROUND & ANALYSIS: The general scope of work to be performed under this construction contract consists of, but is not limited to, Type II Emulsion-Aggregate Slurry application, Asphalt Rubber Aggregate Membrane (ARAM) Cape Seal application, thermoplastic striping and marking removal and replacement, weed-removal, crack sealing, asphalt concrete skin patching, and other tasks appurtenant to this project. This project will extend the lifespan of the streets by ten (10) years and will prevent more costly future repairs. A project location map is provided for reference as Exhibit "A."

In May 2022, the City solicited bids for the project and 3 bids were received. The following is a summary of the bid results:

COMPANY	LOCATION	AMOUNT
Pavement Coatings Co.	Jurupa Valley, CA	$1,821,885
Roy Allan Slurry Seal	Santa Fe Springs, CA	$1,913,905
All American Asphalt	Corona, CA	$2,323,845

Pavement Coatings Co. submitted the lowest responsive bid and has previously performed similar work for the City of Ontario in a satisfactory manner.

Support services will be required during the project. Group Delta Consultants, Inc. will provide on-call geotechnical consulting and materials testing services. The City first contracted with Group Delta Consultants, Inc., in December of 2017 after an extensive Request for Proposal selection process for on-call geotechnical services. This amendment is to revise the scope of work to include services for the 2022 Street Maintenance Slurry Seal, Cape Seal & CDBG Pavement Rehabilitation Project and increase the not-to-exceed compensation amount. Group Delta Consultants, Inc. has agreed to the scope of work associated with the project and will be compensated at the fixed billing rate as set forth in the Agreement.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were reviewed and staff determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1, Existing Facilities) of CEQA., whereas the project consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of lead agency's determination.

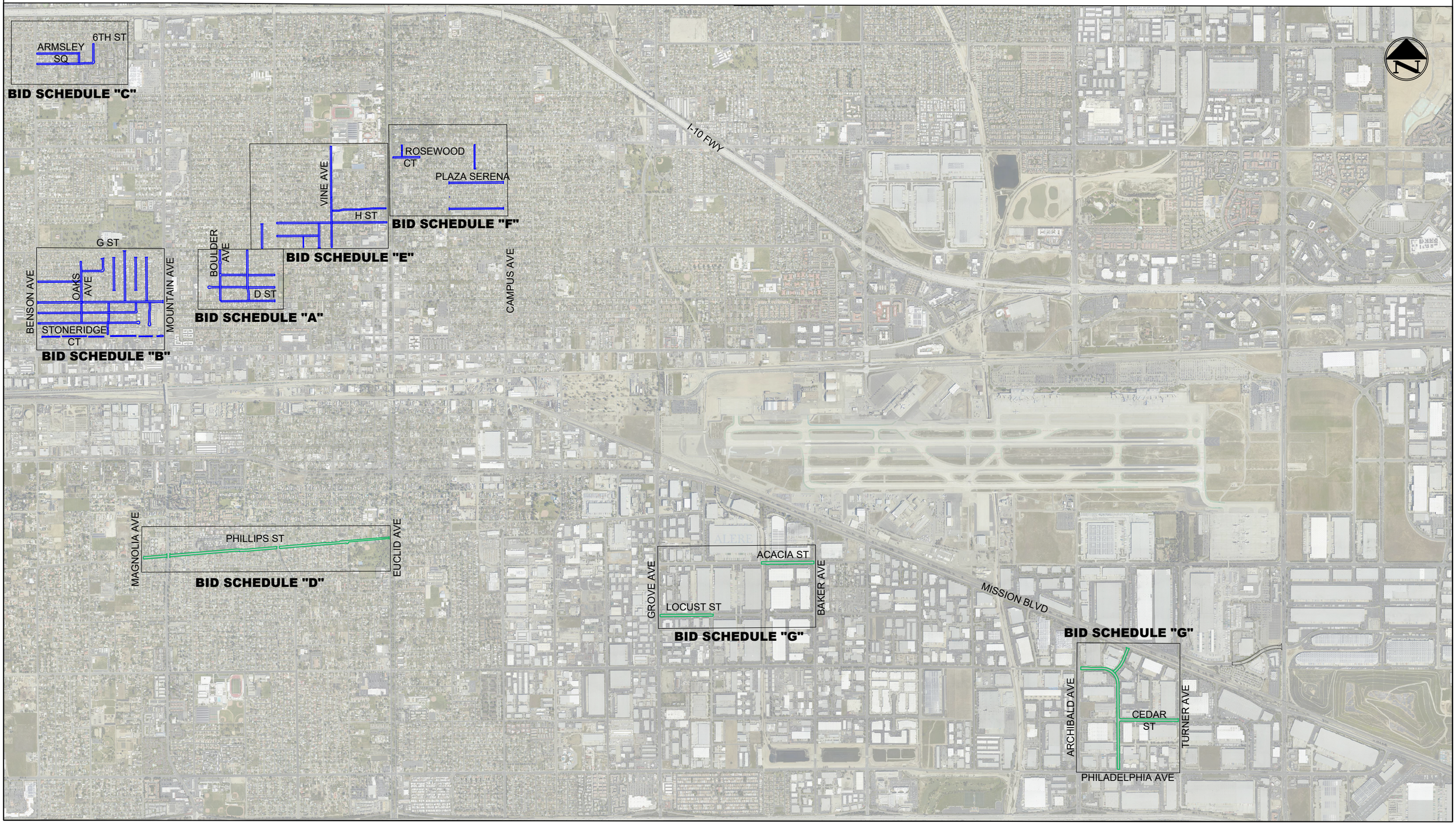
LEGEND

2022 SLURRY LOCATIONS

2022 CAPE SEAL LOCATIONS

PROPOSED 2022
SLURRY SEAL OVERALL PROJECT LOCATIONS

N.T.S.



CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Engineering Prepared By: Leonard Lui Staff Member Presenting: Scott Murphy, Executive Director Community Development Approved By: 	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 5

SUBJECT: **AN AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH KLEINFELDER, INC. FOR ON-CALL GEOTECHNICAL CONSULTING, MATERIALS TESTING AND COMPACTION TESTING SERVICES**

RECOMMENDATION: That the City Council approve and authorize the City Manager, or his designee, to execute Amendment No. 18 to the on-call Professional Services Agreement (on file in the Records Management Department) with Kleinfelder, Inc., of Ontario, California, to provide on-call geotechnical consulting, materials testing and compaction testing services for the 2022 Fall Pavement Rehabilitation Project in the amount of $50,000 for a revised not-to-exceed total of $1,642,115, and extend the term contract through December 31, 2023 for the completion of this construction project and other ongoing construction projects, unless earlier terminated to allow for existing contracts to finalize.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget includes appropriations in the amount of $50,000 within Measure I and Road Maintenance and Rehab Acct. (SB1) funds for construction related services for pavement rehabilitation projects. The proposed Amendment 18 increases the Agreement amount by $50,000, consistent with the Adopted Budget.

BACKGROUND & ANALYSIS: Kleinfelder, Inc. will provide on-call geotechnical consulting, materials testing and compaction testing services that will be necessary during the construction of the 2022 Pavement Rehabilitation Project. The City first contracted with Kleinfelder, Inc. in December of 2017 after an extensive request for Proposal selection process for on-call geotechnical services. This Amendment is to revise the scope of work to include services for the 2022 Fall Pavement Rehabilitation Project and increase the not-to-exceed compensation amount.

This Amendment will extend the term contract extend through December 31, 2023 for the completion of this construction project and other ongoing construction projects, unless earlier terminated to allow for existing contracts to finalize.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Engineering Prepared By: Leonard Lui Staff Member Presenting: Scott Murphy, Executive Director Community Development Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 6

SUBJECT: A PROFESSIONAL SERVICES AGREEMENT FOR THE MASTER PLAN OF DRAINAGE UPDATE PROJECT

RECOMMENDATION: That the City Council approve a Professional Services Agreement (on file in the Records Management Department) with Michael Baker International, Inc., of Ontario, California to provide professional engineering services for the Master Plan of Drainage Update Project in the amount of $483,758; and authorize the City Manager, or his designee, to execute said Agreement and future amendments within the authorization limits.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Pursue City's Goals and Objectives by Working with Other Governmental Agencies
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget appropriated funds in the amount of $400,000 in General City Storm Drain Development Impact Fee (DIF) Funds for professional engineering services for the project (DIF Project No. SD-075) until December 31, 2024, with an option to extend for no more than two additional one-year terms. The recommended expenditure authorization for Michael Baker International Inc. consists of $439,780, plus a ten percent (10%) contingency of $43,978 for a total of $483,758. Upon approval, the additional appropriations from General City Storm Drain DIF Funds will be included in the Fiscal Year 2022-23 First Quarter Budget Update.

BACKGROUND & ANALYSIS: The current Master Plan of Drainage ("MPD") was last updated in March 2012 and needs to be updated to be consistent with the new General Plan update. Additionally, the MPD Update will incorporate all the projects completed since the last MPD update, revise storm drain layouts, and identify and prioritize storm drain projects to further improve the storm drain system in the City. The City will also be looking for storm drain design alternatives for Euclid Avenue.

In April 2022, the City solicited proposals and received three responses. A selection team comprised of City staff reviewed the proposals and recommends Michael Baker International, Inc. until December 31, 2024, with an option to extend for no more than two additional one-year terms, based upon the quality of their proposal, past performance on similar projects, and favorable references. Michael Baker International, Inc., has agreed to a base fee of $439,780, which is deemed a fair and reasonable fee for the specified scope of work.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Municipal Services Prepared By: Michael Johnson Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 7

SUBJECT: AN AMENDMENT TO THE GOODS & SERVICES AGREEMENT FOR PARTS AND REPAIRS OF REFUSE TRUCK BODIES WITH AMREP MANUFACTURING COMPANY

RECOMMENDATION: That the City Council authorize the City Manager or his designee to execute Amendment No. 2 (on file with the Records Management Department) to the Goods & Services Agreement with AMREP Manufacturing Company of Ontario, California, in the amount of $200,000, increasing the not-to-exceed amount to $1,650,000 for parts and repairs of refuse truck bodies.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget includes appropriations from the Equipment Services Fund for maintenance and repairs of refuse truck bodies. The recommended Amendment increases the authorized contract amount by $100,000 annually for Fiscal Years 2022-23 and 2023-24, for a new total not to exceed contract amount of $1,650,000. The total compensation paid by the City will be contingent upon actual services provided at the contracted rates set forth in the agreement and not to exceed $1,650,000 over the five-year term.

BACKGROUND & ANALYSIS: The Public Works Agency maintains the vehicles and equipment used by various City departments including the Integrated Waste fleet. To ensure these vehicles and equipment are safe to operate, maintenance and repairs are necessary on a regular basis. Due to the specialized parts on the Integrated Waste fleet and equipment, there is a limited number of authorized vendors that can provide them.

On July 2, 2019, the City Council approved AMREP Manufacturing Company as a pre-authorized vendor for the supply of parts and manufacturing of refuse truck bodies, and the City entered into a five-year Goods & Services Agreement with AMREP Manufacturing Company. Since then, AMREP Manufacturing Company has provided excellent service to the Fleet Services Department for both parts supply and repairs of the Integrated Waste fleet of trucks.

Due to supply chain shortages and price increases in raw materials, Staff recommends increasing the total authorized compensation by $200,000 for Fiscal Year 2022-23 and Fiscal Year 2023-24 to

ensure the Fleet Services Department can continue to maintain and repair vehicles quickly and keep them operational so they can provide services to the City of Ontario residents.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Information Technology Prepared By: Samantha Robles Staff Member Presenting: Colin Fernandes, Executive Director Information Technology Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 8

SUBJECT: AN AMENDMENT TO THE SERVICE AGREEMENT WITH GRANICUS, LLC FOR THE PURCHASE OF NEW HARDWARE AND ADDITIONAL SUBSCRIPTION

RECOMMENDATION: That the City Council authorize the City Manager to execute an Amendment to the existing three-year Service Agreement (on file with the Records Management Department) with Granicus, LLC, of Saint Paul, Minnesota, for the purchase of new hardware and subscription for a total not-to-exceed $105,912.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner

FISCAL IMPACT: The Amendment to the existing three-year Service Agreement increases the current, year-three $31,682 Agreement by $10,200 for a total not-to-exceed contract amount of $105,912. These amounts will be funded through the Information Technology Fund. The Fiscal Year (FY) 2022-23 Adopted Budget includes appropriations for the current contract year. If approved, appropriations will be added to the FY 2022-23 Budget.

BACKGROUND & ANALYSIS: On May 27, 2020, the City Manager authorized a Service Agreement with Granicus for utilization of the Peak Agenda software, the purchase of a Granicus broadcast device, and a subscription authorizing the use of broadcast software. In 2022, the Planning Commission, Library Board, and Recreation Board also began to use the software and broadcast device. City Staff creates and routes staff reports using the Peak Agenda software. The Granicus device broadcasts meetings and records the sessions for on-demand access by the public via the City's website. The broadcast device is out of warranty and requires replacement. This Amendment will authorize the purchase of a new device, a second backup device, and an additional subscription for the second device.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Municipal Services Prepared By: Michael Johnson Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 9

SUBJECT: AUTHORIZE THE PURCHASE OF FLEET VEHICLES

RECOMMENDATION: That the City Council authorize the cooperative purchase and delivery of 10 Ford Police Utility Vehicles for the Police Department in the amount of $416,865 from National Auto Fleet Group of Watsonville, California, consistent with the terms and conditions of the Sourcewell Cooperative Contract No. 091521-NAF.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget includes appropriations in the Equipment Services Fund for the purchase of replacement vehicles. The total cost of the vehicles recommended for purchase is $416,865.

BACKGROUND & ANALYSIS: In general, police utility vehicles have a useful life of four years or 100,000 miles. The vehicles recommended for replacement in this action have outlived their useful life, and it is no longer cost effective to maintain them. They are scheduled for replacement pursuant to ongoing efforts to reduce expenses, maximize useful life expectancy, and extend replacement cycles of fleet equipment, while ensuring safe and reliable operations. This procurement action will result in the replaced vehicles being available for surplus, with any auction sale proceeds returning to the Equipment Services Fund.

In general conformation with the provisions of Government Code Section 54201 through 54204, Ontario Municipal Code Section 2-6.29 allows for the purchase of supplies and equipment through cooperative purchasing programs, pursuant to California Government Code Section 6502 and City of Ontario Resolution No. 91-141. Cooperative purchasing allows the City to pool its procurement power with other public agencies to obtain lower pricing than otherwise might be possible.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Utilities Prepared By: Courtney Jones Staff Member Presenting: Scott Burton, Utilities General Manager Reviewed By: Dennice Raygoza, Albert G Gastelum, Michael Sigsbee Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 10

SUBJECT: DECLARATION OF MANDATORY WATER RESTRICTIONS - STAGE 3

RECOMMENDATION: That the City Council implement Stage 3 of the City's Municipal Code Water Conservation Plan.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Operate in a Businesslike Manner

FISCAL IMPACT: The mandated water conservation measures may result in reduced revenue for the water enterprise fund and a corresponding reduction in operational costs such as water purchases. There may be other incidental savings or costs incurred by the City in complying with the mandatory restrictions.

BACKGROUND & ANALYSIS: On October 19, 2021, Governor Newsom issued a proclamation that a state of emergency exists statewide due to severe drought conditions. Following his proclamation, the Governor issued an Executive Order on March 28, 2022, calling for water conservation directives to address California's new normal of climate extremes. The State Water Resources Control Board (SWRCB) approved emergency drought regulations on May 24, 2022, in response to the Governor's Executive Order. These regulations are intended to prohibit certain wasteful or unreasonable water uses to preserve urban water supplies. The mandatory restrictions approved by the SWRCB on May 24, 2022, required the City to enter into Stage 2 of the City's Water Conservation Plan and placed a ban on watering non-functional turf at commercial, industrial, and institutional properties. In addition to the State's restrictions the City of Ontario's wholesale water supplier, Inland Empire Utilities Agency (IEUA), has issued a 13% reduced allocation of State Water Project imported water for the remainder of calendar year 2022.

The regulatory landscape concerning this historic drought continues to change quickly. In anticipation and preparation of increasingly restrictive regulations it is recommended the City move into Stage 3 (as described in section 6-8.28 of Ontario's Municipal Code, Chapter 8A) of the Water

Conservation Ordinance. Stage 3 restrictions include, but are not limited to, the following:

Relevant Stage 1 Water shortage - water supply reduced by up to ten percent (10%)
Restrictions include:

- Except as required for health and sanitary purposes, washing of sidewalks, walkways and driveways or other paved surfaces is prohibited.
- No person shall irrigate between the hours of 9 AM and 4 PM.
- No water customer shall cause or allow the water to run off landscape areas.

Stage 2 Water shortage - water supply reduced by ten percent (10%) to twenty percent (20%)
Restrictions include:

- All prohibitions and restrictions in § 6-8.26 (Stage 1) shall be in effect provided that more restrictive measures noted in this section shall take precedence.
- Filling or refilling of empty swimming pools shall not occur without the written permission of the City Manager or his/her designee.
- All customers are prohibited from irrigating turf or ornamental landscapes during and within 48 hours following measurable rainfall.
- Operators of hotels and motels must provide guests with the option of choosing not to have towels and linens laundered daily and prominently display notice of this option.
- All persons, including the City, are prohibited from irrigating with potable water any ornamental turf on public street medians.
- The use of potable water for irrigation outside of newly constructed homes and buildings shall be consistent with California Building Standards Commission and Department of Housing & Community Development.

Stage 3 Water shortage - water supply reduced by twenty percent (20%) to thirty percent (30%)
Restrictions include:

- All the prohibitions and restrictions in § 6-8.27 (Stage 2) shall be in effect provided that the more restrictive measures noted in this section shall take precedence.
- Residents and Commercial/Industrial/Institutional customers will be prohibited from irrigating any turf or landscape area more than four (4) days a week.
- The use of water from fire hydrants shall be limited to fire fighting and related activities and other uses of water for municipal purposes shall be limited to activities necessary to maintain the public health, safety, and welfare. Unless written permission has been granted by the City Manager or his/her designee, the use of potable water for construction activities and grading shall be prohibited.

The Ontario Municipal Code, Chapter 8A, contains violation provisions for non-compliance that can result in a surcharge of up to $500 on a customer's water bill. However, Staff recommends educating and empowering customers with water use efficiency tips and offering various conservation rebate programs as the primary method of reducing water use and only using the violation provision as a last resort.

The City provides water saving rebate programs, free landscape workshops, and irrigation tune-up programs available to residents to assist in realizing citywide water savings. These programs can be found at www.OntarioWaterWise.org. There is also a Water Waste Form available on the My Ontario App and the City website where customers can report suspected water waste incidents.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Utilities Prepared By: Thomas Palmieri Staff Member Presenting: Scott Burton, Utilities General Manager Reviewed By: Dennice Raygoza, Albert G Gastelum, Michael Sigsbee Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 11

SUBJECT: **AN AMENDMENT TO ON-CALL DESIGN SERVICES AGREEMENT FOR SEWER IMPROVEMENTS FOR THE PIEMONTE OVERLAY AND SURROUNDING AREAS**

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute Amendment No. 8 to the On-Call Design Services Agreement (on file in the Records Management Department) with Stantec Consulting Services, Inc., of Irvine, California, in the amount of $280,609.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget for the Capital Improvement Program includes appropriations from the Old Model Colony (OMC) Local Sewer Development Impact Fee (DIF) Fund to provide design services for Sewer Improvements (DIF Project No. SW052 and Capital Improvement Program No. SE2302).

This Amendment will add $259,820, plus a 8% contingency of $20,789, for a total amount of $280,609. The On-Call Design Services Agreement with Stantec expires on May 6, 2023, with the option to extend the Agreement for one (1) additional one (1) year term, per the original terms and conditions of the Agreement. A contingency is requested due to the project location and potential unforeseen underground substructure mitigation.

BACKGROUND & ANALYSIS: The Ontario Center Specific Plan and the Piemonte Overlay (Piemonte) is located just north of the Ontario Toyota Arena, between Haven Avenue and Milliken Avenue south of 4th Street. This area consists of existing and planned mix of urban commercial, retail, residential, and entertainment land uses. The backbone sewer infrastructure for this area exists and is sized to accommodate the full build-out capacity for land uses currently identified in The Ontario Plan.

Recent development proposals for this area include an increase in the number of high-density residential units and expanded commercial/entertainment land uses within Piemonte and the surrounding area. As a result, there will be a greater demand on existing sewer infrastructure to accommodate this expansion, which required a feasibility study to further analyze the existing sewer capacity and determine if additional infrastructure will be required to support the proposed development.

In May 2019, City Council awarded an On-Call Design Services Agreement with Stantec and two other consultants. Stantec and the other consultants were selected using a qualifications based selection process. The Agreements were awarded as three-year Agreements with two (2) additional one (1) year periods consistent with Council approved budgets. As projects arise, Staff will request proposals from the consultants and amend the original Agreement with revised scope of works and costs.

In June 2021, City Council awarded Stantec an amendment to conduct this feasibility study. In February 2022, the feasibility study was completed and identified sewer transmission line deficiencies within Piemonte during the three-phase buildout of the Adept Development.

The proposed Project will be designed and constructed in two phases. The first phase of sewer improvements will be the installation of 960 lineal feet (LF) of 12-inch sewer pipe in Mercedes Lane between Concours Street and Inland Empire Boulevard. The second phase of the sewer improvements will be the installation of 930 LF of 10-inch sewer pipe in Ferrari Lane between Concours Street and Inland Empire Boulevard. A project map is provided in the attachments as (Exhibit A) to this report.

Staff solicited a proposal from Stantec to provide complete plans, specifications, construction cost estimates, and bidding support services for the sewer improvements and is recommending Amendment No. 8 to Stantec based on Stantec's qualifications, familiarity with the City's sewer modeling system and performance preparing the Feasibility Study.

Legend

Proposed Sewer Alignment

N

500 250 0 500 Feet

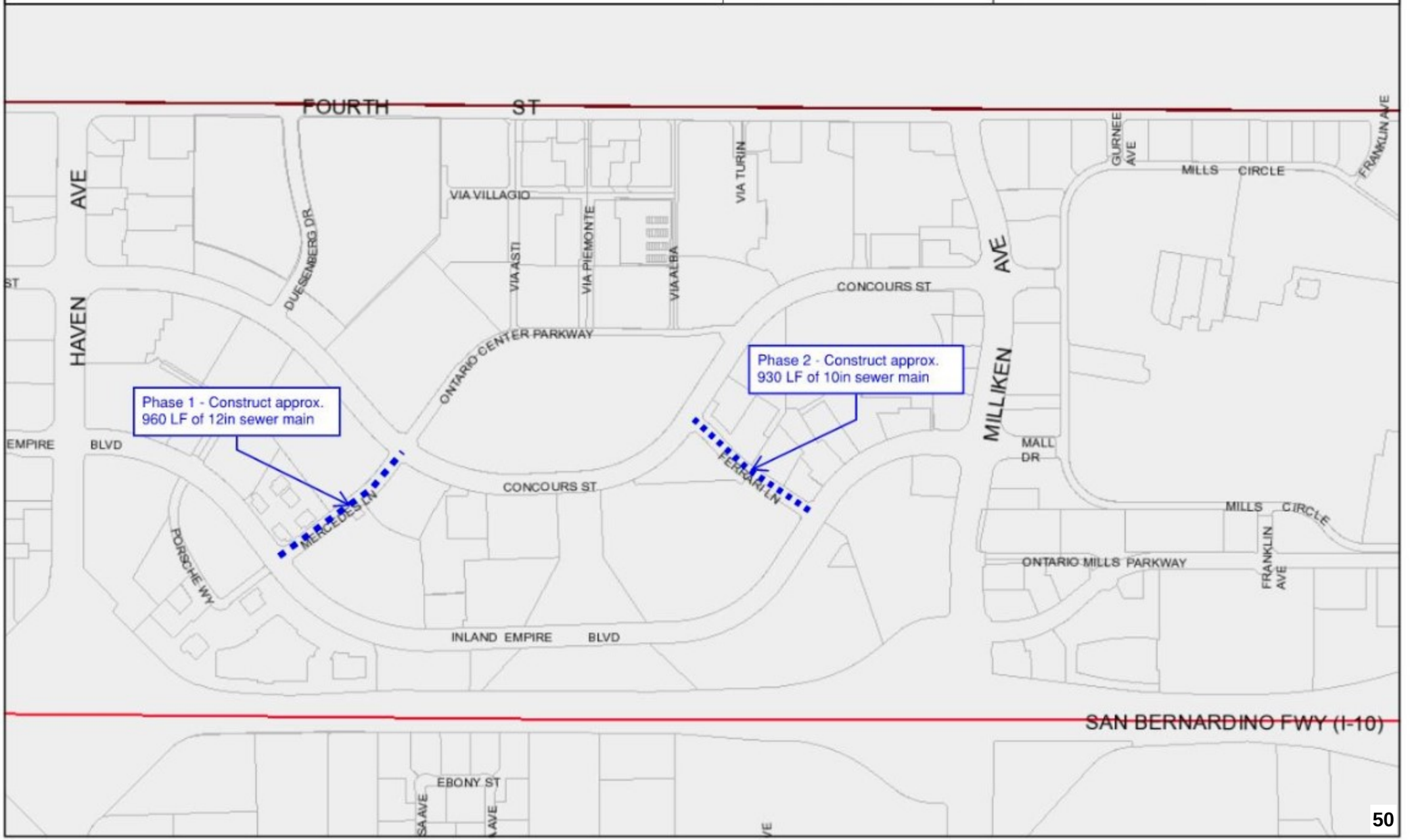
Date: 2/10/2022

Phase 1 & 2 Sewer Improvements

PROJECT: City of Ontario Adept Development Sewer Study

COORDINATE SYSTEM: NAD 1983 2011 StatePlane California V FIPS 0405 Ft US

Stantec



CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Municipal Services Prepared By: Michael Johnson Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 12

SUBJECT: **AN AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT FOR MAINTENANCE AND REPAIRS OF THE COMPRESSED NATURAL GAS FUELING STATION WITH CLEAN ENERGY**

RECOMMENDATION: That the City Council approve and authorize the City Manager or his designee to execute Amendment No. 1 (on file with the Records Management Department) to the Maintenance Services Agreement with Clean Energy of Newport Beach, California, in the amount of $87,386, increasing the not-to-exceed amount to $175,000 and extending the term of the Agreement to June 30, 2023, for maintenance and repairs of the City's compressed natural gas (CNG) fueling station.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Operate in a Businesslike Manner

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget includes appropriations from the Equipment Services Fund for the maintenance and repairs of the City's CNG fueling station. The recommended Amendment increases the authorized contract amount by $87,386 for Fiscal Year 2022-23, for a new total not to exceed contract amount of $175,000. The total compensation paid by the City will be contingent upon actual services provided at the contracted rates set forth in the agreement and not to exceed $175,000 over the three-year term.

BACKGROUND & ANALYSIS: The City has owned and operated the CNG fueling facility since 1995. Over the years, this facility has reduced the community's collective carbon footprint, improved air quality, lowered dependency on fossil fuels and foreign oil, and enabled compliance with the South Coast Air Quality Management District Rule 1193 "Clean On-Road Residential and Commercial Refuse Collection Vehicles." The facility provides CNG for over 100 City vehicles, the Ontario-Montclair School District (OMSD) Bus fleet, and a public fueling station located at 1440 S. Cucamonga Ave. for citizens and local companies that own or operate CNG vehicles.

On July 1, 2020, the City entered into a two-year Maintenance Services Agreement with Clean Energy for the maintenance and repairs of the City's CNG fueling station. Since then, Clean Energy has provided excellence service to the Fleet Services Department for the maintenance and repairs of the City's CNG fueling station. Staff recommends increasing the total authorized compensation, and extending the term of the Maintenance Services Agreement June 30, 2023 to ensure the Fleet Services Department can continue to maintain and repair the CNG fueling station quickly and keep it operational, providing a cleaner burning alternative fuel to the City's vehicle fleet, the OMSD School District bus fleet, and the public.

The CNG station is currently undergoing construction to replace the compressors, controls panels, and generator to accommodate the growing fleet of CNG vehicles. Once construction is complete, Staff will put the maintenance contract out to bid based on the newly installed equipment which should lower the maintenance costs.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Utilities Prepared By: Courtney Jones Staff Member Presenting: Scott Burton, Utilities General Manager Reviewed By: Dennice Raygoza, Albert G Gastelum, Michael Sigsbee Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 13

SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR THE EVALUATION OF AN ADVANCED WASTEWATER PURIFICATION FACILITY

RECOMMENDATION: That the City Council approve and authorize the City Manager or his designee to execute a Professional Services Agreement (on file in the Records Management Department) with Stetson Engineering Inc. of Covina, California, for the Evaluation of an Advanced Wastewater Purification Facility Alternative Supply Program for an amount not-to-exceed $186,148.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget includes appropriation from the Water Operating Fund for this project. The recommended Agreement is for a not-to-exceed amount of $186,148. Cost-sharing Agreement discussions are ongoing with member agencies of the Regional Water Policy and Planning Memorandum of Understanding (MOU) approved by the City Council in August of 2020. There is no fiscal impact to the General Fund.

BACKGROUND & ANALYSIS: Inland Empire Utilities Agency (IEUA) has informed its seven sewer contracting agencies (Contracting Agencies), including the City of Ontario, that significant infrastructure improvements are needed to maintain regulatory compliance for both its wastewater discharge permit and its recycled water recharge permit. To maintain compliance, IEUA stated that it must build and operate advanced water treatment (AWT) plants. IEUA believes that the wastewater discharge limit will be exceeded in the near future, particularly if the region faces another drought.

The information presented to the Contracting Agencies by IEUA appears to be designed to align with its efforts to secure a water banking agreement and associated grant funding from the State through the Chino Basin Program (CBP). The CBP consists of the advanced treatment of recycled water generated by IEUA and neighboring agencies (Rialto and Riverside County), groundwater

injection and extraction facilities, and infrastructure to pump back water into Metropolitan Water District's (MWD) water transmission system over a 25-year term. If approved, the CBP would receive funding from the State in exchange for access to 300,000 AF of water over the next 25 years for environmental purposes. The Project stipulates that some of this water would be pumped out of the Chino Basin into the MWD's system and be physically exported, while the remainder is utilized locally in exchange for reduced access to imported water.

The City believes a better project for the region would involve construction of similar facilities to develop and use the advanced treated recycled water 100% locally without exporting to MWD or exchanging water with the State for environmental purposes. The Alternative Supply Project (ASP) would develop and use the water locally, resulting in a new water supply for the region; thereby decreasing future imported water demands by keeping the water local. The ASP would require less infrastructure, cost less, and be eligible for grant funding.

The City of Ontario entered into a Regional Water Policy and Planning MOU in August of 2020 with several neighboring agencies to collaborate on common projects, among other initiatives. The MOU identified collaboration and cost-sharing on the Wastewater and Recycled Water Regulatory Compliance Review as one of the initiatives. This project seeks to build upon the results of the Wastewater and Recycled Water Regulatory Compliance Review project, approved by City Council on March 16, 2021. Currently, two agencies are evaluating the project to determine if they will participate. If the agencies decide to participate it has been agreed that the City of Ontario will be the lead agency to manage the project.

On April 20, 2022, Ontario received a proposal from Stetson Engineering Inc. of Covina, California, for Professional Services for the Evaluation of an Advanced Wastewater Purification Facility Alternative Supply Program. Stetson is recommended as a sole source to provide these services based on their proposal and unique detailed knowledge after successful completion of the previous contract for the Wastewater and Recycled Water Regulatory Review Project.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Municipal Services Prepared By: Michael Johnson Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 14

SUBJECT: AN AMENDMENT TO THE GOODS & SERVICES AGREEMENT FOR TIRE REPAIR AND RETREADING WITH DANIELS TIRE SERVICE

RECOMMENDATION: That the City Council authorize the City Manager or his designee to execute Amendment No. 4 (on file with the Records Management Department) to the Goods & Services Agreement with Daniels Tire Service of Santa Fe Springs, California, in the amount of $200,000, increasing the not-to-exceed amount to $600,000 and extending the term of the Agreement to June 30, 2023, for tire repair and retreading.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget includes appropriations from the Equipment Services Fund for tire repair and retreading. The recommended Amendment increases the authorized contract amount by $200,000, for a new total not to exceed contract amount of $600,000. The total compensation paid by the City will be contingent upon actual services provided at the contracted rates set forth in the agreement and not to exceed $600,000 over the four-year term.

BACKGROUND & ANALYSIS: The City owns, operates, and maintains over 700 vehicles and pieces of equipment that require tire repair and retreading to maximize the tire's useful life and minimize replacement costs. During Fiscal Year 2021-22, the Fleet Services Department recapped over 900 tires on the City's fleet of vehicles and equipment.

On July 16, 2019, the City Council approved the award of Bid No. 1135 to Daniels Tire Service, and the City entered into a one-year Goods & Services Agreement with four one-year options at the City's sole discretion with Daniels Tire Service. Since then, Daniels Tire Service has exceeded expectations of the Fleet Services Department for both the repair and retreading of tires. However, due to supply chain shortages and price increases in raw materials, Staff recommends increasing the total authorized compensation by $200,000 for Fiscal Year 2022-23 to ensure the Fleet Services Department can continue to maintain and repair vehicles quickly and keep them operational so they can provide services to the City of Ontario residents.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Municipal Services Prepared By: Michael Johnson Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 15

SUBJECT: AN AMENDMENT TO THE GOODS & SERVICES AGREEMENT FOR THE PROCUREMENT OF NEW TIRES AND TIRE CASINGS WITH DANIELS TIRE SERVICE

RECOMMENDATION: That the City Council authorize the City Manager or his designee to execute Amendment No. 3 (on file with the Records Management Department) to the Goods & Services Agreement with Daniels Tire Service of Santa Fe Springs, California, in the amount of $220,000, increasing the not-to-exceed amount to $740,000 and extending the term of the Agreement to June 30, 2023, for the procurement of new tires and tire casings.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget includes appropriations from the Equipment Services Fund for the procurement of new tires and tire casings. The recommended Amendment increases the authorized contract amount by $220,000, for a new total not to exceed contract amount of $740,000. The total compensation paid by the City will be contingent upon actual services provided at the contracted rates set forth in the agreement and not to exceed $740,000 over the four-year term.

BACKGROUND & ANALYSIS: The City owns, operates, and maintains over 700 vehicles and pieces of equipment that require the replacement of tires when they have maximized their useful life due to normal wear and tear or become flat from road debris and are no longer safe. During Fiscal Year 2021-22, the Fleet Services Department replaced 3,745 tires on the City's fleet of vehicles and equipment.

On July 1, 2019, the City entered into a three-year Goods & Services Agreement with Daniels Tire Service. Since then, Daniels Tire Service was the only vendor that met or exceeded expectations of the Fleet Services Department for both new tires and tire casings and is currently the only contracted tire vendor for the City. However, due to supply chain shortages and price increases in raw materials, Staff recommends increasing the total authorized compensation by $220,000 for Fiscal Year 2022-23 to ensure the Fleet Services Department can continue to maintain and repair vehicles quickly and keep them operational so they can provide services to the residents of Ontario.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Communications and Community Relations Prepared By: Dan Bell Staff Member Presenting: Dan Bell, Communications and Community Relations Director Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 16

SUBJECT: AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH THE 20/20 NETWORK FOR COMMUNICATIONS CONSULTING

RECOMMENDATION: That the City Council approve and authorize the City Manager or his designee to execute Amendment No. 1 to the Professional Services Agreement (on file in the Records Management Department) with The 20/20 Network of Upland, California, for three additional years at $60,000 per year, $180,000 total, and a new total not-to-exceed contract amount of $232,000.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Pursue City's Goals and Objectives by Working with Other Governmental Agencies
Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: The City currently has a contract with the 20/20 Network in the amount of $52,000. That Agreement ended on June 30, 2022. The proposed Amendment No. 1 will increase the current total not-to-exceed authorization by $60,000 annually, or $180,000 total, for an additional three years, and bring the total not-to-exceed compensation to $232,000. Actual expenditures will be based on work completed at established billing rates in Agreement as "Exhibit C". The Fiscal Year 2022-23 Adopted Budget includes appropriations from the General Fund for these services.

BACKGROUND & ANALYSIS: The 20/20 Network has proven experience when it comes to assisting with community outreach. Steve Lambert, the City's main contact, and his team possess the regional connections and partnerships that are the best match for the City. The 20/20 Network have been a great asset to the City in assisting with the goal to broadly and effectively inform and educate Ontario residents about the great work that the City is accomplishing.

The continuation of this agreement assures that the City and this group will continue to successfully partner to achieve the City's outreach goals.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Broadband Operations Prepared By: Jimmy Chang Staff Member Presenting: Jimmy Chang, Broadband General Manager Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 17

SUBJECT: PROFESSIONAL SERVICES AGREEMENT WITH RON IVIE, CONSULTANT, FOR BROADBAND STRATEGY, DEVELOPMENT, AND OPERATIONS SERVICES

RECOMMENDATION: That the City Council authorize the City Manager or his designee to execute a Professional Services Agreement (on file in the Records Management Department) for up to five years with Ron Ivie, Consultant, of Boise, Idaho, for broadband strategy, development and operations support consulting services for a not-to-exceed amount of $900,000.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
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)

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Budget includes appropriations for Broadband Department consulting services.

The cost of the proposed Professional Services Agreement is $180,000 per fiscal year and $540,000 total for the initial three-year term. At the City's discretion, two additional one-year extensions may be utilized, consistent with City Council approved budgets for the respective fiscal year, bringing the total not-to-exceed amount to $900,000. Actual expenditures will be based on services rendered and pursuant to Exhibit A - Scope of Services.

BACKGROUND & ANALYSIS: Mr. Ron Ivie has been an advisor on the City's broadband (OntarioNet) fiber-optic network for 15+ years and was the author of the City's fiber-optic master plan adopted in 2013. He is uniquely qualified to perform broadband advanced network planning, strategic, operational support, and business development. Through his long-term engagement, the City has expanded the fiber-optic network presence to 170+ miles throughout the Ontario Ranch Community and within the corridors of the City. As a result of the network footprint, OntarioNet, along with the City service provider partner, now has over 1,700 residential customers, 130 commercial/business customers, 80 traffic signals, and 14 City facilities connected to the City's fiber-based broadband services. Ron Ivie is recommended as a sole source based on his industry

experience, engineering background, business acumen, and history with the City and its progress with broadband development.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Police Department Prepared By: Mary Salem Staff Member Presenting: Mike Lorenz, Chief of Police Reviewed By: Lizceth Zazueta, Paul A Berdnik Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 18

SUBJECT: **APPROVAL OF ALLOCATION AND SPENDING PLAN FOR THE BUREAU OF JUSTICE ASSISTANCE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM FOR FISCAL YEAR 2021**

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute all documents necessary to participate in the Bureau of Justice Assistance (BJA) Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and approve the proposed $47,878 grant spending plan.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Maintain the Current High Level of Public Safety
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: Upon approval and receipt of the grant award, a Grant Identification Number will be established to record, monitor and report to the financial activities of this grant award. The total grant award is $50,272, of which 5% ($2,394) will be assigned to the Law & Justice Group of San Bernardino County for administrative fees, resulting in a net award to the City in the amount of $47,878. This is a one-time allocation with no local matching funds requirement, and grant expenditures must be completed within the four-year grant period. If approved, budget adjustments for appropriations and revenue will be included in the First Quarter Budget Update Report to the City Council.

BACKGROUND & ANALYSIS: The Bureau of Justice Assistance has announced the availability of grant funds through the Edward Byrne Memorial JAG Program. Ontario has participated in the JAG Program (formerly the Local Law Enforcement Block Grant) since 1997. Grant allocations are predetermined through a formula based on the population and crime statistics. Ontario has been allocated $47,878 for FY2021-22. The grant award along with JAG FY 2017, JAG FY 2018, JAG FY 2019 and JAG FY 2020 grants, previously approved by City Council, have been on hold due to a nationwide injunction by a U.S. District Court on September 15, 2017. With the long-awaited legislative approval, the County of San Bernardino intends to accept all pending JAG awards. Under the JAG legislation, the County will act as the fiscal agent for disbursement of the funds. Based on current law enforcement operational needs, the Police Department proposes the to utilize the grant

on hand-held radios.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Utilities Prepared By: Andy Marquez Staff Member Presenting: Scott Burton, Utilities General Manager Reviewed By: Dennice Raygoza, Albert G Gastelum, Michael Sigsbee Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 19

SUBJECT: PURCHASE OF WATER METERS AND REPAIR PARTS

RECOMMENDATION: That the City Council approve and authorize the sole source purchase of new water meters and repair parts for a total not-to-exceed amount of $2,700,000 from HydroPro Solutions of Ontario, California.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The actual total cost of meters to be purchased will be determined based on unit pricing for the various sizes of meters and actual meter repair, replacement, and new installation needs. The Fiscal Year 2022-23 Water Operating and Capital Improvement Program Budgets include $2,700,000 for the purchase of meters and repair parts. Development projects pay for new meter installations while the cost of meter testing, repair and replacement is included in the City's Water Rates. There is no impact to the General Fund.

BACKGROUND & ANALYSIS: There are over 42,000 water meters Citywide, which serve residential, industrial, and commercial businesses as well as landscaped areas; this includes recycled water connections. The accuracy of meters has a direct relationship to accounting and billing for water service. To maintain accuracy and functionality, meters need to be replaced approximately every twelve years, and they are repaired as needed. In Fiscal Year 2021-22, 3,000 existing meters were replaced and approximately 1,000 new meters were installed.

For Fiscal Year 2022-23, approximately 2,500 meters are scheduled to be installed to replace existing meters as part of the annual meter replacement program, and up to 1,000 new meters are anticipated for development projects in the Old Model Colony and Ontario Ranch.

The Master Meter Radio Read Meter was selected as the City standard specification for all new and replacement meter installations as a result of a public bid process and product evaluation that took place in 2001, when six different vendors and product lines were evaluated.

To maintain consistency with our standardized meters that are already in place throughout the City, the purchase of these new meters can only be made directly through the manufacturer. Section 2-6.11 (b) (2) of the Ontario Municipal Code states that sole source purchases are authorized if there is only one procurement source. HydroPro Solutions is the exclusive distributor in California for Master Meter Radio Read Meters and generally has uniform pricing for water agencies utilizing its products. Staff has reviewed pricing and recommends this sole source award to HydroPro Solutions.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Economic Development Prepared By: Jennifer Hiramoto Staff Member Presenting: Jennifer McLain Hiramoto, Economic Development Director Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 20

SUBJECT: **A RESOLUTION APPROVING FOUR SEPARATE GROUND LEASES BETWEEN THE CITY OF ONTARIO AND OTC LOT A OWNER, LLC, THE CITY OF ONTARIO AND OTC LOT B OWNER, LLC, THE CITY OF ONTARIO AND OTC LOT C OWNER, LLC, AND THE CITY OF ONTARIO AND OTC LOT D OWNER, LLC**

RECOMMENDATION: That that the City Council ("City") consider and:

A. Adopt a Resolution approving four separate Ground Leases (each a "Ground Lease" and collectively, the "Ground Leases") between the City of Ontario and OTC Lot A Owner, LLC, the City of Ontario and OTC Lot B Owner, LLC, the City of Ontario and OTC Lot C Owner, LLC, and the City of Ontario and OTC Lot D Owner, LLC (each a "Tenant") for City-owned property located at 4000 East Ontario Center Parkway and the southeast and southwest corners of Via Piemonte and Via Villagio (APNs: 0210-205-01, 0210-204-38, and 0210-204-39) (on file with the Records Management Department).
B. Authorize the City Manager or his designee to further negotiate and execute the Ground Leases and sign all documents necessary to implement the Ground Leases (on file with the Records Management Department).

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: The Tenant will lease real property from the City for a period up to 55 years, with an option to purchase. The ground lease rate and proposed purchase price are supported by an independent appraisal completed by a certified, MAI-appraiser, and represents the current fair market value of the property. The lease payments will commence shortly after document execution, and will be deposited into a City fund. Initial annual lease payments prior to construction will be $271,352.20. Once the buildings are complete and a 90 percent occupancy level obtained, the lease payment formula will result in an annual increase above this initial amount.

BACKGROUND & ANALYSIS: In 2006, the City Council approved the creation of the Piemonte Overlay of the Ontario Center Specific Plan ("Specific Plan"), within the Urban Commercial land use district of the Ontario Center Specific Plan. This established a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre overlay site. The intent of this Specific Plan was to capitalize on the future development of the Toyota Arena, which was opened in 2008. Today, the Toyota Arena is one of the nation's top-selling venues of its size, and continues to host concerts, sporting events and other high-caliber shows nearly 125 days a year.

As a way to build upon this momentum and continue to establish the area immediately adjacent to the Toyota Arena as a regional entertainment attraction, the City has been in discussions with developers to build out the vision presented in the Specific Plan. The combined site consists of four different legal parcels identified as Lots, A, B, C, and D (the "Site") totaling 10.48 acres, generally bounded by Concours Street to the south, Via Piemonte to the east, Via Asti to the west, and Fourth Street to the north. Each of the four legal parcels comprising the Site, shown as Exhibit A, are the subject of a different proposed Ground Lease. Nearly six acres of the Site (Lots A and B) are located immediately to the west of the Toyota Arena, and are currently utilized as parking lots to serve guest needs at the Toyota Arena. The other four acres (Lots C and D) are currently undeveloped land one block north of the Toyota Arena. Over the years, the City has contemplated different development plans at the Site, and has entered into other agreements with the hope of ultimately developing it into a vibrant, pedestrian-heavy, entertainment hub. Unfortunately, none of those projects proved feasible until today.

The most recent discussions have been with American General Design, Inc. dba Adept Development ("Developer"). In recent years, the City has been negotiating with the Developer to explore the development of an urban residential apartment district with ground floor retail uses on the Site. The Developer envisioned a project that would promote walkability, and encourage entertainment, dining, and pedestrian activities by creating spaces for a variety of uses within the entertainment area anchored by the Toyota Arena. The main elements of the mixed-use development would incorporate ground floor restaurant and retail, with four levels of residential apartments above.

These discussions have advanced to the point that the City and a subsidiary of the Developer, referred to as OTC Lot A Owner, LLC, OTC Lot B Owner, LLC, OTC Lot C Owner, LLC and OTC Lot D Owner, LLC (together, "Tenant"), are proposing to enter into four separate ground leases. As part of that process, over the past five months, the following formal actions have been taken:

- **Specific Plan Amendment:** On April 19, 2022, the City Council approved the Specific Plan Amendment to expand the overlay boundary, adding the Mixed-Use land use designation, and establishing design guidelines for mixed-use projects;
- **Conditions of Approval:** A Development Application was submitted by Adept Development. On June 20, 2022, the Development Advisory Board approved conditions of approval for a 63,665 commercial square foot project and 694 dwelling units; and,
- **Development Agreements:** The Planning Commission on June 28, 2022, recommended approval to the City Council for four separate development agreements related to this Project. A public hearing will be held by the City Council on July 19, 2022, contemplating the approval of Planning Commission’s recommendation.

Additionally, at the July 19, 2002 meeting, the City Council is being asked to approve four separate ground leases with the Tenant for the Site as described below with single purpose entities created by Adept:

- **Phase 1:**
  - **Lot A – Ground Lease by and between the City and OTC Lot A Owner, LLC, a Delaware limited liability company**
    - The currently contemplated proposed project to be constructed on Lot A, which is approximately 4.8 acres, includes 25,256 square feet of commercial and 384 residential units.
- **Phase 2:**
  - **Lot C - Ground Lease by and between the City and OTC Lot C Owner, LLC, a Delaware limited liability company**
    - The currently contemplated proposed project to be constructed on Lot C, which is approximately 1.89 acres, includes 11,047 square feet of commercial and 94 residential units.
  - **Lot D - Ground Lease by and between the City and OTC Lot D Owner, LLC, a Delaware limited liability company**
    - The currently contemplated proposed project to be constructed on Lot D, which is approximately 2.1 acres, includes 14,095 square feet of commercial and 104 residential units.
- **Phase 3:**
  - **Lot B - Ground Lease by and between the City and OTC Lot B Owner, LLC, a Delaware limited liability company**
    - The currently contemplated proposed project to be constructed on Lot B, which is approximately 1.7 acres, includes 20,802 square feet of commercial and 112 residential units.

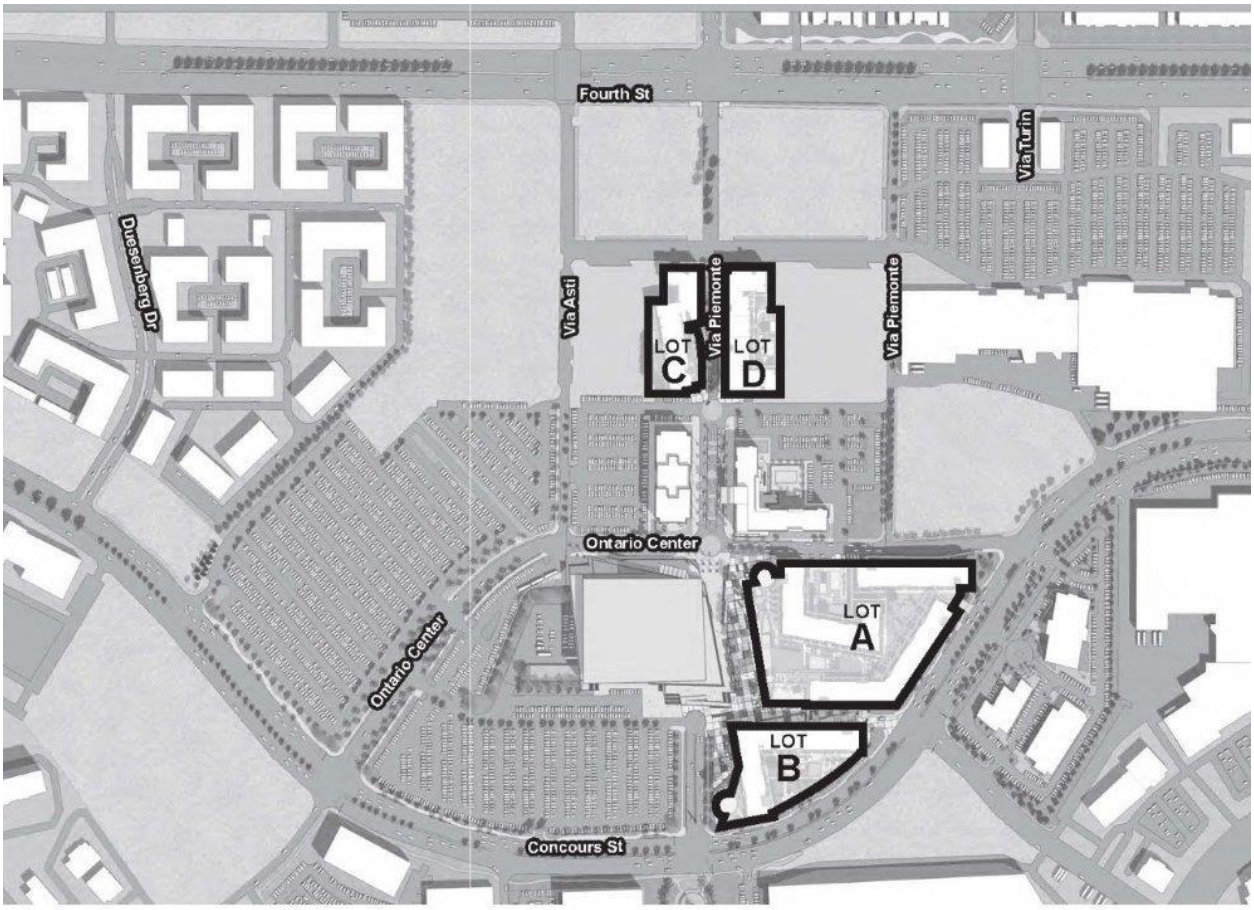
Notable terms within each of the Ground Leases include: a 55-year term at a fair market rent; an option to purchase the City's fee interest by the Tenant; and a first right of refusal for the benefit of the Tenant.

To address the existing parking on Lots A and B, ASM Global (the Toyota Arena operator) and the City will enter into a Memorandum of Understanding with a formal agreement to be brought before the City Council at a later date for consideration.

The environmental impacts of the proposed projects were previously reviewed in conjunction with an Amendment to the Piemonte Overlay of the Ontario Center Specific Plan, for which an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 198941009) was adopted by the City Council on April 19, 2022. The Ground Leases introduce no new significant environmental impacts, and all previously-adopted mitigation measures are a condition of project approval. The Site is located within the Airport Influence Area of Ontario International Airport and the proposed projects were evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan (ALUCP).

“Exhibit A”

Map showing Site and its Location



Ontario Center Parkway, Ontario, CA 91764

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FOUR SEPARATE GROUND LEASES, TI WIT: BETWEEN THE CITY OF ONTARIO AND OTC LOT A OWNER, LLC, BETWEEN THE CITY OF ONTARIO AND OTC LOT B OWNER, LLC, BETWEEN THE CITY OF ONTARIO AND OTC LOT C OWNER, LLC, AND BETWEEN THE CITY OF ONTARIO AND OTC LOT D OWNER, LLC WITH RESPECT TO APPROXIMATELY 10.48 ACRES OF LAND LOCATED AT 4000 EAST ONTARIO CENTER PARKWAY AND THE SOUTHEAST AND SOUTHWEST CORNERS OF VIA PIEMONTE AND VIA VILLAGIO (APNS: 0210-205-01, 0210-204-38, AND 0210-204-39)

WHEREAS, the City of Ontario ("City") currently owns in fee four (4) legal parcels identified as Lots A, B, C, and D (collectively, the "Site" and each a "Lot") totaling approximately 10.48 acres, generally bounded by Concours Street to the south, Via Piemonte to the east, Via Asti to the west, and Fourth Street to the north. Lot A is comprised of approximately 4.83 acres. Lot B is comprised of approximately 1.69 acres. Lot C is comprised of approximately 1.89 acres. Lot D is comprised of approximately 2.06 acres. Lots A and B are located immediately to the west of the City-owned Toyota Arena, and are currently utilized as parking. Lots C and D are currently undeveloped land one block north of the Toyota Arena; and

WHEREAS, in 2006, the City Council approved the creation of the Piemonte Overlay of the Ontario Center Specific Plan ("Specific Plan"), which established a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre overlay site. The intent of the Specific Plan was to capitalize on the future development of the Toyota Arena, which was opened in 2008; and

WHEREAS, as a way to build upon this momentum and continue to establish the area immediately adjacent to the Toyota Arena as a regional entertainment attraction, the City desires to enter into four (4) separate proposed ground leases, one for each Lot (each a "Ground Lease" and collectively, the "Ground Leases"), in order to build out the vision presented in the Specific Plan (as amended); and

WHEREAS, the proposed Ground Leases are as follows:

1. Lot A – a proposed Ground Lease by and between the City of Ontario and OTC Lot A Owner, LLC, a Delaware limited liability company;
2. Lot B - a proposed Ground Lease by and between the City of Ontario and OTC Lot B Owner, LLC, a Delaware limited liability company;
3. Lot C - a proposed Ground Lease by and between the City of Ontario and OTC Lot C Owner, LLC, a Delaware limited liability company;
4. Lot D - a proposed Ground Lease by and between the City of Ontario and OTC Lot D Owner, LLC, a Delaware limited liability company; and

WHEREAS, a form of each Ground Lease is on file with the Records Management Department; and

WHEREAS, it is currently contemplated that the Site will be developed and constructed as part of a phased development project currently comprised of the following development as shown on Table 1 below (as the same may be modified from time to time):

Table 1:
Maximum Development Density (Units) and Intensity
(Based on Piemonte Overlay at the Ontario Center Specific Plan)

DA File No's.	Approx. Acres	Lot	Subarea Area	Dwelling Units	Commercial (Square Feet)
PDA22-003-A	4.83	A	16	384	25,256
PDA22-003-B	1.69	B	17	112	20,802
PDA22-003-C	1.89	C	8	94	11,047
PDA22-003-D	2.06	D	11	104	14,095
Total	**10.48**			**694**	**71,200**

The commercial/office/retail uses on the Site shall be those permitted or conditionally permitted within Section 3.2 *Allowed Uses* of the Specific Plan (as amended); and

WHEREAS, each Ground Lease provides for a 55-year term at fair market rental value, together with a right of first refusal and option to purchase; and

WHEREAS, on June 28, 2022, pursuant to Government Code section 65402, the Planning Commission, pursuant to Resolution No. PC22-027, made a finding that the proposed lease of the Lots pursuant to the Ground Leases is consistent with The Ontario Plan Policy Plan ("General Plan"); and

WHEREAS, the proposed lease of the Lots pursuant to the Ground Leases is authorized by Government Code Section 37350, as it is for the common benefit, because the Ground Lease tenants intend to build housing and commercial/retail uses on the Site, which would further the goals and objectives of the City's General Plan and the goals and objectives of the City by: (i) strengthening the City's land use and social structure; (ii) increasing the housing supply; (iii) alleviating economic and physical blight on the Site and in the surrounding community; (iv) on a portion of the Site, eliminating a vacant site; and (v) creating an increase in property taxes, all of which accrue to the common benefit of the City and its residents.

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

SECTION 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. Findings. The City Council finds that the lease of the Lots pursuant to the proposed Ground Leases will further the goals and purposes of the City, and is in the common interest of the City and its residents.

SECTION 3. CEQA. The environmental impacts of the proposed projects were previously reviewed in conjunction with an Amendment to the Piemonte Overlay of the Ontario Center Specific Plan, for which an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 198941009) was adopted by the City Council on April 19, 2022. The Ground Leases introduce no new significant environmental impacts, and all previously-adopted mitigation measures are a condition of project approval. The Site is located within the Airport Influence Area of Ontario International Airport and the proposed projects were evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan (ALUCP).

SECTION 4. Approval of Ground Leases. The City Council hereby approves the Ground Leases in substantially the forms on file with the Records Management Department, subject to any non-substantive revisions which do not increase the City's liability and are approved by the City Attorney or City special legal counsel, and authorizes the City Manager to sign and enter into the Ground Leases, sign all documents necessary to implement the Ground Leases, and perform the obligations of the City under the Ground Leases.

SECTION 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council declares that the City Council would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

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

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Communications and Community Relations Prepared By: Stephanie Chesin Staff Member Presenting: Dan Bell, Communications and Community Relations Director Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 21

SUBJECT: PROFESSIONAL SERVICES AGREEMENTS WITH KENGRAPHICS, ECLIPSE PRINTING AND GRAPHICS, LLC DBA JAMES LITHO, AND ULTIMATE PRINT SOURCE FOR PRINT SERVICES

RECOMMENDATION: That the City Council award, approve, and authorize the City Manager, or his designee to execute three (3) separate Professional Services Agreements (on file in the Records Management Department) with Kengraphics of Upland, California; Eclipse Printing and Graphics, LLC dba James Litho of Ontario, California; and Ultimate Print Source of Ontario, California to provide Print Services for up to five years for a total not-to-exceed amount of $500,000 for all three vendors.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: The Fiscal Year 2022-23 Adopted Operating Budget includes appropriations from the General Fund for Central Services Department professional services for the initial year. If approved, appropriations for the future years of the Agreements will be included in respective Department annual budgets to be approved by City Council.

The Central Services Department budgets a total of $100,000 to be spent annually on contracted printing services. The initial term for the three-year contracts have a total not-to-exceed aggregate amount of $300,000. If the City chooses to remain in the Agreements for the full five years, the total not-to-exceed amount will be $500,000. The total compensation paid by the City will be contingent on actual services provided based on the fee structures set forth in the Professional Services Agreements. A breakdown of the individual contract amounts are shown below:

Vendor	Annual Not-to-Exceed Amount	Initial Term Not-to-Exceed Amount	Total Not-to-Exceed Amount (if option years are used)
Kengraphics	$40,000	$120,000	$200,000
Eclipse Printing and Graphics, dba James Litho	$40,000	$120,000	$200,000
Ultimate Print Source	$20,000	$60,000	$100,000

BACKGROUND & ANALYSIS: The Central Services Department currently runs a small, Digital Print Shop, which offers low-cost printing solutions to all City Departments. While many of the requested print jobs can be done in house, mass mailers and wide-format printing requires specialized equipment that the City currently does not own, and is very costly to purchase and maintain. For this reason, the Central Services Department relies on outside vendors to complete these specialized print job requests.

In March of 2022, the City solicited Request for Proposals (RFP) #1517 for Print Services. Staff received bids from four local vendors. Upon review of each bid response based on criteria set forth in the RFP, the department is recommending the award of the Professional Services Agreements to Kengraphics of Upland, California; Eclipse Printing and Graphics, LLC dba James Litho of Ontario, California; and Ultimate Print Source of Ontario, California. Out of the four responses submitted, proposed vendors are the top three most cost effective solutions for the City.

Staff recommends the award of three separate contracts to ensure adequate availability, efficient turnaround times, and the ability to produce specialized items as needed.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Community Improvement Prepared By: Douglas J Sorel Staff Member Presenting: Scott Murphy, Executive Director Community Development Approved By: 	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 22

SUBJECT: A RESOLUTION FOR PLACEMENT OF SPECIAL ASSESSMENTS ON THE SAN BERNARDINO COUNTY TAX ROLLS

RECOMMENDATION: That the City Council adopt a Resolution for recovery of fees and costs incurred in abating property and dangerous building violations, as well as administrative citations and civil penalties associated with property maintenance violations, and placing assessments on the San Bernardino County Tax Rolls.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: The levy of special assessments will result in the recovery of $143,297 in costs that the City has expended for inspection or abatement of property violations, as well as the collection of $38,520 associated with civil penalties and/or fines for continued violations, for a total of $181,817 related to 523 parcels. When received, these reimbursements will be deposited into the General Fund. The special assessment revenue is included in the Fiscal Year 2022-23 Adopted Budget.

BACKGROUND & ANALYSIS: The City has established revolving funds to cover the City costs for abatement of property and dangerous building violations as a result of Community Improvement activities. Additionally, the City has established administrative citations and fines for property maintenance violations and fees and penalties associated with the Systematic Health and Safety Inspection Program, Abandoned and Distressed Property Program, and Weed and Refuse Abatement Program. These costs, fines, fees, and penalties are recovered through placement of special tax assessments upon the properties. The placement of special assessments and collection of revenue is done under Ordinance 3046, Property Appearance (Title 5, Chapter 22 of the Ontario Municipal Code); Chapter 9 of the Uniform Code for the Abatement of Dangerous Buildings; and, Ordinance 2920 for civil penalties for continued violations of the Ontario Municipal Code and fines associated with administrative citations (Title 1, Chapters 2 and 5 of the Ontario Municipal Code). The City and County currently have a contractual agreement regarding implementation of special assessments; however, a Resolution authorizing the placement of the specific assessments is

required. During this assessment cycle, the Community Improvement Department has billed property owners for: the abatement of violations; the issuance of fines associated with administrative citation; the issuance of fees and penalties associated with the Systematic Health and Safety Inspection Program; the issuance of registration fees and civil penalties associated with the Abandoned and Distressed Property Program; the issuance of notice and re-inspection fees; and, civil penalties for the Weed and Refuse Abatement Program on 5,455 parcels. Of these, there are remaining amounts due on 523 parcels. Attached are itemized accounts of: (1) costs associated with inspection or abatement as shown in Exhibit A of the Resolution; (2) civil penalties and/or fines for continued violations as shown in Exhibit B of the Resolution; and (3) total amounts per parcel as shown in Exhibit C of the Resolution. The expenditure list, including all corrections, adjustments, and payments received prior to August 4, 2022, will be submitted to the County prior to the August 10, 2022 deadline for its 2022-2023 tax rolls. All affected property owners were given notice of the imposition of special assessments via certified mail as provided in Ontario Municipal Code Section 1-4.05(a) and have either not requested an appeal or have exhausted the appellate procedure in Ontario Municipal Code Section 1-4.05(b).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A REPORT REQUESTING THE PLACEMENT OF SPECIAL ASSESSMENTS ON PROPERTY TAX BILLS FOR CIVIL PENALTIES OR RECOVERY OF COSTS INCURRED FOR ABATEMENT OF VIOLATIONS OF CITY CODES AND ORDINANCES.

WHEREAS, Ordinance No. 3046, Property Appearance (Title 5, Chapter 22, of the Ontario Municipal Code) and Chapter 9 of the Uniform Code for the Abatement of Dangerous Buildings provide for the abatement of property nuisances by repair, rehabilitation, demolition or removal; and

WHEREAS, under Resolution 94-112, Resolution ORA-499, and the Cooperation and Reimbursement Agreement entered into on the 15th day of November, 1994, by the City of Ontario and the Ontario Redevelopment Agency, the Ontario Redevelopment Agency made a one-time advance to the City of One Hundred Fifty Thousand Dollars ($150,000) to repair or abate dangerous buildings and properties throughout the City; and

WHEREAS, under a first amendment to the Cooperation and Reimbursement Agreement entered into on the 16th day of July 1996, by the City of Ontario and the Ontario Redevelopment Agency, the Ontario Redevelopment Agency made an additional advance to the City of One Hundred Thousand Dollars ($100,000) to continue to repair or abate dangerous buildings and properties throughout the City; and

WHEREAS, under Resolution 94-113, Resolution ORA-500, and the Cooperation and Reimbursement Agreement entered into on the 15th day of November 1994, by the City of Ontario and the Ontario Redevelopment Agency, the Ontario Redevelopment Agency made a one-time advance to the City of Thirty Thousand Dollars ($30,000) to repair or abate dangerous buildings and properties in the 6th and Grove area; and

WHEREAS, under Resolution 94-12, Resolution ORA-464, and the Cooperation and Reimbursement Agreement entered into on the 22nd day of February 1994, by the City of Ontario and the Ontario Redevelopment Agency, the Ontario Redevelopment Agency made a one-time advance to the City of One Hundred Fifty Thousand Dollars ($150,000) to repair or demolish dangerous buildings throughout the City; and

WHEREAS, Ordinance No. 2894, Systematic Health and Safety Inspection Program (Title 8, Chapter 17, of the Ontario Municipal Code), provides for the collection of unpaid service fees, plus any penalties and accrued interest by Special Assessment; and

WHEREAS, Ordinance No. 2920, provides for the assessment of civil penalties for continued violations of the Ontario Municipal Code (Title 1, Chapter 2 of the Ontario Municipal Code), and for fines associated with administrative citations to be collected by Special Assessment (Title 1, Chapter 5 of the Ontario Municipal Code), and establishes a uniform procedure before imposing such Special Assessments (Title 1, Chapter 4 of the Ontario Municipal Code); and

WHEREAS, the above said ordinances, resolutions and agreements provide for recovery of costs incurred in the abatement of violations by means of a Special Assessment placed on the tax rolls; and

WHEREAS, the City has incurred costs involved in the abatement of violations under the Ontario Municipal Code and Uniform Code for the Abatement of Dangerous Buildings, issuing Notices of Violation, and administering the Systematic Health and Safety Program and wishes to recover said costs; and

WHEREAS, the owners of all parcels listed in Exhibit A, B, and C were given notice of imposition of such Special Assessment as provided in Ontario Municipal Code Section 1-4.05(a), and either have not requested an appeal, or have exhausted the appellate procedure provided in Ontario Municipal Code Section 1-4.05(b); and

WHEREAS, the City has an executed contract with the San Bernardino County Board of Supervisors for collection of said assessments;

NOW, THEREFORE, BE IT RESOLVED that the City Council:

1. Confirmed the costs associated with inspection or abatement on the properties as set forth in the report in Exhibit A; and

2. Confirmed the civil penalties and/or fines for continued violations on the properties as set forth in the report in Exhibit B; and

3. Confirmed that Exhibit C contains the total amount assessed for both confirmed costs and confirmed civil penalties and/or fines for each of the properties; and

4. Found and determined that the report, and Exhibits contained therein are true and accurate; and

5. Adopts the above said report and finds that the costs of inspection or abatement on the properties listed are the costs set forth in Exhibit A, the civil penalties and/or fines for continued violations are the penalties and/or fines as set forth in Exhibit B, and the same are hereby charged and placed as special assessments upon the respective properties; and

6. Directs Exhibit C shall be sent to the Auditor-Controller of San Bernardino County and shall be collected on the County tax roll.

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022, 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit A - Costs Associated with Inspection or Abatement

Parcel Number	Address	Amount Due
0108-301-14	1310 N GROVE AV, Ontario, CA 91764	138.00
0108-303-21	1383 E BONNIE BRAE ST, Ontario, CA 91764	138.00
0108-363-13	1530 E HIGHLAND CT, Ontario, CA 91764	138.00
0108-413-07	1432 E HIGHLAND CT, Ontario, CA 91764	138.00
0108-441-01	1430 N GROVE AV, Ontario, CA 91764	138.00
0108-481-05	1668 E EIGHTH ST, Ontario, CA 91764	138.00
0108-501-29	1211 N EL DORADO AV, Ontario, CA 91764	1,656.00
0108-501-34	1224 N EL DORADO AV, Ontario, CA 91764	138.00
0108-511-39	1456 E FIFTH ST, Unit:1, Ontario, CA 91764	138.00
0108-524-08	1343 N LAKE AV, Ontario, CA 91764	138.00
0108-534-05	1709 E BONNIE BRAE CT, Ontario, CA 91764	138.00
0108-543-04	1223 N MANDALAY ST, Ontario, CA 91764	138.00
0108-551-22	1674 E PRINCETON ST, Ontario, CA 91764	138.00
0108-551-49	1711 E FOURTH ST, Unit:A, Ontario, CA 91764	276.00
0108-571-38	1668 E HIGHLAND ST, Ontario, CA 91764	46.00
0108-572-07	1752 N CORONA AV, Ontario, CA 91764	138.00
0108-573-19	1750 N MADERA AV, Ontario, CA 91764	138.00
0108-622-33	1830 N SACRAMENTO AV, Ontario, CA 91764	138.00
0108-622-48	1859 N VINEYARD AV, Building:2, Unit:A, Ontario, CA 91764	91.00
0110-013-62	1235 E D ST, Unit:13, Ontario, CA 91764	46.00
0110-013-67	1235 E D ST, Unit:18, Ontario, CA 91764	138.00
0110-013-70	1235 E D ST, Unit:21, Ontario, CA 91764	46.00
0110-042-16	1411 E ELMA CT, Unit:A, Ontario, CA 91761	552.00
0110-042-35	1458 E ELMA CT, Unit:A, Ontario, CA 91761	184.00
0110-061-18	1329 E HOLT BL, Ontario, CA 91761	966.00
0110-071-06	1381 E HOLT BL, Ontario, CA 91761	140.00
0110-071-07	1381 E HOLT BL, Ontario, CA 91761	140.00
0110-072-13	1412 E NOCTA ST, Ontario, CA 91761	552.00
0110-072-20	156 N LASSEN PL, Ontario, CA 91761	552.00
0110-181-11	1610 E FOURTH ST, Ontario, CA 91764	140.00
0110-242-06	511 N ORANGE PRIVADO, Ontario, CA 91764	138.00
0110-297-11	1348 E FLORA ST, Ontario, CA 91764	138.00
0110-322-32	2200 E HOLT BL, Ontario, CA 91761	91.00
0110-332-01	1802 E FOURTH ST, Unit:A, Ontario, CA 91764	552.00
0110-332-02	1808 E FOURTH ST, Unit:A, Ontario, CA 91764	552.00
0110-332-03	1814 E FOURTH ST, Unit:A, Ontario, CA 91764	414.00
0110-333-05	1870 E ROSEWOOD CT, Unit:A, Ontario, CA 91764	552.00
0110-334-07	1018 N SACRAMENTO AV, Unit:A, Ontario, CA 91764	552.00
0110-343-04	1778 E FOURTH ST, Ontario, CA 91764	552.00
0110-351-05	1758 E GRANADA CT, Ontario, CA 91764	138.00
0110-365-02	935 N SACRAMENTO AV, Ontario, CA 91764	3,012.00
0110-411-49	1714 E G ST, Unit:B, Ontario, CA 91764	138.00
0110-482-08	1814 E FIFTH ST, Ontario, CA 91764	138.00
0110-512-08	752 N MADERA AV, Ontario, CA 91764	46.00

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Parcel Number	Address	Amount Due
0110-514-08	752 N BAKER AV, Ontario, CA 91764	138.00
0113-524-01	1902 E TAM O'SHANTER ST, Ontario, CA 91761	138.00
0113-533-12	2532 S BALBOA AV, Ontario, CA 91761	92.00
0113-541-24	1939 E BROOKSIDE DR, Ontario, CA 91761	46.00
0113-541-38	2708 S INVERNESS CT, Ontario, CA 91761	184.00
0113-542-27	1927 E ST. ANDREWS DR, Ontario, CA 91761	92.00
0209-371-21	2027 E DEODAR ST, Ontario, CA 91764	92.00
0209-421-79	1850 N VINEYARD AV, Unit:E, Ontario, CA 91764	138.00
0209-422-66	1818 N VINEYARD AV, Unit:A, Ontario, CA 91764	138.00
0209-424-35	1818 N SOLANO AV, Ontario, CA 91764	138.00
0210-041-22	1452 N PLACER PL, Ontario, CA 91764	138.00
0210-181-06	809 N TURNER AV, Ontario, CA 91764	140.00
0210-191-29	2800 E INLAND EMPIRE BL, Ontario, CA 91764	140.00
0210-192-21	2955 E GUASTI RD, Ontario, CA 91761	140.00
0210-211-33	700 N HAVEN AV, Ontario, CA 91764	1,593.89
0210-292-22	1729 E HAWTHORNE ST, Ontario, CA 91764	138.00
0210-292-36	1643 E HAWTHORNE ST, Ontario, CA 91764	138.00
0210-301-29	1421 N BALBOA AV, Ontario, CA 91764	138.00
0210-301-38	1444 N BARRANCA AV, Ontario, CA 91764	138.00
0210-351-32	1948 E FIFTH ST, Ontario, CA 91764	138.00
0210-353-25	2008 E FIFTH ST, Ontario, CA 91764	138.00
0210-354-27	2024 E FIFTH ST, Ontario, CA 91764	138.00
0210-411-03	721 N CENTER AV, Unit:1, Ontario, CA 91764	552.00
0210-411-25	751 N CORVETTE DR, Unit:1, Ontario, CA 91764	552.00
0210-421-35	904 N TURNER AV, Building:3, Unit:18, Ontario, CA 91764	138.00
0210-421-37	924 N TURNER AV, Building:4, Unit:20, Ontario, CA 91764	138.00
0210-431-77	1054 N TURNER AV, Building:29, Unit:167, Ontario, CA 91764	138.00
0210-432-05	1048 N TURNER AV, Building:33, Unit:191, Ontario, CA 91764	138.00
0210-433-09	1002 N TURNER AV, Building:47, Unit:279, Ontario, CA 91764	138.00
0216-013-39	2362 S AUGUSTA PL, Ontario, CA 91761	138.00
0216-311-04	13849 S GROVE AV, Ontario, CA 91761	138.00
0216-311-09	8292 E EDISON AV, Ontario, CA 91761	138.00
0216-361-22	2407 S PARCO AV, Ontario, CA 91761	138.00
0216-361-31	2402 S IMPERIAL PL, Ontario, CA 91761	46.00
0216-361-51	1476 E FAIRFIELD CT, Ontario, CA 91761	138.00
0216-361-67	1483 E FAIRFIELD CT, Ontario, CA 91761	138.00
0216-381-48	2608 S MILDRED PL, Ontario, CA 91761	138.00
0216-391-34	1473 E BERMUDA DUNES ST, Ontario, CA 91761	138.00
0216-401-22	1720 E OAK HILL CT, Ontario, CA 91761	138.00
0216-411-22	1737 E FAIRFIELD CT, Unit:1, Ontario, CA 91761	552.00
0216-421-52	1638 E FAIRFIELD ST, Unit:1, Ontario, CA 91761	552.00
0216-421-68	1525 E FAIRFIELD ST, Unit:1, Ontario, CA 91761	184.00
0216-421-72	1501 E FAIRFIELD ST, Unit:1, Ontario, CA 91761	552.00
0216-431-36	2525 S CASTLE HARBOUR AV, Ontario, CA 91761	138.00

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Parcel Number	Address	Amount Due
0216-461-06	1218 E DORAL CT, Ontario, CA 91761	138.00
0216-491-50	1419 E RIVERSIDE DR, Ontario, CA 91761	1,099.36
0216-491-66	1450 E MERION CT, Ontario, CA 91761	138.00
0218-111-56	9510 E CHINO AV, Ontario, CA 91761	138.00
0218-252-07	11091 E EDISON AV, Ontario, CA 91761	276.00
0218-272-27	3352 S PRIMROSE DR, Ontario, CA 91761	466.35
0218-614-18	3131 E YOSEMITE DR, Ontario, CA 91762	574.00
0218-751-37	2948 E BLACK HORSE DR, Ontario, CA 91761	138.00
0218-791-02	3708 S WRANGLER PL, Ontario, CA 91761	138.00
0218-791-24	3643 S PINTO PL, Ontario, CA 91761	138.00
0218-791-60	2820 E BIG RANGE RD, Ontario, CA 91761	138.00
0218-811-22	2801 E LONGHORN ST, Ontario, CA 91761	138.00
0218-821-74	3243 S PLAINFIELD PL, Ontario, CA 91761	138.00
0218-831-59	2901 E GREENBRIAR DR, Ontario, CA 91761	1,614.00
0218-861-30	2902 E PALOMINO CT, Ontario, CA 91761	138.00
0218-881-35	3238 S CENTURION PL, Ontario, CA 91761	138.00
0218-891-15	3142 S CLOVER LN, Ontario, CA 91761	2,949.38
0238-014-54	4403 E MILLS CI, Ontario, CA 91764	447.59
0238-152-02	0 E SCE EASEMENT, Ontario, CA 91761	140.00
1008-442-29	1321 W SIXTH ST, Ontario, CA 91762	138.00
1008-443-25	1354 N ELDERBERRY AV, Ontario, CA 91762	138.00
1008-521-22	1151 W PRINCETON ST, Unit:B, Ontario, CA 91762	138.00
1010-093-12	1503 W J ST, Ontario, CA 91762	138.00
1010-093-13	1453 W J ST, Ontario, CA 91762	138.00
1010-095-11	957 N JASMINE AV, Ontario, CA 91762	138.00
1010-095-20	903 N JASMINE AV, Ontario, CA 91762	46.00
1010-114-06	929 N FUCHSIA AV, Ontario, CA 91762	138.00
1010-131-23	1223 W ROSEWOOD CT, Ontario, CA 91762	552.00
1010-131-24	1217 W ROSEWOOD CT, Ontario, CA 91762	414.00
1010-131-25	1209 W ROSEWOOD CT, Ontario, CA 91762	552.00
1010-154-07	935 W BERKELEY CT, Ontario, CA 91762	306.89
1010-154-21	956 W I ST, Ontario, CA 91762	138.00
1010-173-22	864 W EL MORADO CT, Ontario, CA 91762	247.00
1010-181-23	1016 W EL MORADO CT, Ontario, CA 91762	414.00
1010-181-25	1023 W H ST, Ontario, CA 91762	414.00
1010-182-04	737 N PALMETTO AV, Ontario, CA 91762	552.00
1010-182-07	1029 W EL MORADO CT, Ontario, CA 91762	690.00
1010-182-12	967 W EL MORADO CT, Ontario, CA 91762	138.00
1010-191-17	817 N PALMETTO AV, Ontario, CA 91762	828.00
1010-191-18	813 N PALMETTO AV, Ontario, CA 91762	828.00
1010-192-17	1015 W GRANADA CT, Ontario, CA 91762	276.00
1010-411-10	616 N IRIS CT, Ontario, CA 91762	138.00
1010-412-10	1451 W F ST, Ontario, CA 91762	138.00
1010-453-19	606 N CAMELLIA AV, Ontario, CA 91762	138.00

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Parcel Number	Address	Amount Due
1010-453-20	612 N CAMELLIA AV, Ontario, CA 91762	138.00
1010-455-03	1116 W D ST, Ontario, CA 91762	1,792.73
1010-465-06	1007 W F ST, Ontario, CA 91762	414.00
1010-473-01	929 W FLORA ST, Ontario, CA 91762	138.00
1010-501-53	133 N ALPINE CT, Ontario, CA 91762	138.00
1010-501-55	137 N ALPINE CT, Ontario, CA 91762	138.00
1010-501-70	144 N ALPINE CT, Ontario, CA 91762	138.00
1010-521-05	312 N CAMELLIA AV, Unit:A, Ontario, CA 91762	552.00
1010-521-09	1141 W D ST, Unit:A, Ontario, CA 91762	552.00
1010-521-11	305 N BEGONIA AV, Unit:A, Ontario, CA 91762	368.00
1010-521-17	210 N BEGONIA AV, Unit:A, Ontario, CA 91762	552.00
1010-532-16	1221 W D ST, Ontario, CA 91762	138.00
1010-541-05	1336 W STONERIDGE CT, Unit:A, Ontario, CA 91762	2,392.00
1010-552-31	1415 W STONERIDGE CT, Unit:A, Ontario, CA 91762	1,334.00
1010-561-28	1433 W D ST, Ontario, CA 91762	138.00
1010-562-15	1550 W VESTA ST, Ontario, CA 91762	138.00
1011-221-03	630 S OAKS AV, Ontario, CA 91762	187.00
1011-372-24	1309 W MISSION BL, Unit:118, Ontario, CA 91762	138.00
1011-373-04	1309 W MISSION BL, Unit:50, Ontario, CA 91762	138.00
1011-373-40	1309 W MISSION BL, Unit:94, Ontario, CA 91762	138.00
1011-381-33	821 S MAGNOLIA AV, Unit:A, Ontario, CA 91762	138.00
1011-382-62	850 S PALMETTO AV, Ontario, CA 91762	138.00
1011-382-63	852 S PALMETTO AV, Ontario, CA 91762	138.00
1011-382-64	854 S PALMETTO AV, Ontario, CA 91762	138.00
1011-396-06	821 S GRANITE PRIVADO, Ontario, CA 91762	138.00
1011-401-27	1031 S PALMETTO AV, Building:S, Unit:4, Ontario, CA 91762	138.00
1011-401-42	871 W MAITLAND PRIVADO, Ontario, CA 91762	112.00
1011-411-11	912 S MOUNTAIN AV, Unit:A, Ontario, CA 91762	138.00
1011-411-49	1092 S MOUNTAIN AV, Ontario, CA 91762	92.00
1011-414-04	1008 S PALMETTO AV, Ontario, CA 91762	138.00
1011-415-51	943 S MOUNTAIN AV, Ontario, CA 91762	138.00
1011-421-11	0 S ELDERBERRY AV, Ontario, CA 91762	140.00
1011-421-12	0 S ELDERBERRY AV, Ontario, CA 91762	140.00
1011-541-21	1114 W BAHIA CT, Unit:A, Ontario, CA 91762	276.00
1011-541-26	1103 W RALSTON ST, Unit:A, Ontario, CA 91762	414.00
1011-542-19	1034 W SEASHELL CT, Ontario, CA 91762	138.00
1011-544-06	1132 W RALSTON ST, Ontario, CA 91762	414.00
1011-551-53	1232 S CYPRESS AV, Unit:E, Ontario, CA 91762	138.00
1011-552-09	1222 S CYPRESS AV, Unit:C, Ontario, CA 91762	138.00
1011-552-61	1212 S CYPRESS AV, Unit:F, Ontario, CA 91762	138.00
1011-572-11	1052 W ECLIPSE CT, Ontario, CA 91762	138.00
1011-573-07	1327 S PINE AV, Ontario, CA 91762	138.00
1011-574-16	1321 S MAGNOLIA AV, Ontario, CA 91762	138.00
1011-581-04	1336 W PHILLIPS ST, Ontario, CA 91762	1,516.56

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Parcel Number	Address	Amount Due
1014-152-02	1412 S CYPRESS AV, Ontario, CA 91762	138.00
1014-182-15	844 W JUNIPER ST, Ontario, CA 91762	91.00
1014-191-17	1034 W MAPLE CT, Ontario, CA 91762	138.00
1014-211-08	1228 W FRANCIS ST, Ontario, CA 91762	138.00
1014-211-09	1240 W FRANCIS ST, Ontario, CA 91762	276.00
1014-211-13	1320 W FRANCIS ST, Ontario, CA 91762	901.23
1014-441-25	1387 W FRANCIS ST, Ontario, CA 91762	46.00
1014-462-40	1915 S MOUNTAIN AV, Unit:10, Ontario, CA 91762	138.00
1014-462-48	1915 S MOUNTAIN AV, Unit:7, Ontario, CA 91762	138.00
1014-471-35	1119 W FRANCIS ST, Unit:E, Ontario, CA 91762	138.00
1014-472-10	1860 S PALMETTO AV, Ontario, CA 91762	1,518.00
1014-472-35	1051 W FRANCIS ST, Unit:D, Ontario, CA 91762	138.00
1014-472-58	1045 W FRANCIS ST, Unit:A, Ontario, CA 91762	138.00
1014-472-94	1017 W FRANCIS ST, Ontario, CA 91762	567.00
1014-512-20	926 W PHILADELPHIA ST, Building:G, Unit:32, Ontario, CA 91762	138.00
1014-512-35	926 W PHILADELPHIA ST, Building:I, Unit:47, Ontario, CA 91762	138.00
1014-521-25	1134 W PHILADELPHIA ST, Ontario, CA 91762	138.00
1014-521-50	1178 W PHILADELPHIA ST, Ontario, CA 91762	138.00
1014-523-15	2104 S MOUNTAIN AV, Ontario, CA 91762	138.00
1014-523-20	2066 S MOUNTAIN AV, Ontario, CA 91762	138.00
1014-523-37	2158 S MOUNTAIN AV, Ontario, CA 91762	138.00
1014-532-04	2004 S PALMETTO AV, Ontario, CA 91762	140.00
1014-532-16	1039 W LARODA CT, Ontario, CA 91762	138.00
1014-532-38	2003 S MOUNTAIN AV, Unit:3, Ontario, CA 91762	138.00
1015-201-46	2321 S MAGNOLIA AV, Building:8, Unit:A, Ontario, CA 91762	138.00
1015-201-76	2321 S MAGNOLIA AV, Building:13, Unit:D, Ontario, CA 91762	138.00
1047-151-03	1126 E SEVENTH ST, Ontario, CA 91764	138.00
1047-151-13	1125 E SYCAMORE CT, Ontario, CA 91764	46.00
1047-172-18	944 E DEODAR ST, Unit:1, Ontario, CA 91764	828.00
1047-252-15	340 W CAROLINE CT, Ontario, CA 91762	4,118.00
1047-311-53	525 W SIXTH ST, Ontario, CA 91762	625.00
1047-321-77	637 W HAWTHORNE ST, Ontario, CA 91762	138.00
1047-331-06	132 W BONNIE BRAE CT, Ontario, CA 91762	787.00
1047-391-02	1408 N CAMPUS AV, Ontario, CA 91764	138.00
1047-402-08	740 E BONNIE BRAE CT, Ontario, CA 91764	138.00
1047-411-20	1015 E FIFTH ST, Ontario, CA 91764	138.00
1047-424-02	962 E SIXTH ST, Ontario, CA 91764	138.00
1047-424-08	1024 E SIXTH ST, Ontario, CA 91764	138.00
1047-424-29	1034 E SIXTH ST, Unit:302, Ontario, CA 91764	138.00
1047-432-02	1128 E SIXTH ST, Ontario, CA 91764	552.00
1047-432-05	1146 E SIXTH ST, Ontario, CA 91764	552.00
1047-432-10	1109 E LA DENEY CT, Unit:A, Ontario, CA 91764	184.00
1047-433-02	1406 N VIRGINIA AV, Ontario, CA 91764	276.00
1047-433-11	1202 E SIXTH ST, Ontario, CA 91764	552.00

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Parcel Number	Address	Amount Due
1047-441-02	1351 N GROVE AV, Ontario, CA 91764	368.00
1047-441-12	1314 N VIRGINIA AV, Ontario, CA 91764	552.00
1047-442-04	1346 N VIRGINIA AV, Ontario, CA 91764	368.00
1047-451-10	1105 E PRINCETON ST, Ontario, CA 91764	138.00
1047-462-17	1203 E FOURTH ST, Ontario, CA 91764	276.00
1047-471-17	937 E HARVARD PL, Ontario, CA 91764	138.00
1047-473-15	1054 E PRINCETON ST, Ontario, CA 91764	842.32
1047-493-13	837 E YALE ST, Ontario, CA 91764	138.00
1047-493-19	864 E YALE ST, Ontario, CA 91764	138.00
1047-511-38	529 E HARVARD PL, Ontario, CA 91764	91.00
1047-512-37	547 E FOURTH ST, Ontario, CA 91764	138.00
1047-521-06	639 E PRINCETON ST, Ontario, CA 91764	138.00
1047-541-15	219 E HARVARD PL, Ontario, CA 91764	92.00
1047-593-03	1145 N GRANITE AV, Ontario, CA 91762	46.00
1047-594-13	1228 N GRANITE AV, Ontario, CA 91762	138.00
1047-594-42	1213 N SAN ANTONIO AV, Ontario, CA 91762	127.00
1047-594-52	730 W FOURTH ST, Ontario, CA 91762	138.00
1048-012-06	733 W J ST, Ontario, CA 91762	138.00
1048-031-03	645 W J ST, Ontario, CA 91762	138.00
1048-032-33	614 W I ST, Ontario, CA 91762	138.00
1048-041-09	331 W J ST, Ontario, CA 91762	138.00
1048-041-29	418 W I ST, Unit:A, Ontario, CA 91762	690.00
1048-042-01	327 W J ST, Ontario, CA 91762	138.00
1048-043-10	939 N EUCLID AV, Ontario, CA 91762	138.00
1048-043-17	132 W I ST, Unit:A, Ontario, CA 91762	276.00
1048-043-20	914 N LAUREL AV, Ontario, CA 91762	138.00
1048-043-24	932 N LAUREL AV, Ontario, CA 91762	276.00
1048-052-06	1043 N EUCLID AV, Unit:A, Ontario, CA 91762	828.00
1048-062-10	222 E ROSEWOOD CT, Ontario, CA 91764	276.00
1048-064-21	315 E J ST, Ontario, CA 91764	92.00
1048-093-04	622 E FOURTH ST, Ontario, CA 91764	138.00
1048-111-16	753 E PLAZA SERENA ST, Ontario, CA 91764	1,222.00
1048-122-27	922 E PLAZA SERENA ST, Ontario, CA 91764	138.00
1048-133-30	945 E PLAZA SERENA ST, Ontario, CA 91764	138.00
1048-161-28	821 N ALAMEDA AV, Ontario, CA 91764	138.00
1048-162-19	846 N VIRGINIA AV, Ontario, CA 91764	138.00
1048-181-23	933 E H ST, Ontario, CA 91764	138.00
1048-191-16	933 E G ST, Ontario, CA 91764	276.00
1048-191-19	724 N GREENWOOD AV, Ontario, CA 91764	138.00
1048-201-26	715 E G ST, Ontario, CA 91764	138.00
1048-202-14	748 E H ST, Ontario, CA 91764	138.00
1048-213-18	739 E H ST, Ontario, CA 91764	1,233.00
1048-213-23	713 E H ST, Ontario, CA 91764	983.36
1048-214-09	748 E I ST, Ontario, CA 91764	138.00

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Parcel Number	Address	Amount Due
1048-221-02	510 E I ST, Ontario, CA 91764	276.00
1048-221-23	656 E I ST, Ontario, CA 91764	138.00
1048-221-24	664 E I ST, Ontario, CA 91764	138.00
1048-231-06	528 E H ST, Ontario, CA 91764	138.00
1048-243-19	303 E G ST, Ontario, CA 91764	276.00
1048-262-04	407 W GRANADA CT, Ontario, CA 91762	138.00
1048-262-26	322 W H ST, Ontario, CA 91762	276.00
1048-262-38	220 W H ST, Ontario, CA 91762	966.00
1048-291-08	619 W I ST, Ontario, CA 91762	138.00
1048-292-03	651 W GRANADA CT, Ontario, CA 91762	138.00
1048-292-05	633 W GRANADA CT, Ontario, CA 91762	138.00
1048-305-03	714 N CYPRESS AV, Ontario, CA 91762	138.00
1048-311-20	750 W F ST, Ontario, CA 91762	138.00
1048-331-04	443 N BEVERLY SQ, Ontario, CA 91762	276.00
1048-332-10	507 N VINE AV, Ontario, CA 91762	138.00
1048-332-17	528 W D ST, Ontario, CA 91762	138.00
1048-366-08	219 E F ST, Ontario, CA 91764	414.00
1048-371-06	328 E G ST, Ontario, CA 91764	138.00
1048-371-20	626 N PLUM AV, Ontario, CA 91764	138.00
1048-372-07	511 N CHERRY AV, Ontario, CA 91764	138.00
1048-372-08	507 N CHERRY AV, Ontario, CA 91764	276.00
1048-374-02	408 E E ST, Ontario, CA 91764	276.00
1048-382-09	556 E F ST, Ontario, CA 91764	276.00
1048-391-04	557 E E ST, Ontario, CA 91764	276.00
1048-401-02	757 E E ST, Ontario, CA 91764	138.00
1048-411-21	753 E F ST, Ontario, CA 91764	276.00
1048-412-04	716 E F ST, Ontario, CA 91764	414.00
1048-412-06	726 E F ST, Ontario, CA 91764	138.00
1048-413-09	535 N ALLYN AV, Ontario, CA 91764	110.40
1048-421-66	939 E D ST, Ontario, CA 91764	276.00
1048-432-22	624 N FLORENCE AV, Ontario, CA 91764	138.00
1048-441-13	1121 E D ST, Unit:A, Ontario, CA 91764	138.00
1048-451-14	417 N GROVE AV, Ontario, CA 91764	276.00
1048-452-01	1136 E FLORA ST, Ontario, CA 91764	552.00
1048-462-08	1115 E NOCTA ST, Ontario, CA 91761	414.00
1048-462-12	1095 E NOCTA ST, Ontario, CA 91761	414.00
1048-463-35	1162 E ELMA ST, Ontario, CA 91761	414.00
1048-471-02	1092 E NOCTA ST, Ontario, CA 91761	552.00
1048-472-07	140 N VIRGINIA AV, Ontario, CA 91761	276.00
1048-472-12	1160 E NOCTA ST, Ontario, CA 91761	368.00
1048-472-13	1164 E NOCTA ST, Ontario, CA 91761	368.00
1048-481-07	935 E HOLT BL, Ontario, CA 91761	760.75
1048-481-17	1008 E NOCTA ST, Ontario, CA 91761	276.00
1048-481-18	1006 E NOCTA ST, Ontario, CA 91761	276.00

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Parcel Number	Address	Amount Due
1048-481-19	1004 E NOCTA ST, Ontario, CA 91761	276.00
1048-481-20	1002 E NOCTA ST, Ontario, CA 91761	276.00
1048-491-07	958 E D ST, Ontario, CA 91761	138.00
1048-492-57	312 N ALLYN AV, Ontario, CA 91761	414.00
1048-504-08	842 E D ST, Ontario, CA 91761	138.00
1048-505-16	811 E NOCTA ST, Ontario, CA 91761	414.00
1048-505-18	803 E NOCTA ST, Ontario, CA 91761	138.00
1048-505-19	312 N BERLYN AV, Ontario, CA 91761	138.00
1048-523-02	546 E NOCTA ST, Ontario, CA 91761	276.00
1048-523-03	550 E NOCTA ST, Ontario, CA 91761	276.00
1048-523-15	111 N MONTEREY AV, Ontario, CA 91761	138.00
1048-534-18	643 E NOCTA ST, Ontario, CA 91761	138.00
1048-534-19	222 N MIRAMONTE AV, Ontario, CA 91761	138.00
1048-561-12	312 N PALM AV, Ontario, CA 91762	138.00
1048-566-07	303 N EUCLID AV, Building:1, Ontario, CA 91762	2,547.00
1048-571-01	425 W D ST, Ontario, CA 91762	276.00
1048-572-09	412 W B ST, Unit:A, Ontario, CA 91762	414.00
1048-575-02	319 W C ST, Ontario, CA 91762	408.00
1048-575-16	222 N FERN AV, Ontario, CA 91762	414.00
1048-581-74	535 W D ST, Unit:H, Ontario, CA 91762	138.00
1048-601-09	713 W D ST, Ontario, CA 91762	690.00
1048-603-22	754 W B ST, Ontario, CA 91762	138.00
1049-021-17	108 S VINE AV, Ontario, CA 91762	138.00
1049-022-22	536 W EMPORIA ST, Ontario, CA 91762	138.00
1049-059-01	421 W EMPORIA ST, Ontario, CA 91762	138.00
1049-091-05	541 E EMPORIA ST, Ontario, CA 91761	1,545.00
1049-091-10	201 S SULTANA AV, Ontario, CA 91761	276.00
1049-093-01	618 E HOLT BL, Ontario, CA 91761	276.00
1049-101-05	730 E HOLT BL, Building:1, Unit:1, Ontario, CA 91761	690.00
1049-102-14	762 E EMPORIA ST, Ontario, CA 91761	46.00
1049-131-18	948 E HOLT BL, Ontario, CA 91761	140.00
1049-141-24	1194 E HOLT BL, Ontario, CA 91761	140.00
1049-201-04	519 S CAMPUS AV, Ontario, CA 91761	140.00
1049-204-08	844 E ONTARIO BL, Ontario, CA 91761	91.00
1049-232-23	551 E SUNKIST ST, Ontario, CA 91761	140.00
1049-242-03	521 S EUCLID AV, Ontario, CA 91761	138.00
1049-242-04	515 S EUCLID AV, Ontario, CA 91761	414.00
1049-242-14	520 S LEMON AV, Ontario, CA 91761	414.00
1049-242-16	119 E SUNKIST ST, Ontario, CA 91761	138.00
1049-247-07	428 S SULTANA AV, Unit:A, Ontario, CA 91761	276.00
1049-247-10	411 E PARK ST, Ontario, CA 91761	138.00
1049-251-10	115 E NEVADA ST, Ontario, CA 91761	276.00
1049-253-04	220 E SUNKIST ST, Ontario, CA 91761	184.00
1049-258-12	407 E CALIFORNIA ST, Ontario, CA 91761	138.00

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2022/2023 Tax Roll Year Special Assessments
Exhibit A - Costs Associated with Inspection or Abatement

Parcel Number	Address	Amount Due
1049-261-17	424 W NEVADA ST, Ontario, CA 91762	276.00
1049-265-03	215 W SUNKIST ST, Ontario, CA 91762	276.00
1049-272-12	418 W SUNKIST ST, Ontario, CA 91762	276.00
1049-277-08	416 S EUCLID AV, Ontario, CA 91762	138.00
1049-277-12	116 W PARK ST, Ontario, CA 91762	276.00
1049-292-11	613 W NEVADA ST, Ontario, CA 91762	91.00
1049-312-06	743 W CALIFORNIA ST, Ontario, CA 91762	138.00
1049-323-05	917 S SAN ANTONIO AV, Ontario, CA 91762	138.00
1049-333-03	211 W CARLTON ST, Ontario, CA 91762	276.00
1049-333-04	209 W CARLTON ST, Unit:A, Ontario, CA 91762	812.36
1049-343-08	334 E CARLTON ST, Ontario, CA 91761	138.00
1049-365-12	914 S CALDWELL AV, Ontario, CA 91761	138.00
1049-367-15	920 S HOPE AV, Ontario, CA 91761	138.00
1049-368-16	924 S BON VIEW AV, Ontario, CA 91761	138.00
1049-392-05	1044 S GROVE AV, Ontario, CA 91761	140.00
1049-461-10	1224 S BON VIEW AV, Ontario, CA 91761	276.00
1049-471-01	759 E WOODLAWN ST, Unit:1/2, Ontario, CA 91761	138.00
1049-481-10	641 E PHILLIPS ST, Ontario, CA 91761	276.00
1049-502-13	1030 S CAMPUS AV, Ontario, CA 91761	276.00
1049-502-22	611 E RALSTON ST, Unit:A, Ontario, CA 91761	276.00
1049-503-04	620 E RALSTON ST, Ontario, CA 91761	138.00
1049-503-11	642 E RALSTON ST, Ontario, CA 91761	138.00
1049-503-13	1104 S CAMPUS AV, Ontario, CA 91761	138.00
1049-513-29	319 E RALSTON ST, Unit:A, Ontario, CA 91761	414.00
1049-514-02	308 E RALSTON ST, Ontario, CA 91761	276.00
1049-521-10	232 E BELMONT ST, Ontario, CA 91761	138.00
1049-521-20	1227 S EUCLID AV, Ontario, CA 91761	276.00
1049-531-04	1315 S EUCLID AV, Ontario, CA 91761	828.00
1049-532-10	220 E ACACIA ST, Ontario, CA 91761	138.00
1049-551-03	1225 S VINE AV, Ontario, CA 91762	138.00
1049-551-04	1217 S VINE AV, Ontario, CA 91762	276.00
1049-551-05	1211 S VINE AV, Ontario, CA 91762	276.00
1049-551-06	1205 S VINE AV, Ontario, CA 91762	276.00
1049-551-07	1201 S VINE AV, Ontario, CA 91762	552.00
1049-551-08	415 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-09	411 W BELMONT ST, Unit:A, Ontario, CA 91762	138.00
1049-551-10	407 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-11	401 W BELMONT ST, Unit:B, Ontario, CA 91762	138.00
1049-551-12	403 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-13	409 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-14	413 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-15	417 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-16	419 W BELMONT ST, Ontario, CA 91762	138.00
1049-551-18	405 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00

City of Ontario
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Exhibit A - Costs Associated with Inspection or Abatement

Parcel Number	Address	Amount Due
1049-551-24	1220 S PALM AV, Ontario, CA 91762	276.00
1049-551-25	1226 S PALM AV, Ontario, CA 91762	138.00
1049-561-07	419 W MAITLAND ST, Ontario, CA 91762	138.00
1049-561-15	1004 S PALM AV, Ontario, CA 91762	138.00
1049-562-22	320 W BELMONT ST, Ontario, CA 91762	138.00
1049-572-13	1120 S OAKLAND AV, Ontario, CA 91762	184.00
1049-572-14	608 W BELMONT ST, Ontario, CA 91762	414.00
1049-574-01	561 W RALSTON ST, Ontario, CA 91762	184.00
1049-574-02	553 W RALSTON ST, Ontario, CA 91762	138.00
1049-574-21	542 W BELMONT ST, Ontario, CA 91762	276.00
1049-581-02	1023 S CYPRESS AV, Unit:A, Ontario, CA 91762	276.00
1049-581-03	1019 S CYPRESS AV, Unit:A, Ontario, CA 91762	276.00
1049-583-51	728 W PHILLIPS ST, Ontario, CA 91762	138.00
1049-591-06	1221 S SAN ANTONIO AV, Ontario, CA 91762	138.00
1049-591-18	613 W BELMONT ST, Ontario, CA 91762	138.00
1049-591-28	618 W PHILLIPS ST, Ontario, CA 91762	91.00
1049-601-47	1348 S BONITA PL, Ontario, CA 91762	138.00
1049-612-03	1318 S BEVERLY AV, Ontario, CA 91762	138.00
1050-051-08	116 W ELM ST, Ontario, CA 91762	138.00
1050-061-13	131 W ELM ST, Ontario, CA 91762	138.00
1050-061-18	1512 S EUCLID AV, Ontario, CA 91762	276.00
1050-081-08	228 E BUDD ST, Ontario, CA 91761	138.00
1050-091-21	1425 S SULTANA AV, Ontario, CA 91761	138.00
1050-093-16	1451 S MONTEREY AV, Ontario, CA 91761	138.00
1050-232-12	1650 S CAMPUS AV, Unit:99, Ontario, CA 91761	138.00
1050-233-35	1650 S CAMPUS AV, Unit:60, Ontario, CA 91761	138.00
1050-234-42	1650 S CAMPUS AV, Unit:42, Ontario, CA 91761	138.00
1050-251-01	1727 S EUCLID AV, Ontario, CA 91761	982.50
1050-262-07	114 E LOCUST ST, Ontario, CA 91761	276.00
1050-262-35	237 E MAPLE ST, Ontario, CA 91761	46.00
1050-271-19	1632 S PALM AV, Ontario, CA 91762	138.00
1050-272-17	1637 S LAUREL AV, Ontario, CA 91762	1,656.00
1050-282-03	1712 S PALM AV, Ontario, CA 91762	187.00
1050-312-14	616 W CADENZA CT, Ontario, CA 91762	46.00
1050-331-24	1919 S CYPRESS AV, Ontario, CA 91762	138.00
1050-341-39	1841 S REDWOOD AV, Ontario, CA 91762	138.00
1050-361-18	1952 S FERN AV, Ontario, CA 91762	138.00
1050-381-07	1902 S EUCLID AV, Ontario, CA 91762	414.00
1050-381-09	1918 S EUCLID AV, Building:A, Ontario, CA 91762	690.00
1050-401-29	229 E GREVILLEA ST, Ontario, CA 91761	91.00
1050-441-05	1948 S BON VIEW AV, Ontario, CA 91761	138.00
1050-531-51	2105 S PHOENIX PL, Ontario, CA 91761	138.00
1050-542-31	2027 S CAMPUS AV, Unit:C, Ontario, CA 91761	138.00
1050-542-66	2003 S CAMPUS AV, Unit:C, Ontario, CA 91761	138.00

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Exhibit A - Costs Associated with Inspection or Abatement

Parcel Number	Address	Amount Due
1050-542-68	2003 S CAMPUS AV, Unit:E, Ontario, CA 91761	138.00
1050-542-84	731 E BOXWOOD CT, Ontario, CA 91761	92.00
1050-543-59	2036 S BON VIEW AV, Unit:A, Ontario, CA 91761	138.00
1050-544-02	850 E CEDAR ST, Unit:A, Ontario, CA 91761	552.00
1050-551-06	645 E SPRUCE ST, Ontario, CA 91761	374.00
1050-571-19	302 E SPRUCE ST, Ontario, CA 91761	138.00
1050-581-08	2019 S EUCLID AV, Ontario, CA 91761	138.00
1050-581-23	2056 S PLUM AV, Ontario, CA 91761	92.00
1050-582-08	2021 S PLUM AV, Ontario, CA 91761	138.00
1050-591-16	2050 S EUCLID AV, Ontario, CA 91762	1,518.00
1050-631-09	2004 S SAN ANTONIO AV, Ontario, CA 91762	138.00
1050-651-10	1459 S EUCLID AV, Unit:30, Ontario, CA 91761	138.00
1051-011-65	2229 S CYPRESS AV, Ontario, CA 91762	91.00
1051-041-21	412 W MONTICELLO CT, Ontario, CA 91762	92.00
1051-091-71	647 E SANDERLING ST, Ontario, CA 91761	92.00
1051-121-39	2247 S HOPE PL, Ontario, CA 91761	138.00
1051-131-40	2325 S BON VIEW AV, Ontario, CA 91761	138.00
1051-171-23	2441 S RAYMOND PL, Ontario, CA 91761	138.00
1051-171-37	2419 S CUCAMONGA AV, Ontario, CA 91761	138.00
1051-181-39	1048 E OAK HILL ST, Ontario, CA 91761	138.00
1051-191-37	2438 S PHOENIX PL, Ontario, CA 91761	138.00
1051-191-74	2432 S TAYLOR PL, Ontario, CA 91761	138.00
1051-201-35	543 E FAIRFIELD CT, Ontario, CA 91761	92.00
1051-221-15	131 W GEYER CT, Ontario, CA 91762	138.00
1051-271-30	320 W WALNUT ST, Unit:19, Ontario, CA 91762	46.00
1051-271-62	320 W WALNUT ST, Unit:34, Ontario, CA 91762	138.00
1051-281-23	2528 S PLUM LN, Ontario, CA 91761	138.00
1051-281-25	207 E CHERRY HILL CT, Ontario, CA 91761	46.00
1051-351-03	2626 S CUCAMONGA AV, Ontario, CA 91761	92.00
1051-541-08	2856 S BON VIEW AV, Ontario, CA 91761	138.00
1051-541-41	705 E DEERFIELD ST, Ontario, CA 91761	138.00
1051-551-35	961 E DEERFIELD ST, Ontario, CA 91761	91.00
1051-561-56	1193 E DEERFIELD ST, Ontario, CA 91761	138.00
1051-601-56	605 E DUNES CT, Ontario, CA 91761	138.00
1051-602-07	665 E RIVERSIDE DR, Unit:5, Ontario, CA 91761	138.00
1051-612-13	2924 S PLUM LN, Ontario, CA 91761	138.00
1051-612-21	313 E DORAL ST, Ontario, CA 91761	138.00
1051-612-26	343 E DORAL ST, Ontario, CA 91761	138.00
1054-161-03	8551 E EUCALYPTUS AV, Ontario, CA 91710	138.00
1073-321-14	3211 E KINGS DR, Building:, Unit:, Ontario, CA 91762	926.22
1083-031-77	2608 E HARBOUR TOWN TR, Ontario, CA 91761	138.00
1083-121-36	2901 E DUNLIN WY, Ontario, CA 91761	138.00
1083-131-56	3120 E WHITE STAG RD, Ontario, CA 91761	138.00
1083-162-07	3258 E CANARY CT, Ontario, CA 91761	138.00

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2022/2023 Tax Roll Year Special Assessments
Exhibit A - Costs Associated with Inspection or Abatement

Parcel Number	Address	Amount Due
1083-171-07	3242 E CLEAR LAKE RD, Ontario, CA 91761	1,498.74
1083-171-20	3269 E SUMMER ISLAND CT, Ontario, CA 91761	184.00
1083-172-08	3424 E EVERGREEN DR, Ontario, CA 91761	138.00
1083-193-02	2750 S PINE VALLEY AV, Ontario, CA 91761	138.00
1083-221-20	2633 S PLAINFIELD DR, Ontario, CA 91761	138.00
1083-231-03	2740 S ARCADIAN SHORES RD, Ontario, CA 91761	138.00
1083-281-48	3273 E ASHGATE WY, Ontario, CA 91761	138.00
1083-301-62	3348 E MORNINGWOOD CT, Ontario, CA 91761	138.00
1083-371-23	2618 S CRYSTAL SPRING PL, Ontario, CA 91761	138.00
1083-392-03	2804 S TUOLUMNE PL, Unit:C, Ontario, CA 91761	138.00
1083-393-63	3641 E OAK CREEK DR, Unit:D, Ontario, CA 91761	138.00
1083-401-31	3546 E STRAWBERRY CREEK PL, Ontario, CA 91761	138.00
1083-402-12	3638 E OAK CREEK DR, Unit:D, Ontario, CA 91761	46.00
1083-402-29	3651 E COUNTRY OAKS LP, Unit:C, Ontario, CA 91761	138.00
1083-421-46	3733 E ANTELOPE CREEK DR, Ontario, CA 91761	138.00
1083-441-36	2779 S MOOSE CREEK LN, Ontario, CA 91761	92.00
1083-451-01	3642 S OAK CREEK DR, Unit:A, Ontario, CA 91761	138.00
		143,296.63

City of Ontario
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Exhibit B - Civil Penalties and/or Fines for Continued Violations

Parcel Number	Address	Amount Due
0108-611-08	1380 E SEVENTH ST, Ontario, CA 91764	120.00
0110-376-13	1874 E PLAZA SERENA ST, Ontario, CA 91764	120.00
0209-331-18	1902 E DEODAR ST, Ontario, CA 91764	220.00
0216-172-14	13158 S WALKER AV, Ontario, CA 91761	100.00
0218-111-29	9692 E CHINO AV, Ontario, CA 91761	100.00
0218-554-32	4904 S ROSEMARY WY, Ontario, CA 91762	300.00
0218-614-18	3131 E YOSEMITE DR, Ontario, CA 91762	500.00
0218-615-18	3164 E YOSEMITE DR, Ontario, CA 91762	300.00
0218-831-59	2901 E GREENBRIAR DR, Ontario, CA 91761	500.00
0218-911-01	2943 E THOROUGHBRED ST, Ontario, CA 91761	120.00
1010-154-07	935 W BERKELEY CT, Ontario, CA 91762	520.00
1010-455-03	1116 W D ST, Ontario, CA 91762	840.00
1011-551-20	1205 S PALMETTO AV, Unit:G, Ontario, CA 91762	120.00
1014-182-18	862 W JUNIPER ST, Ontario, CA 91762	320.00
1014-211-13	1320 W FRANCIS ST, Ontario, CA 91762	520.00
1014-511-06	2140 S CYPRESS AV, Ontario, CA 91762	320.00
1047-311-53	525 W SIXTH ST, Ontario, CA 91762	800.00
1047-331-06	132 W BONNIE BRAE CT, Ontario, CA 91762	520.00
1047-441-16	1334 N PARKSIDE AV, Ontario, CA 91764	100.00
1047-473-39	1037 E FOURTH ST, Ontario, CA 91764	120.00
1047-594-42	1213 N SAN ANTONIO AV, Ontario, CA 91762	450.00
1048-111-16	753 E PLAZA SERENA ST, Ontario, CA 91764	420.00
1048-431-30	1046 E G ST, Ontario, CA 91764	220.00
1048-481-07	935 E HOLT BL, Ontario, CA 91761	100.00
1048-565-09	207 N EUCLID AV, Ontario, CA 91762	29,250.00
1048-566-07	303 N EUCLID AV, Building:1, Ontario, CA 91762	150.00
1049-312-16	754 W CARLTON ST, Ontario, CA 91762	340.00
1050-251-27	317 E FRANCIS ST, Ontario, CA 91761	220.00
1050-301-18	403 W LOCUST ST, Ontario, CA 91762	120.00
1050-624-15	2115 S SAN ANTONIO AV, Ontario, CA 91762	150.00
1051-201-21	563 E OAK HILL ST, Ontario, CA 91761	120.00
1051-351-69	958 E BERMUDA DUNES ST, Ontario, CA 91761	100.00
1051-401-26	2743 S MALCOLM AV, Ontario, CA 91761	320.00
		38,520.00

City of Ontario
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Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
0108-301-14	1310 N GROVE AV, Ontario, CA 91764	138.00
0108-303-21	1383 E BONNIE BRAE ST, Ontario, CA 91764	138.00
0108-363-13	1530 E HIGHLAND CT, Ontario, CA 91764	138.00
0108-413-07	1432 E HIGHLAND CT, Ontario, CA 91764	138.00
0108-441-01	1430 N GROVE AV, Ontario, CA 91764	138.00
0108-481-05	1668 E EIGHTH ST, Ontario, CA 91764	138.00
0108-501-29	1211 N EL DORADO AV, Ontario, CA 91764	1,656.00
0108-501-34	1224 N EL DORADO AV, Ontario, CA 91764	138.00
0108-511-39	1456 E FIFTH ST, Unit:1, Ontario, CA 91764	138.00
0108-524-08	1343 N LAKE AV, Ontario, CA 91764	138.00
0108-534-05	1709 E BONNIE BRAE CT, Ontario, CA 91764	138.00
0108-543-04	1223 N MANDALAY ST, Ontario, CA 91764	138.00
0108-551-22	1674 E PRINCETON ST, Ontario, CA 91764	138.00
0108-551-49	1711 E FOURTH ST, Unit:A, Ontario, CA 91764	276.00
0108-571-38	1668 E HIGHLAND ST, Ontario, CA 91764	46.00
0108-572-07	1752 N CORONA AV, Ontario, CA 91764	138.00
0108-573-19	1750 N MADERA AV, Ontario, CA 91764	138.00
0108-611-08	1380 E SEVENTH ST, Ontario, CA 91764	120.00
0108-622-33	1830 N SACRAMENTO AV, Ontario, CA 91764	138.00
0108-622-48	1859 N VINEYARD AV, Building:2, Unit:A, Ontario, CA 91764	91.00
0110-013-62	1235 E D ST, Unit:13, Ontario, CA 91764	46.00
0110-013-67	1235 E D ST, Unit:18, Ontario, CA 91764	138.00
0110-013-70	1235 E D ST, Unit:21, Ontario, CA 91764	46.00
0110-042-16	1411 E ELMA CT, Unit:A, Ontario, CA 91761	552.00
0110-042-35	1458 E ELMA CT, Unit:A, Ontario, CA 91761	184.00
0110-061-18	1329 E HOLT BL, Ontario, CA 91761	966.00
0110-071-06	1381 E HOLT BL, Ontario, CA 91761	140.00
0110-071-07	1381 E HOLT BL, Ontario, CA 91761	140.00
0110-072-13	1412 E NOCTA ST, Ontario, CA 91761	552.00
0110-072-20	156 N LASSEN PL, Ontario, CA 91761	552.00
0110-181-11	1610 E FOURTH ST, Ontario, CA 91764	140.00
0110-242-06	511 N ORANGE PRIVADO, Ontario, CA 91764	138.00
0110-297-11	1348 E FLORA ST, Ontario, CA 91764	138.00
0110-322-32	2200 E HOLT BL, Ontario, CA 91761	91.00
0110-332-01	1802 E FOURTH ST, Unit:A, Ontario, CA 91764	552.00
0110-332-02	1808 E FOURTH ST, Unit:A, Ontario, CA 91764	552.00
0110-332-03	1814 E FOURTH ST, Unit:A, Ontario, CA 91764	414.00
0110-333-05	1870 E ROSEWOOD CT, Unit:A, Ontario, CA 91764	552.00
0110-334-07	1018 N SACRAMENTO AV, Unit:A, Ontario, CA 91764	552.00
0110-343-04	1778 E FOURTH ST, Ontario, CA 91764	552.00
0110-351-05	1758 E GRANADA CT, Ontario, CA 91764	138.00
0110-365-02	935 N SACRAMENTO AV, Ontario, CA 91764	3,012.00
0110-376-13	1874 E PLAZA SERENA ST, Ontario, CA 91764	120.00
0110-411-49	1714 E G ST, Unit:B, Ontario, CA 91764	138.00

City of Ontario
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Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
0110-482-08	1814 E FIFTH ST, Ontario, CA 91764	138.00
0110-512-08	752 N MADERA AV, Ontario, CA 91764	46.00
0110-514-08	752 N BAKER AV, Ontario, CA 91764	138.00
0113-524-01	1902 E TAM O'SHANTER ST, Ontario, CA 91761	138.00
0113-533-12	2532 S BALBOA AV, Ontario, CA 91761	92.00
0113-541-24	1939 E BROOKSIDE DR, Ontario, CA 91761	46.00
0113-541-38	2708 S INVERNESS CT, Ontario, CA 91761	184.00
0113-542-27	1927 E ST. ANDREWS DR, Ontario, CA 91761	92.00
0209-331-18	1902 E DEODAR ST, Ontario, CA 91764	220.00
0209-371-21	2027 E DEODAR ST, Ontario, CA 91764	92.00
0209-421-79	1850 N VINEYARD AV, Unit:E, Ontario, CA 91764	138.00
0209-422-66	1818 N VINEYARD AV, Unit:A, Ontario, CA 91764	138.00
0209-424-35	1818 N SOLANO AV, Ontario, CA 91764	138.00
0210-041-22	1452 N PLACER PL, Ontario, CA 91764	138.00
0210-181-06	809 N TURNER AV, Ontario, CA 91764	140.00
0210-191-29	2800 E INLAND EMPIRE BL, Ontario, CA 91764	140.00
0210-192-21	2955 E GUASTI RD, Ontario, CA 91761	140.00
0210-211-33	700 N HAVEN AV, Ontario, CA 91764	1,593.89
0210-292-22	1729 E HAWTHORNE ST, Ontario, CA 91764	138.00
0210-292-36	1643 E HAWTHORNE ST, Ontario, CA 91764	138.00
0210-301-29	1421 N BALBOA AV, Ontario, CA 91764	138.00
0210-301-38	1444 N BARRANCA AV, Ontario, CA 91764	138.00
0210-351-32	1948 E FIFTH ST, Ontario, CA 91764	138.00
0210-353-25	2008 E FIFTH ST, Ontario, CA 91764	138.00
0210-354-27	2024 E FIFTH ST, Ontario, CA 91764	138.00
0210-411-03	721 N CENTER AV, Unit:1, Ontario, CA 91764	552.00
0210-411-25	751 N CORVETTE DR, Unit:1, Ontario, CA 91764	552.00
0210-421-35	904 N TURNER AV, Building:3, Unit:18, Ontario, CA 91764	138.00
0210-421-37	924 N TURNER AV, Building:4, Unit:20, Ontario, CA 91764	138.00
0210-431-77	1054 N TURNER AV, Building:29, Unit:167, Ontario, CA 91764	138.00
0210-432-05	1048 N TURNER AV, Building:33, Unit:191, Ontario, CA 91764	138.00
0210-433-09	1002 N TURNER AV, Building:47, Unit:279, Ontario, CA 91764	138.00
0216-013-39	2362 S AUGUSTA PL, Ontario, CA 91761	138.00
0216-172-14	13158 S WALKER AV, Ontario, CA 91761	100.00
0216-311-04	13849 S GROVE AV, Ontario, CA 91761	138.00
0216-311-09	8292 E EDISON AV, Ontario, CA 91761	138.00
0216-361-22	2407 S PARCO AV, Ontario, CA 91761	138.00
0216-361-31	2402 S IMPERIAL PL, Ontario, CA 91761	46.00
0216-361-51	1476 E FAIRFIELD CT, Ontario, CA 91761	138.00
0216-361-67	1483 E FAIRFIELD CT, Ontario, CA 91761	138.00
0216-381-48	2608 S MILDRED PL, Ontario, CA 91761	138.00
0216-391-34	1473 E BERMUDA DUNES ST, Ontario, CA 91761	138.00
0216-401-22	1720 E OAK HILL CT, Ontario, CA 91761	138.00
0216-411-22	1737 E FAIRFIELD CT, Unit:1, Ontario, CA 91761	552.00

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
0216-421-52	1638 E FAIRFIELD ST, Unit:1, Ontario, CA 91761	552.00
0216-421-68	1525 E FAIRFIELD ST, Unit:1, Ontario, CA 91761	184.00
0216-421-72	1501 E FAIRFIELD ST, Unit:1, Ontario, CA 91761	552.00
0216-431-36	2525 S CASTLE HARBOUR AV, Ontario, CA 91761	138.00
0216-461-06	1218 E DORAL CT, Ontario, CA 91761	138.00
0216-491-50	1419 E RIVERSIDE DR, Ontario, CA 91761	1,099.36
0216-491-66	1450 E MERION CT, Ontario, CA 91761	138.00
0218-111-29	9692 E CHINO AV, Ontario, CA 91761	100.00
0218-111-56	9510 E CHINO AV, Ontario, CA 91761	138.00
0218-252-07	11091 E EDISON AV, Ontario, CA 91761	276.00
0218-272-27	3352 S PRIMROSE DR, Ontario, CA 91761	466.35
0218-554-32	4904 S ROSEMARY WY, Ontario, CA 91762	300.00
0218-614-18	3131 E YOSEMITE DR, Ontario, CA 91762	1,074.00
0218-615-18	3164 E YOSEMITE DR, Ontario, CA 91762	300.00
0218-751-37	2948 E BLACK HORSE DR, Ontario, CA 91761	138.00
0218-791-02	3708 S WRANGLER PL, Ontario, CA 91761	138.00
0218-791-24	3643 S PINTO PL, Ontario, CA 91761	138.00
0218-791-60	2820 E BIG RANGE RD, Ontario, CA 91761	138.00
0218-811-22	2801 E LONGHORN ST, Ontario, CA 91761	138.00
0218-821-74	3243 S PLAINFIELD PL, Ontario, CA 91761	138.00
0218-831-59	2901 E GREENBRIAR DR, Ontario, CA 91761	2,114.00
0218-861-30	2902 E PALOMINO CT, Ontario, CA 91761	138.00
0218-881-35	3238 S CENTURION PL, Ontario, CA 91761	138.00
0218-891-15	3142 S CLOVER LN, Ontario, CA 91761	2,949.38
0218-911-01	2943 E THOROUGHBRED ST, Ontario, CA 91761	120.00
0238-014-54	4403 E MILLS CI, Ontario, CA 91764	447.59
0238-152-02	0 E SCE EASEMENT, Ontario, CA 91761	140.00
1008-442-29	1321 W SIXTH ST, Ontario, CA 91762	138.00
1008-443-25	1354 N ELDERBERRY AV, Ontario, CA 91762	138.00
1008-521-22	1151 W PRINCETON ST, Unit:B, Ontario, CA 91762	138.00
1010-093-12	1503 W J ST, Ontario, CA 91762	138.00
1010-093-13	1453 W J ST, Ontario, CA 91762	138.00
1010-095-11	957 N JASMINE AV, Ontario, CA 91762	138.00
1010-095-20	903 N JASMINE AV, Ontario, CA 91762	46.00
1010-114-06	929 N FUCHSIA AV, Ontario, CA 91762	138.00
1010-131-23	1223 W ROSEWOOD CT, Ontario, CA 91762	552.00
1010-131-24	1217 W ROSEWOOD CT, Ontario, CA 91762	414.00
1010-131-25	1209 W ROSEWOOD CT, Ontario, CA 91762	552.00
1010-154-07	935 W BERKELEY CT, Ontario, CA 91762	826.89
1010-154-21	956 W I ST, Ontario, CA 91762	138.00
1010-173-22	864 W EL MORADO CT, Ontario, CA 91762	247.00
1010-181-23	1016 W EL MORADO CT, Ontario, CA 91762	414.00
1010-181-25	1023 W H ST, Ontario, CA 91762	414.00
1010-182-04	737 N PALMETTO AV, Ontario, CA 91762	552.00

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
1010-182-07	1029 W EL MORADO CT, Ontario, CA 91762	690.00
1010-182-12	967 W EL MORADO CT, Ontario, CA 91762	138.00
1010-191-17	817 N PALMETTO AV, Ontario, CA 91762	828.00
1010-191-18	813 N PALMETTO AV, Ontario, CA 91762	828.00
1010-192-17	1015 W GRANADA CT, Ontario, CA 91762	276.00
1010-411-10	616 N IRIS CT, Ontario, CA 91762	138.00
1010-412-10	1451 W F ST, Ontario, CA 91762	138.00
1010-453-19	606 N CAMELLIA AV, Ontario, CA 91762	138.00
1010-453-20	612 N CAMELLIA AV, Ontario, CA 91762	138.00
1010-455-03	1116 W D ST, Ontario, CA 91762	2,632.73
1010-465-06	1007 W F ST, Ontario, CA 91762	414.00
1010-473-01	929 W FLORA ST, Ontario, CA 91762	138.00
1010-501-53	133 N ALPINE CT, Ontario, CA 91762	138.00
1010-501-55	137 N ALPINE CT, Ontario, CA 91762	138.00
1010-501-70	144 N ALPINE CT, Ontario, CA 91762	138.00
1010-521-05	312 N CAMELLIA AV, Unit:A, Ontario, CA 91762	552.00
1010-521-09	1141 W D ST, Unit:A, Ontario, CA 91762	552.00
1010-521-11	305 N BEGONIA AV, Unit:A, Ontario, CA 91762	368.00
1010-521-17	210 N BEGONIA AV, Unit:A, Ontario, CA 91762	552.00
1010-532-16	1221 W D ST, Ontario, CA 91762	138.00
1010-541-05	1336 W STONERIDGE CT, Unit:A, Ontario, CA 91762	2,392.00
1010-552-31	1415 W STONERIDGE CT, Unit:A, Ontario, CA 91762	1,334.00
1010-561-28	1433 W D ST, Ontario, CA 91762	138.00
1010-562-15	1550 W VESTA ST, Ontario, CA 91762	138.00
1011-221-03	630 S OAKS AV, Ontario, CA 91762	187.00
1011-372-24	1309 W MISSION BL, Unit:118, Ontario, CA 91762	138.00
1011-373-04	1309 W MISSION BL, Unit:50, Ontario, CA 91762	138.00
1011-373-40	1309 W MISSION BL, Unit:94, Ontario, CA 91762	138.00
1011-381-33	821 S MAGNOLIA AV, Unit:A, Ontario, CA 91762	138.00
1011-382-62	850 S PALMETTO AV, Ontario, CA 91762	138.00
1011-382-63	852 S PALMETTO AV, Ontario, CA 91762	138.00
1011-382-64	854 S PALMETTO AV, Ontario, CA 91762	138.00
1011-396-06	821 S GRANITE PRIVADO, Ontario, CA 91762	138.00
1011-401-27	1031 S PALMETTO AV, Building:S, Unit:4, Ontario, CA 91762	138.00
1011-401-42	871 W MAITLAND PRIVADO, Ontario, CA 91762	112.00
1011-411-11	912 S MOUNTAIN AV, Unit:A, Ontario, CA 91762	138.00
1011-411-49	1092 S MOUNTAIN AV, Ontario, CA 91762	92.00
1011-414-04	1008 S PALMETTO AV, Ontario, CA 91762	138.00
1011-415-51	943 S MOUNTAIN AV, Ontario, CA 91762	138.00
1011-421-11	0 S ELDERBERRY AV, Ontario, CA 91762	140.00
1011-421-12	0 S ELDERBERRY AV, Ontario, CA 91762	140.00
1011-541-21	1114 W BAHIA CT, Unit:A, Ontario, CA 91762	276.00
1011-541-26	1103 W RALSTON ST, Unit:A, Ontario, CA 91762	414.00
1011-542-19	1034 W SEASHELL CT, Ontario, CA 91762	138.00

Parcel Number	Address	Amount Due
1011-544-06	1132 W RALSTON ST, Ontario, CA 91762	414.00
1011-551-20	1205 S PALMETTO AV, Unit:G, Ontario, CA 91762	120.00
1011-551-53	1232 S CYPRESS AV, Unit:E, Ontario, CA 91762	138.00
1011-552-09	1222 S CYPRESS AV, Unit:C, Ontario, CA 91762	138.00
1011-552-61	1212 S CYPRESS AV, Unit:F, Ontario, CA 91762	138.00
1011-572-11	1052 W ECLIPSE CT, Ontario, CA 91762	138.00
1011-573-07	1327 S PINE AV, Ontario, CA 91762	138.00
1011-574-16	1321 S MAGNOLIA AV, Ontario, CA 91762	138.00
1011-581-04	1336 W PHILLIPS ST, Ontario, CA 91762	1,516.56
1014-152-02	1412 S CYPRESS AV, Ontario, CA 91762	138.00
1014-182-15	844 W JUNIPER ST, Ontario, CA 91762	91.00
1014-182-18	862 W JUNIPER ST, Ontario, CA 91762	320.00
1014-191-17	1034 W MAPLE CT, Ontario, CA 91762	138.00
1014-211-08	1228 W FRANCIS ST, Ontario, CA 91762	138.00
1014-211-09	1240 W FRANCIS ST, Ontario, CA 91762	276.00
1014-211-13	1320 W FRANCIS ST, Ontario, CA 91762	1,421.23
1014-441-25	1387 W FRANCIS ST, Ontario, CA 91762	46.00
1014-462-40	1915 S MOUNTAIN AV, Unit:10, Ontario, CA 91762	138.00
1014-462-48	1915 S MOUNTAIN AV, Unit:7, Ontario, CA 91762	138.00
1014-471-35	1119 W FRANCIS ST, Unit:E, Ontario, CA 91762	138.00
1014-472-10	1860 S PALMETTO AV, Ontario, CA 91762	1,518.00
1014-472-35	1051 W FRANCIS ST, Unit:D, Ontario, CA 91762	138.00
1014-472-58	1045 W FRANCIS ST, Unit:A, Ontario, CA 91762	138.00
1014-472-94	1017 W FRANCIS ST, Ontario, CA 91762	567.00
1014-511-06	2140 S CYPRESS AV, Ontario, CA 91762	320.00
1014-512-20	926 W PHILADELPHIA ST, Building:G, Unit:32, Ontario, CA 91762	138.00
1014-512-35	926 W PHILADELPHIA ST, Building:I, Unit:47, Ontario, CA 91762	138.00
1014-521-25	1134 W PHILADELPHIA ST, Ontario, CA 91762	138.00
1014-521-50	1178 W PHILADELPHIA ST, Ontario, CA 91762	138.00
1014-523-15	2104 S MOUNTAIN AV, Ontario, CA 91762	138.00
1014-523-20	2066 S MOUNTAIN AV, Ontario, CA 91762	138.00
1014-523-37	2158 S MOUNTAIN AV, Ontario, CA 91762	138.00
1014-532-04	2004 S PALMETTO AV, Ontario, CA 91762	140.00
1014-532-16	1039 W LARODA CT, Ontario, CA 91762	138.00
1014-532-38	2003 S MOUNTAIN AV, Unit:3, Ontario, CA 91762	138.00
1015-201-46	2321 S MAGNOLIA AV, Building:8, Unit:A, Ontario, CA 91762	138.00
1015-201-76	2321 S MAGNOLIA AV, Building:13, Unit:D, Ontario, CA 91762	138.00
1047-151-03	1126 E SEVENTH ST, Ontario, CA 91764	138.00
1047-151-13	1125 E SYCAMORE CT, Ontario, CA 91764	46.00
1047-172-18	944 E DEODAR ST, Unit:1, Ontario, CA 91764	828.00
1047-252-15	340 W CAROLINE CT, Ontario, CA 91762	4,118.00
1047-311-53	525 W SIXTH ST, Ontario, CA 91762	1,425.00
1047-321-77	637 W HAWTHORNE ST, Ontario, CA 91762	138.00
1047-331-06	132 W BONNIE BRAE CT, Ontario, CA 91762	1,307.00

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
1047-391-02	1408 N CAMPUS AV, Ontario, CA 91764	138.00
1047-402-08	740 E BONNIE BRAE CT, Ontario, CA 91764	138.00
1047-411-20	1015 E FIFTH ST, Ontario, CA 91764	138.00
1047-424-02	962 E SIXTH ST, Ontario, CA 91764	138.00
1047-424-08	1024 E SIXTH ST, Ontario, CA 91764	138.00
1047-424-29	1034 E SIXTH ST, Unit:302, Ontario, CA 91764	138.00
1047-432-02	1128 E SIXTH ST, Ontario, CA 91764	552.00
1047-432-05	1146 E SIXTH ST, Ontario, CA 91764	552.00
1047-432-10	1109 E LA DENEY CT, Unit:A, Ontario, CA 91764	184.00
1047-433-02	1406 N VIRGINIA AV, Ontario, CA 91764	276.00
1047-433-11	1202 E SIXTH ST, Ontario, CA 91764	552.00
1047-441-02	1351 N GROVE AV, Ontario, CA 91764	368.00
1047-441-12	1314 N VIRGINIA AV, Ontario, CA 91764	552.00
1047-441-16	1334 N PARKSIDE AV, Ontario, CA 91764	100.00
1047-442-04	1346 N VIRGINIA AV, Ontario, CA 91764	368.00
1047-451-10	1105 E PRINCETON ST, Ontario, CA 91764	138.00
1047-462-17	1203 E FOURTH ST, Ontario, CA 91764	276.00
1047-471-17	937 E HARVARD PL, Ontario, CA 91764	138.00
1047-473-15	1054 E PRINCETON ST, Ontario, CA 91764	842.32
1047-473-39	1037 E FOURTH ST, Ontario, CA 91764	120.00
1047-493-13	837 E YALE ST, Ontario, CA 91764	138.00
1047-493-19	864 E YALE ST, Ontario, CA 91764	138.00
1047-511-38	529 E HARVARD PL, Ontario, CA 91764	91.00
1047-512-37	547 E FOURTH ST, Ontario, CA 91764	138.00
1047-521-06	639 E PRINCETON ST, Ontario, CA 91764	138.00
1047-541-15	219 E HARVARD PL, Ontario, CA 91764	92.00
1047-593-03	1145 N GRANITE AV, Ontario, CA 91762	46.00
1047-594-13	1228 N GRANITE AV, Ontario, CA 91762	138.00
1047-594-42	1213 N SAN ANTONIO AV, Ontario, CA 91762	577.00
1047-594-52	730 W FOURTH ST, Ontario, CA 91762	138.00
1048-012-06	733 W J ST, Ontario, CA 91762	138.00
1048-031-03	645 W J ST, Ontario, CA 91762	138.00
1048-032-33	614 W I ST, Ontario, CA 91762	138.00
1048-041-09	331 W J ST, Ontario, CA 91762	138.00
1048-041-29	418 W I ST, Unit:A, Ontario, CA 91762	690.00
1048-042-01	327 W J ST, Ontario, CA 91762	138.00
1048-043-10	939 N EUCLID AV, Ontario, CA 91762	138.00
1048-043-17	132 W I ST, Unit:A, Ontario, CA 91762	276.00
1048-043-20	914 N LAUREL AV, Ontario, CA 91762	138.00
1048-043-24	932 N LAUREL AV, Ontario, CA 91762	276.00
1048-052-06	1043 N EUCLID AV, Unit:A, Ontario, CA 91762	828.00
1048-062-10	222 E ROSEWOOD CT, Ontario, CA 91764	276.00
1048-064-21	315 E J ST, Ontario, CA 91764	92.00
1048-093-04	622 E FOURTH ST, Ontario, CA 91764	138.00

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
1048-111-16	753 E PLAZA SERENA ST, Ontario, CA 91764	1,642.00
1048-122-27	922 E PLAZA SERENA ST, Ontario, CA 91764	138.00
1048-133-30	945 E PLAZA SERENA ST, Ontario, CA 91764	138.00
1048-161-28	821 N ALAMEDA AV, Ontario, CA 91764	138.00
1048-162-19	846 N VIRGINIA AV, Ontario, CA 91764	138.00
1048-181-23	933 E H ST, Ontario, CA 91764	138.00
1048-191-16	933 E G ST, Ontario, CA 91764	276.00
1048-191-19	724 N GREENWOOD AV, Ontario, CA 91764	138.00
1048-201-26	715 E G ST, Ontario, CA 91764	138.00
1048-202-14	748 E H ST, Ontario, CA 91764	138.00
1048-213-18	739 E H ST, Ontario, CA 91764	1,233.00
1048-213-23	713 E H ST, Ontario, CA 91764	983.36
1048-214-09	748 E I ST, Ontario, CA 91764	138.00
1048-221-02	510 E I ST, Ontario, CA 91764	276.00
1048-221-23	656 E I ST, Ontario, CA 91764	138.00
1048-221-24	664 E I ST, Ontario, CA 91764	138.00
1048-231-06	528 E H ST, Ontario, CA 91764	138.00
1048-243-19	303 E G ST, Ontario, CA 91764	276.00
1048-262-04	407 W GRANADA CT, Ontario, CA 91762	138.00
1048-262-26	322 W H ST, Ontario, CA 91762	276.00
1048-262-38	220 W H ST, Ontario, CA 91762	966.00
1048-291-08	619 W I ST, Ontario, CA 91762	138.00
1048-292-03	651 W GRANADA CT, Ontario, CA 91762	138.00
1048-292-05	633 W GRANADA CT, Ontario, CA 91762	138.00
1048-305-03	714 N CYPRESS AV, Ontario, CA 91762	138.00
1048-311-20	750 W F ST, Ontario, CA 91762	138.00
1048-331-04	443 N BEVERLY SQ, Ontario, CA 91762	276.00
1048-332-10	507 N VINE AV, Ontario, CA 91762	138.00
1048-332-17	528 W D ST, Ontario, CA 91762	138.00
1048-366-08	219 E F ST, Ontario, CA 91764	414.00
1048-371-06	328 E G ST, Ontario, CA 91764	138.00
1048-371-20	626 N PLUM AV, Ontario, CA 91764	138.00
1048-372-07	511 N CHERRY AV, Ontario, CA 91764	138.00
1048-372-08	507 N CHERRY AV, Ontario, CA 91764	276.00
1048-374-02	408 E E ST, Ontario, CA 91764	276.00
1048-382-09	556 E F ST, Ontario, CA 91764	276.00
1048-391-04	557 E E ST, Ontario, CA 91764	276.00
1048-401-02	757 E E ST, Ontario, CA 91764	138.00
1048-411-21	753 E F ST, Ontario, CA 91764	276.00
1048-412-04	716 E F ST, Ontario, CA 91764	414.00
1048-412-06	726 E F ST, Ontario, CA 91764	138.00
1048-413-09	535 N ALLYN AV, Ontario, CA 91764	110.40
1048-421-66	939 E D ST, Ontario, CA 91764	276.00
1048-431-30	1046 E G ST, Ontario, CA 91764	220.00

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
1048-432-22	624 N FLORENCE AV, Ontario, CA 91764	138.00
1048-441-13	1121 E D ST, Unit:A, Ontario, CA 91764	138.00
1048-451-14	417 N GROVE AV, Ontario, CA 91764	276.00
1048-452-01	1136 E FLORA ST, Ontario, CA 91764	552.00
1048-462-08	1115 E NOCTA ST, Ontario, CA 91761	414.00
1048-462-12	1095 E NOCTA ST, Ontario, CA 91761	414.00
1048-463-35	1162 E ELMA ST, Ontario, CA 91761	414.00
1048-471-02	1092 E NOCTA ST, Ontario, CA 91761	552.00
1048-472-07	140 N VIRGINIA AV, Ontario, CA 91761	276.00
1048-472-12	1160 E NOCTA ST, Ontario, CA 91761	368.00
1048-472-13	1164 E NOCTA ST, Ontario, CA 91761	368.00
1048-481-07	935 E HOLT BL, Ontario, CA 91761	860.75
1048-481-17	1008 E NOCTA ST, Ontario, CA 91761	276.00
1048-481-18	1006 E NOCTA ST, Ontario, CA 91761	276.00
1048-481-19	1004 E NOCTA ST, Ontario, CA 91761	276.00
1048-481-20	1002 E NOCTA ST, Ontario, CA 91761	276.00
1048-491-07	958 E D ST, Ontario, CA 91761	138.00
1048-492-57	312 N ALLYN AV, Ontario, CA 91761	414.00
1048-504-08	842 E D ST, Ontario, CA 91761	138.00
1048-505-16	811 E NOCTA ST, Ontario, CA 91761	414.00
1048-505-18	803 E NOCTA ST, Ontario, CA 91761	138.00
1048-505-19	312 N BERLYN AV, Ontario, CA 91761	138.00
1048-523-02	546 E NOCTA ST, Ontario, CA 91761	276.00
1048-523-03	550 E NOCTA ST, Ontario, CA 91761	276.00
1048-523-15	111 N MONTEREY AV, Ontario, CA 91761	138.00
1048-534-18	643 E NOCTA ST, Ontario, CA 91761	138.00
1048-534-19	222 N MIRAMONTE AV, Ontario, CA 91761	138.00
1048-561-12	312 N PALM AV, Ontario, CA 91762	138.00
1048-565-09	207 N EUCLID AV, Ontario, CA 91762	29,250.00
1048-566-07	303 N EUCLID AV, Building:1, Ontario, CA 91762	2,697.00
1048-571-01	425 W D ST, Ontario, CA 91762	276.00
1048-572-09	412 W B ST, Unit:A, Ontario, CA 91762	414.00
1048-575-02	319 W C ST, Ontario, CA 91762	408.00
1048-575-16	222 N FERN AV, Ontario, CA 91762	414.00
1048-581-74	535 W D ST, Unit:H, Ontario, CA 91762	138.00
1048-601-09	713 W D ST, Ontario, CA 91762	690.00
1048-603-22	754 W B ST, Ontario, CA 91762	138.00
1049-021-17	108 S VINE AV, Ontario, CA 91762	138.00
1049-022-22	536 W EMPORIA ST, Ontario, CA 91762	138.00
1049-059-01	421 W EMPORIA ST, Ontario, CA 91762	138.00
1049-091-05	541 E EMPORIA ST, Ontario, CA 91761	1,545.00
1049-091-10	201 S SULTANA AV, Ontario, CA 91761	276.00
1049-093-01	618 E HOLT BL, Ontario, CA 91761	276.00
1049-101-05	730 E HOLT BL, Building:1, Unit:1, Ontario, CA 91761	690.00

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
1049-102-14	762 E EMPORIA ST, Ontario, CA 91761	46.00
1049-131-18	948 E HOLT BL, Ontario, CA 91761	140.00
1049-141-24	1194 E HOLT BL, Ontario, CA 91761	140.00
1049-201-04	519 S CAMPUS AV, Ontario, CA 91761	140.00
1049-204-08	844 E ONTARIO BL, Ontario, CA 91761	91.00
1049-232-23	551 E SUNKIST ST, Ontario, CA 91761	140.00
1049-242-03	521 S EUCLID AV, Ontario, CA 91761	138.00
1049-242-04	515 S EUCLID AV, Ontario, CA 91761	414.00
1049-242-14	520 S LEMON AV, Ontario, CA 91761	414.00
1049-242-16	119 E SUNKIST ST, Ontario, CA 91761	138.00
1049-247-07	428 S SULTANA AV, Unit:A, Ontario, CA 91761	276.00
1049-247-10	411 E PARK ST, Ontario, CA 91761	138.00
1049-251-10	115 E NEVADA ST, Ontario, CA 91761	276.00
1049-253-04	220 E SUNKIST ST, Ontario, CA 91761	184.00
1049-258-12	407 E CALIFORNIA ST, Ontario, CA 91761	138.00
1049-261-17	424 W NEVADA ST, Ontario, CA 91762	276.00
1049-265-03	215 W SUNKIST ST, Ontario, CA 91762	276.00
1049-272-12	418 W SUNKIST ST, Ontario, CA 91762	276.00
1049-277-08	416 S EUCLID AV, Ontario, CA 91762	138.00
1049-277-12	116 W PARK ST, Ontario, CA 91762	276.00
1049-292-11	613 W NEVADA ST, Ontario, CA 91762	91.00
1049-312-06	743 W CALIFORNIA ST, Ontario, CA 91762	138.00
1049-312-16	754 W CARLTON ST, Ontario, CA 91762	340.00
1049-323-05	917 S SAN ANTONIO AV, Ontario, CA 91762	138.00
1049-333-03	211 W CARLTON ST, Ontario, CA 91762	276.00
1049-333-04	209 W CARLTON ST, Unit:A, Ontario, CA 91762	812.36
1049-343-08	334 E CARLTON ST, Ontario, CA 91761	138.00
1049-365-12	914 S CALDWELL AV, Ontario, CA 91761	138.00
1049-367-15	920 S HOPE AV, Ontario, CA 91761	138.00
1049-368-16	924 S BON VIEW AV, Ontario, CA 91761	138.00
1049-392-05	1044 S GROVE AV, Ontario, CA 91761	140.00
1049-461-10	1224 S BON VIEW AV, Ontario, CA 91761	276.00
1049-471-01	759 E WOODLAWN ST, Unit:1/2, Ontario, CA 91761	138.00
1049-481-10	641 E PHILLIPS ST, Ontario, CA 91761	276.00
1049-502-13	1030 S CAMPUS AV, Ontario, CA 91761	276.00
1049-502-22	611 E RALSTON ST, Unit:A, Ontario, CA 91761	276.00
1049-503-04	620 E RALSTON ST, Ontario, CA 91761	138.00
1049-503-11	642 E RALSTON ST, Ontario, CA 91761	138.00
1049-503-13	1104 S CAMPUS AV, Ontario, CA 91761	138.00
1049-513-29	319 E RALSTON ST, Unit:A, Ontario, CA 91761	414.00
1049-514-02	308 E RALSTON ST, Ontario, CA 91761	276.00
1049-521-10	232 E BELMONT ST, Ontario, CA 91761	138.00
1049-521-20	1227 S EUCLID AV, Ontario, CA 91761	276.00
1049-531-04	1315 S EUCLID AV, Ontario, CA 91761	828.00

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
1049-532-10	220 E ACACIA ST, Ontario, CA 91761	138.00
1049-551-03	1225 S VINE AV, Ontario, CA 91762	138.00
1049-551-04	1217 S VINE AV, Ontario, CA 91762	276.00
1049-551-05	1211 S VINE AV, Ontario, CA 91762	276.00
1049-551-06	1205 S VINE AV, Ontario, CA 91762	276.00
1049-551-07	1201 S VINE AV, Ontario, CA 91762	552.00
1049-551-08	415 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-09	411 W BELMONT ST, Unit:A, Ontario, CA 91762	138.00
1049-551-10	407 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-11	401 W BELMONT ST, Unit:B, Ontario, CA 91762	138.00
1049-551-12	403 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-13	409 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-14	413 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-15	417 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-16	419 W BELMONT ST, Ontario, CA 91762	138.00
1049-551-18	405 W BELMONT ST, Unit:A, Ontario, CA 91762	276.00
1049-551-24	1220 S PALM AV, Ontario, CA 91762	276.00
1049-551-25	1226 S PALM AV, Ontario, CA 91762	138.00
1049-561-07	419 W MAITLAND ST, Ontario, CA 91762	138.00
1049-561-15	1004 S PALM AV, Ontario, CA 91762	138.00
1049-562-22	320 W BELMONT ST, Ontario, CA 91762	138.00
1049-572-13	1120 S OAKLAND AV, Ontario, CA 91762	184.00
1049-572-14	608 W BELMONT ST, Ontario, CA 91762	414.00
1049-574-01	561 W RALSTON ST, Ontario, CA 91762	184.00
1049-574-02	553 W RALSTON ST, Ontario, CA 91762	138.00
1049-574-21	542 W BELMONT ST, Ontario, CA 91762	276.00
1049-581-02	1023 S CYPRESS AV, Unit:A, Ontario, CA 91762	276.00
1049-581-03	1019 S CYPRESS AV, Unit:A, Ontario, CA 91762	276.00
1049-583-51	728 W PHILLIPS ST, Ontario, CA 91762	138.00
1049-591-06	1221 S SAN ANTONIO AV, Ontario, CA 91762	138.00
1049-591-18	613 W BELMONT ST, Ontario, CA 91762	138.00
1049-591-28	618 W PHILLIPS ST, Ontario, CA 91762	91.00
1049-601-47	1348 S BONITA PL, Ontario, CA 91762	138.00
1049-612-03	1318 S BEVERLY AV, Ontario, CA 91762	138.00
1050-051-08	116 W ELM ST, Ontario, CA 91762	138.00
1050-061-13	131 W ELM ST, Ontario, CA 91762	138.00
1050-061-18	1512 S EUCLID AV, Ontario, CA 91762	276.00
1050-081-08	228 E BUDD ST, Ontario, CA 91761	138.00
1050-091-21	1425 S SULTANA AV, Ontario, CA 91761	138.00
1050-093-16	1451 S MONTEREY AV, Ontario, CA 91761	138.00
1050-232-12	1650 S CAMPUS AV, Unit:99, Ontario, CA 91761	138.00
1050-233-35	1650 S CAMPUS AV, Unit:60, Ontario, CA 91761	138.00
1050-234-42	1650 S CAMPUS AV, Unit:42, Ontario, CA 91761	138.00
1050-251-01	1727 S EUCLID AV, Ontario, CA 91761	982.50

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
1050-251-27	317 E FRANCIS ST, Ontario, CA 91761	220.00
1050-262-07	114 E LOCUST ST, Ontario, CA 91761	276.00
1050-262-35	237 E MAPLE ST, Ontario, CA 91761	46.00
1050-271-19	1632 S PALM AV, Ontario, CA 91762	138.00
1050-272-17	1637 S LAUREL AV, Ontario, CA 91762	1,656.00
1050-282-03	1712 S PALM AV, Ontario, CA 91762	187.00
1050-301-18	403 W LOCUST ST, Ontario, CA 91762	120.00
1050-312-14	616 W CADENZA CT, Ontario, CA 91762	46.00
1050-331-24	1919 S CYPRESS AV, Ontario, CA 91762	138.00
1050-341-39	1841 S REDWOOD AV, Ontario, CA 91762	138.00
1050-361-18	1952 S FERN AV, Ontario, CA 91762	138.00
1050-381-07	1902 S EUCLID AV, Ontario, CA 91762	414.00
1050-381-09	1918 S EUCLID AV, Building:A, Ontario, CA 91762	690.00
1050-401-29	229 E GREVILLEA ST, Ontario, CA 91761	91.00
1050-441-05	1948 S BON VIEW AV, Ontario, CA 91761	138.00
1050-531-51	2105 S PHOENIX PL, Ontario, CA 91761	138.00
1050-542-31	2027 S CAMPUS AV, Unit:C, Ontario, CA 91761	138.00
1050-542-66	2003 S CAMPUS AV, Unit:C, Ontario, CA 91761	138.00
1050-542-68	2003 S CAMPUS AV, Unit:E, Ontario, CA 91761	138.00
1050-542-84	731 E BOXWOOD CT, Ontario, CA 91761	92.00
1050-543-59	2036 S BON VIEW AV, Unit:A, Ontario, CA 91761	138.00
1050-544-02	850 E CEDAR ST, Unit:A, Ontario, CA 91761	552.00
1050-551-06	645 E SPRUCE ST, Ontario, CA 91761	374.00
1050-571-19	302 E SPRUCE ST, Ontario, CA 91761	138.00
1050-581-08	2019 S EUCLID AV, Ontario, CA 91761	138.00
1050-581-23	2056 S PLUM AV, Ontario, CA 91761	92.00
1050-582-08	2021 S PLUM AV, Ontario, CA 91761	138.00
1050-591-16	2050 S EUCLID AV, Ontario, CA 91762	1,518.00
1050-624-15	2115 S SAN ANTONIO AV, Ontario, CA 91762	150.00
1050-631-09	2004 S SAN ANTONIO AV, Ontario, CA 91762	138.00
1050-651-10	1459 S EUCLID AV, Unit:30, Ontario, CA 91761	138.00
1051-011-65	2229 S CYPRESS AV, Ontario, CA 91762	91.00
1051-041-21	412 W MONTICELLO CT, Ontario, CA 91762	92.00
1051-091-71	647 E SANDERLING ST, Ontario, CA 91761	92.00
1051-121-39	2247 S HOPE PL, Ontario, CA 91761	138.00
1051-131-40	2325 S BON VIEW AV, Ontario, CA 91761	138.00
1051-171-23	2441 S RAYMOND PL, Ontario, CA 91761	138.00
1051-171-37	2419 S CUCAMONGA AV, Ontario, CA 91761	138.00
1051-181-39	1048 E OAK HILL ST, Ontario, CA 91761	138.00
1051-191-37	2438 S PHOENIX PL, Ontario, CA 91761	138.00
1051-191-74	2432 S TAYLOR PL, Ontario, CA 91761	138.00
1051-201-21	563 E OAK HILL ST, Ontario, CA 91761	120.00
1051-201-35	543 E FAIRFIELD CT, Ontario, CA 91761	92.00
1051-221-15	131 W GEYER CT, Ontario, CA 91762	138.00

City of Ontario
Community Improvement Department
2022/2023 Tax Roll Year Special Assessments
Exhibit C - Total Amounts per Parcel

Parcel Number	Address	Amount Due
1051-271-30	320 W WALNUT ST, Unit:19, Ontario, CA 91762	46.00
1051-271-62	320 W WALNUT ST, Unit:34, Ontario, CA 91762	138.00
1051-281-23	2528 S PLUM LN, Ontario, CA 91761	138.00
1051-281-25	207 E CHERRY HILL CT, Ontario, CA 91761	46.00
1051-351-03	2626 S CUCAMONGA AV, Ontario, CA 91761	92.00
1051-351-69	958 E BERMUDA DUNES ST, Ontario, CA 91761	100.00
1051-401-26	2743 S MALCOLM AV, Ontario, CA 91761	320.00
1051-541-08	2856 S BON VIEW AV, Ontario, CA 91761	138.00
1051-541-41	705 E DEERFIELD ST, Ontario, CA 91761	138.00
1051-551-35	961 E DEERFIELD ST, Ontario, CA 91761	91.00
1051-561-56	1193 E DEERFIELD ST, Ontario, CA 91761	138.00
1051-601-56	605 E DUNES CT, Ontario, CA 91761	138.00
1051-602-07	665 E RIVERSIDE DR, Unit:5, Ontario, CA 91761	138.00
1051-612-13	2924 S PLUM LN, Ontario, CA 91761	138.00
1051-612-21	313 E DORAL ST, Ontario, CA 91761	138.00
1051-612-26	343 E DORAL ST, Ontario, CA 91761	138.00
1054-161-03	8551 E EUCALYPTUS AV, Ontario, CA 91710	138.00
1073-321-14	3211 E KINGS DR, Building:, Unit:, Ontario, CA 91762	926.22
1083-031-77	2608 E HARBOUR TOWN TR, Ontario, CA 91761	138.00
1083-121-36	2901 E DUNLIN WY, Ontario, CA 91761	138.00
1083-131-56	3120 E WHITE STAG RD, Ontario, CA 91761	138.00
1083-162-07	3258 E CANARY CT, Ontario, CA 91761	138.00
1083-171-07	3242 E CLEAR LAKE RD, Ontario, CA 91761	1,498.74
1083-171-20	3269 E SUMMER ISLAND CT, Ontario, CA 91761	184.00
1083-172-08	3424 E EVERGREEN DR, Ontario, CA 91761	138.00
1083-193-02	2750 S PINE VALLEY AV, Ontario, CA 91761	138.00
1083-221-20	2633 S PLAINFIELD DR, Ontario, CA 91761	138.00
1083-231-03	2740 S ARCADIAN SHORES RD, Ontario, CA 91761	138.00
1083-281-48	3273 E ASHGATE WY, Ontario, CA 91761	138.00
1083-301-62	3348 E MORNINGWOOD CT, Ontario, CA 91761	138.00
1083-371-23	2618 S CRYSTAL SPRING PL, Ontario, CA 91761	138.00
1083-392-03	2804 S TUOLUMNE PL, Unit:C, Ontario, CA 91761	138.00
1083-393-63	3641 E OAK CREEK DR, Unit:D, Ontario, CA 91761	138.00
1083-401-31	3546 E STRAWBERRY CREEK PL, Ontario, CA 91761	138.00
1083-402-12	3638 E OAK CREEK DR, Unit:D, Ontario, CA 91761	46.00
1083-402-29	3651 E COUNTRY OAKS LP, Unit:C, Ontario, CA 91761	138.00
1083-421-46	3733 E ANTELOPE CREEK DR, Ontario, CA 91761	138.00
1083-441-36	2779 S MOOSE CREEK LN, Ontario, CA 91761	92.00
1083-451-01	3642 S OAK CREEK DR, Unit:A, Ontario, CA 91761	138.00
523		**181,816.63**

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Integrated Waste Prepared By: Blaine M Ishii Department: Public Works Prepared By: Bonnie Tam Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 23

SUBJECT: ADOPTION OF AN ORDINANCE AMENDING CHAPTER 3 OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO NON-WASTE REPORTING REQUIREMENTS

RECOMMENDATION: That the City Council consider and adopt an Ordinance amending Chapter 3 of Title 6 of the Ontario Municipal Code related to Non-Waste Reporting Requirements and finding the action exempt from CEQA.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Invest in the Growth and Evolution of the City's Economy

FISCAL IMPACT: There is no direct fiscal impact associated with the recommended action.

BACKGROUND & ANALYSIS: On July 5, 2022, the City Council introduced and waived further reading of an Ordinance amending Chapter 3 of Title 6 of the Ontario Municipal Code related to Non-Waste Reporting Requirements. As noted in the prior Agenda Report, the City of Ontario provides for the collection and removal of solid waste. The Integrated Waste Department of the City's Public Works Agency carries out solid waste removal duties within the City and provides service to various customers within the City's jurisdiction. No other entity is permitted to engage in solid waste hauling services in the City.

Pursuant to SB 1383 (Chapter 395, Statutes of 2016), the California Department of Resources Recycling and Recovery ("CalRecycle") adopted regulations in Chapter 12 (Short-Lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations ("SB 1383 Regulations") that now require the City to track its solid waste diversion levels in order to meet certain State-mandated targets.

There are certain businesses ("Non-Waste Dealers") operating within the City's jurisdiction engaging in the purchase (or collection) of sold and donated materials that are not solid waste. These

materials, while not solid waste because they are purchased or donated for value and at no cost to the generators, are nevertheless materials that are "diverted" from becoming solid waste, and as such count toward the City's diversion level targets. For that reason, it is beneficial to the City to track the amount and levels of these transactions, in order to more accurately determine the diversion levels achieved within its jurisdiction.

The proposed Ordinance would amend Article 5 of Chapter 3 of Title 6 of the Ontario Municipal Code in its entirety, as well as select provisions of Articles 1, 2, 6, and 8 of that same Chapter, in order to clarify the obligation of Non-Waste Dealers to track and report the volumes and types of waste that they purchase or receive in a given transaction and to submit to City inspection and enforcement. This Ordinance ensures the City is appropriately and accurately tracking diversion rates. In addition, this Ordinance further clarifies that Non-Waste Dealers may not charge a fee or receive any compensation for the collection, transport, disposal, processing, or recycling of Non-Waste, recyclable materials, organics, or solid waste, or charge a rental fee for a container of any such material to be collected within the City.

ENVIRONMENTAL REVIEW: This Ordinance is not a "project" subject to the California Environmental Quality Act (CEQA). The Ordinance does not qualify as a project because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, § 15378, subd. (a).) The Ordinance merely codifies Non-Waste collectors' and haulers' obligation to report their activities to the City. In the alternative, the Ordinance falls within the "common sense" exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3), which exempts activity from CEQA 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." There is no possibility that the Ordinance may have a significant effect on the environment because the Ordinance merely codifies Non-Waste collectors' and haulers' obligation to report their activities to the City.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 3 (INTEGRATED SOLID WASTE MANAGEMENT) OF TITLE 6 (SANITATION AND HEALTH) OF THE ONTARIO MUNICIPAL CODE RELATING TO NON-WASTE REPORTING REQUIREMENTS.

WHEREAS, the City of Ontario (the "City"), presently provides for the exclusive collection of solid waste, organic waste, and recyclable materials within the City through Integrated Waste Management, a division of the City's Public Works Agency; and

WHEREAS, SB 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery ("CalRecycle") to adopt regulations to reduce organic waste by 75 percent from its 2014 baseline level by 2025; and

WHEREAS, CalRecycle promulgated regulations as directed in SB 1383 in Chapter 12 (Short-Lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations ("SB 1383 Regulations"); and

WHEREAS, the SB 1383 Regulations took effect January 1, 2022, and among their requirements is the City's obligation to track its solid waste diversion levels in order to meet State-mandated targets; and

WHEREAS, certain businesses operate within the City's jurisdiction to purchase or collect sold or donated materials that are not solid waste ("Non-Waste"); and

WHEREAS, Non-Waste is nevertheless material that the City desires to track in order to ascertain its compliance with State-mandated diversion targets; and

WHEREAS, although the Municipal Code of the City of Ontario does provide for a "permitting" process at present, it does not clearly provide an affirmative obligation on Non-Waste buyers and haulers to report certain details about their activities to the City; and

WHEREAS, the City Council desires to amend the City's current Solid Waste Ordinance to reflect the existence of these Non-Waste buying practices and to codify Non-Waste buyers' and haulers' obligation to report details about the Non-Waste they collect within the City.

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

SECTION 1. Incorporation of Recitals. The City Council hereby finds and determines that the recitals above are true and correct and are incorporated herein by this reference.

SECTION 2. Code Amendment. Article 5 of Chapter 3 of Title 6 of the Ontario Municipal Code is repealed in its entirety and replaced in its entirety as set forth in Exhibit A, incorporated by this reference.

SECTION 3. Code Amendment. The following sections of Chapter 3 of Title 6 of the Ontario Municipal Code are amended as set forth in Exhibit B, incorporated by this reference: 6-3.101, 6-3.104, 6-3.107, 6-3.207, 6-3.209, 6-3.604, 6-3.605, 6-3.808, 6-3.810, 6-3.811.

SECTION 4. CEQA. The City Council finds that this Ordinance is not a "project" subject to the California Environmental Quality Act (CEQA). The Ordinance does not qualify as a project because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, § 15378, subd. (a).) The Ordinance merely codifies Non-Waste collectors' and haulers' obligation to report their activities to the City. In the alternative, the City Council finds that the Ordinance falls within the "common sense" exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3), which exempts activity from CEQA 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." Here, it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment because the Ordinance merely codifies Non-Waste collectors' and haulers' obligation to report their activities to the City.

SECTION 5. Severability. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 6. Effective Date. This Ordinance takes effect thirty (30) days after its adoption.

SECTION 7. Certification. 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 19th day of July, 2022.

_____

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 Ordinance No. 3216 was duly introduced at a regular meeting of the City Council of the City of Ontario held July 5, 2022 and adopted at the regular meeting held July 19, 2022 by the following roll call vote, to wit:

AYES: MAYOR/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. 3216 duly passed and adopted by the Ontario City Council at their regular meeting held on July 19, 2022 and that Summaries of the Ordinance were published on July 12, 2022 and July 26, 2022, in the Inland Valley Daily Bulletin newspaper.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

Article 5. Allowable Composting and Recycling, Non-Waste Disposal

Sec. 6-3.501. Backyard residential composting.

(a) Notwithstanding any other provision of this chapter, residents are encouraged to compost green wastes, including grass clippings, leaves, plant trimmings, wood ashes and vegetable kitchen scraps (but not including other household refuse or animal wastes). The following conditions regarding composting must be met:

(1) Compost piles or containers are located in the rear or side yard, not visible from a public street, and no greater than five (5) feet in height;

(2) The compost piles or containers are at least five (5) feet from the property line or separated from adjacent property by a solid wall;

(3) Compost piles are maintained so that they do not generate an offensive odor or harbor rodents;

(4) The maximum size of any pile or container is five (5) feet in height by five (5) feet in width by five (5) feet in length;

(5) The compost is enclosed, screened or otherwise maintained to minimize insects or pests; and

(6) The pile or container shall not permit surface run-off or leachate to another property.

(b) The Administrator may authorize, for educational purposes, the creation of a composting demonstration area visible to the public at a City park or other facility.

(c) No composting shall be permitted at any location that is determined to be a fire hazard by the City's Fire Department.

Sec. 6-3.502. Non-Waste Dealer Operations.

(a) Non-Waste Dealers shall be expressly subject to all inspection, reporting, and enforcement provisions of this chapter, and all other applicable regulations, permits, charges for use, terms, and fees established by the City. Conditions for lawfully operating as a Non-Waste Dealer shall be enforced by the City in accordance with this chapter and all applicable county, state, and federal regulations.

(b) Any such Non-Waste Dealer operating at any time in the City shall furnish, at a frequency established by the City, but no less than quarterly each calendar year, a report of the amount of Non-Waste (including but not limited to all materials that would be deemed recyclables, organics, or contaminated materials if otherwise discarded as solid waste) collected from within the City. The report shall contain the weight and type of Non-Waste collected, the names and addresses of generators from which the Non-Waste was collected, and the final destination of the Non-Waste collected, as further detailed in subdivision (g) below. The report shall be submitted in a format necessary to meet state criteria. The report shall be considered late if submitted thirty (30) days after the date due. Failure to provide the report within thirty (30) days from the due date is hereby declared an infraction and subject to penalties listed in OMC § 1-2.01.

(c) All such businesses operating as a Non-Waste Dealer shall keep their collection containers in good condition and free from graffiti. Containers must be kept in a clean and sanitary condition and must be appropriately sanitized upon notification from the City.

(d) Such bins, roll-offs, or other containers to collect Non-Waste by Non-Waste Dealers must be placed according to the standards set by the City. Such containers shall not be placed in the public right-of-way. The containers shall be placed in enclosure(s) which meet City standards when applicable. Separate containers for recyclables and organics shall be provided if applicable. Bins, roll-offs or other containers utilized by a Non-Waste Dealer shall be clearly identified by the name of the Non-Waste Dealer and other information the Administrator may require. The Administrator may regulate the colors and look of such containers as necessary to ensure they are distinguishable from those utilized by the City's Collector(s).

(e) Bins, roll-offs, or other containers to collect Non-Waste by Non-Waste Dealers must be used exclusively for the collection of Non-Waste, as applicable. Residual material within a container other than Non-Waste regularly purchased by or donated to the Non-Waste Dealer must not exceed five percent (5%) in any container, as determined at the discretion of the Administrator.

(f) Each violation of sections 6-3.502, 6-3.503, 6-3.504, 6-3.505 and 6-3.506 will be considered an infraction and subject to penalties listed in OMC § 1-2.01 and section 6-3.811 of this Code, with the exception of subdivisions (f) and (g) of Section 6-3.811.

(i) Notwithstanding any language to the contrary, the obligations of Non-Waste Dealers under this chapter are effective immediately and subject to all enforcement measures, administrative penalties, and civil penalties for non-compliance with no regard to any education period or other delay. If the City determines that a Non-Waste Dealer or similar entity is not in compliance with this Article 8, it shall document the noncompliance or violation, issue a Notice of Violation, and take enforcement action pursuant to this § 6-3.811. Subdivisions (f) and (g) of this § 6-3.811 are inapplicable to Non-Waste Dealers.

(g) Non-Waste Dealers, including, but not limited to, scrap buyers and compostable material buyers, shall keep a record of the amount and type of Non-Waste purchased or received from any entity in any transaction as part of the Non-Waste Dealer's regular course of business. This record shall be subject to inspection by the City, and shall include, at a minimum, the following information:

(i) The Non-Waste Dealer's receipts and weight tickets for any transaction.

(ii) The amount of Non-Waste in cubic yards or tons, purchased by, transported by, or donated to the Non-Waste Dealer from each entity in any transaction. If the nature of the Non-Waste Dealer's business involves the purchase or receipt of Non-Waste that is not reasonably suited for recordation in cubic yards or tons (i.e. used furniture, etc.), the record shall instead reflect the number and weight of each item of Non-Waste.

(iii) A general description of the type of Non-Waste collected in any given transaction.

(iv) The date of each transaction.

(v) The name and contact information of each entity that sold, donated, or otherwise disposed of the Non-Waste material in a given transaction.

(vi) The location to which all Non-Waste was taken or hauled in a given transaction.

(2) If solid waste, recyclable materials, or organic waste is inadvertently collected in the receipt of Non-Waste, such materials are the responsibility of the Non-Waste Dealer

and will be considered to have been generated by the Non-Waste Dealer as a commercial generator. In that event, all such materials shall be subject to all other applicable provisions of this chapter, including but not limited to Section 6-3.809.

(3) Non-Waste Dealers shall provide all records collected pursuant to this Section to the City at a frequency determined by the City, but no less than quarterly each calendar year. Such records shall be considered late if received thirty (30) days or more after their due date, and is an infraction subject to penalties listed in OMC § 1-2.01.

(h) The Administrator may issue a compliance order, whereby the Non-Waste Dealer must comply with all directives, conditions, and requirements therein within the time prescribed. The compliance order shall contain terms and conditions to ensure compliance with this chapter. The Administrator may issue citations pursuant to Sec. 6-3.811 when it is determined that a Non-Waste Dealer:

(1) Fails to comply with any provision of this chapter, a City administrative order, a City compliance order, or a City compliance agreement;

(2) Knowingly provides a false statement, representation, record, report, or document to the City;

(3) Refuses to provide records or other documents required by the City to determine compliance with the permit or this chapter.

Sec. 6-3.503. Appeal.

(a) Pursuant to § 1-4.01, any affected Non-Waste Dealer may appeal in writing to the City Council, by filing with the City Clerk a written notice of such appeal, setting forth grounds thereof. The appellant shall file such notice within fourteen (14) days after receipt of the notice of the administrative decision concerned.

(b) The order of the City Council shall be deemed final upon its adoption.

(c) If the Non-Waste Dealer fails to appeal to the City Council, or the City Council fails to reverse or modify the administrative decision, the Administrator's administrative decision shall be deemed final.

Sec. 6-3.504. Public access to information and confidentiality.

(a) Any information in a Non-Waste Dealer’s file, which includes, but is not limited to, permits, permit applications, questionnaires, or manifests, shall be available to other public or governmental agencies without restriction.

(b) If the disclosure of the Non-Waste Dealer's file, or a portion thereof, would divulge trade secrets or secret processes, the Non-Waste Dealer shall have the right to request that such information be kept confidential. Any such claim must be made at the time of submittal of the information by marking the submittal "confidential business information" on each page containing such information.

(c) Information demonstrated to be confidential shall not be transmitted to anyone other than a governmental agency bound by the confidentiality requirements for uses related to this chapter, and for use by the state or federal agency in judicial review or exercise of their valid regulatory authority.

Sec. 6-3.505. Non-Waste Dealer purchases or receipt of Non-Waste, property owner responsibility.

For Non-Waste collected by businesses other than the City, the property owner shall be responsible for contracting with the Non-Waste Dealer for regular pick-up and collection of the Non-Waste. Recyclables, organics, solid waste, and Non-Waste shall not be permitted to accumulate such that a visual or public health and safety nuisance is created. The City shall have the authority to abate any such nuisance and charge the property owner or Non-Waste Dealer for the expense of abating the nuisance.

Sec. 6-3.506. Prohibition on Collecting Solid Waste, Recyclable Materials, Organic Waste, or Non-Waste for a Fee.

No person, expressly including, but not limited to, a Non-Waste Dealer, may charge a fee or receive any compensation for the collection, transport, disposal, processing, or recycling of Non-Waste, recyclable materials, organics, or solid waste, or charge a rental fee for a container of any such material to be collected within the City. Non-Waste Dealers shall collect only those Non-Waste materials that are sold or donated by the generator thereof. Nothing in this chapter limits the right of any person to donate, sell, or otherwise dispose of his or her Non-Waste.

EXHIBIT B

Article 1: General Provisions

Sec. 6-3.101. Declaration of policy.

The City Council of the City of Ontario hereby finds and declares:

(a) The intent and purpose of this chapter is to comply with state law on solid waste management as it is found in California Public Resources § 40000 et seq.

(b) State law requires local agencies such as the City to control and reduce their waste streams, and to meet per capita waste generation goals each year. This reduction requires an ongoing evolution of the practices within the City to include elements that reduce waste generation, promote reuse, and require collection of recyclables and organic waste.

(c) The accumulation, collection, removal, disposal, composting, and recycling of solid waste shall be controlled by the City for the protection of the public health, safety and welfare, and to contribute toward the diminution of health hazards and pollution in the City. The City Council finds that to give practical effect to this policy, a comprehensive system for the periodic collection, removal, disposal, composting and/or recycling of integrated waste from all premises in the City is essential and benefits all residents of the City; therefore, all such occupants are made responsible for the collection, disposal, composting, and/or recycling of solid waste.

(d) The provisions of this chapter shall control in the event of any inconsistencies between this chapter and any other City ordinances, resolutions, or other written arrangements.

(e) Nothing in this chapter shall limit the right of an individual person, organization, or other entity to donate, sell, or otherwise dispose of recyclables or organics, provided that any such donation, sale, or disposal is in accordance with the provisions of this chapter, including but not limited to the provisions of Section 6-3.808(b).

(f) The City Manager shall be responsible for reviewing solid waste collection services, contracts, permits, fees, and rates, and for making recommendations on the administration of the above to the City Council for final approval.

Sec 6-3.104. Applicability.

This chapter shall apply to all waste generators within the City, and to waste generators outside the City who are, by permit, contract, or agreement with the City, users of the City's non-organic waste, recycling and green waste and other organics collection services, or are conducting business or activities within the City which fall under the provisions of this chapter.

The inspection, reporting, and enforcement provisions of this chapter shall further apply to the donation, sale, or disposal of Non-Waste, as that term is defined in Section 6-3.106, as though the purchasers, recipients, collectors, transporters, recyclers, haulers, or other persons in receipt of such Non-Waste were collectors of solid waste.

Sec. 6-3.106. Definitions.

For the purpose of this chapter, unless otherwise apparent from context, certain words and phrases used in this chapter shall have the meanings hereinafter designated. The definitions in this chapter are included for reference purposes only and are not intended to narrow the scope of definitions set forth in federal or state laws or regulations. Words used in this chapter in the singular may include the plural, and the plural may include the singular. Use of the masculine shall also mean the feminine and neuter.

(a) "Account." A statement or record utilized by the City for billing customers that receive integrated waste services.

(b) "Administrator." The City Utilities Manager or his or her designee.

(c) "Bin." City-provided or privately-owned, integrated waste containers, generally with a lid, that are collected by a front-loading collection vehicle.

(d) "Blue container" has the same meaning as in 14 CCR § 18982.2(a)(5) and shall be used for the purpose of storage and collection of source separated recyclable materials or source separated blue container waste.

(e) "Bulky item." Any item unable to be collected through normal collection methods, such as an appliance, furniture or bundled brush.

(f) "Business recycling plan." A business recycling plan as set forth in § 6-3.601.

(g) "C & D" or "construction and demolition debris." Lumber, paper, cardboard, metals, masonry (brick, concrete, and the like), carpet, plastic, pipe (plastic, metal, and clay), drywall, rocks, dirt, and green waste related to land development. These materials produce debris that is not hazardous waste, as defined by Cal. Pub. Resources Code § 40141.

(h) "California Code of Regulations" or "CCR" means the State of California Code of Regulations.

(i) "CalRecycle" means California's Department of Resources Recycling and Recovery.

(j) "Cart." The City-provided, plastic, solid waste container with a tight-fitting lid and wheels, collected by an automated, side-loading collection vehicle. Carts may be in the sizes and colors determined by the City.

(k) "City." The City of Ontario, California.

(l) "City Manager." The chief administrative officer of the City or his or her designee.

(m) "Collection." The operation of gathering together and transporting of materials subject to this chapter to a point of disposal and/or a recycling or composting center/facility.

(n) "Collector." A person employed by the City or any other person (or the agents or employees thereof) with whom the City shall have contracted to collect, carry, transport, compost, and/or recycle non-organic waste, recyclables, and organics within the City.

(o) "Commercial" or "commercial business." A business, industrial, commercial establishment, or construction site, and any multiple-family, residential dwelling with five (5) units or more on one (1) account.

(p) "Commercial edible food generator" includes a tier one or a tier two commercial edible food generator as defined in CCR §§ 18982(a)(73) and (a)(74).

(r) "Compactor." A privately-owned receptacle for compressing waste used in commercial establishments, collected by a front-loading or a roll-off vehicle.

(s) "Community composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed one hundred (100) cubic yards and seven hundred fifty (750) square feet, as specified in 14 CCR § 17855(a)(4); or, as otherwise defined by 14 CCR § 18982(a)(8).

(t) "Compliance review" means a review of records by the City to determine compliance with Article 8.

(u) "Compost." The product resulting from the controlled biological decomposition of organic wastes that are source separated from the municipal waste stream, or that are separated at a centralized facility.

(v) "Container." A cart, bin, roll-off, compactor or similar receptacle used to temporarily store solid waste, organics or recyclables for collection service.

(w) "Container contamination" or "contaminated container" means a container, regardless of color, that contains prohibited container contaminants, or as otherwise defined in 14 CCR § 18982(a)(55).

(x) "Customer." The owner and/or occupant of any property within the City that is required to participate in the City's integrated waste collection program, including green waste, other organics and recyclables.

(y) "Designated source separated organic waste facility", shall have the same definition as 14 CCR § 18982(14.5).

(z) "Designee" means an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities as authorized in 14 CCR § 18981.2. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

(aa) “Discard” means to dispose of solid waste through means other than sale or donation.

(bb) “Discarded materials” means materials set out for collection by a generator in one or more containers.

(cc) "Divert." To use material for any purpose other than disposal in a landfill or transformation facility.

(dd) “Donate” means to gratuitously surrender or part with material of value to the donator, with no net payment between the donator and the donee.

(ee) "Edible food" means food intended for human consumption, or as otherwise defined in 14 CCR § 18982(a)(18). "Edible food" is not solid waste if it is recovered and not discarded.

(ff) "Enforcement action" means an action of the City to address non-compliance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

(gg) "Enforcement Officer" means the city manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized designee(s) who is/are partially or whole responsible for enforcing Article 8.

(hh) "Food recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR § 18982(a)(24).

(ii) "Food recovery organization" means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities or as otherwise defined in 14 CCR § 18982(a)(25), including, but not limited to:

(1) A food bank as defined in Section 113783 of the Health and Safety Code;

(2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code; and,

(3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

(jj) "Food recovery service" means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery, or as otherwise defined in 14 CCR § 18982(a)(26).

(kk) "Food waste." Discarded raw, cooked, or processed edible substances, ices, beverages, ingredients used or intended for use or for sale, in whole or in part, for human consumption, and chewing gum. Food waste includes compostable plastics. Food waste is a subset of organics.

(ll) "Generator" or "waste generator" means a person or entity that is responsible for the initial creation of waste.

(mm) "Gray container" has the same meaning as in 14 CCR § 18982.2(a)(28) and shall be used for the purpose of storage and collection of gray container waste.

(nn) "Gray container waste" means solid waste that is collected in a gray container that is part of a three (3)-container organic waste collection service that prohibits the placement of organic waste in the gray container as specified in 14 CCR § 18984.1(a)-(b), or as otherwise defined in 14 CCR § 17402(a)(6.5).

(oo) "Green building." The use of materials in a more efficient manner. Green building practices can include salvaging dimensional lumber from structures, using reclaimed aggregates, or designing a structure in a way that requires less material.

(pp) "Green container" has the same meaning as in 14 CCR § 18982.2(a)(29) and shall be used for the purpose of storage and collection of source separated green container organic waste.

(qq) "Green waste." Tree and shrubbery trimmings, tree roots less than six (6) inches in diameter, vegetation matter resulting from land clearing, grass, weeds, straw, or leaves, wood chips, sawdust and other household garden, organic materials that have been segregated from other solid waste materials for the purpose of deposit at a designated collection location, including curbside location, for collection and transportation to a compost facility. Green waste does not include palm fronds, cactus or tree limbs, roots or stumps larger than six (6) inches in diameter. Green waste is a subset of organics.

(rr) "Grocery store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR § 18982(a)(30).

(ss) "Hazardous waste." A waste, or combination of wastes, which, because of its quantity, concentration or physical, chemical, or infectious characteristics, may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(2) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Unless expressly provided otherwise, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.

(tt) "High diversion organic waste processing facility" means a facility that is in compliance with the reporting requirements of 14 CCR § 18815.5(d) and meets or exceeds an annual average mixed waste organic content recovery rate of fifty percent (50%) percent between January 1, 2022 and December 31, 2024, and seventy-five percent (75%) after January 1, 2025, as calculated pursuant to 14 CCR § 18815.5(e) for organic waste received from the "mixed waste organic collection stream" as defined in 14 CCR § 17402(a)(11.5); or, as otherwise defined in 14 CCR § 18982(a)(33).

(uu) "Inspection" means a site visit where a City reviews records, containers, and an entity's collection, handling, recycling, or landfill disposal of organic waste or edible food handling to determine if the entity is complying with requirements set forth in Article 8, or as otherwise defined in 14 CCR § 18982(a)(35).

(vv) "Integrated waste." The City's Integrated Waste Department.

(ww) "Integrated waste collection" means the collection of source separated green container organic waste in the green container, source separated recyclable materials in the blue container; and gray container waste in the gray container.

(xx) "Large event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than two thousand (2,000) individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.

(yy) "Large venue" means a permanent venue facility that annually seats or serves an average of more than two thousand (2,000) individuals within the grounds of the facility per day of operation of the venue facility. A venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. A site under common ownership or control that includes more than one (1) large venue that is contiguous with other large venues in the site, is a single large venue.

(zz) "Local education agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to solid waste, or as otherwise defined in 14 CCR § 18982(a)(40).

(aaa) "Mixed waste organic collection stream" or "mixed waste" means organic waste collected in a container that is required by 14 CCR §§ 18984.1, 18984.2 or 18984.3 to be taken to a high diversion organic waste processing facility or as otherwise defined in 14 CCR § 17402(a)(11.5).

(bbb) "Multi-family residential dwelling" or "multi-family" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-family premises do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses.

(ccc) "Non-organic waste." Solid waste that does not include recyclables and organics.

(ddd) “Non-Waste” means material generated by a generator that would otherwise be disposed of as solid waste, and that may be properly placed in a container set out for City

collection by a generator, but is instead sold for value or donated to a Non-Waste Dealer. Non-Waste does not include solid waste, recyclable materials, or organic waste that is abandoned or discarded.

(eee) “Non-Waste Dealer” means a person or entity who, as part of a regular and continuing part or whole of their business practice, purchases Non-Waste or receives donated Non-Waste, including but not limited to a scrap buyer, compostable materials buyer, or recyclables broker.

(fff) "Notice of violation" or "NOV" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR § 18982(a)(45) or further explained in 14 CCR § 18995.4

(ggg) "Occupant." One who has certain legal rights to or control over the premises occupied; a tenant or owner.

(hhh) "Organics," "organic waste," and "organic material." Solid wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.

(iii) "Organic waste generator" means a person or entity that is responsible for the initial creation of organic waste, or as otherwise defined in 14 CCR § 18982(a)(48).

(jjj) "Paper products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR § 18982(a)(51).

(kkk) "Person." An individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(lll) "Printing and writing papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white woven envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR § 18982(a)(54).

(mmm) "Prohibited container contaminants" means the following:

(1) Discarded materials placed in the blue container that are not identified as acceptable source separated recyclable materials for the City's blue container;

(2) Discarded materials placed in the green container that are not identified as acceptable source separated green container organic waste for the City's green container;

(3) Discarded materials placed in the gray container that are acceptable source separated recyclable materials and/or source separated green container organic wastes to be placed in the City's green container and/or blue container; and,

(nnn) "Property owner." The record owner of a property, including the homeowner/business owner association of a residential/business condominium project.

(ooo) "Recovered organic waste products" means products made from California, landfill-diverted recovered organic waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR § 18982(a)(60).

(ppp) "Recovery" means any activity or process described in 14 CCR § 18983.1(b), or as otherwise defined in 14 CCR § 18982(a)(49).

(qqq) "Recyclable materials" or "recyclables." Non-organic, reusable waste materials, including, but not limited to, metal, glass, and plastic, that are to be collected, separated or processed and used as raw materials. "Recyclables" may include paper products, printing and writing paper, wood, dry lumber and textiles.

(rrr) "Recycle" or "recycling." The process of collecting, sorting, cleansing, treating, and reconstructing materials that would otherwise become refuse or garbage, and returning them to the economic mainstream in the form of raw material for new, revised, or reconstituted products that meet the quality standards necessary to be used in the marketplace. This includes, without limitation, items intended for "re-use" or "personal use," irrespective of their intended return to the economic mainstream or marketplace.

(sss) "Recycled-content paper" means paper products and printing and writing paper that consists of at least thirty percent (30%), by fiber weight, post- consumer fiber, or as otherwise defined in 14 CCR § 18982(a)(61).

(ttt) "Residential." Any residential dwelling or apartment house.

(uuu) "Reuse." Further or repeated use of construction or demolition debris.

(vvv) "Roll-off bin" or "roll-off." A compactor or open-top, City-owned or private container collected by a roll-off collection vehicle.

(www) "Route review" means a visual inspection of containers along a hauler route for the purpose of determining container contamination, and may include mechanical inspection methods such as the use of cameras, or as otherwise defined in 14 CCR § 18982(a)(65).

(xxx) “Sale” and “sold” means the act of transferring ownership of Non-Waste for value between a generator and a Non-Waste Dealer. A transaction is not a sale if it does not result in a net payment to the Non-Waste generator, as evaluated under the totality of the circumstances (including, but not limited to, any rebates, bin rental fees, etc.). If a transaction purporting to be the sale of Non-Waste involves a net charge, fee, or cost to the Non-Waste generator, it is not a sale of Non-Waste and is instead solid waste hauling activity subject to the solid waste provisions of this Code.

(yyy) "SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016.

(zzz) "SB 1383 Regulations" or "SB 1383 Regulatory" means the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

(aaaa) "Scavenging." The removal of any solid waste material without authorization of the property owner and/or the City.

(bbbb) "Self-hauler" means a person, who hauls solid waste, organic waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR § 18982(a)(66). Back-haul means generating and transporting organic waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 CCR § 18982(a)(66)(A).

(cccc) "Single-family" means of, from, or pertaining to any residential premises with fewer than five (5) units.

(dddd) "Solid waste." All putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition wastes, abandoned vehicles and parts thereof, discarded

home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge that is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. Solid waste does not include hazardous, radioactive waste or medical waste.

(eeee) "Solid waste enterprise." An entity authorized by the County of San Bernardino or other regulatory authority to provide integrated waste services in such area prior to its annexation by the City.

(ffff) "Source separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR § 17402.5(b)(4). Source separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that source separated materials are separated from gray container waste/mixed waste or other solid waste for the purposes of collection and processing.

(gggg) "Source separated blue container waste" means source separated wastes that can be placed in a blue container that is limited to the collection of those organic wastes and non-organic recyclables as defined in 14 CCR § 18982(a)(43), or as otherwise defined by 14 CCR § 17402(a)(18.7).

(hhhh) Source separated green container organic waste" means source separated organic waste that can be placed in a green container that is specifically intended for the separate collection of organic waste by the generator, excluding source separated blue container waste, carpets, non-compostable oaper, and textiles.

(iiii) "Supermarket" means a full-line, self-service retail store with gross annual sales of Two Million Dollars ($2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR § 18982(a)(71).

(jjjj) "Tier one commercial edible food generator" means a commercial edible food generator that is one (1) of the following:

(1) Supermarket.

(2) Grocery store with a total facility size equal to or greater than ten thousand (10,000) square feet.

(3) Food service provider.

(4) Food distributor.

(5) Wholesale food vendor.

(kkkk) "Tier two commercial edible food generator" means a commercial edible food generator that is one (1) of the following:

(1) Restaurant with two hundred fifty (250) or more seats, or a total facility size equal to or greater than five thousand (5,000) square feet.

(2) Hotel with an on-site food facility and two hundred (200) or more rooms.

(3) Health facility with an on-site food facility and one hundred (100) or more beds.

(4) Large venue.

(5) Large event.

(6) A State agency with a cafeteria with two hundred fifty (250) or more seats or total cafeteria facility size equal to or greater than five thousand (5,000) square feet.

(7) A local education agency facility with an on-site food facility.

(llll) "Wholesale food vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR § 189852(a)(76).

Article 2. Prohibitions

Sec. 6-3.207. Scavenging.

(a) Only the City may remove any recyclables or organics, which have been segregated from other solid waste, and placed at the curbside or at a location designated for the collection of recyclables or organics.

(b) Such recyclables or organics are the property of the City upon placement of the container for collection. No unauthorized person shall remove non-organic waste, recyclables, or organics from City containers.

(c) In any civil action by the City against a person alleged to have violated any provision of this section, the court may award a civil penalty of not more than One Thousand Dollars ($1,000.00) for each unauthorized removal against the unauthorized person removing the solid waste.

(d) Violation of this section is unlawful and shall be a misdemeanor. Each separate unauthorized removal shall be a separate violation.

Sec. 6-3.209. Unauthorized containers.

(a) Containers used to collect solid waste placed in the City by unauthorized collectors or haulers are subject to impoundment. Containers shall be placed in a storage facility and the hauler shall be responsible for all fees incurred as a result of the impoundment.

(b) Containers violating this section of the chapter shall be tagged by Code Enforcement, or Integrated Waste Department staff, for removal within twenty-four (24) hours. If it is not removed within twenty-four (24) hours, the container will be impounded by the City without granting any further notice or warning. The confiscated container will be placed in a storage facility and the hauler shall be responsible for all fees incurred as a result of the impoundment.

(c) This Section shall not apply to a Non-Waste Dealer operating pursuant to the provisions of this chapter and possessing all necessary business license(s) and permit(s) to the extent that such a Non-Waste Dealer uses its own Non-Waste container for the purchase or donation of Non-Waste and not for a fee. The provision of such a Non-Waste container cannot involve any net payment by any individual to the Non-Waste Dealer or Non-Waste container’s provider; any net payment by the generator of purported Non-Waste to the Person receiving it renders that transaction an act of solid waste collection subject to the provisions of this Code.

Article 6. Business Recycling Requirements

Sec. 6-3.604. Mandatory business recycling.

(a) The following commercial customers shall recycle and divert from the landfill recyclable materials generated by the customer in accordance with this § 6-3.604:

(1) A commercial business that generates four (4) cubic yards or more of solid waste per week;

(2) A multi-family dwelling of five (5) units or more.

(b) Businesses subject to this § 6-3.604 shall arrange for recycling services from the Collector or a Non-Waste Dealer. A customer subject to this § 6-3.604 shall take at least one (1) of the following actions:

(1) Source separate recyclable materials from other solid waste and subscribe to a basic level of recycling service that includes collection, self-hauling, or other arrangements for the pickup of the recyclable materials.

(2) Subscribe to a recycling service that may include mixed-waste processing that yields diversion results comparable to source separation.

(c) A customer meeting the conditions of § 6-3.604(a) may request an exemption from the requirements of § 6-3.604(b) by submitting an application on a form prescribed by the Administrator. After reviewing the exemption request, the Administrator shall either approve or disapprove the exemption request. To be eligible for an exemption from requirements of this section, the business must demonstrate that:

(1) There are no recyclable materials being generated by any activities of the customer;

(2) There is inadequate storage space for the storage of recyclable materials;

(3) There is no viable market for the recycling materials or recycling facility available.

Sec. 6-3.605. Mandatory commercial business organics service.

(a) A customer meeting the conditions of § 6-3.604(a)(1) that generates four (4) cubic yards of solid waste per week shall recycle and divert from the landfill organics generated by the customer.

(b) A customer subject to this section shall arrange for organics service from the Collector or a Non-Waste Dealer. A customer subject to this section shall take at least one (1) of the following actions:

(1) Source separate organic waste from other solid waste and subscribe to a basic level of organics recycling service that includes collection and recycling of organics.

(2) Recycle its organics onsite or self-haul its own organics for recycling.

(3) Subscribe to an organics service that may include mixed-waste processing that specifically recycles organics.

(c) A customer subject to this section may request an exemption from the requirements of § 6-3.605(b) by submitting an application on a form prescribed by the Administrator. After reviewing the exemption request, the Administrator shall either

approve or disapprove the exemption request. To be eligible for an exemption from the requirements of § 6-3.605(b), the customer must demonstrate that:

(1) There is less than one-half (½) of a cubic yard per week of organics being generated by any activities of the customer;

(2) There is inadequate storage space for the storage of organics;

(3) There is no viable market for the organics or organic recycling facility available.

Article 8: Mandatory Organic Waste Disposal Reduction

Sec. 6-3.808 Requirements Facility Operators.

(a) Requirements for facility operators and community composting operations.

(1) Owners of facilities, operations, and activities that recover organic waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the City's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within sixty (60) days.

(2) Community composting operators, upon the City's request, shall provide information to the City to support organic waste capacity planning, including, but not limited to, an estimate of the amount of organic waste anticipated to be handled at the community composting operation. Entities contacted by the City shall respond within sixty (60) days.

Sec. 6-3.810 Inspections and investigations.

(a) City representatives and/or its designated entity, including designees are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, Non-Waste container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or source separated materials to confirm compliance with this Article 8 by organic waste generators, commercial businesses (including multi-family residential dwellings), property owners, commercial edible food generators, Non-Waste Dealers, self-haulers, hauler, food recovery service, and food recovery organizations, subject to applicable laws. This section does not allow the City to enter the interior of a private residential property for inspection.

(b) The regulated entity shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, records, or any other requirement described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any inspection or investigation is a violation of this Article 8 and may result in penalties described in § 6-3.811.

(c) Any records obtained by the City during its inspections, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

(d) City representatives, its designated entity, and/or designee are authorized to conduct any inspections, or other investigations as reasonably necessary to further the goals of this Article, subject to applicable laws.

(e) City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

Sec. 6-3.811 Enforcement.

(a) Violation of any provision of this Article shall constitute grounds for issuance of a notice of violation and assessment of a fine by a Enforcement Officer. Enforcement actions under this Article are issuance of an administrative citation and assessment of a fine. The procedures in § 1.2.01 et seq. shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this Article 8 and any rule or regulation adopted pursuant to this Article 8, except as otherwise indicated in this Article 8.

(b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations.

(c) Penalty amounts for types of violations. The penalty levels are as follows:

(1) For a first violation, the amount of the base penalty shall be Fifty Dollars ($50.00) to One Hundred Dollars ($100.00) per violation.

(2) For a second violation, the amount of the base penalty shall be One Hundred Dollars ($100.00) to Two Hundred Dollars ($200.00) per violation.

(3) For a third or subsequent violation, the amount of the base penalty shall be Two Hundred Fifty Dollars ($250.00) to Five Hundred Dollars ($500.00) per violation.

(d) Factors considered in determining penalty amount. The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

(1) The nature, circumstances, and severity of the violation(s).

(2) The violator's ability to pay.

(3) The willfulness of the violator's misconduct.

(4) Whether the violator took measures to avoid or mitigate violations of this chapter.

(5) Evidence of any economic benefit resulting from the violation(s).

(6) The deterrent effect of the penalty on the violator.

(7) Whether the violation(s) were due to conditions outside the control of the violator.

(e) Appeals process. Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to § 1-4.01 et seq.

(f) Education period for non-compliance. Beginning January 1, 2022 and through December 31, 2023, the City will conduct inspections, route reviews or waste evaluations, and compliance reviews, depending upon the type of regulated entity, to determine compliance, and if the City determines that organic waste generator, self-hauler, hauler,

tier one commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this Article 8 and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

(g) Civil penalties for non-compliance. Beginning January 1, 2024, if the City determines that an organic waste generator, self-hauler, hauler, tier one or tier two commercial edible food generator, food recovery organization, food recovery service, or other entity is not in compliance with this Article 8, it shall document the noncompliance or violation, issue a Notice of Violation, and take enforcement action pursuant to this § 6-3.811.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **CONSENT CALENDAR**
Department: Police Department Prepared By: Lizceth Zazueta Department: Prepared By: Angel Hamilton Staff Member Presenting: Mike Lorenz, Chief of Police Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 24

SUBJECT: **APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH SECURITAS SECURITY SERVICES USA, INC REFERENCE UNARMED SECURITY SERVICES AT CITY LOCATIONS**

RECOMMENDATION: That City Council authorize the City Manager to execute a Professional Services Agreement with Securitas Security Services USA, Inc ("Securitas") for unarmed Security Services at various City locations for up to 5 years, for an amount not to exceed $5,418,006 which includes an optional two-year extension.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner

FISCAL IMPACT: The contract has a not to exceed amount of $5,418,006 over five years including an optional two-year extension. The estimated annual cost for citywide unarmed security services is $999,496 for Fiscal Year (FY) 2022-23, $1,040,888 for FY 2023-24, $1,082,533 for FY 2024-25, $1,125,800 FY 2025-26, and $1,169,289 for FY 2026-27. Appropriations of $999,496 are collectively included in the General Fund and Enterprise Fund for Fiscal Year 2022-23 Adopted Budget. Appropriations for future fiscal years will be included in the respective fiscal years' budgets for City Council consideration and approval. A request for an additional budget appropriation will occur should the department(s) experience an increase in unarmed security services far more than anticipated. The yearly threshold in the contract mitigates the need for a contract revision due to any increases in the city's need of unarmed security services.

BACKGROUND & ANALYSIS: The City of Ontario currently contracts a third-party company for unarmed security services at the Ontario Museum of History and Art, the Ovitt Family Community and Lewis Family Branch Libraries, Ontario Metrolink station, Ontario Town Square, Ontario City Yards, Ontario City parking structure, and other various City locations. Since 2006, the City of Ontario has contracted these services through Securitas.

Securitas has developed security plans that are designed to focus on the unique needs of each City

location. Securitas provides City locations with either an on-site guard, remote guard, or mobile guard option. This three-dimensional approach to security provides the most efficient, cost-effective solution for the City's unarmed security requirements. Supplying unarmed security services has proven to serve as a deterrence against crimes of vandalism, theft, and bodily injury at City locations. This has allowed for the Ontario Police Department to better utilize their Police Officers and resources to better serve the citizens of Ontario.

To address all unarmed security needs required, the City has utilized a coordinated contracting approach with responsibility for contract management residing with the Ontario Police Department. In April 2022, the City solicited proposals through the City's RFP management system, RFP #1497, for unarmed security services. Proposals were based on the needs of each individual department to include hours, rates, and proposed methods to execute security services.

Out of the sixteen viable vendors, Securitas was selected by a review committee consisting of representatives from the Ontario Police Department, Ontario Public Works Department, and Community Life and Culture Department. Based on the firm's satisfactory performance, meeting the criteria set forth in RFP #1497, and providing the best value to the City in price, expertise, and experience, City staff unanimously recommends entering this contract. The proposed term is for an initial three-year time frame with two, one year extensions contingent upon all necessary documents being submitted to the City and final approval from the City's Risk Management Department.

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **PUBLIC HEARINGS**
Department: Planning Prepared By: Rudy Zeledon Staff Member Presenting: Scott Murphy, Executive Director Community Development Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 25

SUBJECT: **A PUBLIC HEARING TO CONSIDER ORDINANCES APPROVING A DEVELOPMENT AGREEMENTS (FILE NOS. PDA22-003-A, B, C, AND D) BETWEEN THE CITY OF ONTARIO AND OTC LOT OWNER, LLC, TO ESTABLISH THE TERMS AND CONDITIONS ASSOCIATED WITH A DEVELOPMENT PLAN (FILE NO. PDEV22-014)**

RECOMMENDATION: That the City Council introduce and waive further reading of Ordinances approving a Development Agreements (File No.'s PDA22-003-A, B, C, and D) to establish the terms and conditions associated with a Development Plan (File No. PDEV22-014) to construct up to 694 residential units and 71,500 square feet of commercial/office/retail uses on 10.49 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corners of Via Piemonte and Via Villagio, within the Mixed-Use land use district (Subareas 8, 11, 16, and 17) of the Piemonte Overlay of the Ontario Center Specific Plan.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
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 direct fiscal impact associated with this action. The proposed Development Agreements and related Development Plan (File No. PDEV22-014) conditions of approval require the developer to construct all public infrastructure and pay all Development Impact Fees, compliance processing, licensing, and permitting fees.

BACKGROUND & ANALYSIS: In April 2022, the City Council approved an amendment to the Piemonte Overlay document (File No. PSPA21-001) that expanded the overlay boundary, adding the Mixed-Use land use designation and establishing design guidelines for mixed-use projects. The amendment established the framework to create a vibrant, pedestrian-friendly, regional mixed-use entertainment development within the Arena district.

The financial commitments required to develop an active regional mixed-use entertainment Arena district 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, OTC Lot Owner 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 "[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.

The Development Agreement proposes to include 10.49 acres of land within the proposed Mixed-Use Subareas 8, 11, 16, and 17 of the Piemonte Overlay at the Ontario Center Specific Plan, as shown on the attached Exhibits A, B, and C. The Agreement grants the Owner a vested right to develop a future mixed-use project consisting of 694 residential units and up to 71,500 square feet of retail uses, provided the Owner complies with the terms and conditions of the Agreement, and the Piemonte Overlay at Ontario Center Specific Plan and EIR. To provide flexibility in obtaining financing for the project, the Development Agreement has been separated into four separate Agreements, File Nos. PDEV22-03-A, B, C, and D. Each Agreement will correspond to proposed development density and intensity for each phase of the 10.49-acre project site as outlined in Table 1 and shown on attached Exhibit D.

The term of the Agreements is for 10 years, with a 5-year extension option available. The main points of each Agreement address the funding for all new City expenses created by the project, which includes: (1) development of the project in accordance with the agreed upon residential density and commercial intensity as specified in the Development Plan entitlement (Table 1: Maximum Development Density and Intensity); (2) timing of the phased development; (3) payment timing and deferral of all Development Impact Fees ("DIF"); (4) construction of all required public infrastructure improvements; (5) vested right to develop the Project in accordance with existing land use regulations of the Piemonte Overlay and subject to the conditions established with the Development Plan entitlement approval; and (6) that the City agrees, to the extent permitted by applicable law, not to apply any rent control or other moratoria or interim control ordinance against the Property or the Project due the terms of the Ground Lease.

In considering the Agreement(s) at their meeting on June 28, 2022, the Planning Commission found that the Agreement(s) were consistent with State law, The Ontario Plan, and the City's Development Agreement policies. As a result the Planning Commission adopted Resolution Nos. PC22-027, PC22-028, PC22-029, and PC22-030, with a 6-0 vote, recommending the City Council approve the Agreements.

HOUSING ELEMENT COMPLIANCE: The Project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The Project site contains four properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The proposed changes affect two of the four properties listed in the Available Land Inventory (Subareas 8 and 11; Map ID No. 124 and 125). The residential capacity proposed in this Project is consistent with the number of dwelling units (198) and density (48 DU/AC) specified in the Available Land Inventory.

AIRPORT LAND USE COMPATIBILITY PLAN 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, 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 Ontario International Airport Land use Compatibility Plan.

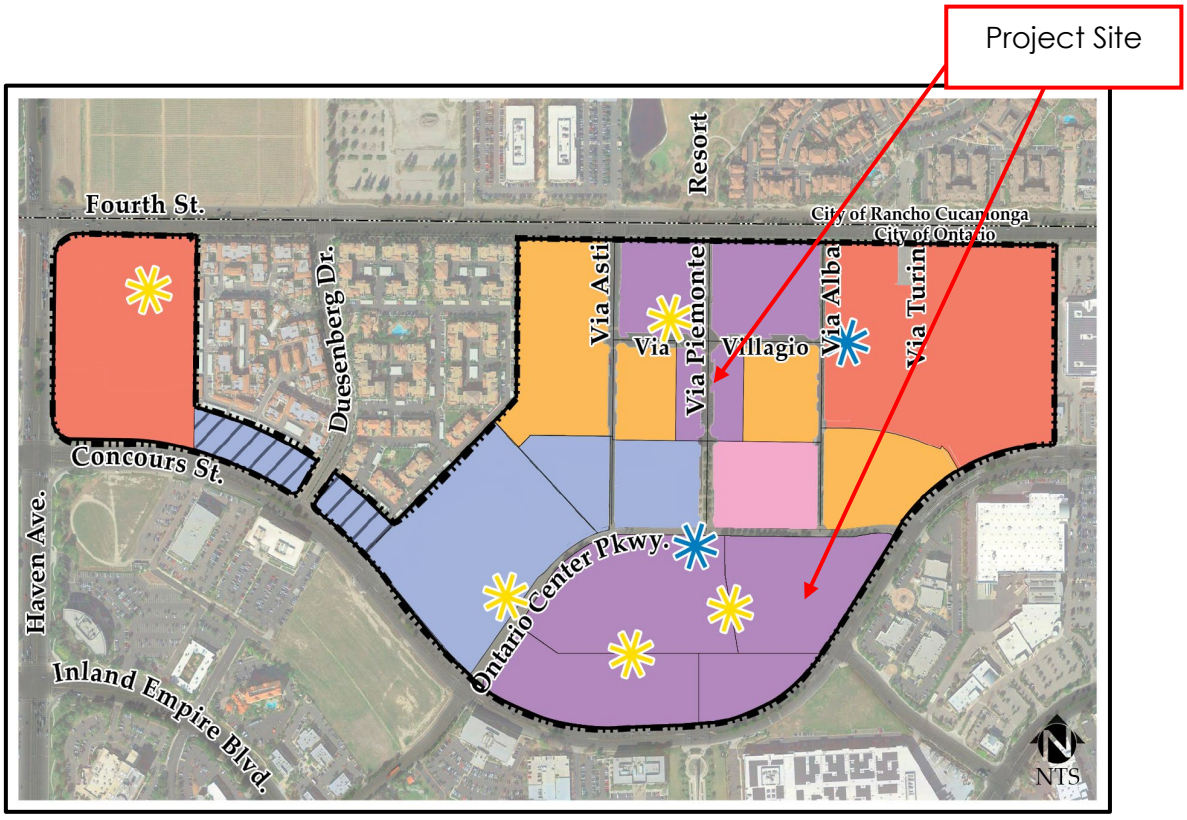
ENVIRONMENTAL REVIEW: In 1980, the City Council certified The Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 80062538) in relation to the adoption of The Ontario Center Specific Plan (File No. 2254-SP) ("OCSP"), which was adopted in 1981. Over the years, several amendments to the OCSP have been approved along with appropriate environmental review. On March 19, 1991, a subsequent EIR (State Clearing House No. 89041009) ("Certified EIR") was certified in association with an amendment to the OCSP (File No. 4059-SPA). In 2016, the City approved a Mitigated Negative Declaration ("MND") in association with an amendment to the Piemonte Overlay (File No. PSPA16-003).

In association with the proposed Overlay Amendment, staff collaborated with consultant Kimley-Horn to prepare an Addendum to the Certified EIR, as amended, and found that all potential adverse direct, indirect, and cumulative environmental impacts were thoroughly analyzed and discussed in the Certified EIR, as amended, including, but not limited to potential aesthetic, air quality, greenhouse gas emissions, noise, transportation, and tribal cultural resources impacts, and all feasible mitigation has been identified and will be incorporated into the proposed Project. This Project does not contemplate any actions that would require the preparation of a subsequent or supplemental environmental document under State CEQA Guidelines Section 15162 or 15163, as it is consistent with the development scenario identified within the Certified EIR. Furthermore, this Project introduces no new significant environmental impacts and no further environmental review is required.

EXHIBIT A—Location Map



EXHIBIT B— PIEMONTE OVERLAY LAND USE MAP



Legend

- Piemonte Overlay area
- Commercial
- Entertainment/Retail
- Office
- Special Use
- Residential
- Residential Development Allowed
- Constructed Plaza
- Proposed Plaza

Figure 2.3: Piemonte Overlay Land Use Plan

EXHIBIT C— PIEMONTE PROPOSED SUBAREAS

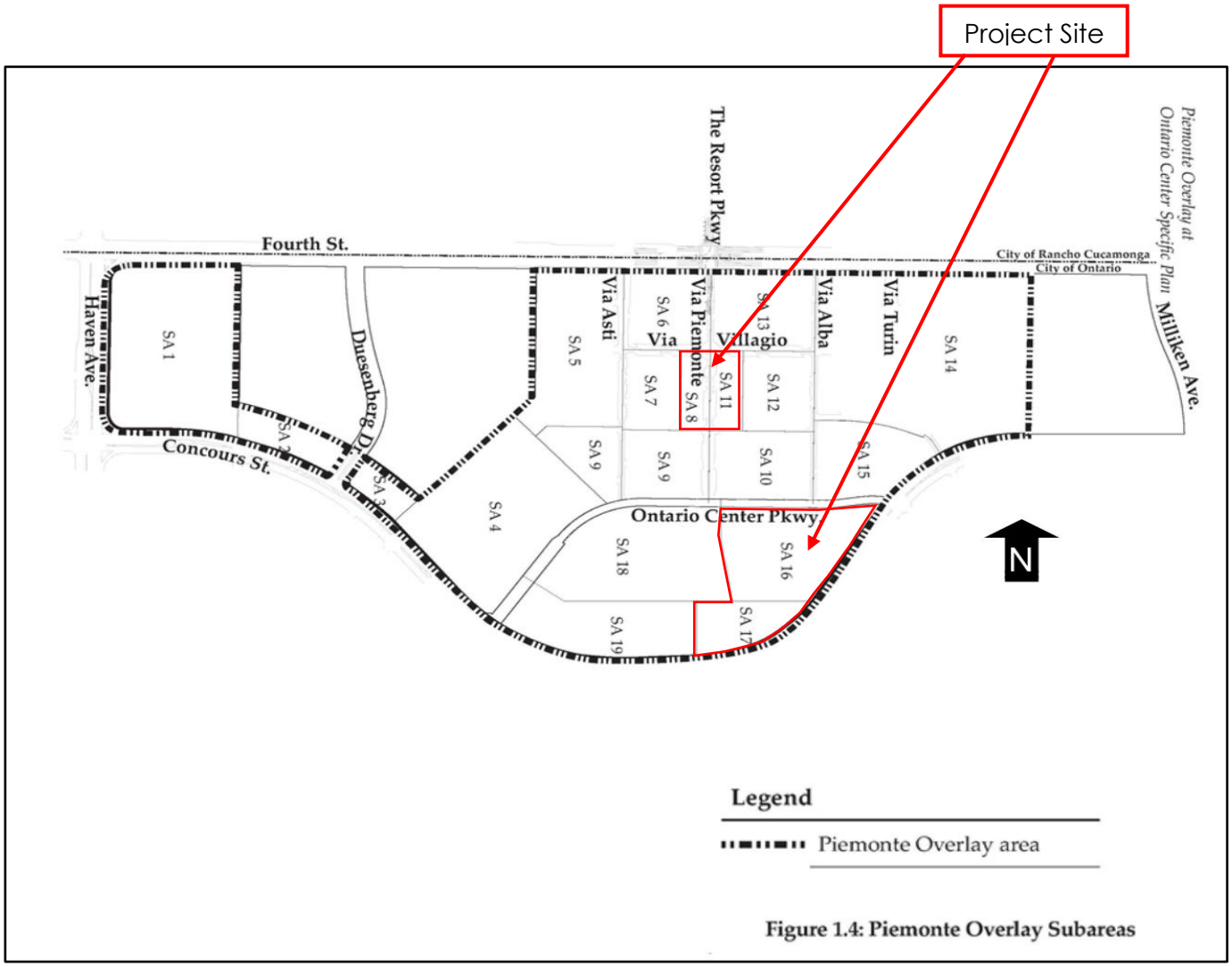


Figure 1.4: Piemonte Overlay Subareas

***EXHIBIT C— Table 1* Maximum Development Density (Units) and Intensity**

Table 1: Maximum Development Density (Units) and Intensity (Based on Piemonte Overlay at the Ontario Center Specific Plan)					
DA File No's.	**Approx. Acres**	**Lot**	**Subarea Area**	**Dwelling Units**	**Commercial (Square Feet)**
PDA22-003-A	4.83	A	16	384	25,256
PDA22-003-B	1.69	B	17	112	20,802
PDA22-003-C	1.93	C	8	94	11,047
PDA22-003-D	2.04	D	11	104	14,095
Total	**10.49**			**694**	**71,200**

CITY OF ONTARIO PLANNING DEPARTMENT

PLANNING COMMISSION STAFF REPORT

June 28, 2022

303 East B Street, Ontario, California 91764 Phone: 909.395.2036 / Fax: 909.395.2420

FILE NO: PDA22-003 - A, B, C and D

SUBJECT: A public hearing to consider a Development Agreement (File No. PDA22-003-A,B,C and D) between the City of Ontario and OTC Owner, LLC (dba Adept Development), to establish the terms and conditions for a Development Plan (File No. PDEV22-014) to construct four mixed-use buildings totaling 71,200 commercial square feet and 694 dwelling units (540,373 residential square feet) on 10.49 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corner of Via Piemonte and Via Villagio, within the Mixed-use land use district of the Piemonte Overlay of the Ontario Center Specific Plan. **Submitted by OTC Owner, LLC. City Council action is required.**

PROPERTY OWNER: City of Ontario

RECOMMENDED ACTION: That the Planning Commission consider and recommend the City Council adopt an ordinance approving the Development Agreement (File No. PDA22-003- A,B C and D) between the City of Ontario and OTC Owner, LLC, pursuant to the facts and reasons contained in the staff report and attached resolutions.

PROJECT SETTING: The Project site is comprised of 10.49 acres of land, consisting of two vacant parcels located at the southwest corner of Via Villaggio and Via Piemonte and at the Southeast corner of Via Villaggio and Via Piemonte and one additional parcel, developed with the Toyota Arena parking lots, located at the southwest corner of Ontario Center Parkway and Concours Street. The project site within the proposed mixed-use Subareas 8, 11, 16 and 17 of the Piemonte Overlay of the Ontario Center Specific Plan, and is depicted in Figure 1: Project Location, below. The Project site is surrounded by residential, office, and commercial properties on land that is generally topographically flat. In addition to the existing surrounding developments, there are also vacant parcels along the Project boundary. The existing surrounding land uses, zoning, and general plan and specific plan land use designations are summarized in the "Surrounding Zoning & Land Uses" table located in the Technical Appendix of this report.

Case Planner:	Rudy Zeledon, Planning Director
Planning Director Approval:	
Submittal Date:	N/A

Hearing Body	*Date*	*Decision*	*Action*
DAB	N/A	N/A	
PC	06/28/2022	APPROVAL	Recommend
CC			Final

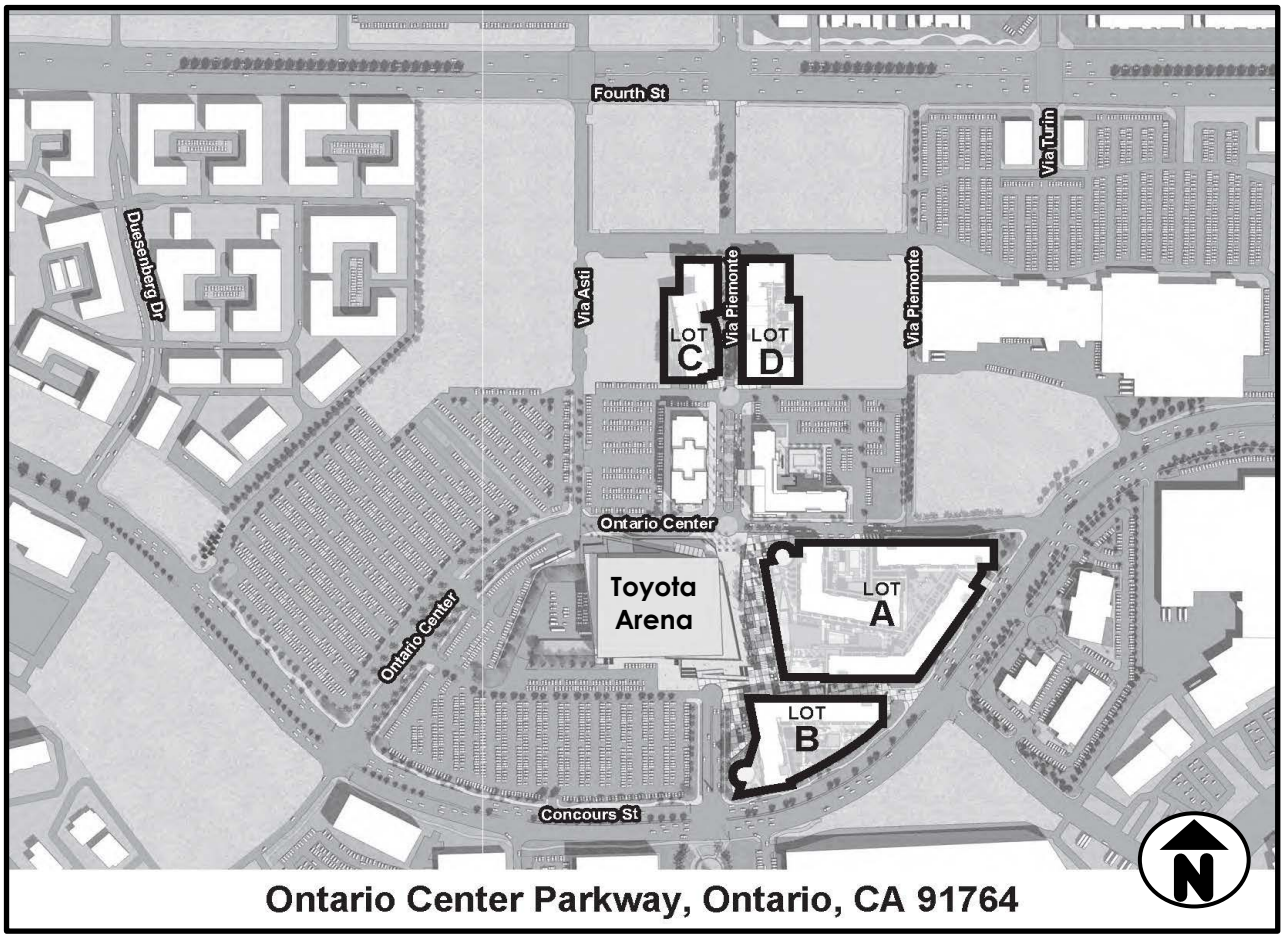


Figure 1: Project Location

PROJECT ANALYSIS:

(1) Background — In 2006, the City Council approved the creation of the Piemonte Overlay at The Ontario Center Specific Plan ("Piemonte Overlay") within the Urban Commercial land use district of The Ontario Center Specific Plan, establishing a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre Project site. The Piemonte Overlay was delineated into fifteen subareas, with land use designations of Commercial, Entertainment/Retail, Office, Special Use and Residential (See Exhibit B, Existing Boundary and Land Use Map, attached). The current Overlay area covers approximately 92 acres of land, with at least 48 acres being vacant land.

In 2017, the City Council approved an amendment to the Piemonte Overlay document (File No. PSPA16-003) to reduce the number of residential units, reduce the maximum number of hotel rooms, designate plaza areas to accommodate outdoor events, and

expand the design concept from the original Tuscan-influenced architecture to allow more contemporary architectural design concepts.

In 2020, the City Council approved an amendment to the Piemonte Overlay document (File No. PSPA19-009) to allow required residential parking spaces to be provided as tandem parking spaces.

In April of 2022, the City Council approved an amendment to the Piemonte Overlay document (File No. PSPA21-001) that expanded the overlay boundary, adding the Mixed-Use land use designation, and establishing design guidelines for mixed-use projects. The City initiated amendment was brought forth by both the Planning and Economic Development departments to create an opportunity to bring a mixed-use entertainment development the Toyota Arena district and facilitate the development of underutilized vacant parcels and parking lots into a high intensity mixed-use center.

In accordance with California Government Code Section 65865, which in part states 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.

Development Agreement — The Agreement proposes to include 10.49 acres of land within the proposed Mixed-Use Subareas 8, 11, 16 and 17 of the Piemonte Overlay at the Ontario Center Specific Plan, as shown on the attached Exhibit A. The Agreement grants the Owner a vested right to develop a future mixed-use project consisting of 694 residential units and up to 71,200 square feet retail uses (as shown on Table 1: Proposed Development Density and Intensity below), provided the Owner complies with the terms and conditions of the Agreement, and the Piemonte Overlay at the Ontario Center Specific Plan and EIR. To provide flexibility to finance for the project, the Development Agreement has been separated into four Agreements, File No's PDEV22-03-A, B, C, and D. Each Agreement will correspond to proposed development density and intensity of each phase for the 10.49-acre project site as outlined below in Table 1.

Table 1: Maximum Development Density (Units) and Intensity (Based on Piemonte Overlay at the Ontario Center Specific Plan)					
DA File No's.	**Approx. Acres**	**Lot**	**Subarea Area**	**Dwelling Units**	**Commercial (Square Feet)**
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PDA22-003-D	2.04	D	11	104	14,095
Total	**10.49**			**694**	**71,200**

On March 28, 2022, the Applicant submitted a Development Plan (File No. PDEV22-014) to construct four mixed-use buildings totaling 71,200 commercial square feet and 694 dwelling units (540,373 residential square feet) on 10.49 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corner of Via Piemonte and Via Villagio, within the Mixed-use land use district of the Piemonte Overlay of the Ontario Center Specific Plan.

The term of the Agreement(s) is for 10 years, with a 5-year option to renew. The main points of the each Agreement address the funding for all new City expenses created by the project, which includes: Development of the project in accordance with the agreed residential density and commercial intensity of the Development Plan entitlement (Table 1: Maximum Development Density and Intensity); Timing of the phased development; Payment timing and deferral of all Development Impact Fees ("DIF"); Construction of all required public infrastructure improvements; Vested right to develop the Project in accordance with existing land use regulations of the Piemonte Overlay and subject to the conditions established with the Development Plan entitlement approval; and that the City agrees that, to the extent permitted by applicable law, not to apply any rent control or other moratoria or interim control ordinance against the Property or the Project due the term of the Ground Lease or for 55 years.

Staff finds that the Agreements are consistent with State law, The Ontario Plan, and the City's Development Agreement policies. As a result, staff is recommending approval of the application to the Planning Commission. If the Planning Commission finds the Agreements are acceptable, a recommendation of approval to the City Council would be appropriate.

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 The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

(1) City 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

(2) Vision.

Distinctive Development:

- Commercial and Residential Development

➢ Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

(3) Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.

➢ G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

(4) Policy Plan (General Plan)

Land Use Element:

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.

➢ LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

➢ LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

- Goal LU2: Compatibility between a wide range of uses.

➢ LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

- Goal LU3: Staff, regulations and processes that support and allow flexible response to conditions and circumstances in order to achieve the vision.

  - LU3-1: Development Standards: We maintain clear development standards which allow flexibility to achieve our Vision.

  - LU3-3: Land Use Flexibility: We consider uses not typically permitted within a land use category if doing so improves livability, reduces vehicular trips, creates community gathering places and activity nodes, and helps create identity.

Housing Element:

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

  - H2-3 Ontario Airport Metro Center. We foster a vibrant, urban, intense and highly amenitized community in the Ontario Airport Metro Center Area through a mix of residential, entertainment, retail and office-oriented uses.

  - H2-5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices and other best practices.

  - H2-6 Infill Development. We support the revitalization of neighborhoods through the construction of higher-density residential developments on underutilized residential and commercial sites.

- Goal H3: A City regulatory environment that balances the need for creativity and excellence in residential design, flexibility and predictability in the project approval process, and the provision of an adequate supply and prices of housing.

  - H3-2 Flexible Standards. We allow flexibility in the application of residential and mixed-use development standards in order to gain benefits such as exceptional design quality, economic advantages, sustainability, or other benefits that would otherwise be unrealized.

- Goal H5: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age or other status.

  - H5-2 Family Housing. We support the development of larger rental apartments that are appropriate for families with children, including, as feasible, the provision of services, recreation and other amenities.

Community Economics Element:

- Goal CE1: A complete community that provides for all incomes and stages of life.

  - CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

- Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

  - CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.

  - CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.

  - CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

  - CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

Safety Element:

- Goal S1: Minimized risk of injury, loss of life, property damage and economic and social disruption caused by earthquake-induced and other geologic hazards.

  - S1-1 Implementation of Regulations and Standards. We require that all new habitable structures be designed in accordance with the most recent California Building Code adopted by the City, including provisions regarding lateral forces and grading.

Community Design Element:

- Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

- CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

- CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

- Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

- CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:

  - Building volume, massing, and height to provide appropriate scale and proportion;
  - A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
  - Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

- CD2-2 Neighborhood Design. We create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

  - A pattern of smaller, walkable blocks that promote access, activity and safety;
  - Variable setbacks and parcel sizes to accommodate a diversity of housing types;
  - Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
  - Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the "outdoor living room"), as appropriate; and
  - Landscaped parkways, with sidewalks separated from the curb.

- CD2-4 Mixed Use, Urban Office and Transit Service Areas. We require mixed use, urban office and transit service areas to be designed and developed as pedestrian oriented "villages" that promote a vibrant, comfortable and functional environment.

- CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

- CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

- CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

- CD2-10 Surface Parking Areas. We require parking areas visible to or used by the public to be landscaped in an aesthetically pleasing, safe and environmentally sensitive manner. Examples include shade trees, pervious surfaces, urban run-off capture and infiltration, and pedestrian paths to guide users through the parking field.

- CD2-11 Entry Statements. We encourage the inclusion of amenities, signage and landscaping at the entry to neighborhoods, commercial centers, mixed use areas, industrial developments, and public places that reinforce them as uniquely identifiable places.

- CD2-12 Site and Building Signage. We encourage the use of sign programs that utilize complementary materials, colors, and themes. Project signage should be designed to effectively communicate and direct users to various aspects of the development and complement the character of the structures.

- CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

- Goal CD3: Vibrant urban environments that are organized around intense buildings, pedestrian and transit areas, public plazas, and linkages between and within developments that are conveniently located, visually appealing and safe during all hours.

- CD3-1 Design. We require that pedestrian, vehicular, bicycle and equestrian circulation on both public and private property be coordinated and designed to maximize safety, comfort and aesthetics.

- CD3-2 Connectivity Between Streets, Sidewalks, Walkways and Plazas. We require landscaping and paving be used to optimize visual connectivity between streets, sidewalks, walkways and plazas for pedestrians.

- CD3-3 Building Entrances. We require all building entrances to be accessible and visible from adjacent streets, sidewalks or public open spaces.

- CD3-5 Paving. We require sidewalks and road surfaces to be of a type and quality that contributes to the appearance and utility of streets and public spaces.

- CD3-6 Landscaping. We utilize landscaping to enhance the aesthetics, functionality and sustainability of streetscapes, outdoor spaces and buildings.

- Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

- CD5-1 Maintenance of Buildings and Property. We require all public and privately-owned buildings and property (including trails and easements) to be properly and consistently maintained.

- CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

HOUSING ELEMENT COMPLIANCE: The Project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The Project site contains four properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The proposed changes affect two of the four properties listed in the Available Land Inventory (Subareas 8 and 11; Map ID No. 124 and 125). The residential capacity proposed in this Project is consistent with the number of dwelling units (198) and density (48 DU/AC) specified in the Available Land Inventory.

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: In 1980, the City Council certified The Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 80062538), in relation to the adoption of The Ontario Center Specific Plan (File No. 2254-SP) ("OCSP"), which was adopted in 1981. Over the years, several amendments to the OCSP have been approved along with appropriate environmental review. On March 19, 1991, a subsequent EIR

(State Clearing House No. 89041009) ("Certified EIR") was certified in association with an amendment to the OCSP (File No. 4059-SPA). In 2016, the City approved a Mitigated Negative Declaration ("MND") in association with an amendment to the Piemonte Overlay (File No. PSPA16-003).

In association with the proposed Overlay Amendment, staff collaborated with consultant Kimley-Horn to prepare an Addendum to the Certified EIR, as amended, and found that all potential adverse direct, indirect, and cumulative environmental impacts were thoroughly analyzed and discussed in the Certified EIR, as amended, including, but not limited to potential aesthetic, air quality, greenhouse gas emissions, noise, transportation and tribal cultural resources impacts, and all feasible mitigation has been identified and will be incorporated into the proposed Project. This Project does not contemplate any actions that would require the preparation of a subsequent or supplemental environmental document under State CEQA Guidelines Section 15162 or 15163, as it is consistent with the development scenario identified within the Certified EIR. Furthermore, this Project introduces no new significant environmental impacts and no further environmental review is required.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	Existing Land Use	*General Plan Designation*	*Zoning Designation*	*Specific Plan Land Use*
Site	Vacant/Existing Parking Lots	Mixed Use	Piemonte Overlay of the Ontario Center Specific Plan	Mixed-use, Office, Residential, Commercial, Special Use
North	Industrial, Office, Commercial, Residential, Vacant (City of Rancho Cucamonga)	Industrial Park, Mixed Use, Open Space (City of Rancho Cucamonga)	Industrial Park, Mixed-use Retail, IASP Sub-Area 18 Specific Plan (City of Rancho Cucamonga)	Mixed Use, Village Neighborhood
South	Office, Commercial, Vacant	Mixed Use	The Ontario Center Specific Plan	Urban Commercial, Garden Commercial, Open Space
East	Commercial	Mixed Use	The Ontario Center Specific Plan	Urban Commercial
West	Residential, Commercial	High Density Residential, Office Commercial	The Ontario Center Specific Plan	Urban Commercial

EXHIBIT A—PROPOSED PIEMONTE OVERLAY LAND USE MAP

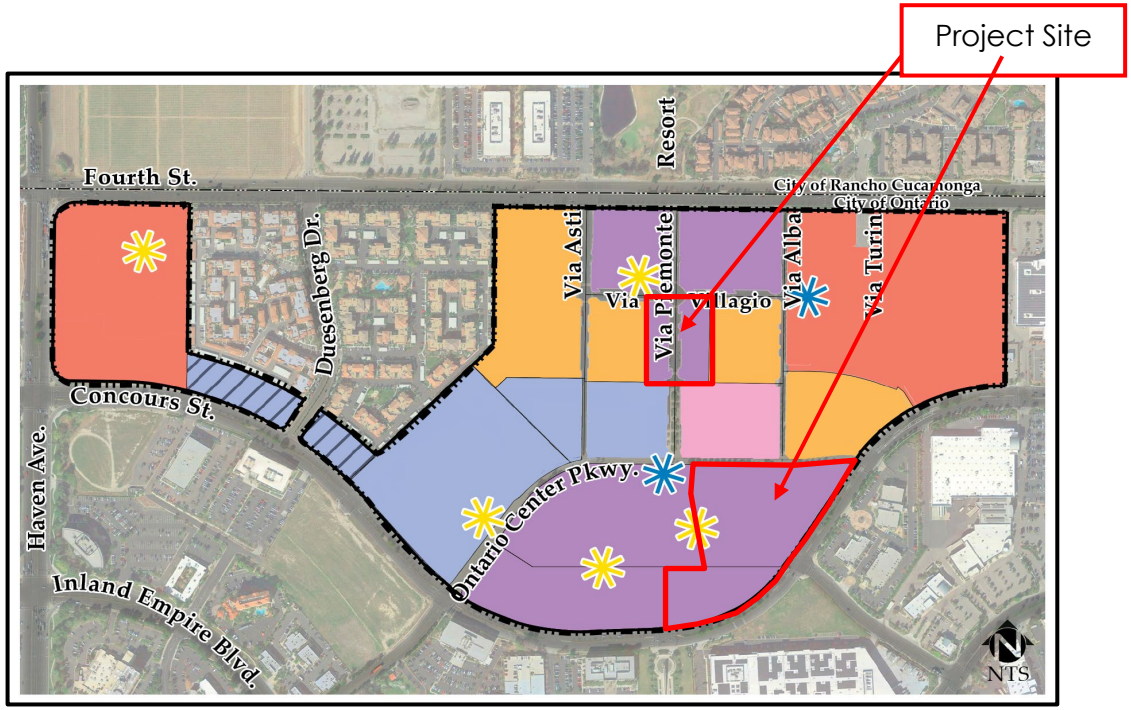


Figure 2.3: Piemonte Overlay Land Use Plan

EXHIBIT B—PIEMONTE PROPOSED SUBAREAS

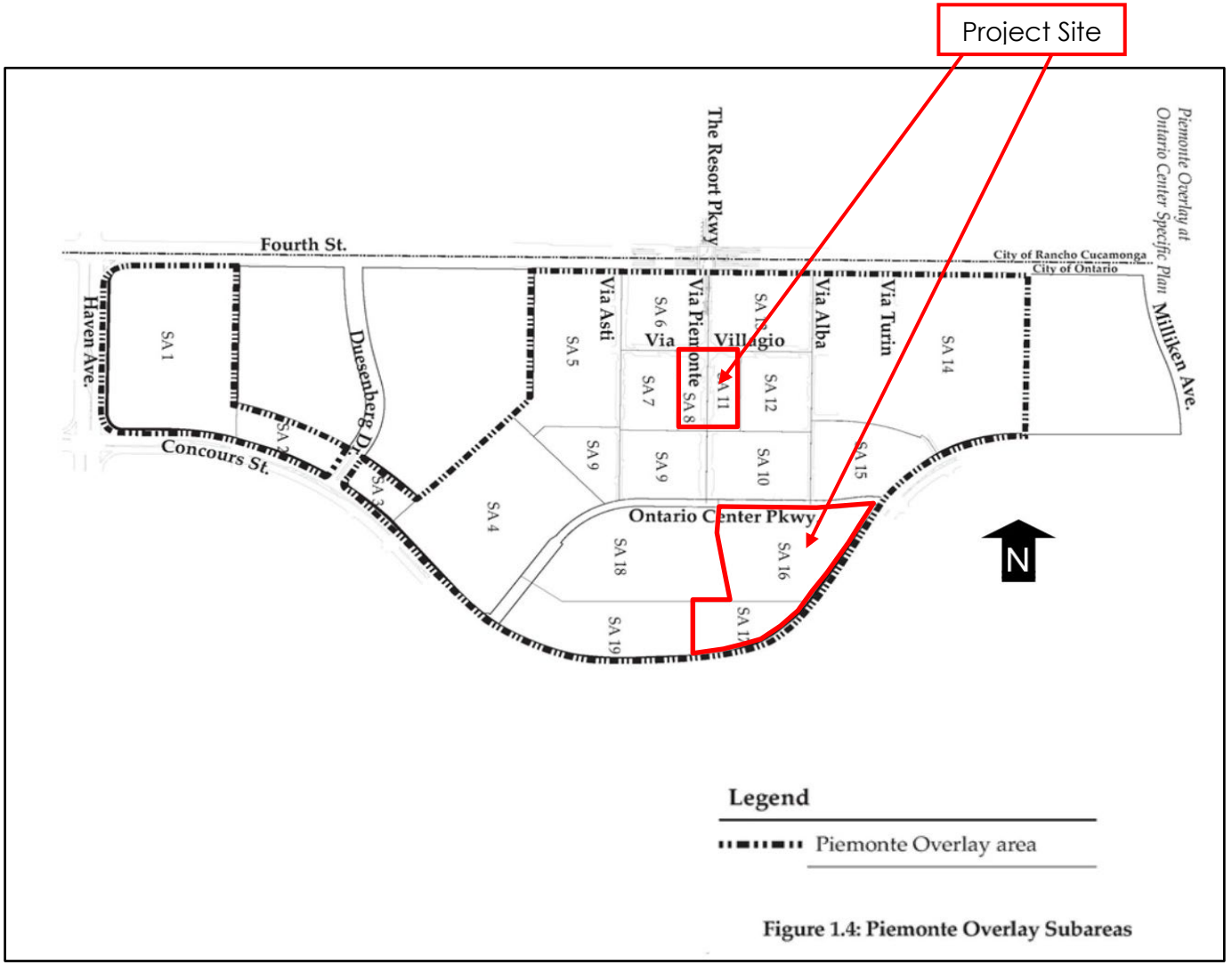


EXHIBIT C— PROPOSED SITE PLAN

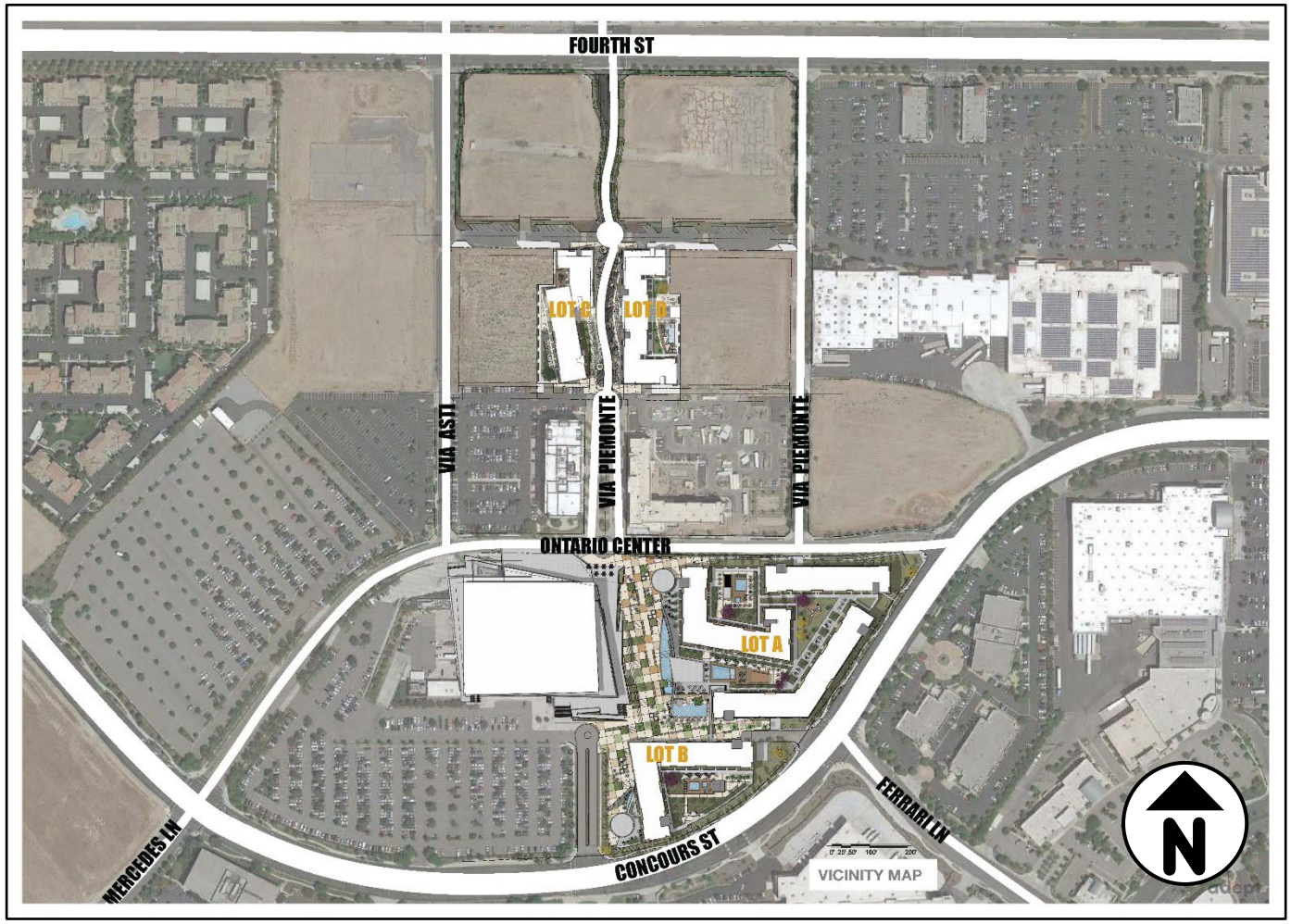


EXHIBIT C— PROPOSED SITE PLAN CONTINUED

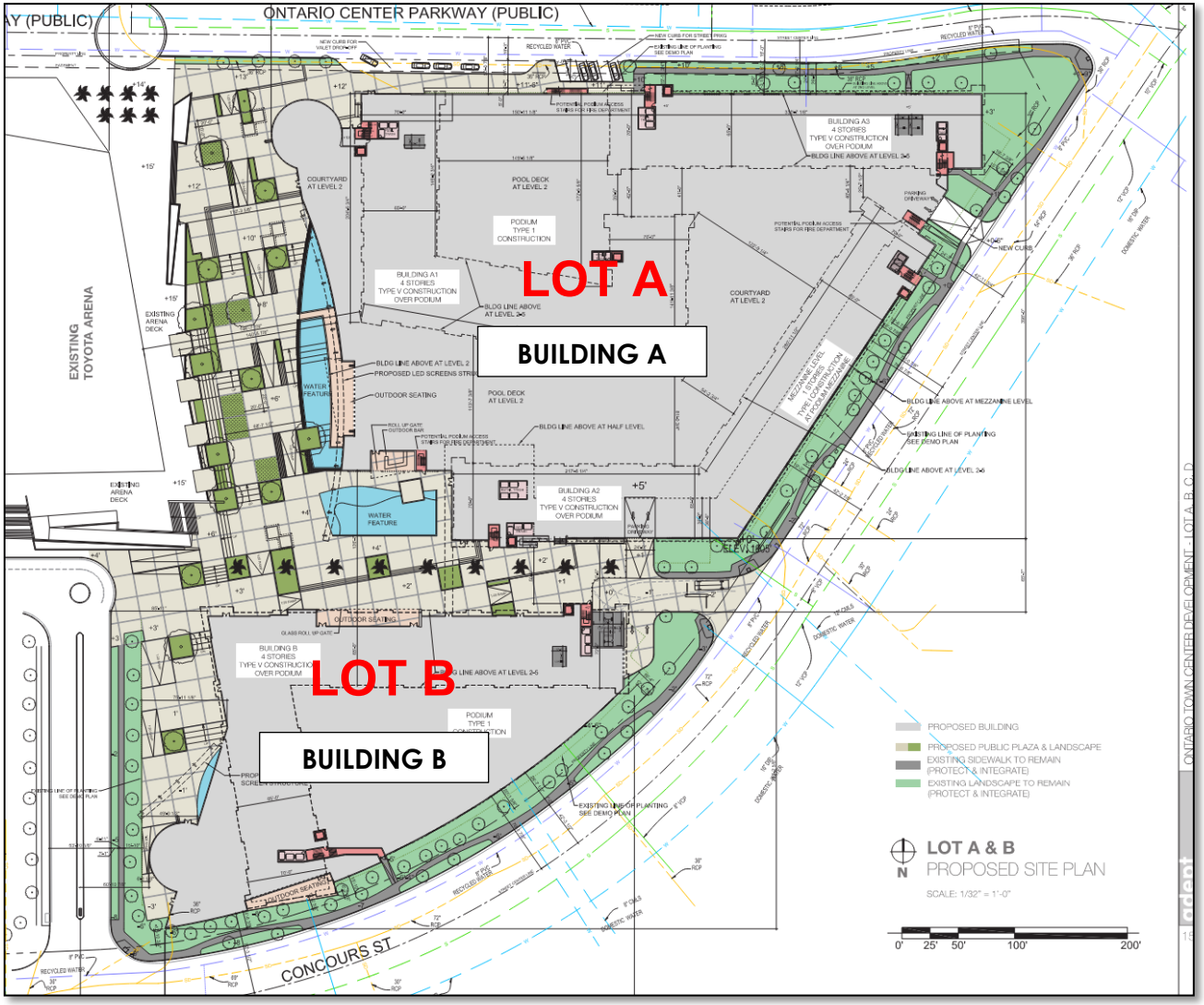
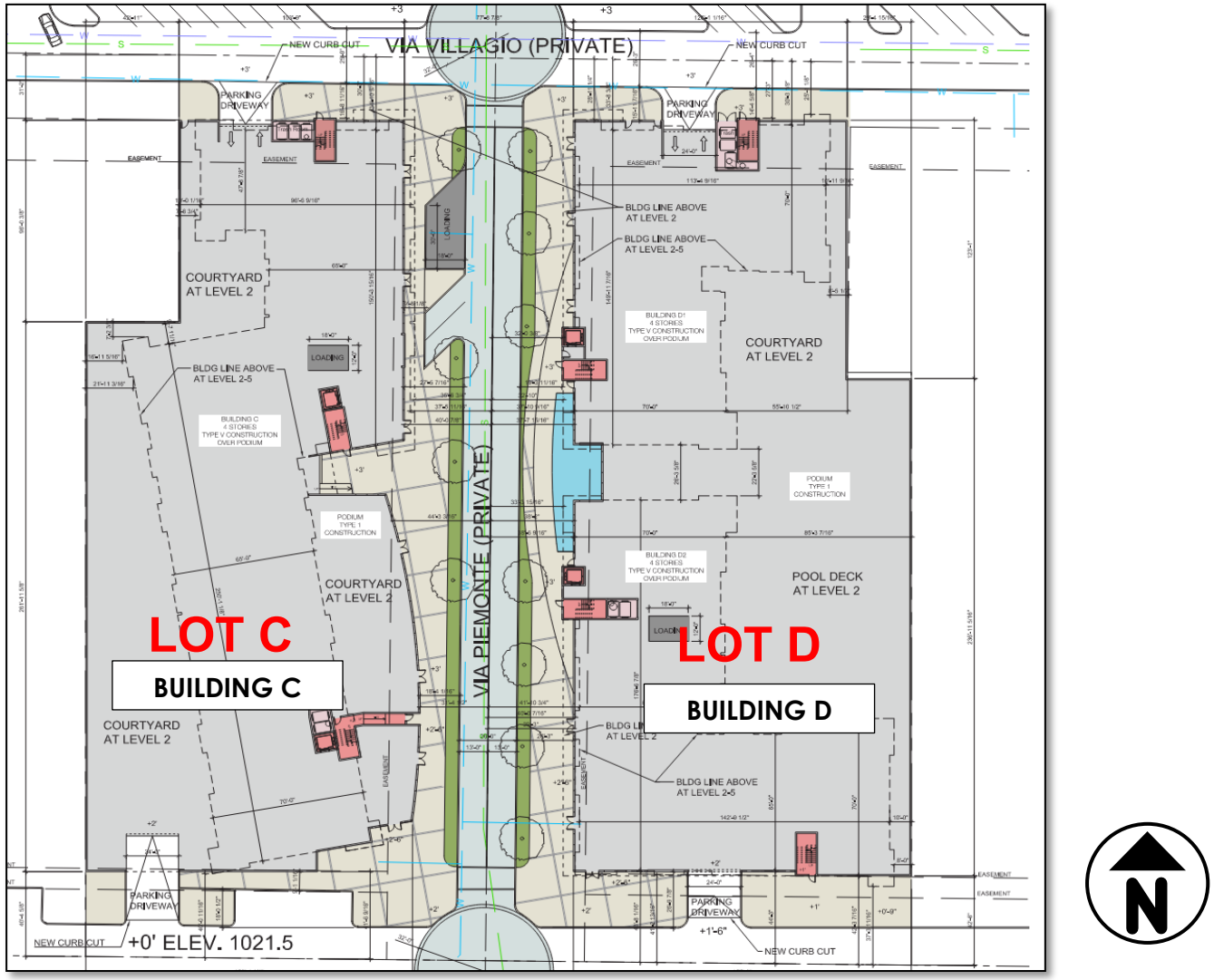


EXHIBIT C—PROPOSED SITE PLAN CONTINUED



RESOLUTION NO. PC22-027

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE FILE NO. PDA22-003-A, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC OWNER, LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 384 RESIDENTIAL UNITS AND UP TO 25,256 SQUARE FEET OF COMMERCIAL/OFFICE/ RETAIL USES, ON APPROXIMETLY 4.83 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF ONTARIO CENTER PARKWAY AND CONCOURS STREET WITHIN THE MIXED-USE SUBAREAS 16 OF THE PIEMONTE OVERLAY AT THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: NORTHEAST PORTION OF 0210-205-01.

WHEREAS, OTC Owner, LLC, ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA22-003-A, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 4.83 acres of land, consisting of the northeast Toyota Arena Parking lot, located at the southwest corner of Ontario Center Parkway and Concours Street. The project site within the proposed mixed-use Subarea 16 of the Piemonte Overlay at the Ontario Center Specific Plan, and is presently vacant and improved with the Toyota Area parking lot; and

WHEREAS, in 2006, the City Council approved the creation of the Piemonte Overlay of the Ontario Center Specific Plan (“Piemonte Overlay”), within the Urban Commercial land use district of the Ontario Center Specific Plan, establishing a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre overlay site. Several Specific Plan Amendments have been approved for the Piemonte Overlay, modifying development intensities, parking requirements, architectural guidelines, and land use designations. The most recent Specific Plan Amendment, File No. PSPA21-001, was approved by the City Council on April 19, 2022, and involved expanding the overlay boundary, adding the Mixed-Use land use designation, and establishing design guidelines for mixed-use projects; and

WHEREAS, the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) was certified on March 19, 1991, (hereinafter referred to as “Certified EIR”), in which development and use of the Project site was discussed in the Amendment to the Ontario Center Specific Plan (File No. 4059-SPA); and

WHEREAS, a Mitigated Negative Declaration was subsequently adopted on May 16, 2017, (hereinafter referred to as “MND”), in which development and use of the Project

site was discussed in association with an Amendment to the Ontario Center Specific Plan (File No. PSPA16-003); and

WHEREAS, the Planning Director of the City of Ontario prepared and approved for attachment to the Certified EIR and adopted MND, an Addendum to the Certified EIR and MND (hereinafter collectively 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 was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

WHEREAS, the environmental impacts of this Project were thoroughly analyzed in the Certified EIR and EIR Addendum, which concluded that implementation of the Project could result in a number of significant effects on the environment and 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and make recommendations to the City Council 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, A Development Plan Application (File No. PDEV22-014) to construct four mixed-use buildings totaling 63,655 commercial square feet and 694 dwelling units on 13.3 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corner of Via Piemonte and Via Villagio, within the Mixed-Use land use district of the Piemonte Overlay of the Ontario Center Specific Plan, has been filed in conjunction with the Development Agreement Application; 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 June 28, 2022, the Planning Commission 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 Planning Commission of the City of Ontario, as follows:

SECTION 1: ***Environmental Determination and Findings.*** As the recommending body for the Project, the Planning Commission 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 Planning Commission finds as follows:

(1) The environmental impacts of the Project were reviewed in conjunction with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) ("Certified EIR"), certified by the Ontario City Council on March 19, 1991, in conjunction with File No. 4059-SPA, in combination with an Addendum to the Mitigated Negative Declaration, adopted by the Ontario City Council on May 17, 2017, in conjunction with File No. PSPA16-003. In addition, an EIR Addendum was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

(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 Planning Commission; 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 Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission 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.

SECTION 3: ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as

the recommending body for the Project, the Planning Commission 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 site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The proposed changes affect two of the four properties listed in the Available Land Inventory (Subareas 8 and 11; Map ID No. 124 and 125). The residential capacity proposed in this Project is consistent with the number of dwelling units (198) and density (48 du/ac) specified in the Available Land Inventory.

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 body 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 PLANNING COMMISSION, 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 Planning Commission during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 4, above, the Planning Commission hereby concludes as follows:

a. The Development Agreement applies to approximately 4.83 acres of land generally located southwest corner of Ontario Center Parkway and Concours Street; and

b. The Development Agreement establishes parameters for the development of a mixed-use project for Lot A, consisting of 384 residential units and up to 25,256 square feet retail uses, within the proposed Mixed-Use Subarea 16 of the

Piemonte Overlay of the Ontario Center Specific Plan. The Development Agreement also grants the Applicant, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Piemonte Overlay of the Ontario Center Specific Plan; and

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

d. 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

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

f. 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 reviewed with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) prepared for the related Amendment to the Piemonte Overlay at the Ontario Center Specific Plan (File No. PSPA21-001). This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

SECTION 6: ***Planning Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 through 5, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE the herein described Application, subject to each and every condition set forth in the Development Agreement (File No. PDA22-003-A) 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: ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of June 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-027, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on June 28, 2022, by the following roll call vote, to wit:

AYES: Anderson, DeDiemar, Gage, Lampkin, Ricci, Willoughby

NOES: None

ABSENT: Dean

ABSTAIN: None

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

File No. PDA22-003-A

DEVELOPMENT AGREEMENT

By and Between

City of Ontario
a California municipal corporation

and

OTC Owner, LLC
Lot A

a Delaware limited liability company

(Development Agreement to follow this page)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

Exempt from Fees Per Gov. Code §§ 6103 and 27383

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

OTC Owner, LLC
Lot A

a Delaware limited liability company

DEVELOPMENT AGREEMENT NO. PDA22-003-A

This Development Agreement (hereinafter "Agreement") is dated as of July _____, 2022, for reference purposes only, and is entered into by and between the City of Ontario, a California municipal corporation (hereinafter "City"), and OTC Owner, LLC, Lot A, a Delaware limited liability company (together with its successors and assigns, "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

WHEREAS, Owner has a leasehold interest in the Property pursuant to the Ground Lease; 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, on July ____, 2022, the City Council adopted Ordinance No. _____ approving this Agreement, and such ordinance became effective on _____, 2022; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement. On April 19, 2022, pursuant to Resolution No. 2022-034, the City Council reviewed and adopted an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) dated March 2022 under City's File No. PSPA21-001 (the "EIR Addendum"). The proposed Project is consistent with the EIR Addendum and no further environmental review is required; and

WHEREAS, on April 19, 2022, pursuant to Resolution No. 2022-035, the City Council approved the Piemonte Overlay at the Ontario Center Specific Plan Amendment - File No. PSPA21-001 (the "Specific Plan Amendment"); and

WHEREAS, this Agreement and the Project are consistent with the City's Comprehensive General Plan and any specific plan applicable thereto; 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, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended.

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 "Approval Date" means _____, 2022 the hearing date on which the City Council adopted the ordinance approving this Agreement.

1.1.3 "Certificate" shall have the meaning set forth in Section 6.4.

1.1.4 "Certificate of Performance" shall have the meaning set forth in Section 2.5.3.

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

1.1.6 "City Council" means the City Council of the City of Ontario.

1.1.7 "City Manager" means City's City Manager or his or her designee.

1.1.8 "City Parties" shall have the meaning set forth in Section 9.2.

1.1.9 "City Response Delay" shall have the meaning set forth in Section 3.3.

1.1.10 "Completion" means the date on which all of the following has occurred (a) the Building Department of the City (in its capacity as the municipal authority) has issued (i) a temporary certificate of occupancy (or its equivalent) for the residential dwelling units within the Project and (ii) final sign off or its equivalent of the core and shell for the commercial space within the Project (but not the tenant improvements for such space) and (b) Owner has satisfied the conditions of the Development Approvals to the extent required in connection with the Project (as opposed to conditions required in connection with the development of the other Lots within the Phased Development) other than ongoing conditions that are not required to be satisfied prior to completion of the Project.

1.1.11 "Deferred DIF" shall have the meaning set forth in Section 4.2.2.

1.1.12 "Deferred DIF Repayment Date" shall have the meaning set forth in Section 4.2.2.

1.1.13 "Development Approval" or "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property whether Existing Development Approvals or Subsequent Development Approvals, including, but not limited to, the following:

(a) Amendment to the Piemonte Overlay at Ontario Center Specific Plan -File No. PSPA21-001;

(b) Development Plan Entitlement – File No. PDEV22-014;

(c) EIR Addendum;

(d) Development Agreement - File No. PDA22-003-A; and

(e) Amendment to the Piemonte Overlay Sign Program – File No. PSGP22-002.

1.1.14 "Development Impact Fee" means a monetary exaction, other than a tax or special assessment, whether characterized as a fee, exaction, charge, assessment 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. The rates as of the Approval Date for the Development Impact Fees that may apply to the Project are shown on Exhibit "C" attached hereto.

1.1.15 "Effective Date" means the date on which both of the following are true: (a) the ordinance approving this Agreement goes into effect; and (b) the Effective Date of the Ground Lease has occurred. Promptly after the Effective Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Effective Date and, thereafter, the Effective Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.16 "Existing Development Approvals" means all Development Approvals approved or issued on or prior to the Effective Date. Existing Development Approvals are listed in the definition of "Development Approvals" above and all other Development Approvals which are a matter of public record on the Effective Date.

1.1.17 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Approval Date, as modified by the Development Approvals.

1.1.18 "Final Non-Appealable Date" means the date Existing Development Approvals are final and non-appealable as set forth in the City Development Code and any applicable Laws and (ii) the applicable statute of limitations has expired under the California Environmental

Quality Act (Public Resources Code §21000 *et seq*.) and implementing Guidelines for CEQA (14 Cal. Code Regs. §15000 *et seq*.) with respect to the Addendum, in each case without the filing of any third party challenge, appeal, or lawsuit or, if filed, such challenge, appeal, or lawsuit has been resolved in a manner satisfactory to Owner. Promptly after the Final Non-Appealable Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Final Non-Appealable Date and, thereafter, the Final Non-Appealable Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.19 "Force Majeure Event(s)" shall have the meaning set forth in Section 11.11.

1.1.20 "General Plan" means the City's Comprehensive General Plan adopted on January 27, 2010, by Resolution No. 2010-006, as may be amended as of the Approval Date.

1.1.21 "Ground Lease" means that certain Ground Lease by and between City and Owner dated on or about the Approval Date pertaining to the Property, as the same may be amended, modified, or supplemented from time to time.

1.1.22 "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; or

(e) the exercise of the power of eminent domain.

1.1.23 "Lender Proposed Amendment" shall have the meaning set forth in Section 10.

1.1.24 "Lot" or "Lots" shall mean Lot A, B, C, or D, as the context may require, as shown on Exhibit "B" to this Agreement.

1.1.25 "Mortgagee" means any lender under any mortgage, deed of trust, or other security device securing financing with respect to the Owner's then-current interest in the Property, and their successors and assigns.

1.1.26 "Non-Deferrable Fees" shall have the meaning set forth in Section 4.2.2.

1.1.27 "Owner" means the person or entity defined as such in the introductory paragraph of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.28 "Owner Parties" shall have the meaning set forth in Section 9.3.2.

1.1.29 "Phased Development" means the phased development and construction contemplated by Owner on the Property and each of the other "Owners" under the Related Development Agreements (as defined below) on Lots B, C, and D. The projects to be developed and constructed in the Phased Development include the Project and projects on Lots B, C, and D as follows:

Lot B - Development Plan Entitlement – File No. PDEV22-014;

Lot C - Development Plan Entitlement – File No. PDEV22-014; and

Lot D - Development Plan Entitlement – File No. PDEV22-014.

Lots B, C, and D are each also currently subject to a ground lease between the City and ground lease tenant of the applicable Lot which is being entered into concurrently with the Ground Lease in form and content similar to the Ground Lease. The City is also concurrently entering into a statutory development agreement with each of the ground lease tenants for Lots B, C, and D in form and content similar to this Agreement (the "Related Development Agreements"). It is currently contemplated that the Project will be developed and constructed as part of the Phased Development of the Property and Lots B, C, and D currently comprised of the following development as shown on Table 1 below:

Table 1:
Maximum Development Density (Units) and Intensity
(Based on Piemonte Overlay at the Ontario Center Specific Plan)

DA File No's.	Approx. Acres	Lot	Subarea Area	Dwelling Units	Commercial (Square Feet)
PDA22-003-A	4.83	A	16	384	25,256
PDA22-003-B	1.69	B	17	112	20,802
PDA22-003-C	1.93	C	8	94	11,047
PDA22-003-D	2.04	D	11	104	14,095
Total	**10.49**			**694**	**71,200**

1.1.30 "Project" means the proposed development and construction on the Property (Lot A) of up to 25,256 square feet of commercial/office/retail uses and 384 multi-family residential dwelling units, all as consistent with File No. PDEV22-014 (as the same may be modified by Owner from time to time in accordance with the Existing Development Approvals). The commercial/office/retail uses shall be those permitted or conditionally permitted within Section 3.2 *Allowed Uses* of The Piemonte at Ontario Center Specific Plan.

1.1.31 "Property" means the real property described on Exhibit "A" and shown on Exhibit "B" to this Agreement. The Property is referred to as Lot A on Exhibit B. The Property constitutes one parcel of the Phased Development. Lots B, C, and D comprise the remaining parcels of the planned Phased Development.

1.1.32 "Protected Lot" shall have the meaning set forth in Section 8.2.3.

1.1.33 "Related Development Agreement" shall have the meaning set forth in the definition of "Phased Development" above.

1.1.34 "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.

1.1.35 "Security Instrument" shall have the meaning set forth in Section 10.

1.1.36 "Specific Plan" means that certain specific plan adopted by the City Council, and entitled, "Piemonte Overlay at the Ontario Center Specific Plan," as amended by the Specific Plan Amendment.

1.1.37 "Subsequent Development Approvals" means all Development Approvals obtained subsequent to the Approval Date in connection with development of the Property.

1.1.38 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Approval Date.

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 location of Property and the other Lots within the Phased Development

Exhibit "C" Development Impact Fees as of the Approval Date

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 if and to the extent commenced shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the owner of a leasehold interest in the Property or a portion 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;

(b) Owner is not then in uncured default of this Agreement (after notice and the expiration of any applicable cure periods); and

(c) if less than three (3) of the Lots in the Phased Development have achieved Completion, such extension must be approved by the City Manager in his or her reasonable discretion.

For the avoidance of doubt, any time limits that may otherwise apply to the Development Approvals absent this Development Agreement (including without limitation, any of the time limits imposed on approvals pursuant to Section 2.02.025A of the Ontario Development Code or any other the Land Use Regulations) shall not govern the Development Approvals or this Agreement and the term set forth in this Section 2.3 shall control.

2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer, or assign its interest in 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 and be made in strict compliance with the following:

(a) Any such sale, transfer, or assignment is done in compliance with the Ground Lease if such Ground Lease is then in effect;

(b) 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 substantially all of Owner's leasehold or fee interest (as applicable) in the Property;

(c) Prior to any such sale, transfer, or assignment, 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; and (2) the payment of the applicable processing charge to cover the City's review and consideration of such sale, transfer, or assignment; and

(d) 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 (c) 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 Subsection 2.4.1. Notwithstanding any contrary provision of this Agreement, the Owner of the Property shall not have any liability hereunder with respect to any other Lot and a default by the Owner of one Lot shall not impact the rights and obligations of the Owner of any other Lot.

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 all of the following conditions:

(a) such transferring owner no longer has a legal or equitable interest in the portion of the Property sold, transferred, or assigned;

(b) such transferring owner is not then in default under this Agreement (after notice and the expiration of any applicable cure periods), in which case such transferring owner shall remain liable for such default but not any future defaults by the assignee after the date of the transfer; and

(c) such transferring owner has provided City with the notice and executed agreement required under Paragraph (c) of Subsection 2.4.1 above.

2.4.3 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.

2.4.4 For the avoidance of doubt, this Section 2.4 does not apply to assignments or transfers of this Agreement to Mortgagees or their initial transferees after a foreclosure, deed in lieu, or similar action permitted under the mortgage, deed of trust, or other security device securing financing with respect to the Owner's interest in the Property.

2.5 Amendment or Cancellation of Agreement; Operating Memoranda.

2.5.1 Amendment or Cancellation. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section

65868. 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. The City hereby agrees to grant priority processing status to any request(s) to amend this Agreement made by Owner. 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.

2.5.2 Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the City and Owner and development of the Project hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of the City and Owner. If and when, from time to time, during the term of this Agreement, the City and Owner agree that such clarifications are necessary or appropriate, the City and Owner shall effectuate such clarifications through operating memoranda approved by the City and Owner, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary with future approval by the City and Owner. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The City Manager shall be authorized to make the determination on behalf of the City whether a requested clarification may be effectuated pursuant to this Section 2.5.2 or whether the requested clarification is of such a character to constitute an amendment hereof. The City Manager shall be authorized to execute any operating memoranda hereunder on behalf of the City without further Planning Commission or City Council action.

2.5.3 Certificate of Performance.

Upon Completion of the Project or upon the earlier revocation or termination of this Agreement, the City shall provide Owner, upon Owner's request, with a statement ("Certificate of Performance") evidencing such completion, revocation, or termination of this Agreement, and the release of Owner from further obligations hereunder with respect to the Property except with respect to the obligations which expressly survive such termination pursuant to Sections 3.9 (Rent Control), 4.2.2 (Development Impact Fees), 9 (Third Party Litigation) and 11.22 (Attorneys' Fees). The Certificate of Performance shall be signed by the appropriate agents of Owner and the City and shall be recorded with the County Recorder. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 8182.

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; or

(b) Completion of the Project to be developed and constructed on the Property in accordance with the terms of this Agreement.

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 right and/or 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 for residential units on which construction has not yet begun shall be refunded to Owner by City to the extent payment has been received.

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

If to Owner:
OTC Lot A Owner, LLC
c/o Adept Urban
388 Cordova Street, #280
Pasadena, CA 91101
Attention: Patrick Chraghchian; Robert Montano
Email:patrick@adept-dev.com; robert.m@adept-dev.com

with a copy to:
Ruben Duran, City Attorney
Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

with a copy to:
Munger, Tolles & Olson LLP
350 S. Grand Avenue, 50th Floor
Los Angeles, CA 90071
Attention: Misty M. Sanford, Esq.
Email: misty.sanford@mto.com

(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 Development of the Project; Rights to Develop.

3.1.1 Development of the Project. In consideration of the premises, purposes, and intentions set forth in this Agreement, and in consideration of the assurances for development of the Project pursuant to this Agreement, Owner agrees to develop the Project in accordance with: (i) the terms and conditions of this Agreement; (ii) the terms and conditions established in the Development Approvals; and (iii) the Existing Land Use Regulations. Owner further agrees that the use, density and intensity, maximum height and size of structures and provisions for the Property reservation and dedication of land for public purposes related to the Property shall be limited to those uses permitted by the Existing Land Use Regulations. The Project shall be developed in accordance with the Development Approvals. The Project shall be constructed in compliance with all applicable building codes and standards, as such may be modified from time to time.

3.1.2 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Project in accordance with the Existing Land Use Regulations, subject to the terms and conditions of this Agreement and the conditions established in the Development Approvals. The Project shall remain subject to all Development Approvals required to complete the Project. 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 Existing Land Use Regulations.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, 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 the Phased Development 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 Ca1. 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 (without the obligation) the Property in such order and at such rate and at such times as Owner deems appropriate within the exercise of its sole and subjective business judgment during the term of this Agreement. Notwithstanding the foregoing, subject to (a) Force Majeure Events, (b) up to three one-year extensions of time (provided, however, that (i) only the first one-year extension may be requested by Owner unilaterally and thereafter such extensions must be approved by the City Manager and (ii) such extensions shall not apply to the first milestone (i.e., submission of the building application) for the first of the Lots of the Phased Development to be developed) and (c) any extensions of entitlements or permits granted by any governmental authority on a statewide, citywide or countywide basis, Owner shall achieve the following milestones in accordance with the following schedule:

	Event	Date
1.	Submission by Owner of building permit application to the City for the Project	On or before one hundred eighty (180) days following the Final Non-Appealable Date.
2.	Commencement of Construction of the Project	On or before two (2) years following the Final Non-Appealable Date. In order to achieve this milestone, City agrees to complete its review of (a) Owner's initial plan check submission within twenty-one (21)

		days after receipt of such initial submission by City (provided, however, prior to such submission Owner and the City shall meet to review the proposed application), and (b) any additional submissions required to obtain the required permits for the project within fourteen (14) days following receipt of such additional submissions by City. There shall be a day-for-day extension of this Commencement of Construction milestone if the City fails to timely respond to such submissions within the time periods set forth above (each, a "City Response Delay").

3.4 Requirement for Public Infrastructure Improvements. Owner shall comply with any conditions of the Development Approvals with respect to providing public infrastructure improvements or facilities, if any, to the extent required in connection with the Project (as opposed to the other Lots within the Phased Development).

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of the Property as a whole; or,

(b) Increase the density or intensity of use of the Property as a whole; (other than in de minimis amounts); or,

(c) Increase the maximum height and size of permitted buildings (other than in de minimis amounts); or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 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 its actual costs of processing applications for, or monitoring compliance with, any development approvals granted for the performance of any conditions imposed on the Project, unless otherwise waived by the City in writing;

(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;

(d) Regulations that may conflict with this Agreement or Existing Land Use Regulations but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety; and are generally applicable on a citywide basis (except in the event of natural disasters as found by the City Council such as floods, earthquakes, pandemics and similar acts of God);

(e) Reserved;

(f) Regulations to which the Owner consents in writing.

3.6.2 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 Approvals and the Existing Land Use Regulations, 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 Approvals and the Existing Land Use Regulations.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Approval Date, 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 or comply with as determined by Owner. 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).

3.6.4 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.

3.7 Public Works; Utilities. If Owner is required by any Development 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 to the construction standards that 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 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.

3.8 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 material out-of-pocket 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.

3.9 Rent Control. Notwithstanding anything to the contrary in this Agreement, City agrees that, to the extent permitted by applicable law, City shall not apply any rent control or other renter protections or other moratoria or interim control ordinance against the Property or the Project. The foregoing covenant shall survive the expiration of this Agreement indefinitely and shall be in effect unless this Agreement is terminated for any reason other than a termination due to the Completion of the Project.

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 Approvals and the Existing Land Use Regulations 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 amounts for Development Impact Fees established or imposed by the City to be paid by Owner shall be the amounts that are in effect as of the Approval Date, which are shown on Exhibit "C" attached hereto, and Development Impact Fees established or imposed by other public agencies to be paid by Owner shall be the amounts that are in effect at the time such fees are due and payable during the development process. 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. Notwithstanding the foregoing, the amounts imposed by the City to be paid by Owner for the following Development Impact Fees may be those in effect at the time such fees are due and payable (subject to the right to deferment set forth in Section 4.2.2 below), so long as such amounts do not increase by more than five percent (5%) over the amount of such rates in effect as of the Approval Date: 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.

4.2.2 Time of Payment.

(a) Owner shall have the right to elect (but is not obligated) to amortize the payment of up to fifty percent (50%) of the total amount of Development Impact Fees due and payable for the Project (the amount so elected, the "Deferred DIFs") over a period of thirty (30) years commencing from the Deferred DIF Repayment Date at an annual 3 percent

(3%) simple interest rate. As used herein, "Deferred DIF Repayment Date" means the date of issuance of a temporary or other certificate of occupancy for the residential component of the Project. The parties understand and agree that the Development Impact Fees established or imposed by other public agencies that are not controlled by City even if such Development Impact Fees may be collected by City (including without limitation, if applicable, the IEUA Sewer Connection Fee, Ontario-Montclair School District (K-12) Fees, Cucamonga School District and Chaffey Joint Union High School Fees) (collectively, the "Non-Deferrable Fees") must be paid when and as required in their standard course and schedule and may not be deferred hereunder; provided, however, the amount of such Non-Deferrable Fees may be included in the calculation of the total amount of Development Impact Fees due and payable for the Project for purposes of calculating the fifty percent (50%) amount that Owner may elect to include as Deferred DIFs.

(b) Owner agrees that, commencing upon the Deferred DIF Repayment Date, Owner shall pay to the City, on the 1st day of the next following month and each and every successive month for three hundred sixty (360) consecutive months, an amount equal to the amortized principal and interest of the actual amount of the Deferred DIFs amortized over thirty (30) years at an annual 3 percent (3%) simple interest rate. By way of example only, if the Deferred DIFs equal $4,5000,000, the monthly payment to be made to the City would be $18,972. The entire unpaid principal balance of the amortized Deferred DIFs and any accrued but unpaid interest shall be immediately due and payable to the City upon any of the following events: (1) the termination of this Agreement other than a termination due to the Completion of the Project; (2) any uncured default by Owner with regard to repayment of the amortized Deferred DIFs to the City (if such amounts have not been paid to the City within five (5) business days of Owner's receipt of written notice from the City); or (3) any sale, transfer or assignment of all or substantially all of the Owner's leasehold or fee interest (as applicable) in the Property that is not approved by the City in advance (which such approval shall not be unreasonably withheld, conditioned or delayed). Any monthly payment or portion thereof not paid to the City as and when due under the terms of this Agreement shall accrue interest from the date on which such payment was due at the rate of ten percent (10%), and if not paid within the five (5) business day cure period described above, City may file a lien against the Property for such delinquent amounts including any accrued and unpaid interest. All payments under this Subsection will be applied first to penalties and late fees, then to interest, then to reduce the principal amount owed. The Deferred DIFs and any accrued but unpaid interest may be pre-paid to the City at any time without any pre-payment penalty.

(c) The Deferred DIF payment obligation shall be a covenant running with the land and shall survive the expiration or early termination of this Agreement indefinitely until the Deferred DIFs are paid in full in accordance with this Agreement.

(d) Any Development Impact Fees that are not a Deferred DIF shall be paid when and as required in their standard course and schedule.

4.3 Reserved.

4.4 Reserved.

4.5 Schools Obligations. Owner shall satisfy its school obligations with the applicable school district by paying school impact fees. Written evidence of approval by the applicable school district that Owner has met its school obligations may be required by the City as the condition to the issuance by the City of any building permits for the Project.

4.6 Reserved.

4.7 Reserved.

4.8 Reserved.

4.9 Maintenance of Open Space. Owner shall provide for ongoing maintenance of all park, common areas, and open space areas within the Project as may be set forth in the Development Approvals.

4.10 Intentionally Omitted.

4.11 Compliance with Public Benefits Requirements. In the event Owner fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, 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 8.4 hereof, thereby entitling the City to any and all remedies permitted under this Agreement, including, without limitation, the right of the City to withhold Owner's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. [RESERVED]

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 in accordance with Section 65865.1 of the California Government Code. Upon completion of the City's review, 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/her designee. Owner shall be responsible for paying any processing charge in connection with each such annual review, if any, provided that such charge shall be generally consistent with the cost charged for annual reviews for other development agreements to which the City is a party.

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:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) 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. The cost of any such special review shall be borne by the City, unless such a special review demonstrates that Owner is not acting in good-faith compliance with the provisions of this Agreement, in which case Owner shall reimburse the City for all costs incurred by the City in connection with such special review.

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 shall specify in writing the respects in which Owner has failed to so comply. The City shall provide Owner with written notice of such noncompliance, together with a written specification of the reasons therefor. Such written notice shall also specify a reasonable time for Owner to cure such non-compliance, which time shall be not less than thirty (30) days after Owner's receipt of such notice.

(c) The Owner may appeal a determination pursuant to paragraph (b) in accordance with the City's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Termination. If, upon a finding under Section 6.1.6(b), the City determines to proceed with 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 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 Termination. At the time and place set for the hearing on 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 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; Waiver of Monetary Damages. It is acknowledged by the parties that, subject to and without limiting the Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below, neither party would have entered into this Agreement if it were to be liable in monetary damages under this Agreement, or with respect to this Agreement or the application thereof. The parties agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages that would adequately compensate Owner for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify the exposure. Therefore, the parties agree that each of the parties may pursue any remedy at law or equity available for any breach of any provision of this Agreement, except that neither party shall be liable in monetary damages to the other party, or to

any successor in interest of such other party, or to any other person, and each party covenants not to sue for monetary damages or claim any monetary damages:

8.1.1 For any breach of this Agreement or for any cause of action which arises out of this Agreement (other than in connection with Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below); or

8.1.2 For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

8.1.3 Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.1.4 The parties understand and agree, however, that nothing in this Section 8.1 shall prohibit, restrict or otherwise affect the rights of a party to seek monetary damages as a result of any default by the other party under any other agreement entered into by the parties with respect to the Property and the Project, including without limitation the Ground Lease, if and to the extent such other agreements allow for monetary damages. No part of this Agreement shall be deemed to abrogate or limit any immunities or defenses either party may otherwise have with respect to claims for monetary damages.

8.2 Default by Owner. In the event that Owner does not perform its obligations under the Agreement in a timely manner, subject to the limitations in Section 8.1, the City shall have all rights and remedies provided herein which shall include (a) the right to compel specific performance of the obligations of Owner under this Agreement or (b) termination of this Agreement, provided that the City has first complied with the procedures set forth in this Section 8.2 and in Section 8.5 below. If City elects to proceed under clause (b) with termination of this Agreement, the following shall apply:

8.2.1 If after the applicable cure period has elapsed, the City Manager finds and determines that Owner remains in default, the City Manager shall make a report to the Planning Commission and then set a public hearing before the Planning Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If, after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Owner has not cured the applicable default pursuant to this Section, and that the City should terminate this Agreement, Owner shall be entitled to appeal that finding and determination to the City Council in accordance with the procedure in Section 6.1.6(c) above. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity, and

8.2.2 City may terminate this Agreement after such final determination of the City Council or, where no appeal is taken, after the expiration of the appeal period in accordance with the procedure described in Section 6.1.6(c) above, relating to the defaulting party's rights and obligations.

8.2.3 City's Limited Cross Termination Right. If City terminates this Agreement in accordance with the procedures set forth herein as a result of a failure of Owner to achieve any of the milestones required pursuant to Section 3.3 above, City shall have the right to simultaneously terminate the Related Development Agreement(s) affecting the Lot(s) within the Phased Development for which none of the milestones under Section 3.3 of the applicable Related Development Agreement(s) have been achieved and for which a standard construction loan from an unrelated third party ("Loan") has not been executed for the development of such Lot(s). For example, if the owner of any Lot in the Phased Development (including the Property) has executed a Loan for the development of such Lot or any of the milestones under Section 3.3 of the applicable Related Development Agreement have been achieved with respect to such Lot (a "Protected Lot"), then the termination of this Agreement or the Related Development Agreement for any other Lot shall not affect the Related Development Agreement of such Protected Lot and City shall not have any right hereunder to terminate such Related Development Agreement under this Section 8.2.3.

8.3 Default by City. In the event the City defaults under the provisions of this Agreement, subject to the limitations set forth in Section 8.1 above, Owner shall have all rights and remedies provided herein or by applicable law, which shall include compelling the specific performance of the City's obligations under this Agreement, provided that Owner has first complied with the procedures in Section 8.5 below.

8.4 Release. Subject to and without limiting the indemnity in Section 9.3 below, except for nondamage remedies, including the remedy of specific performance, each party, for itself, its successors and assignees, hereby releases the other party, 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.

8.5 Notice and Cure. Failure or delay by either party to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of written notice from the other party, identifying with specificity those obligations of the defaulting party which have not been performed, constitutes a default under this Agreement; provided, however, if such failure or delay cannot reasonably be cured within such thirty (30) day period, no default shall be deemed to have occurred hereunder if the party committing such failure or delay commences cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion; provided, however the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with due diligence but (a) with respect to the City only in no event later than sixty (60) days after receipt of written notice from the Owner and (b) with respect to Owner only in no event later than one hundred eighty (180) days after receipt of written notice from City. The injured party shall give written notice of default to the party in default specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default.

8.6 Ground Lease and Other Agreements Not Affected. This Section 8 shall not be deemed to implicate, modify, or affect in any way any provisions in the Ground Lease or any other agreement entered into by the parties with respect to the Property and the Project.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. City has determined that this Agreement is consistent with its General Plan, as such General Plan exists as of the Approval Date, and that the General Plan meets all requirements of law. 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 Project as the result of a judicial determination that on the Approval 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. Subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), at its expense, including attorneys' fees, indemnify, and hold harmless City and its officers and employees (collectively, the "City Parties") from any claim, action or proceeding against the City Parties 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

Nothing in this Section 9 or any other indemnification provision included as a condition to any of the Development Approvals shall be construed to mean that Owner or City shall indemnify, hold any of the City Parties or Owner Parties, as applicable, harmless and/or defend any of the City Parties or Owner Parties, as applicable, from any claims arising from (a) as to Sections 9.3.1 and 9.4 only, any of the City Parties' or Owner Parties', as applicable, violation of law, or (b) as to all such indemnities other than the indemnity set forth in Section 9.3.2, (i) any of the City Parties' or Owner Parties', as applicable, breach of contractual obligations to third parties or (ii) the gross negligence or willful misconduct of any of the City Parties or Owner Parties, as applicable.

9.3 Indemnity.

9.3.1 Owner. In addition to the provisions of 9.2 above, subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), indemnify, and hold harmless the City Parties from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses), based or asserted upon any act or omission of Owner or its officers or employees for property damage, bodily injury, or death

(Owner's employees included) arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, and operation the Project. The 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

9.3.2 City. City agrees to indemnify, defend (with counsel chosen by City and approved by Owner, which such approval shall not be unreasonably withheld, conditioned or delayed), and hold harmless Owner, American General Design, Inc. (dba Adept Development), a California corporation and Povac Investments, Inc., a California corporation and each of their respective officers and employees (collectively, the "Owner Parties") from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses) arising from any governmental agency stopping or delaying construction or occupancy of the Project after the "Commencement of Construction" (as defined below) as a result of City's failure to pay any amounts imposed by the State of California (if any) pursuant to California Government Code Sections 54220 through 54234 in connection with the City's disposition of the Property to Owner. Owner shall promptly notify City of any such stoppage or delay, and Owner shall cooperate in the defense. If Owner fails to promptly notify Owner of any such stopped or delay, or if any of the Owner Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, City shall not thereafter be responsible to defend, indemnify, or hold harmless the Owner Parties. For purposes of this Section 9.3.2, the term "Commencement of Construction" shall mean that both of the following have occurred: (a) construction of a building has commenced pursuant to and in accordance with a building permit issued by the City, City-approved final construction drawings, the Existing Land Use Regulations, the Development Approvals, and all applicable laws; and (b) Owner has expended at least $5,000 in labor and materials for such construction. For purposes of this definition only, "construction" shall mean construction of improvements permanently fixed to the site (e.g., a foundation or similar), including, without limitation, utilities, public or private streets, public or private site improvements, landscaping or ancillary structures such as block walls, trash enclosures, and any grading, excavation, demolition, grubbing, or other site preparation.

9.4 Environment Assurances. Owner shall defend (with counsel chosen by Owner), at its expense, including attorneys' fees, indemnify, and hold harmless the City Parties from any liability, based or asserted, upon any act or omission of Owner, its officers, agents, employees, subcontractors, and/or 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 that were not present prior to the date that Owner took possession of the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including reasonable attorneys' fees, the City Parties 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 Reserved.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement for a period of two (2) years after such termination, except to the extent such indemnification relates to any third party claims, in which event such indemnification shall survive until the expiration of any applicable statute of limitations.

10. 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 ("Security Instrument"). 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. The City further agrees to cooperate in including in this Agreement by suitable amendment from time to time any provision that may reasonably be requested by any proposed Mortgagee for the purpose of allowing such Mortgagee reasonable means to protect or preserve a lien and security interest of its Security Instrument, as well as such other documents containing terms and provisions customarily required by Mortgagees (taking into account the customary requirements of their participants, syndication partners or rating agencies) in connection with any such financing (a "Lender Proposed Amendment"). The City agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effectuate a Lender Proposed Amendment; provided, however, that any such Lender Proposed Amendment shall not in any way materially adversely affect any rights of the City under this Agreement. If there is any conflict between this Article 10 and any other provisions contained in this Agreement, this Article 10 shall control. 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 Security Instrument on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any Security Instrument, 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 for a period of sixty (60) days after Mortgagee receives written notice of non-compliance, or any longer period as is reasonably necessary, not to exceed one hundred eighty (180) days, to remedy such default, provided that Mortgagee shall continuously and diligently pursue the remedy at all times until the default is cured.

(d) Any Mortgagee who takes title of the Property, or any part thereof, pursuant to foreclosure trustee's sale, deed in lieu of foreclosure, lease or sublease termination or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement, provided that any such Mortgagee, including its affiliate, that takes title to the Property shall be entitled to all of the benefits arising under 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 after the initial sale, transfer, or assignment by any Mortgagee shall be subject to the provisions of Section 2.4 of this Agreement.

(e) If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceedings involving Owner, the times specified in Section clause (c) above, shall be extended for the period of the prohibition, except that any such extension shall not extend the term of this Agreement.

(f) If this Agreement is terminated by reason of (i) any default or (ii) as a result of a bankruptcy proceeding, this Agreement is disaffirmed by a receiver, liquidator, or trustee for Owner or its property, the City, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new development agreement for the Project as to such portion of the Property with the most senior Mortgagee requesting such new agreement. This Agreement does not require any Mortgagee or the City to enter into a new development agreement pursuant to this clause (f).

(g) The City shall, at any time and within thirty (30) days following the written request of a Mortgagee, but not more often than annually, certify in writing to such Mortgagee that (a) this Agreement is in full force and effect, (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments and modifications, and (c) to the actual knowledge of City with no duty to investigate, Owner is not in default in the performance of its obligations under this Agreement or, if in default, to describe therein the nature and extent of any such default. Any such estoppel certificate shall be administratively issued by the City Manager or his/her representative or designee.

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 this 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. A failure to record the Agreement in a timely fashion shall not impact its effectiveness to the extent permitted by applicable law.

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, in the event the provision regarding the payment of Deferred DIFs set forth in Section 4.2.2 of this Agreement is determined to be invalid, void or unenforceable, the parties shall enter into a separate written agreement for the repayment of such Deferred DIFs consistent with Section 4.2.2.

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. 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.

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, except that the Owner

Parties and City Parties are third party beneficiaries of the indemnities in Section 9. 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, insurrection, riots, civil unrest, acts of terrorism or similar hostilities, strikes, boycotts, lock-outs, and other labor difficulties beyond the party's control (including the party's employment force), inability to procure services, labor or materials not related to the price thereof, failure of electric power, governmental actions, governmental laws, regulations or restrictions, third party litigation or administrative proceedings, actual or threatened public health emergency (including epidemic, pandemic, famine, disease, plague, quarantine, and other public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization (including any shelter-in-place orders, stay at home orders or any restrictions on travel related thereto that preclude Owner, its agents, contractors or its employees from accessing the Property, national or regional emergency), declaration of a state or national emergency, casualties, weather that could not have reasonably been anticipated, changes in the Laws which would prevent the Property from being developed or operated in accordance with this Agreement, or other reasons beyond the reasonable control of the party (individually a "Force Majeure Event" or collectively, "Force Majeure Events"). 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 shall be automatically extended for the period of time that such events prevented such performance, provided that the extensions of the term of this Agreement solely as a result of one or more Force Majeure Events shall not exceed a period of more than five (5) years in the aggregate.

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; Covenants Running with the Land. 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. In any event, no owner or tenant of an individual completed residential unit within the Project shall have any rights under this Agreement.

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. Owner for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) 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 reasonable costs incurred by City in connection with the issuance of estoppel certificates under this Section 11.20 prior to City's issuance of such certificates.

11.21 Authority to Execute. Each party represents and warrants that the person or persons executing this Agreement on behalf of such party has the authority to execute this Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations hereunder.

11.22 Attorneys' Fees. In the event of any action between the City and Owner for enforcement or interpretation of any of the terms or conditions of this Agreement, the prevailing party in such action shall be entitled to recover its reasonable costs and expenses, including without limitation court costs and attorneys' fees actually and reasonably incurred, as awarded by a court of competent jurisdiction. This Section shall survive the termination of this Agreement.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

"Owner"

OTC Lot A Owner, LLC
a Delaware limited liability company

By: _____
Name:
Its: _____
Date: _____

"CITY"

CITY OF ONTARIO

By:_____
Scott Ochoa
City Manager

Date: _____

ATTEST:

_____
City Clerk, Ontario

APPROVED AS TO FORM:

_____
Kane, Ballmer & Berkman, City Special Counsel

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

LEASE AREA DESCRIPTION (LOT A)

APN NO. 0210-205-01

THAT PORTION OF LAND IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, LYING WITHIN A PORTION OF PARCEL 1 OF PARCEL MAP NO. 17978 AS PER MAP FILED IN BOOK 216 PAGES 44 AND 45 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY TERMINUS OF THAT CERTAIN COURSE ALONG THE EASTERLY BOUNDARY LINE OF SAID PARCEL 1, SAID COURSE HAVING A BEARING OF N 33°23' 13" E AS SHOWN ON SAID PARCEL MAP. THENCE, N 33° 23' 13" E 42.97' ALONG SAID EASTERLY LINE. THENCE, LEAVING SAID EASTERLY LINEN 56°36' 47" W 18.58' TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION. THENCE, ALONG THE FOLLOWING DESCRIBED COURSES:

N 33°23' 24" E 259.97'

S 56°36' 36" E 8.00'

N 33°23' 24" E 25.41'

N 56°36' 36" W 5.50'

N 33°23' 24" E 30.58'

N 56°36' 36" W 18.50'

N 33°23' 24" E 46.27'

N 0° 00' 00" E 19.25'

N 90° 00' 00" E 30.59'

N 0° 00' 00" E 67.50'

N 90° 00' 00" W 274.60'

EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

LEASE AREA DESCRIPTION (LOT A)

N O' 00' 00" E 8.00'

N 90° 00' 00" W 25.41'

SO' 00' 00" W 8.00'

N 90° 00' 00" W 251.51'

SO' 00' 00" W 30.58'

N 90° 00' 00" W 16.82' TO THE BEGINNING OF A NON-TANGENT 31.67' RADIUS CURVE CONCAVE SOUTHEASTERLY AND TO WHICH A RADIAL LINE BEARS N 78°55' 48" E. THENCE, NORTHWESTERLY, WESTERLY, AND SOUTHEASTERLY 110.94' ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 200' 43' 26". THENCE, ALONG THE FOLLOWING DESCRIBED COURSES:

S 80' 09' 47" W 25.36'

S 09° 50' 13" E 343.01'

N 90° 00' 00" E 121.65

S 00° 00' 00" W 4.00'

S 90° 00' 00" E 32.63'

S 00° 00' 00" E 6.35'

N 90° 00' 00" E 25.41'

NO' 00' 00" E 10.11'

S 90° 00' 00" E 43.73'

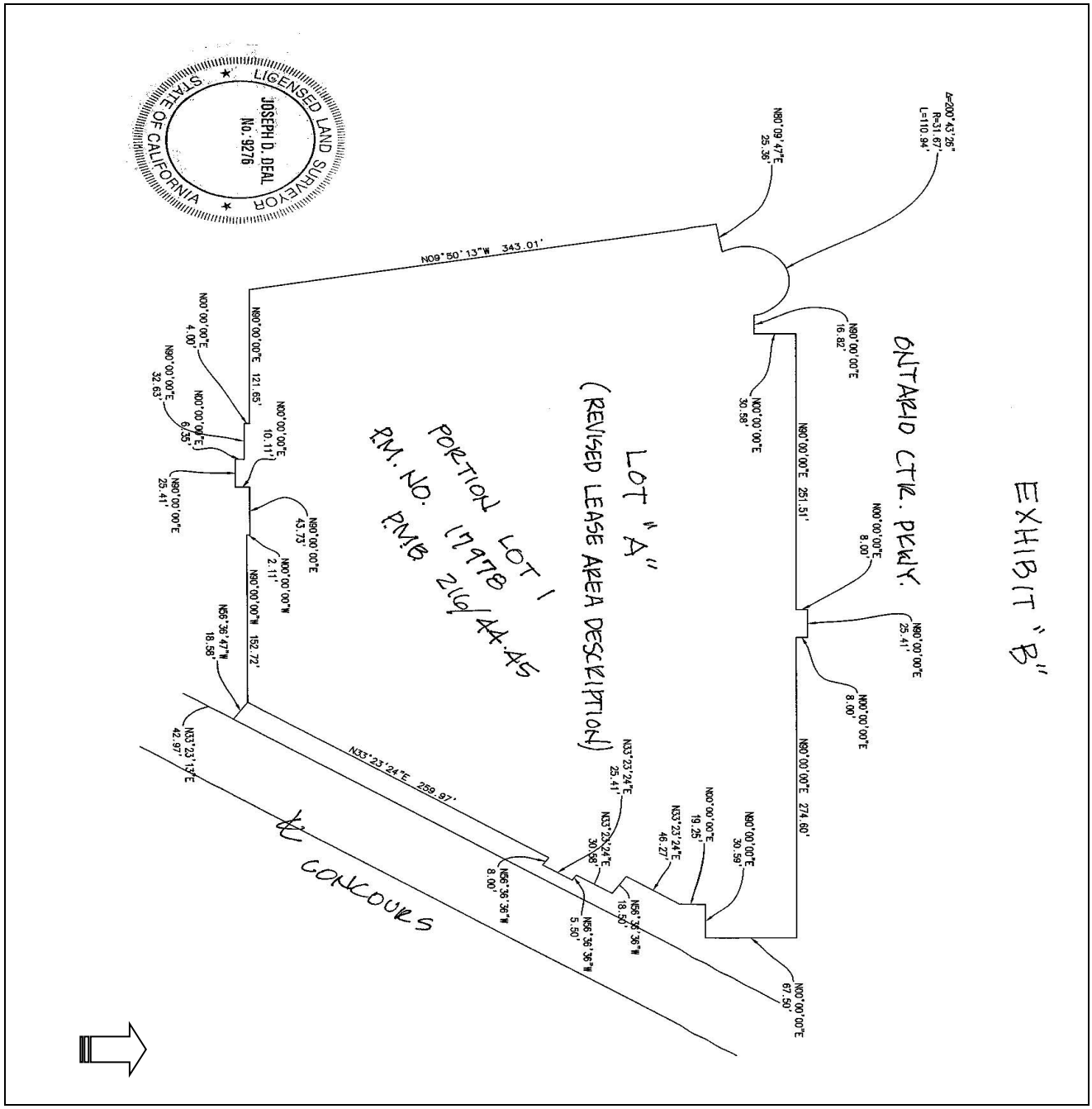
S 00° 00' 00" W 2.11'

EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

LEASE AREA DESCRIPTION (LOT A)

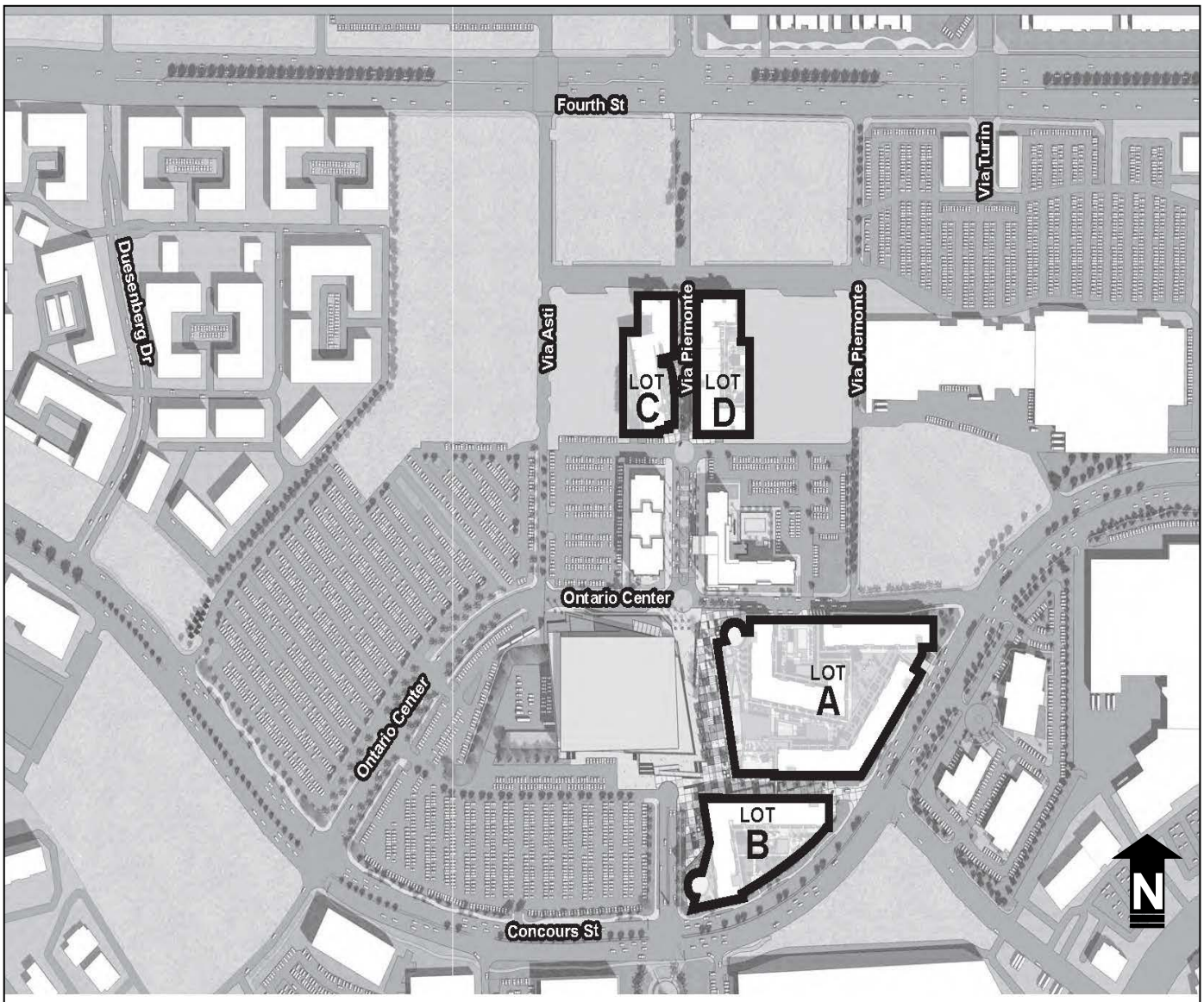
THENCE, S 90° 00' 00" E 152.72' TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE-DESCRIBED PARCEL OF LAND CONTAINS 210,250 SQUARE FEET, 4.83 ACRES MORE OR LESS.ALL AS SHOWN ON EXHIBIT "B" PLOT ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.



TO DEVELOPMENT AGREEMENT

Map showing Property and its location



Ontario Center Parkway, Ontario, CA 91764

EXHIBIT "B" CONTINUED
TO DEVELOPMENT AGREEMENT

Map showing Property and its location

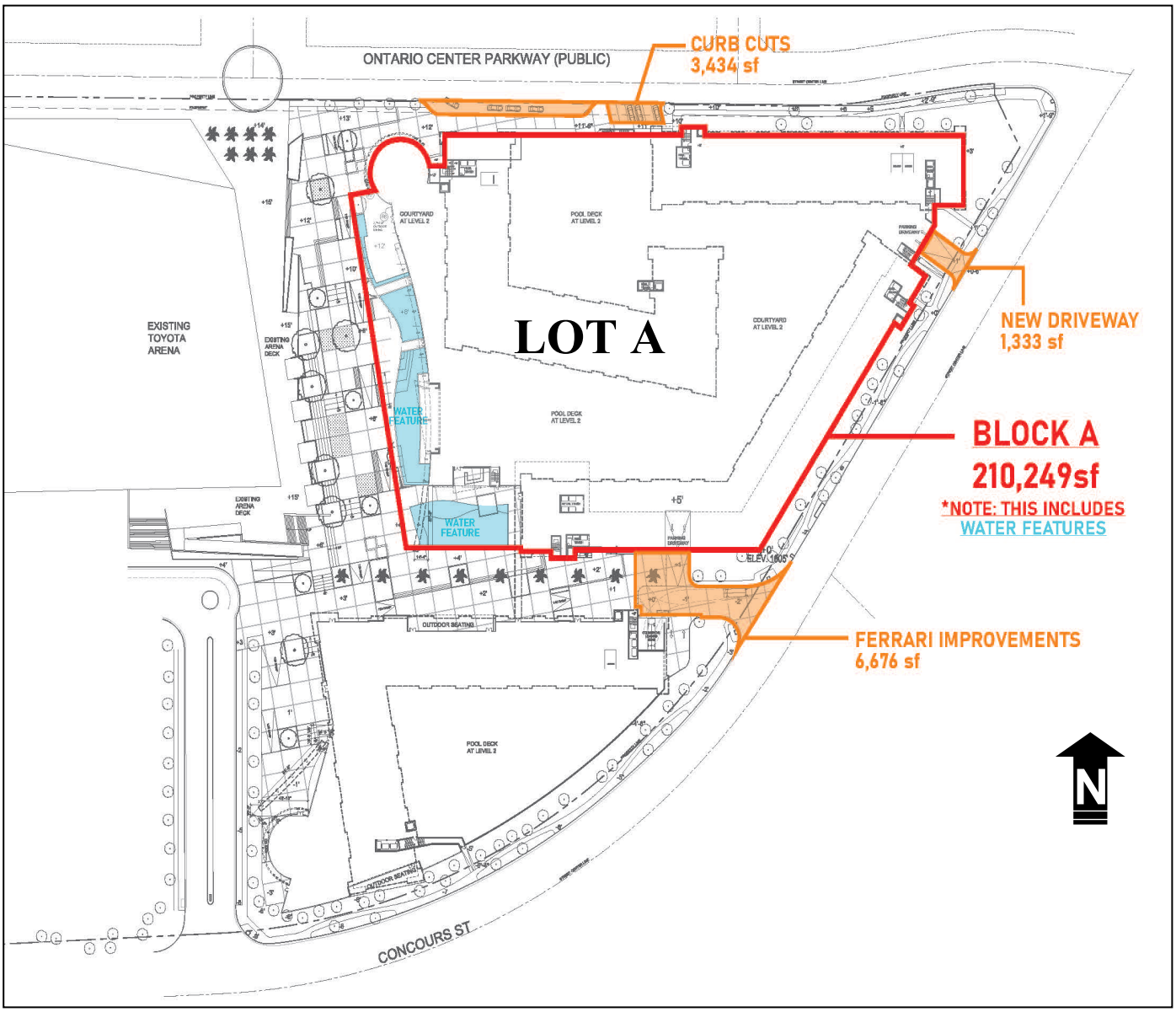


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Development Impact Fees as of the Approval Date

(Development Impact Fees to follow this page)

Exhibit C

CITY OF ONTARIO

FY 2021-22
Citywide Fee Schedule

(Fees, Fines & Charges)

Component of the FY 2021-22 Budget

Adopted June 21, 2021 (Resolution No. 2021-062)

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City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

II. - Community Life & Culture
Section 5. Housing Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Housing Fees					
1	Base Affordable Housing Monitoring Fee*	Base	$ 747.68	$ 747.00	7/1/2021
2	Per Unit Affordable Housing Monitoring Fee*	Per unit	$ 107.94	$ 107.00	7/1/2021
3	Loan Payoff Process Fee - without equity share	Each	$ 251.11	$ 251.00	7/1/2021
4	Loan Payoff Process Fee - with equity share	Each	$ 400.39	$ 400.00	7/1/2021
5	Preparation of Full Reconveyance	Each	$ 248.13	$ 248.00	7/1/2021

** Affordable Housing Monitoring Fee does not apply to bond-funded projects.*

Note: Loan Payoff and Reconveyance fees may be waived if individuals are under financial hardship.

Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Building Plan Check Fees					
1	Building Plan Check Fee	% of Permit	N/A	80.00%	7/1/2021
2	Building Plan Check for track housing or duplicate building	% of Permit	N/A	40.00%	7/1/2021
3	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Less than $1 million	N/A	50.00%	7/1/2021
4	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $1 and $5 million	N/A	40.00%	7/1/2021
5	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $5 and $10 million	N/A	30.00%	7/1/2021
6	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $10 and $20 million	N/A	20.00%	7/1/2021
7	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Greater than $20 million	N/A	10.00%	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Building Permit Fees					
8	Building Permit - Base Fee ($1-$500)	Valuation: $1 to $500	N/A	$ 23.50	7/1/2021
9	Building Permit - Base Fee ($501-$2000)	Valuation: $501 to $2,000	N/A	$ 23.50	7/1/2021
10	Building Permit Fee (Each additional $100, or fraction thereof, up to and including $2000)	Each additional $100, or fraction thereof, up to and including $2,000	N/A	$ 3.05	7/1/2021
11	Building Permit - Base Fee ($2001-$25,000)	Valuation: $2,001 to $25,000	N/A	$ 69.25	7/1/2021
12	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $25,000)	Each additional $1,000, or fraction thereof, up to and including $25,000	N/A	$ 14.00	7/1/2021
13	Building Permit - Base Fee ($25,001-$50,000)	Valuation: $25,001 to $50,000	N/A	$ 391.25	7/1/2021
14	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $50,000)	Each additional $1,000, or fraction thereof, up to and including $50,000	N/A	$ 10.10	7/1/2021
15	Building Permit - Base Fee ($50,001-$100,000)	Valuation: $50,001 to $100,000	N/A	$ 643.75	7/1/2021
16	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $100,000)	Each additional $1,000, or fraction thereof, up to and including $100,000	N/A	$ 7.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
17	Building Permit - Base Fee ($100,001-$500,000)	Valuation: $100,001 to $500,000	N/A	$ 993.75	7/1/2021
18	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $500,000)	Each additional $1,000, or fraction thereof, up to and including $500,000	N/A	$ 5.60	7/1/2021
19	Building Permit - Base Fee ($500,001-$1,000,000)	Valuation: $500,001 to $1,000,000	N/A	$ 3,233.75	7/1/2021
20	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $1,000,000)	Each additional $1,000, or fraction thereof, up to and including $1,000,000	N/A	$ 4.75	7/1/2021
21	Building Permit - Base Fee (Greater than $1,000,001)	Valuation: $1,000,001 and up	N/A	$ 5,608.75	7/1/2021
22	Building Permit Fee (Each additional $1,000 or fraction thereof, greater than $1,000,001)	Each additional $1,000, or fraction thereof	N/A	$ 3.65	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Misc. Standard Building Permits					
23	Kitchen Remodel (non-structural)	Each	$ 258.99	$ 258.00	7/1/2021
24	Bathroom Remodel	Each	$ 129.50	$ 129.00	7/1/2021
25	Demolition - Entire Structure	Valuation	N/A	Varies	7/1/2021
26	Patio Covers - Solid	Valuation	N/A	Varies	7/1/2021
27	Patio Covers - Lattice	Valuation	N/A	Varies	7/1/2021
28	Patio Covers - Enclosures	Valuation	N/A	Varies	7/1/2021
29	Pole Bases	Valuation	N/A	Varies	7/1/2021
30	Roofing	Valuation	N/A	Varies	7/1/2021
31	Storage Sheds	Valuation	N/A	Varies	7/1/2021
32	Stucco	Valuation	N/A	Varies	7/1/2021
33	Swimming Pools/Spas	Valuation	N/A	Varies	7/1/2021
34	Tenant Improvements - With Ceiling	Valuation	N/A	Varies	7/1/2021
35	Tenant Improvements - Without Ceiling	Valuation	N/A	Varies	7/1/2021
36	Trash Enclosures - Single	Valuation	N/A	Varies	7/1/2021
37	Trash Enclosures - Double	Valuation	N/A	Varies	7/1/2021
38	Walls - Retaining	Valuation	N/A	Varies	7/1/2021
39	Walls - Screen Garden	Valuation	N/A	Varies	7/1/2021
40	Walls - Tilt-Up Screen Walls	Valuation	N/A	Varies	7/1/2021
41	Window Changeout	Valuation	N/A	Varies	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Electrical Permit Fees					
42	Electrical Permit Issuance Fee	Each	$ 41.63	$ 41.00	7/1/2021
43	Electrical Permit - Temporary Power Service Pedestal	Each	$ 86.33	$ 86.00	7/1/2021
44	Electrical Permit - Temporary Power Service Distribution system	Each	$ 43.17	$ 43.00	7/1/2021
45	Electrical Permit - outlet/switch/fixture	First 20 fixtures	$ 129.50	$ 129.00	7/1/2021
46	Electrical Permit - Additional Fixtures	Each	$ 2.94	$ 2.90	7/1/2021
47	Electrical Permit - Power Apparatus -up to and including 1	each HP, kW, kVA or kVAR	$ 143.83	$ 143.00	7/1/2021
48	Electrical Permit - Power Apparatus - over 1 to 10	each HP, kW, kVA or kVAR	$ 158.33	$ 158.00	7/1/2021
49	Electrical Permit - Power Apparatus - over 10 to 50	each HP, kW, kVA or kVAR	$ 172.66	$ 172.00	7/1/2021
50	Electrical Permit - Power Apparatus - over 50 to 100	each HP, kW, kVA or kVAR	$ 258.99	$ 258.00	7/1/2021
51	Electrical Permit - Power Apparatus - over 100	each HP, kW, kVA or kVAR	$ 345.32	$ 345.00	7/1/2021
52	Electrical Permit - Services -for services of 600 volts or less and not over 200 amperes in rating	Each	$ 172.66	$ 172.00	7/1/2021
53	Electrical Permit Fee - Services -for services of 600 volts or less and over 200 amperes to 1,000 amperes in rating	Each	$ 258.99	$ 258.00	7/1/2021
54	Electrical Permit Fee - Services -for services over 600 volts or over 1,000 amperes in rating	Each	$ 431.65	$ 431.00	7/1/2021
55	Electrical Permit Fee - Miscellaneous Apparatus, Conduits and Conductors	Each	$ 143.83	$ 143.00	7/1/2021
56	Electrical Permit Fee- Subpanel	Each	N/A	$ 172.00	7/1/2021
57	Electrical Permit Fee - Signs	Each	N/A	$ 86.00	7/1/2021
58	Electrical Permit Fee - Private Swimming Pools	Each Pool or Spa	N/A	$ 129.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
59	Electrical Permit Fee - Other Inspections and Fees, inspections outside of normal business hours: minimum charge 3 hrs.	Per Hour	$ 113.00	$ 113.00	7/1/2021
60	Electrical Permit Fee - Inspections	Per Hour	$ 113.00	$ 113.00	7/1/2021
61	Electrical Permit Fee - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
62	Electrical Permit Fee - Additional plan review	Per Hour	$ 113.00	$ 113.00	7/1/2021
63	New Construction Trades - Electrical : Residential	Per Square Foot	$ 0.10791	$ 0.1079	7/1/2021
64	New Construction Trades - Electrical : Commercial	Per Square Foot	$ 5.22301	$ 0.1200	7/1/2021
65	New Construction Trades - Electrical: Industrial / warehouse (0-50,000 sf)	Per Square Foot	$ 0.01209	$ 0.0120	7/1/2021
66	New Construction Trades - Electrical : Industrial / warehouse (>50,000 sf)	Per Square Foot	$ 0.00388	$ 0.0038	7/1/2021
Mechanical Permit Fees					
67	Mechanical Permit Issuance Fee	Each	$ 41.75	$ 41.00	7/1/2021
68	Mechanical Permit Fee (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems -under 3 HP (10.6kW) or to and including 100,000 Btu/h (29.3kW)	Each	$ 172.66	$ 172.00	7/1/2021
69	Mechanical Permit Fees (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems-over 3 HP (10.6kW) to and including 15 HP (52.7kW), or over 100,000 Btu (29.3kW) to and including 500,000 Btu/h (146.6kW)	Each	$ 215.83	$ 215.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
70	Mechanical Permit Fees (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems -over 15 HP (52.7 kW) to and including 30 HP (105.5 kW), over 500,000 Btu/h (146.6 kW) to and including 1,000,000 Btu/h (293.1 kW)	Each	$ 258.99	$ 258.00	7/1/2021
71	Mechanical Permit Fees (includes issuance fee)- Furnaces, Boilers, Compressors and Absorption Systems -over 30 HP (105.5 kW) to and including 50 HP (176 kW), or over 1,000,000 Btu/h (293.1 kW) to and including 1,750,000 Btu/h (512.9 kW)	Each	$ 345.32	$ 345.00	7/1/2021
72	Mechanical Permit Fees (includes issuance fee)- Furnaces, Boilers, Compressors and Absorption Systems -over 50 HP (176 kW) or over 1,7500,000 Btu/h (512.9kW)	Each	$ 517.98	$ 517.00	7/1/2021
73	Mechanical Permit Fees (includes issuance fee)- Evaporative Coolers	Each	$ 172.66	$ 172.00	7/1/2021
74	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust -each fan connected to single duct	Each	$ 172.66	$ 172.00	7/1/2021
75	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust-each which is not a portion of any heating or a/c system authorized by a permit	Each	$ 172.66	$ 172.00	7/1/2021
76	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust -each hood served by mechanical exhaust	Each	$ 345.32	$ 345.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
77	Mechanical Permit Fee - Process Piping	Valuation	N/A	Varies	7/1/2021
78	Mechanical Permit Fee - Wall Heater	Each	N/A	$ 43.00	7/1/2021
79	Mechanical Permit Fees - Miscellaneous (one inspection)	Each	$ 86.33	$ 86.00	7/1/2021
80	Mechanical Permit Fees - Inspection outside of normal business hours	Per Hour	$ 113.00	$ 113.00	7/1/2021
81	Mechanical Permit Fees - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
82	Mechanical Permit Fees - No Fee Specifically Indicated	Per Hour	$ 113.00	$ 113.00	7/1/2021
83	Mechanical Permit Fees - Additional Plan Review	Per Hour	$ 113.00	$ 113.00	7/1/2021
84	New Construction Trades - Mechanical: Residential	Per Square Foot	$ 0.0647	$ 0.0647	7/1/2021
85	New Construction Trades - Mechanical : Commercial	Per Square Foot	$ 0.0647	$ 0.0647	7/1/2021
Plumbing Permit Fees					
86	Permit issuance fee	Each	$ 41.75	$ 41.00	7/1/2021
87	Plumbing Permit Fees - First 15 Fixtures and Vents (new & alterations)	First 15 Fixtures/Vents	$ 172.66	$ 172.50	7/1/2021
88	Plumbing Permit Fees - Each Additional	Each	$ 172.66	$ 10.78	7/1/2021
89	Plumbing Permit Fees - Sewers	Each	$ 172.66	$ 172.50	7/1/2021

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III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
90	Plumbing Permit Fees - Sewage disposal system	Each	$ 431.65	$ 431.50	7/1/2021
91	Plumbing Permit Fees -Industrial waste pretreatment interceptor	Each	$ 172.66	$ 172.50	7/1/2021
92	Plumbing Permit Fees - Water Piping First 20 outlets	First 20 Outlets	$ 129.50	$ 129.00	7/1/2021
93	Plumbing Permit Fees - Water Piping Each Additional Outlet	Each Outlet	$ 129.50	$ 5.23	7/1/2021
94	Plumbing Permit Fees - Water heater including vent	Each	$ 172.66	$ 12.92	7/1/2021
95	Plumbing Permit Fees - Gas Piping Systems First 5 Outlets	First 5 Outlets	$ 647.50	$ 129.50	7/1/2021
96	Plumbing Permit Fees - Gas Piping Systems Each Additional	Each Addt'l Outlet	$ 129.50	$ 6.77	7/1/2021
97	Plumbing Permit Fees - Lawn Sprinklers	Each lawn sprinkler system on any one meter	$ 172.66	$ 172.50	7/1/2021
98	Plumbing Permit Fees - Backflow Protection Devices	Each Device	$ 172.66	$ 172.50	7/1/2021
99	Plumbing Permit Fees - Miscellaneous	Each appliance or equipment regulated by the Plumbing Code but not classed in other appliance categories, or for which no fee is listed in this code	$ 86.33	$ 86.00	7/1/2021

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III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
100	Plumbing Permit Fees - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
101	Plumbing Permit Fees - No Fee Specifically Indicated	Per Hour	$ 113.00	$ 113.00	7/1/2021
102	Plumbing Permit Fees - Additional Plan Review	Per Hour	$ 113.00	$ 113.00	7/1/2021
103	New Construction Trades - Plumbing : Residential	Per SF	$ 0.10791	$ 0.1070	7/1/2021
	Grading Plan Review Fees (up to three submittals of plans)				
104	Grading plan check, rough (0-10 acres)	Each	$ 1,381.29	$ 1,381.00	7/1/2021
105	Grading plan check, rough (>10 acres)	Each	$ 1,381.29	$ 1,381.00	7/1/2021
106	Grading plan check, rough (each additional 5 acres)	Each	$ 345.32	$ 345.00	7/1/2021
107	Grading plan check, precise (0-10 acres)	Each	$ 1,726.61	$ 1,726.50	7/1/2021
108	Grading plan check, precise (>10 acres)	Each	$ 1,726.61	$ 1,726.50	7/1/2021
109	Grading plan check, precise (each additional 5 acres)	Each	$ 517.98	$ 517.50	7/1/2021
	Grading Permit Fees				
110	Grading permit, rough (0-50 acres)	Each	$ 345.32	$ 345.00	7/1/2021
111	Grading permit, rough (each additional 10 acres)	Each	$ 86.33	$ 86.00	7/1/2021

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III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
112	Grading permit, precise (0-50 acres)	Each	$ 431.65	$ 431.50	7/1/2021
113	Grading permit, precise (each additional 10 acres)	Each	$ 129.50	$ 129.50	7/1/2021
114	Soil Disturbance Permit - Dust Control	Each	N/A	$ 250.00	7/1/2021
Miscellaneous Fees					
115	Building plan retention fee	Per Plan Page	N/A	$ 1.50	7/1/2021
116	Permits, Calcs and Misc. doc	8.5x11 / per page	N/A	$ 0.35	7/1/2021
Sewer, Water, Storm Drain Permit & Plan Check Fees					
117	Sewer Main Inspection Permit	Per Lineal Foot	$ 3.17	$ 3.17	7/1/2021
118	Water Main Inspection Permit	Per Lineal Foot	$ 0.63	$ 0.63	7/1/2021
119	Storm Drain - main Inspection Permit	Per Lineal Foot	$ 0.63	$ 0.63	7/1/2021
120	Storm Drain - yard Inspection Permit	Per Lineal Foot	$ 0.29	$ 0.29	7/1/2021
121	Sewer, Water, Storm Drain Plan check fee = % of permit valuation	% of Permit Valuation	2.00%	2.00%	7/1/2021

Resolution No. 2004-065
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

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III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
1	Inspection / Permit - Base Fee	Base	$ 164.09	$ 164.00	7/1/2021
2	Inspection / Permit Fees $1 - $50,000	Construction cost estimate	5.97%	5.97%	7/1/2021
3	Inspection / Permit Fees $50,001 - $500,000	Construction cost estimate	5.45%	5.45%	7/1/2021
4	Inspection / Permit Fees >$500,000	Construction cost estimate	4.24%	4.24%	7/1/2021
5	Plan Check - Base Fee (includes grading, NPDES etc.)	Base	$ 1,371.16	$ 1,371.00	7/1/2021
6	Plan Check Fees $1 - $50,000	Construction cost estimate	6.00%	6.00%	7/1/2021
7	Plan Check Fees $50,001 - $500,000	Construction cost estimate	4.65%	4.65%	7/1/2021
8	Plan Check Fees >$500,000	Construction cost estimate	3.62%	3.62%	7/1/2021
9	Encroachment Permit Fee	Each	$ 162.91	$ 112.80	8/21/2021

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III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
10	Inspection for minor improvements (driveways, pole replacement, etc.)	Inspection for single item (2 inspections, before and after)	$ 167.02	$ 108.15	8/21/2021
11	Traffic Control Permit	Each	$ 103.49	$ 103.00	7/1/2021
12	Overload Permit (single trip) - One time	Each	N/A	$ 19.20	8/21/2021
13	Overload Permit (round trip) - Annual	Each	N/A	$ 108.00	8/21/2021
14	Permit Penalty Fee	Percent of Permit Value	N/A	50.00%	7/1/2021
15	Map Review (Parcel/Tract) - Base Fee	Each	$ 7,666.96	$ 2,588.40	8/21/2021
16	Map Review - Addt'l per parcel	Per Parcel	$ 70.48	$ 70.00	8/21/2021
17	Certificate of Compliance	Each	$ 790.69	$ 745.20	8/21/2021
18	Lot Line Adjustment - Base Fee	Each	$ 1,286.16	$ 1,159.20	8/21/2021
19	Lot Line Adjustment - Addt'l per parcel	Per parcel	$ 59.43	$ 59.00	7/1/2021
20	General Vacation	Each	$ 3,805.94	$ 1,902.00	8/21/2021

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III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
21	Quit Claim / Summary Vacation	Each	$ 2,049.22	$ 1,087.20	8/21/2021
22	Certificate of Correction	Each	$ 823.10	$ 480.00	8/21/2021
23	Easement review	Each	$ 1,691.08	$ 1,691.00	7/1/2021
24	NPDES business inspection fee - low priority	One inspection every 5 years	$ 59.43	$ 59.00	7/1/2021
25	NPDES business inspection fee - medium priority	One inspection every 2 years	$ 118.85	$ 118.00	7/1/2021
26	NPDES business inspection fee - high priority	Inspection each year	$ 237.70	$ 237.50	7/1/2021
27	NPDES/WQMP Plan Review	Each	$ 2,160.65	$ 1,112.40	8/21/2021
28	NPDES Construction Inspection Fee (< 10 acres)	Each	$ 505.66	$ 505.50	7/1/2021
29	NPDES Construction Inspection Fee (10-25 acres)	Each	$ 905.50	$ 905.50	7/1/2021
30	NPDES Construction Inspection Fee (> 25 acres)	Each	$ 2,074.37	$ 2,074.00	8/21/2021

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III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
31	Overtime Pay for Inspection (Weekends & Holidays)	Per Hour	N/A	Hourly Rate	7/1/2021
32	Misc. / Special Technical Report Review Fee	Actual Cost (Plus 25% Admin for consultant review, if applicable)	N/A	Varies	7/1/2021
33	Water Meter - OMUC Fee	Based on meter size - OMUC Fee	N/A	Varies	7/1/2021
34	Storm Water Pollution Abatement	Monthly BAU fee based on land use type & site acreage (applied to utility bill)	N/A	Varies	7/1/2021
35	Legal review	Per Hour	N/A	Hourly Rate	7/1/2021
PLANNING APPLICATIONS REVIEWED BY LAND DEVELOPMENT ENGINEERING					
36	Development Agreement	Deposit	N/A	Varies	7/1/2021
37	Development Agreement Amendment	Deposit	N/A	Varies	7/1/2021
38	Development Code Amendment	Deposit	N/A	Varies	7/1/2021
39	Environmental Impact Report	Deposit	N/A	Varies	7/1/2021
40	General Plan Amendment	Deposit	N/A	Varies	7/1/2021

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III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
41	Planned Unit Development	Deposit	N/A	Varies	7/1/2021
42	Planned Unit Development Amendment	Deposit	N/A	Varies	7/1/2021
43	Specific Plan	Deposit	N/A	Varies	7/1/2021
44	Specific Plan Amendment	Deposit	N/A	Varies	7/1/2021
45	Specific Plan Minor Amendment	Deposit	N/A	Varies	7/1/2021
46	Zone Change - 5 acres or more	Deposit	N/A	Varies	7/1/2021
47	Zone Change - Less than 5 acres	Deposit	N/A	Varies	7/1/2021

Resolution No. 2004-065
Resolution No. 2020-009
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III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
1	Land Conservation Contract Non-renewal	Each	$ 3,817.21	$ 1,401.85	8/21/2021
2	Land Conservation Contract Cancellation	Each	$ 16,679.06	$ 6,431.53	8/21/2021
3	Appeal-Homeowner	Each	N/A	$ 130.00	7/1/2021
4	Appeal-Other	Each	N/A	$ 902.00	7/1/2021
5	Covenants Conditions and Restrictions Review	Each	$ 4,940.68	$ 3,067.50	8/21/2021
6	Conditional Use Permit-Homeowner	Each	$ 4,894.70	$ 1,784.26	8/21/2021
7	Conditional Use Permit-Nonprofit	Each	$ 3,520.01	$ 2,691.60	8/21/2021
8	Conditional Use Permit-Other	Each	$ 5,901.35	$ 5,900.00	7/1/2021
9	Conditional Use Permit-Modification	Each	$ 5,901.35	$ 3,693.27	8/21/2021
10	Conditional Use Permit-w/ Development Plan	Each	$ 4,724.75	$ 1,567.20	8/21/2021
11	Conditional Use Permit Time Extension	Each	$ 1,381.04	$ 1,380.00	7/1/2021
12	Determination of Use	Each	$ 3,316.06	$ 3,316.00	7/1/2021
13	Development Agreement	Deposit	N/A	$ 10,000.00	7/1/2021

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III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
14	Development Agreement Amendment	Deposit	N/A	$ 7,500.00	7/1/2021
15	Development Code Amendment	Deposit	N/A	$ 2,000.00	7/1/2021
16	Development Plan Review - 5 acres or more	Each	$ 24,846.74	$ 17,914.80	8/21/2021
17	Development Plan Review - less than 5 acres	Each	$ 21,465.84	$ 11,913.15	8/21/2021
18	Development Plan Revision	Each	$ 16,735.49	$ 4,582.85	8/21/2021
19	Development Plan Time Extension	Each	$ 1,381.04	$ 1,380.00	7/1/2021
20	Environmental Assessment/Negative Declaration	Each	$ 3,155.59	$ 3,155.00	7/1/2021
21	Environmental Impact Report	Deposit	N/A	$ 10,000.00	7/1/2021
22	General Plan Amendment - Text	Deposit	N/A	$ 5,000.00	7/1/2021
23	General Plan Amendment - Map	Deposit	N/A	$ 7,500.00	7/1/2021
24	Historic Preservation - COA-Nonresidential	Each	$ 4,677.04	$ 1,533.75	8/21/2021
25	Historic Preservation - COA-Residential	Each	$ 4,677.04	$ 214.73	8/21/2021
26	Historic Preservation - COEH-Nonresidential	Each	$ 6,846.51	$ 2,045.00	8/21/2021
27	Historic Preservation - COEH-Residential	Each	$ 6,846.51	$ 268.92	8/21/2021
28	Historic Preservation - Removal from Eligibility List (No Charge)	Each	$ 6,366.15	No Charge	7/1/2021

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Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
29	Historic Preservation - Waiver	Each	$ 42.96	$ 42.50	7/1/2021
30	Historic Preservation - Landmark Designation (No Charge)	Each	$ 12,025.51	No Charge	7/1/2021
31	Historic Preservation - Plaque	Actual Cost	Varies	Varies	7/1/2021
32	Inspection - Construction (3 inspections)	Each	$ 5,342.05	$ 613.50	8/21/2021
33	Inspection - Field (includes construction inspections in excess of 3)	Each	$ 1,335.51	$ 255.63	8/21/2021
34	Residential Mills Act[A]	Each	$ 10,939.36	$ 214.73	8/21/2021
35	Nonresidential Mills Act[A]	Each	$ 10,939.36	$ 669.74	8/21/2021
36	Large Family Daycare	Each	$ 2,127.81	$ 1,116.57	8/21/2021
37	Lodging House Permit	Each	$ 2,127.81	$ 2,127.00	7/1/2021
38	Massage Permits	Each	$ 2,127.81	$ 2,127.00	7/1/2021
39	Plan Check - 5 or more acres	Each	$ 9,196.43	$ 3,070.10	8/21/2021
40	Plan Check - less than 5 acres	Each	$ 5,685.72	$ 1,717.10	8/21/2021
41	Planned Unit Development	Deposit	$ 20,926.28	$ 10,225.00	8/21/2021
42	Planned Unit Development Amendment	Deposit	$ 13,947.59	$ 7,668.75	8/21/2021
43	Planning Area Plan	Deposit	N/A	$ 7,500.00	7/1/2021

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Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
44	Planning Director Review	Each	$ 1,057.33	$ 706.55	8/21/2021
45	Preliminary Plan Review	Each	$ 4,207.14	$ 4,203.00	7/1/2021
46	Public Hearing - City Council	Each	$ 769.75	$ 604.30	8/21/2021
47	Public Hearing - Development Advisory Board	Each	$ 497.12	$ 325.16	8/21/2021
48	Public Hearing - Planning Commission	Each	$ 1,325.44	$ 604.30	8/21/2021
49	Public Hearing - Zoning Administrator-Homeowner	Each	$ 1,764.14	$ 74.64	8/21/2021
50	Public Hearing - Zoning Administrator-Other	Each	$ 1,764.14	$ 584.87	8/21/2021
51	Sign Plan	Each	$ 519.34	$ 246.42	8/21/2021
52	Sign Program - administrative approval	Each	$ 2,825.58	$ 862.99	8/21/2021
53	Sign Program - planning commission approval	Each	$ 3,059.86	$ 2,934.58	8/21/2021
54	Specific Plan	Deposit	N/A	$ 20,000.00	7/1/2021
55	Specific Plan Amendment	Deposit	N/A	$ 7,500.00	7/1/2021
56	Specific Plan Minor Amendment	Deposit	N/A	$ 620.00	7/1/2021
57	Temporary Sign Permit	Each	$ 124.89	$ 58.28	8/21/2021
58	Temporary Use Permit - interim uses	Each	$ 2,757.54	$ 838.45	8/21/2021
59	Temporary Use Permit - special event	Each	$ 1,064.72	$ 492.00	8/21/2021

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Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
60	Tentative Parcel Map	Each	$ 15,986.07	$ 6,641.14	8/21/2021
61	Tentative Parcel Map Modification	Each	$ 11,706.32	$ 4,262.80	8/21/2021
62	Tentative Tract Map (Base)	Flat	$ 18,403.54	$ 9,805.78	8/21/2021
63	Tentative Tract Map (per lot)	Each	$ 65.00	$ 65.00	7/1/2021
64	Tentative Tract Map Modification	Each	$ 12,681.18	$ 3,125.78	8/21/2021
65	Tentative Tract/Parcel Map Time Extension	Each	$ 7,378.97	$ 1,227.00	8/21/2021
66	Variance - Administrative Exception or Minor	Each	$ 3,978.78	$ 2,451.96	8/21/2021
67	Variance - Homeowner	Each	$ 3,978.78	$ 309.82	8/21/2021
68	Variance - Other	Each	$ 5,266.37	$ 3,508.20	8/21/2021
69	Wireless Permit: Facilities in Public Rights-of-Way	Each	$ 3,978.78	$ 3,978.00	7/1/2021
70	Zone Change - 5 acres or more	Each	$ 10,575.56	$ 7,666.71	8/21/2021
71	Zone Change - Less than 5 acres	Each	$ 9,194.99	$ 7,497.99	8/21/2021
72	Zoning Administrator Review - Homeowner	Each	$ 3,978.78	$ 200.41	8/21/2021
73	Zoning Administrator Review - Other	Each	$ 3,978.78	$ 1,160.54	8/21/2021
74	Zoning/Land Use Verification Letter	Each	$ 499.56	$ 195.30	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
75	Notice of Exemption Filing Fee	County Fee	N/A	$ 50.00	7/1/2021
76	Notice of Determination Filing Fee	County Fee	N/A	$ 50.00	7/1/2021
77	Filing of a Negative/Mitigated Declaration	County Fee	N/A	$ 2,404.75	7/1/2021
78	Filing of an Environmental Impact Report	County Fee	N/A	$ 3,321.00	7/1/2021
79	Outside consultant or legal expenses	Actual Cost Plus 25% Admin. Fee	N/A	Varies	7/1/2021
80	Advanced Long Range Planning	Percent of all Building Permits & Planning Applications	$ 914,960.12	5.00%	7/1/2021

Resolution No. 2004-065 (Entitlement Processing Fees excl. Mills Act)
[A] Resolution No. 2005-115 (Mills Act Fees)
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062
CPI Adjustment of 2.25% applied to select fees based on year-over-year change from Jan. 2020 to Jan. 2021 as measured by "Riverside-San Bernardino-Ontario Consumer Price Index"

RESOLUTION NO. PC22-028

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE FILE NO. PDA22-003-B, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC OWNER, LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 112 RESIDENTIAL UNITS AND UP TO 20,802 SQUARE FEET OF COMMERCIAL/OFFICE/ RETAIL USES, ON APPROXIMETLY 1.69 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF ONTARIO CENTER PARKWAY AND FERRARI LANE WITHIN THE MIXED-USE SUBAREAS 17 OF THE PIEMONTE OVERLAY AT THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: SOUTHEAST PORTION OF 0210-205-01.

WHEREAS, OTC Owner, LLC, ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA22-003-B, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 1.69 acres of land, consisting of the southeast parking Toyota Arena Parking lot, located at the southwest corner of Ontario Center Parkway and Ferrari Lane. The project site is within the proposed mixed-use Subarea 17 of the Piemonte Overlay of the Ontario Center Specific Plan, and is presently vacant and improved with the Toyota Area parking lot; and

WHEREAS, in 2006, the City Council approved the creation of the Piemonte Overlay of the Ontario Center Specific Plan (“Piemonte Overlay”), within the Urban Commercial land use district of the Ontario Center Specific Plan, establishing a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre overlay site. Several Specific Plan Amendments have been approved for the Piemonte Overlay, modifying development intensities, parking requirements, architectural guidelines, and land use designations. The most recent Specific Plan Amendment, File No. PSPA21-001, was approved by the City Council on April 19, 2022, and involved expanding the overlay boundary, adding the Mixed-Use land use designation, and establishing design guidelines for mixed-use projects; and

WHEREAS, the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) was certified on March 19, 1991, (hereinafter referred to as “Certified EIR”), in which development and use of the Project site was discussed in the Amendment to the Ontario Center Specific Plan (File No. 4059-SPA); and

WHEREAS, a Mitigated Negative Declaration was subsequently adopted on May 16, 2017, (hereinafter referred to as “MND”), in which development and use of the Project

site was discussed in association with an Amendment to the Ontario Center Specific Plan (File No. PSPA16-003); and

WHEREAS, the Planning Director of the City of Ontario prepared and approved for attachment to the Certified EIR and adopted MND, an Addendum to the Certified EIR and MND (hereinafter collectively 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 was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

WHEREAS, the environmental impacts of this Project were thoroughly analyzed in the Certified EIR and EIR Addendum, which concluded that implementation of the Project could result in a number of significant effects on the environment and 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and make recommendations to the City Council 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, A Development Plan Application (File No. PDEV22-014) to construct four mixed-use buildings totaling 63,655 commercial square feet and 694 dwelling units on 13.3 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corner of Via Piemonte and Via Villagio, within the Mixed-Use land use district of the Piemonte Overlay of the Ontario Center Specific Plan, has been filed in conjunction with the Development Agreement Application; 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 June 28, 2022, the Planning Commission 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 Planning Commission of the City of Ontario, as follows:

SECTION 1: ***Environmental Determination and Findings.*** As the recommending body for the Project, the Planning Commission 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 Planning Commission finds as follows:

(1) The environmental impacts of the Project were reviewed in conjunction with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) ("Certified EIR"), certified by the Ontario City Council on March 19, 1991, in conjunction with File No. 4059-SPA, in combination with an Addendum to the Mitigated Negative Declaration, adopted by the Ontario City Council on May 17, 2017, in conjunction with File No. PSPA16-003. In addition, an EIR Addendum was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

(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 Planning Commission; 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 Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission 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.

SECTION 3: ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as

the recommending body for the Project, the Planning Commission 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 site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The proposed changes affect two of the four properties listed in the Available Land Inventory (Subareas 8 and 11; Map ID No. 124 and 125). The residential capacity proposed in this Project is consistent with the number of dwelling units (198) and density (48 du/ac) specified in the Available Land Inventory.

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 body 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 PLANNING COMMISSION, 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 Planning Commission during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 4, above, the Planning Commission hereby concludes as follows:

a. The Development Agreement applies to approximately 1.69 acres of land generally located southwest corner of Ontario Center Parkway and Ferrari Lane; and

b. The Development Agreement establishes parameters for the development of a mixed-use project for Lot B, consisting of 112 residential units and up to 20,802 square feet retail uses, within the proposed Mixed-Use Subarea 17 of the

Piemonte Overlay of the Ontario Center Specific Plan. The Development Agreement also grants the Applicant, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Piemonte Overlay of the Ontario Center Specific Plan; and

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

d. 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

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

f. 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 reviewed with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) prepared for the related Amendment to the Piemonte Overlay at the Ontario Center Specific Plan (File No. PSPA21-001). This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

SECTION 6: ***Planning Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 through 5, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE the herein described Application, subject to each and every condition set forth in the Development Agreement (File No. PDA22-003-B) 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: ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of June 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-028, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on June 28, 2022, by the following roll call vote, to wit:

AYES: Anderson, DeDiemar, Gage, Lampkin, Ricci, Willoughby

NOES: None

ABSENT: Dean

ABSTAIN: None

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

File No. PDA22-003-B

DEVELOPMENT AGREEMENT

By and Between

City of Ontario
a California municipal corporation

and

OTC Owner, LLC
Lot B

a Delaware limited liability company

(Development Agreement to follow this page)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

Exempt from Fees Per Gov. Code §§ 6103 and 27383

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

OTC Owner, LLC
Lot B

a Delaware limited liability company

DEVELOPMENT AGREEMENT NO. PDA22-003-B

This Development Agreement (hereinafter "Agreement") is dated as of July _____, 2022, for reference purposes only, and is entered into by and between the City of Ontario, a California municipal corporation (hereinafter "City"), and OTC Owner, LLC, Lot B, a Delaware limited liability company (together with its successors and assigns, "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

WHEREAS, Owner has a leasehold interest in the Property pursuant to the Ground Lease; 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, on July ____, 2022, the City Council adopted Ordinance No. _____ approving this Agreement, and such ordinance became effective on _____, 2022; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement. On April 19, 2022, pursuant to Resolution No. 2022-034, the City Council reviewed and adopted an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) dated March 2022 under City's File No. PSPA21-001 (the "EIR Addendum"). The proposed Project is consistent with the EIR Addendum and no further environmental review is required; and

WHEREAS, on April 19, 2022, pursuant to Resolution No. 2022-035, the City Council approved the Piemonte Overlay at the Ontario Center Specific Plan Amendment - File No. PSPA21-001 (the "Specific Plan Amendment"); and

WHEREAS, this Agreement and the Project are consistent with the City's Comprehensive General Plan and any specific plan applicable thereto; 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, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended.

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 "Approval Date" means _____, 2022 the hearing date on which the City Council adopted the ordinance approving this Agreement.

1.1.3 "Certificate" shall have the meaning set forth in Section 6.4.

1.1.4 "Certificate of Performance" shall have the meaning set forth in Section 2.5.3.

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

1.1.6 "City Council" means the City Council of the City of Ontario.

1.1.7 "City Manager" means City's City Manager or his or her designee.

1.1.8 "City Parties" shall have the meaning set forth in Section 9.2.

1.1.9 "City Response Delay" shall have the meaning set forth in Section 3.3.

1.1.10 "Completion" means the date on which all of the following has occurred (a) the Building Department of the City (in its capacity as the municipal authority) has issued (i) a temporary certificate of occupancy (or its equivalent) for the residential dwelling units within the Project and (ii) final sign off or its equivalent of the core and shell for the commercial space within the Project (but not the tenant improvements for such space) and (b) Owner has satisfied the conditions of the Development Approvals to the extent required in connection with the Project (as opposed to conditions required in connection with the development of the other Lots within the Phased Development) other than ongoing conditions that are not required to be satisfied prior to completion of the Project.

1.1.11 "Deferred DIF" shall have the meaning set forth in Section 4.2.2.

1.1.12 "Deferred DIF Repayment Date" shall have the meaning set forth in Section 4.2.2.

1.1.13 "Development Approval" or "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property whether Existing Development Approvals or Subsequent Development Approvals, including, but not limited to, the following:

(a) Amendment to the Piemonte Overlay at Ontario Center Specific Plan -File No. PSPA21-001;

(b) Development Plan Entitlement – File No. PDEV22-014;

(c) EIR Addendum;

(d) Development Agreement - File No. PDA22-003-B; and

(e) Amendment to the Piemonte Overlay Sign Program – File No. PSGP22-002.

1.1.14 "Development Impact Fee" means a monetary exaction, other than a tax or special assessment, whether characterized as a fee, exaction, charge, assessment 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. The rates as of the Approval Date for the Development Impact Fees that may apply to the Project are shown on Exhibit "C" attached hereto.

1.1.15 "Effective Date" means the date on which both of the following are true: (a) the ordinance approving this Agreement goes into effect; and (b) the Effective Date of the Ground Lease has occurred. Promptly after the Effective Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Effective Date and, thereafter, the Effective Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.16 "Existing Development Approvals" means all Development Approvals approved or issued on or prior to the Effective Date. Existing Development Approvals are listed in the definition of "Development Approvals" above and all other Development Approvals which are a matter of public record on the Effective Date.

1.1.17 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Approval Date, as modified by the Development Approvals.

1.1.18 "Final Non-Appealable Date" means the date Existing Development Approvals are final and non-appealable as set forth in the City Development Code and any applicable Laws and (ii) the applicable statute of limitations has expired under the California Environmental

Quality Act (Public Resources Code §21000 *et seq*.) and implementing Guidelines for CEQA (14 Cal. Code Regs. §15000 *et seq*.) with respect to the Addendum, in each case without the filing of any third party challenge, appeal, or lawsuit or, if filed, such challenge, appeal, or lawsuit has been resolved in a manner satisfactory to Owner. Promptly after the Final Non-Appealable Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Final Non-Appealable Date and, thereafter, the Final Non-Appealable Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.19 "Force Majeure Event(s)" shall have the meaning set forth in Section 11.11.

1.1.20 "General Plan" means the City's Comprehensive General Plan adopted on January 27, 2010, by Resolution No. 2010-006, as may be amended as of the Approval Date.

1.1.21 "Ground Lease" means that certain Ground Lease by and between City and Owner dated on or about the Approval Date pertaining to the Property, as the same may be amended, modified, or supplemented from time to time.

1.1.22 "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; or

(e) the exercise of the power of eminent domain.

1.1.23 "Lender Proposed Amendment" shall have the meaning set forth in Section 10.

1.1.24 "Lot" or "Lots" shall mean Lot A, B, C, or D, as the context may require, as shown on Exhibit "B" to this Agreement.

1.1.25 "Mortgagee" means any lender under any mortgage, deed of trust, or other security device securing financing with respect to the Owner's then-current interest in the Property, and their successors and assigns.

1.1.26 "Non-Deferrable Fees" shall have the meaning set forth in Section 4.2.2.

1.1.27 "Owner" means the person or entity defined as such in the introductory paragraph of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.28 "Owner Parties" shall have the meaning set forth in Section 9.3.2.

1.1.29 "Phased Development" means the phased development and construction contemplated by Owner on the Property and each of the other "Owners" under the Related Development Agreements (as defined below) on Lots A, C, and D. The projects to be developed and constructed in the Phased Development include the Project and projects on Lots A, C, and D as follows:

Lot A - Development Plan Entitlement – File No. PDEV22-014;

Lot C - Development Plan Entitlement – File No. PDEV22-014; and

Lot D - Development Plan Entitlement – File No. PDEV22-014.

Lots A, C, and D are each also currently subject to a ground lease between the City and ground lease tenant of the applicable Lot which is being entered into concurrently with the Ground Lease in form and content similar to the Ground Lease. The City is also concurrently entering into a statutory development agreement with each of the ground lease tenants for Lots A, C, and D in form and content similar to this Agreement (the "Related Development Agreements"). It is currently contemplated that the Project will be developed and constructed as part of the Phased Development of the Property and Lots A, C, and D currently comprised of the following development:

Table 1:
Maximum Development Density (Units) and Intensity
(Based on Piemonte Overlay at the Ontario Center Specific Plan)

DA File No's.	Approx. Acres	Lot	Subarea Area	Dwelling Units	Commercial (Square Feet)
PDA22-003-A	4.83	A	16	384	25,256
PDA22-003-B	1.69	B	17	112	20,802
PDA22-003-C	1.93	C	8	94	11,047
PDA22-003-D	2.04	D	11	104	14,095
Total	**10.49**			**694**	**71,200**

1.1.30 "Project" means the proposed development and construction on the Property (Lot B) of up to 20,802 square feet of commercial/office/retail uses and 112 multi-family residential dwelling units, all as consistent with File No. PDEV22-014 (as the same may be modified by Owner from time to time in accordance with the Existing Development Approvals). The commercial/office/retail uses shall be those permitted or conditionally permitted within Section 3.2 *Allowed Uses* of The Piemonte at Ontario Center Specific Plan.

1.1.1 "Property" means the real property described on Exhibit "A" and shown on Exhibit "B" to this Agreement. The Property is referred to as Lot B on Exhibit B. The Property constitutes one parcel of the Phased Development. Lots A, C, and D comprise the remaining parcels of the planned Phased Development.

1.1.2 "Protected Lot" shall have the meaning set forth in Section 8.2.3.

1.1.3 "Related Development Agreement" shall have the meaning set forth in the definition of "Phased Development" above.

1.1.4 "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.

1.1.5 "Security Instrument" shall have the meaning set forth in Section 10.

1.1.6 "Specific Plan" means that certain specific plan adopted by the City Council, and entitled, "Piemonte Overlay at the Ontario Center Specific Plan," as amended by the Specific Plan Amendment.

1.1.7 "Subsequent Development Approvals" means all Development Approvals obtained subsequent to the Approval Date in connection with development of the Property.

1.1.8 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Approval Date.

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 location of Property and the other Lots within the Phased Development

Exhibit "C" Development Impact Fees as of the Approval Date

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 if and to the extent commenced shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the owner of a leasehold interest in the Property or a portion 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;

(b) Owner is not then in uncured default of this Agreement (after notice and the expiration of any applicable cure periods); and

(c) if less than three (3) of the Lots in the Phased Development have achieved Completion, such extension must be approved by the City Manager in his or her reasonable discretion.

For the avoidance of doubt, any time limits that may otherwise apply to the Development Approvals absent this Development Agreement (including without limitation, any of the time limits imposed on approvals pursuant to Section 2.02.025A of the Ontario Development Code or any other the Land Use Regulations) shall not govern the Development Approvals or this Agreement and the term set forth in this Section 2.3 shall control.

2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer, or assign its interest in 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 and be made in strict compliance with the following:

(a) Any such sale, transfer, or assignment is done in compliance with the Ground Lease if such Ground Lease is then in effect;

(b) 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 substantially all of Owner's leasehold or fee interest (as applicable) in the Property;

(c) Prior to any such sale, transfer, or assignment, 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; and (2) the payment of the applicable processing charge to cover the City's review and consideration of such sale, transfer, or assignment; and

(d) 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 (c) 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 Subsection 2.4.1. Notwithstanding any contrary provision of this Agreement, the Owner of the Property shall not have any liability hereunder with respect to any other Lot and a default by the Owner of one Lot shall not impact the rights and obligations of the Owner of any other Lot.

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 all of the following conditions:

(a) such transferring owner no longer has a legal or equitable interest in the portion of the Property sold, transferred, or assigned;

(b) such transferring owner is not then in default under this Agreement (after notice and the expiration of any applicable cure periods), in which case such transferring owner shall remain liable for such default but not any future defaults by the assignee after the date of the transfer; and

(c) such transferring owner has provided City with the notice and executed agreement required under Paragraph (c) of Subsection 2.4.1 above.

2.4.3 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.

2.4.4 For the avoidance of doubt, this Section 2.4 does not apply to assignments or transfers of this Agreement to Mortgagees or their initial transferees after a foreclosure, deed in lieu, or similar action permitted under the mortgage, deed of trust, or other security device securing financing with respect to the Owner's interest in the Property.

2.5 Amendment or Cancellation of Agreement; Operating Memoranda.

2.5.1 Amendment or Cancellation. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section

65868. 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. The City hereby agrees to grant priority processing status to any request(s) to amend this Agreement made by Owner. 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.

2.5.2 Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the City and Owner and development of the Project hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of the City and Owner. If and when, from time to time, during the term of this Agreement, the City and Owner agree that such clarifications are necessary or appropriate, the City and Owner shall effectuate such clarifications through operating memoranda approved by the City and Owner, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary with future approval by the City and Owner. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The City Manager shall be authorized to make the determination on behalf of the City whether a requested clarification may be effectuated pursuant to this Section 2.5.2 or whether the requested clarification is of such a character to constitute an amendment hereof. The City Manager shall be authorized to execute any operating memoranda hereunder on behalf of the City without further Planning Commission or City Council action.

2.5.3 Certificate of Performance.

Upon Completion of the Project or upon the earlier revocation or termination of this Agreement, the City shall provide Owner, upon Owner's request, with a statement ("Certificate of Performance") evidencing such completion, revocation, or termination of this Agreement, and the release of Owner from further obligations hereunder with respect to the Property except with respect to the obligations which expressly survive such termination pursuant to Sections 3.9 (Rent Control), 4.2.2 (Development Impact Fees), 9 (Third Party Litigation) and 11.22 (Attorneys' Fees). The Certificate of Performance shall be signed by the appropriate agents of Owner and the City and shall be recorded with the County Recorder. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 8182.

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; or

(b) Completion of the Project to be developed and constructed on the Property in accordance with the terms of this Agreement.

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 right and/or 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 for residential units on which construction has not yet begun shall be refunded to Owner by City to the extent payment has been received.

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

If to Owner:
OTC Lot B Owner, LLC
c/o Adept Urban
388 Cordova Street, #280
Pasadena, CA 91101
Attention: Patrick Chraghchian; Robert Montano
Email:patrick@adept-dev.com; robert.m@adept-dev.com

with a copy to:
Ruben Duran, City Attorney
Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

with a copy to:
Munger, Tolles & Olson LLP
350 S. Grand Avenue, 50th Floor
Los Angeles, CA 90071
Attention: Misty M. Sanford, Esq.
Email: misty.sanford@mto.com

(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 Development of the Project; Rights to Develop.

3.1.1 Development of the Project. In consideration of the premises, purposes, and intentions set forth in this Agreement, and in consideration of the assurances for development of the Project pursuant to this Agreement, Owner agrees to develop the Project in accordance with: (i) the terms and conditions of this Agreement; (ii) the terms and conditions established in the Development Approvals; and (iii) the Existing Land Use Regulations. Owner further agrees that the use, density and intensity, maximum height and size of structures and provisions for the Property reservation and dedication of land for public purposes related to the Property shall be limited to those uses permitted by the Existing Land Use Regulations. The Project shall be developed in accordance with the Development Approvals. The Project shall be constructed in compliance with all applicable building codes and standards, as such may be modified from time to time.

3.1.2 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Project in accordance with the Existing Land Use Regulations, subject to the terms and conditions of this Agreement and the conditions established in the Development Approvals. The Project shall remain subject to all Development Approvals required to complete the Project. 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 Existing Land Use Regulations.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, 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 the Phased Development 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 Ca1. 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 (without the obligation) the Property in such order and at such rate and at such times as Owner deems appropriate within the exercise of its sole and subjective business judgment during the term of this Agreement. Notwithstanding the foregoing, subject to (a) Force Majeure Events, (b) up to three one-year extensions of time (provided, however, that (i) only the first one-year extension may be requested by Owner unilaterally and thereafter such extensions must be approved by the City Manager and (ii) such extensions shall not apply to the first milestone (i.e., submission of the building application) for the first of the Lots of the Phased Development to be developed) and (c) any extensions of entitlements or permits granted by any governmental authority on a statewide, citywide or countywide basis, Owner shall achieve the following milestones in accordance with the following schedule:

	Event	Date
1.	Submission by Owner of building permit application to the City for the Project	On or before one hundred eighty (180) days following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase.
2.	Commencement of Construction of the Project	On or before two (2) years following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase.

		In order to achieve this milestone, City agrees to complete its review of (a) Owner's initial plan check submission within twenty-one (21) days after receipt of such initial submission by City (provided, however, prior to such submission Owner and the City shall meet to review the proposed application), and (b) any additional submissions required to obtain the required permits for the project within fourteen (14) days following receipt of such additional submissions by City. There shall be a day-for-day extension of this Commencement of Construction milestone if the City fails to timely respond to such submissions within the time periods set forth above (each, a "City Response Delay").

3.4 Requirement for Public Infrastructure Improvements. Owner shall comply with any conditions of the Development Approvals with respect to providing public infrastructure improvements or facilities, if any, to the extent required in connection with the Project (as opposed to the other Lots within the Phased Development).

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of the Property as a whole; or,

(b) Increase the density or intensity of use of the Property as a whole; (other than in de minimis amounts); or,

(c) Increase the maximum height and size of permitted buildings (other than in de minimis amounts); or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 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 its actual costs of processing applications for, or monitoring compliance with, any development approvals granted for the performance of any conditions imposed on the Project, unless otherwise waived by the City in writing;

(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;

(d) Regulations that may conflict with this Agreement or Existing Land Use Regulations but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety; and are generally applicable on a citywide basis (except in the event of natural disasters as found by the City Council such as floods, earthquakes, pandemics and similar acts of God);

(e) Reserved;

(f) Regulations to which the Owner consents in writing.

3.6.2 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 Approvals and the Existing Land Use Regulations, 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 Approvals and the Existing Land Use Regulations.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Approval Date, 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 or comply with as determined by Owner. 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).

3.6.4 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.

3.7 Public Works; Utilities. If Owner is required by any Development 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 to the construction standards that 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 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.

3.8 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 material out-of-pocket 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.

3.9 Rent Control. Notwithstanding anything to the contrary in this Agreement, City agrees that, to the extent permitted by applicable law, City shall not apply any rent control or other renter protections or other moratoria or interim control ordinance against the Property or the Project. The foregoing covenant shall survive the expiration of this Agreement indefinitely and shall be in effect unless this Agreement is terminated for any reason other than a termination due to the Completion of the Project.

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 Approvals and the Existing Land Use Regulations 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 amounts for Development Impact Fees established or imposed by the City to be paid by Owner shall be the amounts that are in effect as of the Approval Date, which are shown on Exhibit "C" attached hereto, and Development Impact Fees established or imposed by other public agencies to be paid by Owner shall be the amounts that are in effect at the time such fees are due and payable during the development process. 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. Notwithstanding the foregoing, the amounts imposed by the City to be paid by Owner for the following Development Impact Fees may be those in effect at the time such fees are due and payable (subject to the right to deferment set forth in Section 4.2.2 below), so long as such amounts do not increase by more than five percent (5%) over the amount of such rates in effect as of the Approval Date: 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.

4.2.2 Time of Payment.

(a) Owner shall have the right to elect (but is not obligated) to amortize the payment of up to fifty percent (50%) of the total amount of Development Impact Fees due and payable for the Project (the amount so elected, the "Deferred DIFs") over a period of thirty (30) years commencing from the Deferred DIF Repayment Date at an annual 3 percent (3%) simple interest rate. As used herein, "Deferred DIF Repayment Date" means the date of issuance of a temporary or other certificate of occupancy for the residential component of the Project. The parties understand and agree that the Development Impact Fees established or imposed by other public agencies that are not controlled by City even if such Development Impact Fees may be collected by City (including without limitation, if applicable, the IEUA Sewer Connection Fee, Ontario-Montclair School District (K-12) Fees, Cucamonga School District and Chaffey Joint Union High School Fees) (collectively, the "Non-Deferrable Fees") must be paid when and as required in their standard course and schedule and may not be deferred hereunder; provided, however, the amount of such Non-Deferrable Fees may be included in the calculation of the total amount of Development Impact Fees due and payable for the Project for

purposes of calculating the fifty percent (50%) amount that Owner may elect to include as Deferred DIFs.

(b) Owner agrees that, commencing upon the Deferred DIF Repayment Date, Owner shall pay to the City, on the 1st day of the next following month and each and every successive month for three hundred sixty (360) consecutive months, an amount equal to the amortized principal and interest of the actual amount of the Deferred DIFs amortized over thirty (30) years at an annual 3 percent (3%) simple interest rate. By way of example only, if the Deferred DIFs equal $4,5000,000, the monthly payment to be made to the City would be $18,972. The entire unpaid principal balance of the amortized Deferred DIFs and any accrued but unpaid interest shall be immediately due and payable to the City upon any of the following events: (1) the termination of this Agreement other than a termination due to the Completion of the Project; (2) any uncured default by Owner with regard to repayment of the amortized Deferred DIFs to the City (if such amounts have not been paid to the City within five (5) business days of Owner's receipt of written notice from the City); or (3) any sale, transfer or assignment of all or substantially all of the Owner's leasehold or fee interest (as applicable) in the Property that is not approved by the City in advance (which such approval shall not be unreasonably withheld, conditioned or delayed). Any monthly payment or portion thereof not paid to the City as and when due under the terms of this Agreement shall accrue interest from the date on which such payment was due at the rate of ten percent (10%), and if not paid within the five (5) business day cure period described above, City may file a lien against the Property for such delinquent amounts including any accrued and unpaid interest. All payments under this Subsection will be applied first to penalties and late fees, then to interest, then to reduce the principal amount owed. The Deferred DIFs and any accrued but unpaid interest may be pre-paid to the City at any time without any pre-payment penalty.

(c) The Deferred DIF payment obligation shall be a covenant running with the land and shall survive the expiration or early termination of this Agreement indefinitely until the Deferred DIFs are paid in full in accordance with this Agreement.

(d) Any Development Impact Fees that are not a Deferred DIF shall be paid when and as required in their standard course and schedule.

4.3 Reserved.

4.4 Reserved.

4.5 Schools Obligations. Owner shall satisfy its school obligations with the applicable school district by paying school impact fees. Written evidence of approval by the applicable school district that Owner has met its school obligations may be required by the City as the condition to the issuance by the City of any building permits for the Project.

4.6 Reserved.

4.7 Reserved.

4.8 Reserved.

4.9 Maintenance of Open Space. Owner shall provide for ongoing maintenance of all park, common areas, and open space areas within the Project as may be set forth in the Development Approvals.

4.10 Intentionally Omitted.

4.11 Compliance with Public Benefits Requirements. In the event Owner fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, 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 8.4 hereof, thereby entitling the City to any and all remedies permitted under this Agreement, including, without limitation, the right of the City to withhold Owner's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. [RESERVED]

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 in accordance with Section 65865.1 of the California Government Code. Upon completion of the City's review, 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/her designee. Owner shall be responsible for paying any processing charge in connection with each such annual review, if any, provided that such charge shall be generally consistent with the cost charged for annual reviews for other development agreements to which the City is a party.

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:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) 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. The cost of any such special review shall be borne by the City, unless such a special review demonstrates that Owner is not

acting in good-faith compliance with the provisions of this Agreement, in which case Owner shall reimburse the City for all costs incurred by the City in connection with such special review.

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 shall specify in writing the respects in which Owner has failed to so comply. The City shall provide Owner with written notice of such noncompliance, together with a written specification of the reasons therefor. Such written notice shall also specify a reasonable time for Owner to cure such non-compliance, which time shall be not less than thirty (30) days after Owner's receipt of such notice.

(c) The Owner may appeal a determination pursuant to paragraph (b) in accordance with the City's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Termination. If, upon a finding under Section 6.1.6(b), the City determines to proceed with 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 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 Termination. At the time and place set for the hearing on 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 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; Waiver of Monetary Damages. It is acknowledged by the parties that, subject to and without limiting the Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below, neither party would have entered into this Agreement if it were to be liable in monetary damages under this Agreement, or with respect to this Agreement or the application thereof. The parties agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages that would adequately compensate Owner for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify the exposure. Therefore, the parties agree that each of the parties may pursue any remedy at law or equity available for any breach of any provision of this Agreement, except that neither party shall be liable in monetary damages to the other party, or to any successor in interest of such other party, or to any other person, and each party covenants not to sue for monetary damages or claim any monetary damages:

8.1.1 For any breach of this Agreement or for any cause of action which arises out of this Agreement (other than in connection with Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below); or

8.1.2 For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

8.1.3 Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.1.4 The parties understand and agree, however, that nothing in this Section 8.1 shall prohibit, restrict or otherwise affect the rights of a party to seek monetary damages as a result of any default by the other party under any other agreement entered into by the parties with respect to the Property and the Project, including without limitation the Ground Lease, if and to the extent such other agreements allow for monetary damages. No part of this Agreement shall be deemed to abrogate or limit any immunities or defenses either party may otherwise have with respect to claims for monetary damages.

8.2 Default by Owner. In the event that Owner does not perform its obligations under the Agreement in a timely manner, subject to the limitations in Section 8.1, the City shall have all rights and remedies provided herein which shall include (a) the right to compel specific performance of the obligations of Owner under this Agreement or (b) termination of this Agreement, provided that the City has first complied with the procedures set forth in this Section 8.2 and in Section 8.5 below. If City elects to proceed under clause (b) with termination of this Agreement, the following shall apply:

8.2.1 If after the applicable cure period has elapsed, the City Manager finds and determines that Owner remains in default, the City Manager shall make a report to the Planning Commission and then set a public hearing before the Planning Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If, after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Owner has not cured the applicable default pursuant to this Section, and that the City should terminate this Agreement, Owner shall be entitled to appeal that finding and determination to the City Council in accordance with the procedure in Section 6.1.6(c) above. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity, and

8.2.2 City may terminate this Agreement after such final determination of the City Council or, where no appeal is taken, after the expiration of the appeal period in accordance with the procedure described in Section 6.1.6(c) above, relating to the defaulting party's rights and obligations.

8.2.3 City's Limited Cross Termination Right. If City terminates this Agreement in accordance with the procedures set forth herein as a result of a failure of Owner to achieve any of the milestones required pursuant to Section 3.3 above, City shall have the right to simultaneously terminate the Related Development Agreement(s) affecting the Lot(s) within the Phased Development for which none of the milestones under Section 3.3 of the applicable Related Development Agreement(s) have been achieved and for which a standard construction loan from an unrelated third party ("Loan") has not been executed for the development of such Lot(s). For example, if the owner of any Lot in the Phased Development (including the Property) has executed a Loan for the development of such Lot or any of the milestones under Section 3.3 of the applicable Related Development Agreement have been achieved with respect to such Lot (a "Protected Lot"), then the termination of this Agreement or the Related

Development Agreement for any other Lot shall not affect the Related Development Agreement of such Protected Lot and City shall not have any right hereunder to terminate such Related Development Agreement under this Section 8.2.3.

8.3 Default by City. In the event the City defaults under the provisions of this Agreement, subject to the limitations set forth in Section 8.1 above, Owner shall have all rights and remedies provided herein or by applicable law, which shall include compelling the specific performance of the City's obligations under this Agreement, provided that Owner has first complied with the procedures in Section 8.5 below.

8.4 Release. Subject to and without limiting the indemnity in Section 9.3 below, except for nondamage remedies, including the remedy of specific performance, each party, for itself, its successors and assignees, hereby releases the other party, 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.

8.5 Notice and Cure. Failure or delay by either party to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of written notice from the other party, identifying with specificity those obligations of the defaulting party which have not been performed, constitutes a default under this Agreement; provided, however, if such failure or delay cannot reasonably be cured within such thirty (30) day period, no default shall be deemed to have occurred hereunder if the party committing such failure or delay commences cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion; provided, however the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with due diligence but (a) with respect to the City only in no event later than sixty (60) days after receipt of written notice from the Owner and (b) with respect to Owner only in no event later than one hundred eighty (180) days after receipt of written notice from City. The injured party shall give written notice of default to the party in default specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default.

8.6 Ground Lease and Other Agreements Not Affected. This Section 8 shall not be deemed to implicate, modify, or affect in any way any provisions in the Ground Lease or any other agreement entered into by the parties with respect to the Property and the Project.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. City has determined that this Agreement is consistent with its General Plan, as such General Plan exists as of the Approval Date, and that the General Plan meets all requirements of law. 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 Project as the result of a judicial determination that on the Approval 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. Subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), at its expense, including attorneys' fees, indemnify, and hold harmless City and its officers and employees (collectively, the "City Parties") from any claim, action or proceeding against the City Parties 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

Nothing in this Section 9 or any other indemnification provision included as a condition to any of the Development Approvals shall be construed to mean that Owner or City shall indemnify, hold any of the City Parties or Owner Parties, as applicable, harmless and/or defend any of the City Parties or Owner Parties, as applicable, from any claims arising from (a) as to Sections 9.3.1 and 9.4 only, any of the City Parties' or Owner Parties', as applicable, violation of law, or (b) as to all such indemnities other than the indemnity set forth in Section 9.3.2, (i) any of the City Parties' or Owner Parties', as applicable, breach of contractual obligations to third parties or (ii) the gross negligence or willful misconduct of any of the City Parties or Owner Parties, as applicable.

9.3 Indemnity.

9.3.1 Owner. In addition to the provisions of 9.2 above, subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), indemnify, and hold harmless the City Parties from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses), based or asserted upon any act or omission of Owner or its officers or employees for property damage, bodily injury, or death (Owner's employees included) arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, and operation the Project. The 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

9.3.2 City. City agrees to indemnify, defend (with counsel chosen by City and approved by Owner, which such approval shall not be unreasonably withheld, conditioned or delayed), and hold harmless Owner, American General Design, Inc. (dba Adept Development), a

California corporation and Povac Investments, Inc., a California corporation and each of their respective officers and employees (collectively, the "Owner Parties") from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses) arising from any governmental agency stopping or delaying construction or occupancy of the Project after the "Commencement of Construction" (as defined below) as a result of City's failure to pay any amounts imposed by the State of California (if any) pursuant to California Government Code Sections 54220 through 54234 in connection with the City's disposition of the Property to Owner. Owner shall promptly notify City of any such stoppage or delay, and Owner shall cooperate in the defense. If Owner fails to promptly notify Owner of any such stopped or delay, or if any of the Owner Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, City shall not thereafter be responsible to defend, indemnify, or hold harmless the Owner Parties. For purposes of this Section 9.3.2, the term "Commencement of Construction" shall mean that both of the following have occurred: (a) construction of a building has commenced pursuant to and in accordance with a building permit issued by the City, City-approved final construction drawings, the Existing Land Use Regulations, the Development Approvals, and all applicable laws; and (b) Owner has expended at least $5,000 in labor and materials for such construction. For purposes of this definition only, "construction" shall mean construction of improvements permanently fixed to the site (e.g., a foundation or similar), including, without limitation, utilities, public or private streets, public or private site improvements, landscaping or ancillary structures such as block walls, trash enclosures, and any grading, excavation, demolition, grubbing, or other site preparation.

9.4 Environment Assurances. Owner shall defend (with counsel chosen by Owner), at its expense, including attorneys' fees, indemnify, and hold harmless the City Parties from any liability, based or asserted, upon any act or omission of Owner, its officers, agents, employees, subcontractors, and/or 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 that were not present prior to the date that Owner took possession of the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including reasonable attorneys' fees, the City Parties 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 Reserved.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement for a period of two (2) years after such termination, except to the extent such indemnification relates to any third party claims, in which event such indemnification shall survive until the expiration of any applicable statute of limitations.

10. 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 ("Security Instrument"). 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. The City further agrees to cooperate in including in this Agreement by suitable amendment from time to time any provision that may reasonably be requested by any proposed Mortgagee for the purpose of allowing such Mortgagee reasonable means to protect or preserve a lien and security interest of its Security Instrument, as well as such other documents containing terms and provisions customarily required by Mortgagees (taking into account the customary requirements of their participants, syndication partners or rating agencies) in connection with any such financing (a "Lender Proposed Amendment"). The City agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effectuate a Lender Proposed Amendment; provided, however, that any such Lender Proposed Amendment shall not in any way materially adversely affect any rights of the City under this Agreement. If there is any conflict between this Article 10 and any other provisions contained in this Agreement, this Article 10 shall control. 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 Security Instrument on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any Security Instrument, 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 for a period of sixty (60) days after Mortgagee receives written notice of non-compliance, or any longer period as is reasonably necessary, not to exceed one hundred eighty (180) days, to remedy such default, provided that Mortgagee shall continuously and diligently pursue the remedy at all times until the default is cured.

(d) Any Mortgagee who takes title of the Property, or any part thereof, pursuant to foreclosure trustee's sale, deed in lieu of foreclosure, lease or sublease termination or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement, provided that any such Mortgagee, including its affiliate, that takes title to the Property shall be entitled to all of the benefits arising under 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 after the initial sale, transfer, or assignment by any Mortgagee shall be subject to the provisions of Section 2.4 of this Agreement.

(e) If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceedings involving Owner, the times specified in Section clause (c) above, shall be extended for the period of the prohibition, except that any such extension shall not extend the term of this Agreement.

(f) If this Agreement is terminated by reason of (i) any default or (ii) as a result of a bankruptcy proceeding, this Agreement is disaffirmed by a receiver, liquidator, or trustee for Owner or its property, the City, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new development agreement for the Project as to such portion of the Property with the most senior Mortgagee requesting such new agreement. This Agreement does not require any Mortgagee or the City to enter into a new development agreement pursuant to this clause (f).

(g) The City shall, at any time and within thirty (30) days following the written request of a Mortgagee, but not more often than annually, certify in writing to such Mortgagee that (a) this Agreement is in full force and effect, (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments and modifications, and (c) to the actual knowledge of City with no duty to investigate, Owner is not in default in the performance of its obligations under this Agreement or, if in default, to describe therein the nature and extent of any such default. Any such estoppel certificate shall be administratively issued by the City Manager or his/her representative or designee.

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 this 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. A failure to record the Agreement in a timely fashion shall not impact its effectiveness to the extent permitted by applicable law.

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, in the event the provision regarding the payment of Deferred DIFs set forth in Section 4.2.2 of this Agreement is determined to be invalid, void or unenforceable, the parties shall enter into a separate written agreement for the repayment of such Deferred DIFs consistent with Section 4.2.2.

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. 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.

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, except that the Owner Parties and City Parties are third party beneficiaries of the indemnities in Section 9. 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, insurrection, riots, civil unrest, acts of terrorism or similar hostilities, strikes, boycotts, lock-outs, and other labor difficulties beyond the party's control (including the party's employment force), inability to procure services, labor or materials not related to the price thereof, failure of electric power, governmental actions, governmental laws, regulations or restrictions, third party litigation or administrative proceedings, actual or

threatened public health emergency (including epidemic, pandemic, famine, disease, plague, quarantine, and other public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization (including any shelter-in-place orders, stay at home orders or any restrictions on travel related thereto that preclude Owner, its agents, contractors or its employees from accessing the Property, national or regional emergency), declaration of a state or national emergency, casualties, weather that could not have reasonably been anticipated, changes in the Laws which would prevent the Property from being developed or operated in accordance with this Agreement, or other reasons beyond the reasonable control of the party (individually a "Force Majeure Event" or collectively, "Force Majeure Events"). 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 shall be automatically extended for the period of time that such events prevented such performance, provided that the extensions of the term of this Agreement solely as a result of one or more Force Majeure Events shall not exceed a period of more than five (5) years in the aggregate.

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; Covenants Running with the Land. 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. In any event, no owner or tenant of an individual completed residential unit within the Project shall have any rights under this Agreement.

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. Owner for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) 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 reasonable costs incurred by City in connection with the issuance of estoppel certificates under this Section 11.20 prior to City's issuance of such certificates.

11.21 Authority to Execute. Each party represents and warrants that the person or persons executing this Agreement on behalf of such party has the authority to execute this

Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations hereunder.

11.22 Attorneys' Fees. In the event of any action between the City and Owner for enforcement or interpretation of any of the terms or conditions of this Agreement, the prevailing party in such action shall be entitled to recover its reasonable costs and expenses, including without limitation court costs and attorneys' fees actually and reasonably incurred, as awarded by a court of competent jurisdiction. This Section shall survive the termination of this Agreement.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

"Owner"

OTC Lot B Owner, LLC
a Delaware limited liability company

By: _____
Name:
Its: _____
Date: _____

"CITY"

City OF ONTARIO

By:_____
Scott Ochoa
City Manager

Date: _____

ATTEST:

_____
City Clerk, Ontario

APPROVED AS TO FORM:

_____
Kane, Ballmer & Berkman, City Special Counsel

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

APN NO. 0210-205-01

That portion of land in the City of Ontario, County of San Bernardino, State of California, lying within a portion of Parcel 1 of Parcel Map No. 17978 as per map filed in Book 216 pages 44 and 45 of Parcel Maps in the office of the County Recorder of said County; described as follows:

Beginning at the southwesterly terminus of that certain course along the easterly boundary line of said Parcel 1, said course having a bearing of N 33°23' 13" E as shown on said Parcel Map, said point also being the beginning of a 717.00' radius curve, concave northwesterly. Thence, southwesterly 128.35' along said curve through a central angle of 10°15' 22". Thence, leaving said easterly boundary line, N 46°21' 25" W 18.33' to the true point of beginning of this description. Thence, along the following described courses:

N 00°00'00" E 63.07'

N 90°00'00" W 28.23'

N 00°00'00" E 12.67'

N 90°00'00" W 25.77'

S 00°00'00" W 11.00'

N 90°00'00" W 46.21'

N 00°00'00" E 0.67'

N 90°00'00" W 13.71'

S 00°00'00" W 0.67'

N 90°00'00" W 65.95'

N 00°00'00" E 6.00'

EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

Legal Description of Property

N 90°00'00" W 119.26'

S 00°00'00" W 5.00'

N 90°00'00" W 15.98'

S 00°00'00" W 1.00'

N 90°00'00" W 54.75'

S 09°56'06" E 19.72'

S 80°03'54" W 1.00'

S 09°56'06" E 38.55'

N 80°03'54" E 1.00'

S 09°56'06" E 42.96'

S 17°02'26" W 90.75' to the beginning of a non-tangent 31.67' radius curve concave southeasterly and to which point a radial line bears N 20°28'42" E. Thence, westerly, southerly, and southeasterly 103.28' along said curve through a central angle of 186°52'31". Thence, S 17°02'26" W 34.39' to the beginning of a non-tangent 751.75' radius curve concave northerly, and to which point a radial line bears S 09°26'45" E. Thence, northeasterly 74.89' along said curve through a central angle of 5°42'27". Thence, N 15°12'11" W 8.83'. Thence, N 71°45'08" E
78.87'. Thence, S 21°24'33" E 8.83' to the beginning of a non-tangent 750.49' radius curve concave northwesterly and to which point a radial line bears
S 21°17'23" E. Thence, northeasterly 46.48' along said curve through a central angle of 3°32'55". Thence, N 24°54'42" W 4.01' to the beginning of a non-tangent 747.42' radius curve concave northwesterly to which point a radial line bears
S 24°49'36" E. Thence, northeasterly 266.34' along said curve through a central angle of 20°25'03" to the true point of beginning of this description.

The above-described parcel of land contains 73,640 Square Feet, 1.69 Acres more or less.

EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

Legal Description of Property

All as shown on exhibit "B" plot attached hereto and by this reference made a part hereof.

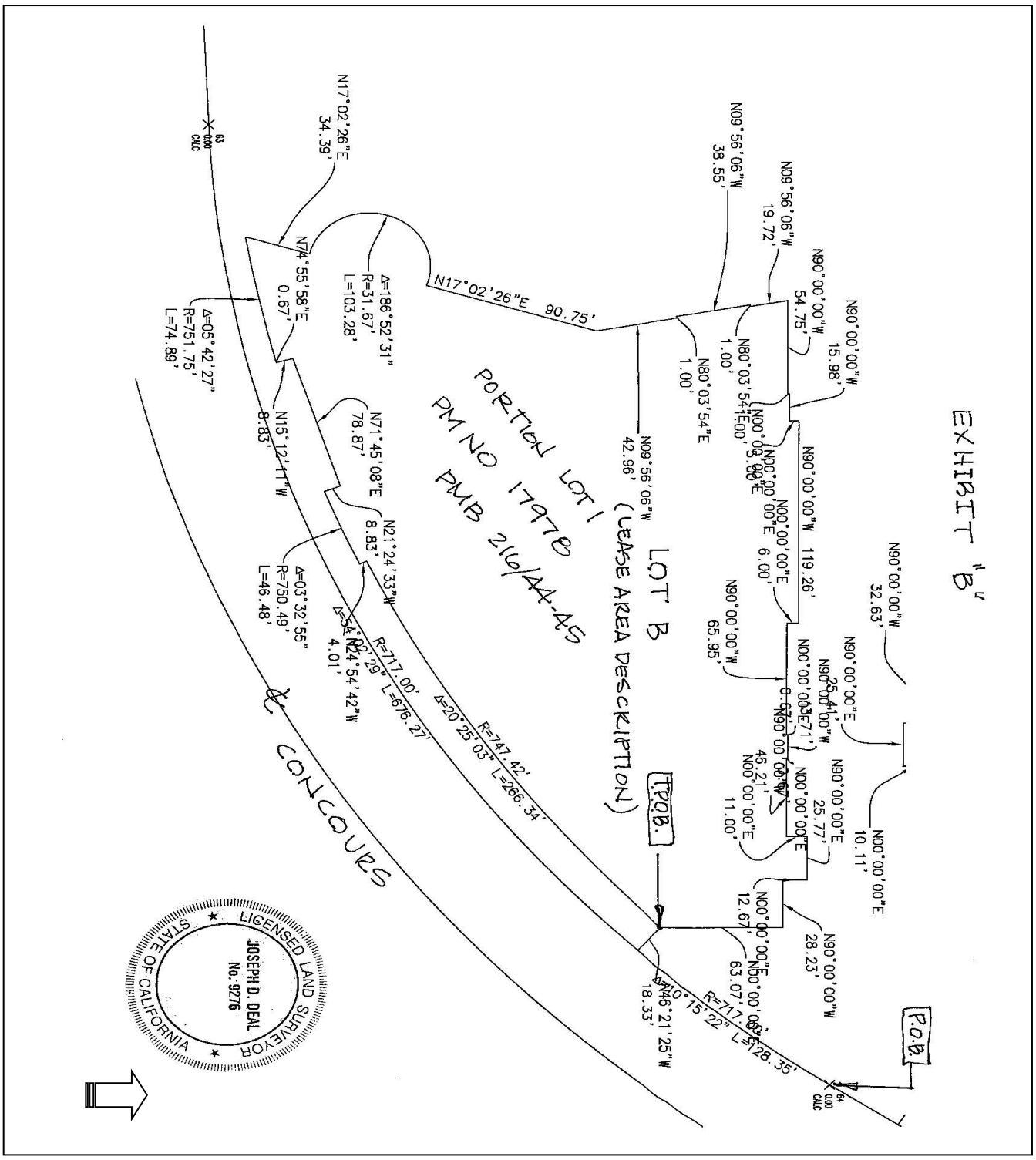
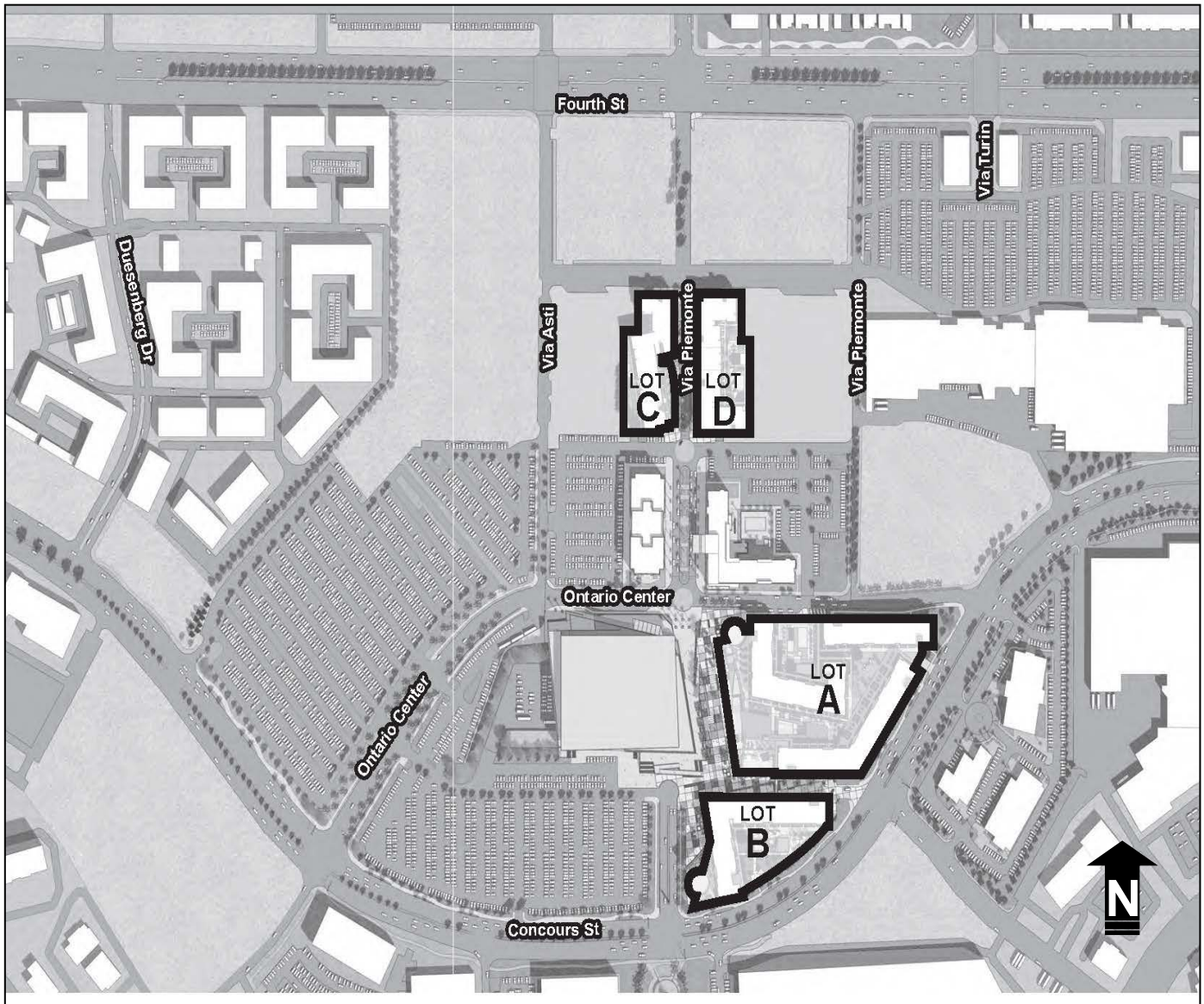


EXHIBIT "B"
TO DEVELOPMENT AGREEMENT

Map showing Property and its location



Ontario Center Parkway, Ontario, CA 91764

EXHIBIT "B" CONTINUED
TO DEVELOPMENT AGREEMENT

Map showing Property and its location

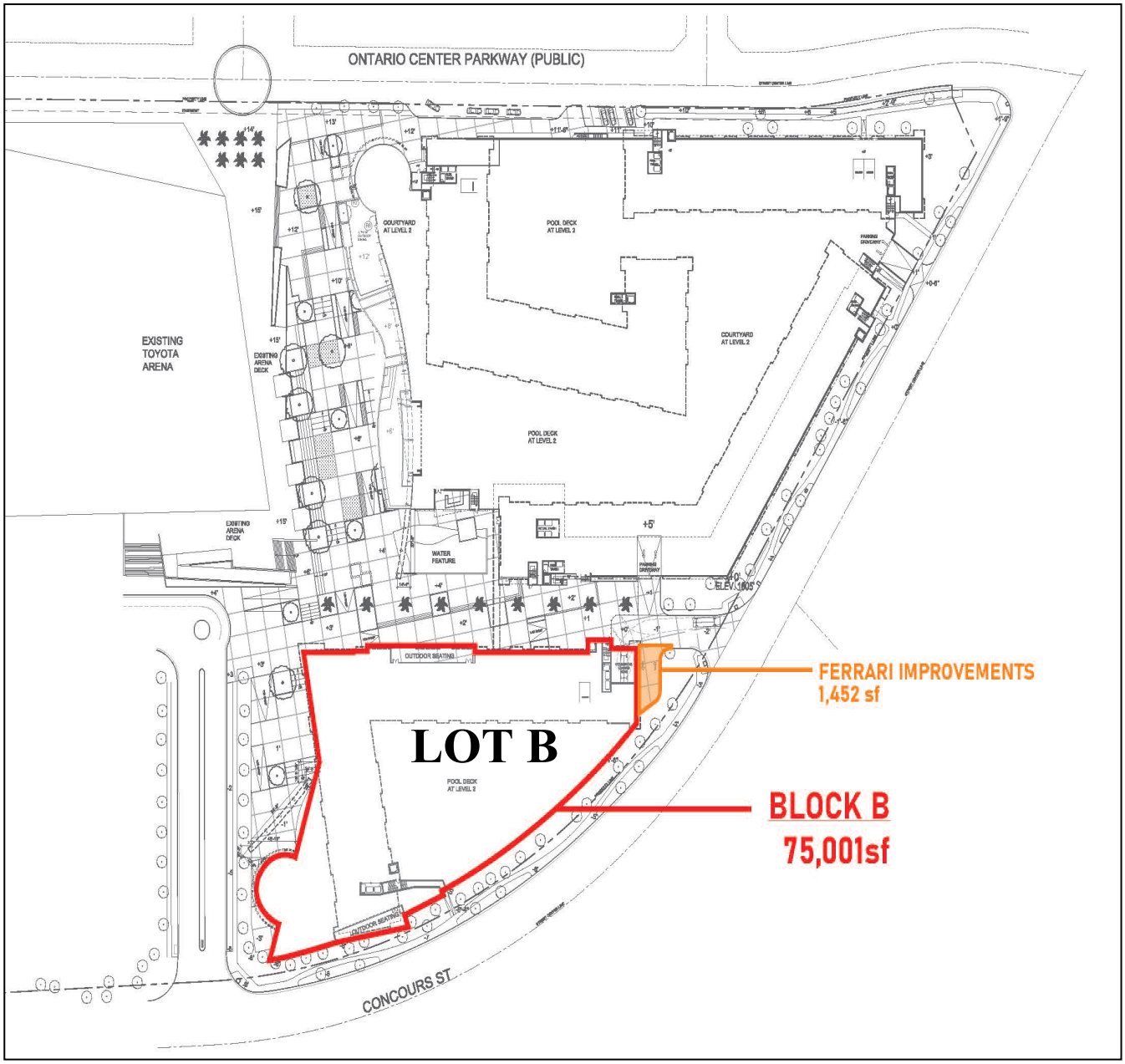


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Development Impact Fees as of the Approval Date

(Development Impact Fees to follow this page)

Exhibit C

FY 2021-22
Citywide Fee Schedule

(Fees, Fines & Charges)

Component of the FY 2021-22 Budget

Adopted June 21, 2021 (Resolution No. 2021-062)

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City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

II. - Community Life & Culture
Section 5. Housing Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Housing Fees					
1	Base Affordable Housing Monitoring Fee*	Base	$ 747.68	$ 747.00	7/1/2021
2	Per Unit Affordable Housing Monitoring Fee*	Per unit	$ 107.94	$ 107.00	7/1/2021
3	Loan Payoff Process Fee - without equity share	Each	$ 251.11	$ 251.00	7/1/2021
4	Loan Payoff Process Fee - with equity share	Each	$ 400.39	$ 400.00	7/1/2021
5	Preparation of Full Reconveyance	Each	$ 248.13	$ 248.00	7/1/2021

** Affordable Housing Monitoring Fee does not apply to bond-funded projects.*

Note: Loan Payoff and Reconveyance fees may be waived if individuals are under financial hardship.

Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Building Plan Check Fees					
1	Building Plan Check Fee	% of Permit	N/A	80.00%	7/1/2021
2	Building Plan Check for track housing or duplicate building	% of Permit	N/A	40.00%	7/1/2021
3	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Less than $1 million	N/A	50.00%	7/1/2021
4	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $1 and $5 million	N/A	40.00%	7/1/2021
5	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $5 and $10 million	N/A	30.00%	7/1/2021
6	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $10 and $20 million	N/A	20.00%	7/1/2021
7	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Greater than $20 million	N/A	10.00%	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Building Permit Fees					
8	Building Permit - Base Fee ($1-$500)	Valuation: $1 to $500	N/A	$ 23.50	7/1/2021
9	Building Permit - Base Fee ($501-$2000)	Valuation: $501 to $2,000	N/A	$ 23.50	7/1/2021
10	Building Permit Fee (Each additional $100, or fraction thereof, up to and including $2000)	Each additional $100, or fraction thereof, up to and including $2,000	N/A	$ 3.05	7/1/2021
11	Building Permit - Base Fee ($2001-$25,000)	Valuation: $2,001 to $25,000	N/A	$ 69.25	7/1/2021
12	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $25,000)	Each additional $1,000, or fraction thereof, up to and including $25,000	N/A	$ 14.00	7/1/2021
13	Building Permit - Base Fee ($25,001-$50,000)	Valuation: $25,001 to $50,000	N/A	$ 391.25	7/1/2021
14	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $50,000)	Each additional $1,000, or fraction thereof, up to and including $50,000	N/A	$ 10.10	7/1/2021
15	Building Permit - Base Fee ($50,001-$100,000)	Valuation: $50,001 to $100,000	N/A	$ 643.75	7/1/2021
16	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $100,000)	Each additional $1,000, or fraction thereof, up to and including $100,000	N/A	$ 7.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
17	Building Permit - Base Fee ($100,001-$500,000)	Valuation: $100,001 to $500,000	N/A	$ 993.75	7/1/2021
18	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $500,000)	Each additional $1,000, or fraction thereof, up to and including $500,000	N/A	$ 5.60	7/1/2021
19	Building Permit - Base Fee ($500,001-$1,000,000)	Valuation: $500,001 to $1,000,000	N/A	$ 3,233.75	7/1/2021
20	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $1,000,000)	Each additional $1,000, or fraction thereof, up to and including $1,000,000	N/A	$ 4.75	7/1/2021
21	Building Permit - Base Fee (Greater than $1,000,001)	Valuation: $1,000,001 and up	N/A	$ 5,608.75	7/1/2021
22	Building Permit Fee (Each additional $1,000 or fraction thereof, greater than $1,000,001)	Each additional $1,000, or fraction thereof	N/A	$ 3.65	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Misc. Standard Building Permits					
23	Kitchen Remodel (non-structural)	Each	$ 258.99	$ 258.00	7/1/2021
24	Bathroom Remodel	Each	$ 129.50	$ 129.00	7/1/2021
25	Demolition - Entire Structure	Valuation	N/A	Varies	7/1/2021
26	Patio Covers - Solid	Valuation	N/A	Varies	7/1/2021
27	Patio Covers - Lattice	Valuation	N/A	Varies	7/1/2021
28	Patio Covers - Enclosures	Valuation	N/A	Varies	7/1/2021
29	Pole Bases	Valuation	N/A	Varies	7/1/2021
30	Roofing	Valuation	N/A	Varies	7/1/2021
31	Storage Sheds	Valuation	N/A	Varies	7/1/2021
32	Stucco	Valuation	N/A	Varies	7/1/2021
33	Swimming Pools/Spas	Valuation	N/A	Varies	7/1/2021
34	Tenant Improvements - With Ceiling	Valuation	N/A	Varies	7/1/2021
35	Tenant Improvements - Without Ceiling	Valuation	N/A	Varies	7/1/2021
36	Trash Enclosures - Single	Valuation	N/A	Varies	7/1/2021
37	Trash Enclosures - Double	Valuation	N/A	Varies	7/1/2021
38	Walls - Retaining	Valuation	N/A	Varies	7/1/2021
39	Walls - Screen Garden	Valuation	N/A	Varies	7/1/2021
40	Walls - Tilt-Up Screen Walls	Valuation	N/A	Varies	7/1/2021
41	Window Changeout	Valuation	N/A	Varies	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Electrical Permit Fees					
42	Electrical Permit Issuance Fee	Each	$ 41.63	$ 41.00	7/1/2021
43	Electrical Permit - Temporary Power Service Pedestal	Each	$ 86.33	$ 86.00	7/1/2021
44	Electrical Permit - Temporary Power Service Distribution system	Each	$ 43.17	$ 43.00	7/1/2021
45	Electrical Permit - outlet/switch/fixture	First 20 fixtures	$ 129.50	$ 129.00	7/1/2021
46	Electrical Permit - Additional Fixtures	Each	$ 2.94	$ 2.90	7/1/2021
47	Electrical Permit - Power Apparatus -up to and including 1	each HP, kW, kVA or kVAR	$ 143.83	$ 143.00	7/1/2021
48	Electrical Permit - Power Apparatus - over 1 to 10	each HP, kW, kVA or kVAR	$ 158.33	$ 158.00	7/1/2021
49	Electrical Permit - Power Apparatus - over 10 to 50	each HP, kW, kVA or kVAR	$ 172.66	$ 172.00	7/1/2021
50	Electrical Permit - Power Apparatus - over 50 to 100	each HP, kW, kVA or kVAR	$ 258.99	$ 258.00	7/1/2021
51	Electrical Permit - Power Apparatus - over 100	each HP, kW, kVA or kVAR	$ 345.32	$ 345.00	7/1/2021
52	Electrical Permit - Services -for services of 600 volts or less and not over 200 amperes in rating	Each	$ 172.66	$ 172.00	7/1/2021
53	Electrical Permit Fee - Services -for services of 600 volts or less and over 200 amperes to 1,000 amperes in rating	Each	$ 258.99	$ 258.00	7/1/2021
54	Electrical Permit Fee - Services -for services over 600 volts or over 1,000 amperes in rating	Each	$ 431.65	$ 431.00	7/1/2021
55	Electrical Permit Fee - Miscellaneous Apparatus, Conduits and Conductors	Each	$ 143.83	$ 143.00	7/1/2021
56	Electrical Permit Fee- Subpanel	Each	N/A	$ 172.00	7/1/2021
57	Electrical Permit Fee - Signs	Each	N/A	$ 86.00	7/1/2021
58	Electrical Permit Fee - Private Swimming Pools	Each Pool or Spa	N/A	$ 129.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
59	Electrical Permit Fee - Other Inspections and Fees, inspections outside of normal business hours: minimum charge 3 hrs.	Per Hour	$ 113.00	$ 113.00	7/1/2021
60	Electrical Permit Fee - Inspections	Per Hour	$ 113.00	$ 113.00	7/1/2021
61	Electrical Permit Fee - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
62	Electrical Permit Fee - Additional plan review	Per Hour	$ 113.00	$ 113.00	7/1/2021
63	New Construction Trades - Electrical : Residential	Per Square Foot	$ 0.10791	$ 0.1079	7/1/2021
64	New Construction Trades - Electrical : Commercial	Per Square Foot	$ 5.22301	$ 0.1200	7/1/2021
65	New Construction Trades - Electrical: Industrial / warehouse (0-50,000 sf)	Per Square Foot	$ 0.01209	$ 0.0120	7/1/2021
66	New Construction Trades - Electrical : Industrial / warehouse (>50,000 sf)	Per Square Foot	$ 0.00388	$ 0.0038	7/1/2021
Mechanical Permit Fees					
67	Mechanical Permit Issuance Fee	Each	$ 41.75	$ 41.00	7/1/2021
68	Mechanical Permit Fee (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems -under 3 HP (10.6kW) or to and including 100,000 Btu/h (29.3kW)	Each	$ 172.66	$ 172.00	7/1/2021
69	Mechanical Permit Fees (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems-over 3 HP (10.6kW) to and including 15 HP (52.7kW), or over 100,000 Btu (29.3kW) to and including 500,000 Btu/h (146.6kW)	Each	$ 215.83	$ 215.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
70	Mechanical Permit Fees (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems -over 15 HP (52.7 kW) to and including 30 HP (105.5 kW), over 500,000 Btu/h (146.6 kW) to and including 1,000,000 Btu/h (293.1 kW)	Each	$ 258.99	$ 258.00	7/1/2021
71	Mechanical Permit Fees (includes issuance fee)- Furnaces, Boilers, Compressors and Absorption Systems -over 30 HP (105.5 kW) to and including 50 HP (176 kW), or over 1,000,000 Btu/h (293.1 kW) to and including 1,750,000 Btu/h (512.9 kW)	Each	$ 345.32	$ 345.00	7/1/2021
72	Mechanical Permit Fees (includes issuance fee)- Furnaces, Boilers, Compressors and Absorption Systems -over 50 HP (176 kW) or over 1,7500,000 Btu/h (512.9kW)	Each	$ 517.98	$ 517.00	7/1/2021
73	Mechanical Permit Fees (includes issuance fee)- Evaporative Coolers	Each	$ 172.66	$ 172.00	7/1/2021
74	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust -each fan connected to single duct	Each	$ 172.66	$ 172.00	7/1/2021
75	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust-each which is not a portion of any heating or a/c system authorized by a permit	Each	$ 172.66	$ 172.00	7/1/2021
76	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust -each hood served by mechanical exhaust	Each	$ 345.32	$ 345.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
77	Mechanical Permit Fee - Process Piping	Valuation	N/A	Varies	7/1/2021
78	Mechanical Permit Fee - Wall Heater	Each	N/A	$ 43.00	7/1/2021
79	Mechanical Permit Fees - Miscellaneous (one inspection)	Each	$ 86.33	$ 86.00	7/1/2021
80	Mechanical Permit Fees - Inspection outside of normal business hours	Per Hour	$ 113.00	$ 113.00	7/1/2021
81	Mechanical Permit Fees - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
82	Mechanical Permit Fees - No Fee Specifically Indicated	Per Hour	$ 113.00	$ 113.00	7/1/2021
83	Mechanical Permit Fees - Additional Plan Review	Per Hour	$ 113.00	$ 113.00	7/1/2021
84	New Construction Trades - Mechanical: Residential	Per Square Foot	$ 0.0647	$ 0.0647	7/1/2021
85	New Construction Trades - Mechanical : Commercial	Per Square Foot	$ 0.0647	$ 0.0647	7/1/2021
Plumbing Permit Fees					
86	Permit issuance fee	Each	$ 41.75	$ 41.00	7/1/2021
87	Plumbing Permit Fees - First 15 Fixtures and Vents (new & alterations)	First 15 Fixtures/Vents	$ 172.66	$ 172.50	7/1/2021
88	Plumbing Permit Fees - Each Additional	Each	$ 172.66	$ 10.78	7/1/2021
89	Plumbing Permit Fees - Sewers	Each	$ 172.66	$ 172.50	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
90	Plumbing Permit Fees - Sewage disposal system	Each	$ 431.65	$ 431.50	7/1/2021
91	Plumbing Permit Fees -Industrial waste pretreatment interceptor	Each	$ 172.66	$ 172.50	7/1/2021
92	Plumbing Permit Fees - Water Piping First 20 outlets	First 20 Outlets	$ 129.50	$ 129.00	7/1/2021
93	Plumbing Permit Fees - Water Piping Each Additional Outlet	Each Outlet	$ 129.50	$ 5.23	7/1/2021
94	Plumbing Permit Fees - Water heater including vent	Each	$ 172.66	$ 12.92	7/1/2021
95	Plumbing Permit Fees - Gas Piping Systems First 5 Outlets	First 5 Outlets	$ 647.50	$ 129.50	7/1/2021
96	Plumbing Permit Fees - Gas Piping Systems Each Additional	Each Addt'l Outlet	$ 129.50	$ 6.77	7/1/2021
97	Plumbing Permit Fees - Lawn Sprinklers	Each lawn sprinkler system on any one meter	$ 172.66	$ 172.50	7/1/2021
98	Plumbing Permit Fees - Backflow Protection Devices	Each Device	$ 172.66	$ 172.50	7/1/2021
99	Plumbing Permit Fees - Miscellaneous	Each appliance or equipment regulated by the Plumbing Code but not classed in other appliance categories, or for which no fee is listed in this code	$ 86.33	$ 86.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
100	Plumbing Permit Fees - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
101	Plumbing Permit Fees - No Fee Specifically Indicated	Per Hour	$ 113.00	$ 113.00	7/1/2021
102	Plumbing Permit Fees - Additional Plan Review	Per Hour	$ 113.00	$ 113.00	7/1/2021
103	New Construction Trades - Plumbing : Residential	Per SF	$ 0.10791	$ 0.1070	7/1/2021
	Grading Plan Review Fees (up to three submittals of plans)				
104	Grading plan check, rough (0-10 acres)	Each	$ 1,381.29	$ 1,381.00	7/1/2021
105	Grading plan check, rough (>10 acres)	Each	$ 1,381.29	$ 1,381.00	7/1/2021
106	Grading plan check, rough (each additional 5 acres)	Each	$ 345.32	$ 345.00	7/1/2021
107	Grading plan check, precise (0-10 acres)	Each	$ 1,726.61	$ 1,726.50	7/1/2021
108	Grading plan check, precise (>10 acres)	Each	$ 1,726.61	$ 1,726.50	7/1/2021
109	Grading plan check, precise (each additional 5 acres)	Each	$ 517.98	$ 517.50	7/1/2021
	Grading Permit Fees				
110	Grading permit, rough (0-50 acres)	Each	$ 345.32	$ 345.00	7/1/2021
111	Grading permit, rough (each additional 10 acres)	Each	$ 86.33	$ 86.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
112	Grading permit, precise (0-50 acres)	Each	$ 431.65	$ 431.50	7/1/2021
113	Grading permit, precise (each additional 10 acres)	Each	$ 129.50	$ 129.50	7/1/2021
114	Soil Disturbance Permit - Dust Control	Each	N/A	$ 250.00	7/1/2021
Miscellaneous Fees					
115	Building plan retention fee	Per Plan Page	N/A	$ 1.50	7/1/2021
116	Permits, Calcs and Misc. doc	8.5x11 / per page	N/A	$ 0.35	7/1/2021
Sewer, Water, Storm Drain Permit & Plan Check Fees					
117	Sewer Main Inspection Permit	Per Lineal Foot	$ 3.17	$ 3.17	7/1/2021
118	Water Main Inspection Permit	Per Lineal Foot	$ 0.63	$ 0.63	7/1/2021
119	Storm Drain - main Inspection Permit	Per Lineal Foot	$ 0.63	$ 0.63	7/1/2021
120	Storm Drain - yard Inspection Permit	Per Lineal Foot	$ 0.29	$ 0.29	7/1/2021
121	Sewer, Water, Storm Drain Plan check fee = % of permit valuation	% of Permit Valuation	2.00%	2.00%	7/1/2021

Resolution No. 2004-065
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
1	Inspection / Permit - Base Fee	Base	$ 164.09	$ 164.00	7/1/2021
2	Inspection / Permit Fees $1 - $50,000	Construction cost estimate	5.97%	5.97%	7/1/2021
3	Inspection / Permit Fees $50,001 - $500,000	Construction cost estimate	5.45%	5.45%	7/1/2021
4	Inspection / Permit Fees >$500,000	Construction cost estimate	4.24%	4.24%	7/1/2021
5	Plan Check - Base Fee (includes grading, NPDES etc.)	Base	$ 1,371.16	$ 1,371.00	7/1/2021
6	Plan Check Fees $1 - $50,000	Construction cost estimate	6.00%	6.00%	7/1/2021
7	Plan Check Fees $50,001 - $500,000	Construction cost estimate	4.65%	4.65%	7/1/2021
8	Plan Check Fees >$500,000	Construction cost estimate	3.62%	3.62%	7/1/2021
9	Encroachment Permit Fee	Each	$ 162.91	$ 112.80	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
10	Inspection for minor improvements (driveways, pole replacement, etc.)	Inspection for single item (2 inspections, before and after)	$ 167.02	$ 108.15	8/21/2021
11	Traffic Control Permit	Each	$ 103.49	$ 103.00	7/1/2021
12	Overload Permit (single trip) - One time	Each	N/A	$ 19.20	8/21/2021
13	Overload Permit (round trip) - Annual	Each	N/A	$ 108.00	8/21/2021
14	Permit Penalty Fee	Percent of Permit Value	N/A	50.00%	7/1/2021
15	Map Review (Parcel/Tract) - Base Fee	Each	$ 7,666.96	$ 2,588.40	8/21/2021
16	Map Review - Addt'l per parcel	Per Parcel	$ 70.48	$ 70.00	8/21/2021
17	Certificate of Compliance	Each	$ 790.69	$ 745.20	8/21/2021
18	Lot Line Adjustment - Base Fee	Each	$ 1,286.16	$ 1,159.20	8/21/2021
19	Lot Line Adjustment - Addt'l per parcel	Per parcel	$ 59.43	$ 59.00	7/1/2021
20	General Vacation	Each	$ 3,805.94	$ 1,902.00	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
21	Quit Claim / Summary Vacation	Each	$ 2,049.22	$ 1,087.20	8/21/2021
22	Certificate of Correction	Each	$ 823.10	$ 480.00	8/21/2021
23	Easement review	Each	$ 1,691.08	$ 1,691.00	7/1/2021
24	NPDES business inspection fee - low priority	One inspection every 5 years	$ 59.43	$ 59.00	7/1/2021
25	NPDES business inspection fee - medium priority	One inspection every 2 years	$ 118.85	$ 118.00	7/1/2021
26	NPDES business inspection fee - high priority	Inspection each year	$ 237.70	$ 237.50	7/1/2021
27	NPDES/WQMP Plan Review	Each	$ 2,160.65	$ 1,112.40	8/21/2021
28	NPDES Construction Inspection Fee (< 10 acres)	Each	$ 505.66	$ 505.50	7/1/2021
29	NPDES Construction Inspection Fee (10-25 acres)	Each	$ 905.50	$ 905.50	7/1/2021
30	NPDES Construction Inspection Fee (> 25 acres)	Each	$ 2,074.37	$ 2,074.00	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
31	Overtime Pay for Inspection (Weekends & Holidays)	Per Hour	N/A	Hourly Rate	7/1/2021
32	Misc. / Special Technical Report Review Fee	Actual Cost (Plus 25% Admin for consultant review, if applicable)	N/A	Varies	7/1/2021
33	Water Meter - OMUC Fee	Based on meter size - OMUC Fee	N/A	Varies	7/1/2021
34	Storm Water Pollution Abatement	Monthly BAU fee based on land use type & site acreage (applied to utility bill)	N/A	Varies	7/1/2021
35	Legal review	Per Hour	N/A	Hourly Rate	7/1/2021
PLANNING APPLICATIONS REVIEWED BY LAND DEVELOPMENT ENGINEERING					
36	Development Agreement	Deposit	N/A	Varies	7/1/2021
37	Development Agreement Amendment	Deposit	N/A	Varies	7/1/2021
38	Development Code Amendment	Deposit	N/A	Varies	7/1/2021
39	Environmental Impact Report	Deposit	N/A	Varies	7/1/2021
40	General Plan Amendment	Deposit	N/A	Varies	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
41	Planned Unit Development	Deposit	N/A	Varies	7/1/2021
42	Planned Unit Development Amendment	Deposit	N/A	Varies	7/1/2021
43	Specific Plan	Deposit	N/A	Varies	7/1/2021
44	Specific Plan Amendment	Deposit	N/A	Varies	7/1/2021
45	Specific Plan Minor Amendment	Deposit	N/A	Varies	7/1/2021
46	Zone Change - 5 acres or more	Deposit	N/A	Varies	7/1/2021
47	Zone Change - Less than 5 acres	Deposit	N/A	Varies	7/1/2021

Resolution No. 2004-065
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
1	Land Conservation Contract Non-renewal	Each	$ 3,817.21	$ 1,401.85	8/21/2021
2	Land Conservation Contract Cancellation	Each	$ 16,679.06	$ 6,431.53	8/21/2021
3	Appeal-Homeowner	Each	N/A	$ 130.00	7/1/2021
4	Appeal-Other	Each	N/A	$ 902.00	7/1/2021
5	Covenants Conditions and Restrictions Review	Each	$ 4,940.68	$ 3,067.50	8/21/2021
6	Conditional Use Permit-Homeowner	Each	$ 4,894.70	$ 1,784.26	8/21/2021
7	Conditional Use Permit-Nonprofit	Each	$ 3,520.01	$ 2,691.60	8/21/2021
8	Conditional Use Permit-Other	Each	$ 5,901.35	$ 5,900.00	7/1/2021
9	Conditional Use Permit-Modification	Each	$ 5,901.35	$ 3,693.27	8/21/2021
10	Conditional Use Permit-w/ Development Plan	Each	$ 4,724.75	$ 1,567.20	8/21/2021
11	Conditional Use Permit Time Extension	Each	$ 1,381.04	$ 1,380.00	7/1/2021
12	Determination of Use	Each	$ 3,316.06	$ 3,316.00	7/1/2021
13	Development Agreement	Deposit	N/A	$ 10,000.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
14	Development Agreement Amendment	Deposit	N/A	$ 7,500.00	7/1/2021
15	Development Code Amendment	Deposit	N/A	$ 2,000.00	7/1/2021
16	Development Plan Review - 5 acres or more	Each	$ 24,846.74	$ 17,914.80	8/21/2021
17	Development Plan Review - less than 5 acres	Each	$ 21,465.84	$ 11,913.15	8/21/2021
18	Development Plan Revision	Each	$ 16,735.49	$ 4,582.85	8/21/2021
19	Development Plan Time Extension	Each	$ 1,381.04	$ 1,380.00	7/1/2021
20	Environmental Assessment/Negative Declaration	Each	$ 3,155.59	$ 3,155.00	7/1/2021
21	Environmental Impact Report	Deposit	N/A	$ 10,000.00	7/1/2021
22	General Plan Amendment - Text	Deposit	N/A	$ 5,000.00	7/1/2021
23	General Plan Amendment - Map	Deposit	N/A	$ 7,500.00	7/1/2021
24	Historic Preservation - COA-Nonresidential	Each	$ 4,677.04	$ 1,533.75	8/21/2021
25	Historic Preservation - COA-Residential	Each	$ 4,677.04	$ 214.73	8/21/2021
26	Historic Preservation - COEH-Nonresidential	Each	$ 6,846.51	$ 2,045.00	8/21/2021
27	Historic Preservation - COEH-Residential	Each	$ 6,846.51	$ 268.92	8/21/2021
28	Historic Preservation - Removal from Eligibility List (No Charge)	Each	$ 6,366.15	No Charge	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
29	Historic Preservation - Waiver	Each	$ 42.96	$ 42.50	7/1/2021
30	Historic Preservation - Landmark Designation (No Charge)	Each	$ 12,025.51	No Charge	7/1/2021
31	Historic Preservation - Plaque	Actual Cost	Varies	Varies	7/1/2021
32	Inspection - Construction (3 inspections)	Each	$ 5,342.05	$ 613.50	8/21/2021
33	Inspection - Field (includes construction inspections in excess of 3)	Each	$ 1,335.51	$ 255.63	8/21/2021
34	Residential Mills Act[A]	Each	$ 10,939.36	$ 214.73	8/21/2021
35	Nonresidential Mills Act[A]	Each	$ 10,939.36	$ 669.74	8/21/2021
36	Large Family Daycare	Each	$ 2,127.81	$ 1,116.57	8/21/2021
37	Lodging House Permit	Each	$ 2,127.81	$ 2,127.00	7/1/2021
38	Massage Permits	Each	$ 2,127.81	$ 2,127.00	7/1/2021
39	Plan Check - 5 or more acres	Each	$ 9,196.43	$ 3,070.10	8/21/2021
40	Plan Check - less than 5 acres	Each	$ 5,685.72	$ 1,717.10	8/21/2021
41	Planned Unit Development	Deposit	$ 20,926.28	$ 10,225.00	8/21/2021
42	Planned Unit Development Amendment	Deposit	$ 13,947.59	$ 7,668.75	8/21/2021
43	Planning Area Plan	Deposit	N/A	$ 7,500.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
44	Planning Director Review	Each	$ 1,057.33	$ 706.55	8/21/2021
45	Preliminary Plan Review	Each	$ 4,207.14	$ 4,203.00	7/1/2021
46	Public Hearing - City Council	Each	$ 769.75	$ 604.30	8/21/2021
47	Public Hearing - Development Advisory Board	Each	$ 497.12	$ 325.16	8/21/2021
48	Public Hearing - Planning Commission	Each	$ 1,325.44	$ 604.30	8/21/2021
49	Public Hearing - Zoning Administrator-Homeowner	Each	$ 1,764.14	$ 74.64	8/21/2021
50	Public Hearing - Zoning Administrator-Other	Each	$ 1,764.14	$ 584.87	8/21/2021
51	Sign Plan	Each	$ 519.34	$ 246.42	8/21/2021
52	Sign Program - administrative approval	Each	$ 2,825.58	$ 862.99	8/21/2021
53	Sign Program - planning commission approval	Each	$ 3,059.86	$ 2,934.58	8/21/2021
54	Specific Plan	Deposit	N/A	$ 20,000.00	7/1/2021
55	Specific Plan Amendment	Deposit	N/A	$ 7,500.00	7/1/2021
56	Specific Plan Minor Amendment	Deposit	N/A	$ 620.00	7/1/2021
57	Temporary Sign Permit	Each	$ 124.89	$ 58.28	8/21/2021
58	Temporary Use Permit - interim uses	Each	$ 2,757.54	$ 838.45	8/21/2021
59	Temporary Use Permit - special event	Each	$ 1,064.72	$ 492.00	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
60	Tentative Parcel Map	Each	$ 15,986.07	$ 6,641.14	8/21/2021
61	Tentative Parcel Map Modification	Each	$ 11,706.32	$ 4,262.80	8/21/2021
62	Tentative Tract Map (Base)	Flat	$ 18,403.54	$ 9,805.78	8/21/2021
63	Tentative Tract Map (per lot)	Each	$ 65.00	$ 65.00	7/1/2021
64	Tentative Tract Map Modification	Each	$ 12,681.18	$ 3,125.78	8/21/2021
65	Tentative Tract/Parcel Map Time Extension	Each	$ 7,378.97	$ 1,227.00	8/21/2021
66	Variance - Administrative Exception or Minor	Each	$ 3,978.78	$ 2,451.96	8/21/2021
67	Variance - Homeowner	Each	$ 3,978.78	$ 309.82	8/21/2021
68	Variance - Other	Each	$ 5,266.37	$ 3,508.20	8/21/2021
69	Wireless Permit: Facilities in Public Rights-of-Way	Each	$ 3,978.78	$ 3,978.00	7/1/2021
70	Zone Change - 5 acres or more	Each	$ 10,575.56	$ 7,666.71	8/21/2021
71	Zone Change - Less than 5 acres	Each	$ 9,194.99	$ 7,497.99	8/21/2021
72	Zoning Administrator Review - Homeowner	Each	$ 3,978.78	$ 200.41	8/21/2021
73	Zoning Administrator Review - Other	Each	$ 3,978.78	$ 1,160.54	8/21/2021
74	Zoning/Land Use Verification Letter	Each	$ 499.56	$ 195.30	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
75	Notice of Exemption Filing Fee	County Fee	N/A	$ 50.00	7/1/2021
76	Notice of Determination Filing Fee	County Fee	N/A	$ 50.00	7/1/2021
77	Filing of a Negative/Mitigated Declaration	County Fee	N/A	$ 2,404.75	7/1/2021
78	Filing of an Environmental Impact Report	County Fee	N/A	$ 3,321.00	7/1/2021
79	Outside consultant or legal expenses	Actual Cost Plus 25% Admin. Fee	N/A	Varies	7/1/2021
80	Advanced Long Range Planning	Percent of all Building Permits & Planning Applications	$ 914,960.12	5.00%	7/1/2021

Resolution No. 2004-065 (Entitlement Processing Fees excl. Mills Act)
[A] Resolution No. 2005-115 (Mills Act Fees)
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062
CPI Adjustment of 2.25% applied to select fees based on year-over-year change from Jan. 2020 to Jan. 2021 as measured by "Riverside-San Bernardino-Ontario Consumer Price Index"

RESOLUTION NO. PC22-029

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE FILE NO. PDA22-003-C, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC OWNER, LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 94 RESIDENTIAL UNITS AND UP TO 11,047 SQUARE FEET OF COMMERCIAL/OFFICE RETAIL USES, ON APPROXIMETLY 1.93 ACRES OF LAND FOR LOCATED AT THE SOUTHWEST CORNER OF ONTARIO VIA PIEMONTE AND VIA VILLAGIO WITHIN THE MIXED-USE SUBAREAS 8 OF THE PIEMONTE OVERLAY AT THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0210-204-39.

WHEREAS, OTC Owner, LLC, ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA22-003-C, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 1.93 acres of land, located at the southwest corner of Via Piemonte and Via Villagio. The project site within the proposed mixed-use Subarea 8 of the Piemonte Overlay at the Ontario Center Specific Plan, and is presently vacant; and

WHEREAS, in 2006, the City Council approved the creation of the Piemonte Overlay of the Ontario Center Specific Plan (“Piemonte Overlay”), within the Urban Commercial land use district of the Ontario Center Specific Plan, establishing a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre overlay site. Several Specific Plan Amendments have been approved for the Piemonte Overlay, modifying development intensities, parking requirements, architectural guidelines, and land use designations. The most recent Specific Plan Amendment, File No. PSPA21-001, was approved by the City Council on April 19, 2022, and involved expanding the overlay boundary, adding the Mixed-Use land use designation, and establishing design guidelines for mixed-use projects; and

WHEREAS, the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) was certified on March 19, 1991, (hereinafter referred to as “Certified EIR”), in which development and use of the Project site was discussed in the Amendment to the Ontario Center Specific Plan (File No. 4059-SPA); and

WHEREAS, a Mitigated Negative Declaration was subsequently adopted on May 16, 2017, (hereinafter referred to as “MND”), in which development and use of the Project

site was discussed in association with an Amendment to the Ontario Center Specific Plan (File No. PSPA16-003); and

WHEREAS, the Planning Director of the City of Ontario prepared and approved for attachment to the Certified EIR and adopted MND, an Addendum to the Certified EIR and MND (hereinafter collectively 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 was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

WHEREAS, the environmental impacts of this Project were thoroughly analyzed in the Certified EIR and EIR Addendum, which concluded that implementation of the Project could result in a number of significant effects on the environment and 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and make recommendations to the City Council 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, A Development Plan Application (File No. PDEV22-014) to construct four mixed-use buildings totaling 63,655 commercial square feet and 694 dwelling units on 13.3 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corner of Via Piemonte and Via Villagio, within the Mixed-Use land use district of the Piemonte Overlay of the Ontario Center Specific Plan, has been filed in conjunction with the Development Agreement Application; 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 June 28, 2022, the Planning Commission 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 Planning Commission of the City of Ontario, as follows:

SECTION 1: ***Environmental Determination and Findings.*** As the recommending body for the Project, the Planning Commission 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 Planning Commission finds as follows:

(1) The environmental impacts of the Project were reviewed in conjunction with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) ("Certified EIR"), certified by the Ontario City Council on March 19, 1991, in conjunction with File No. 4059-SPA, in combination with an Addendum to the Mitigated Negative Declaration, adopted by the Ontario City Council on May 17, 2017, in conjunction with File No. PSPA16-003. In addition, an EIR Addendum was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

(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 Planning Commission; 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 Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission 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

SECTION 3: ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as

the recommending body for the Project, the Planning Commission 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 site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The proposed changes affect two of the four properties listed in the Available Land Inventory (Subareas 8 and 11; Map ID No. 124 and 125). The residential capacity proposed in this Project is consistent with the number of dwelling units (198) and density (48 du/ac) specified in the Available Land Inventory.

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 body 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 PLANNING COMMISSION, 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 Planning Commission during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 4, above, the Planning Commission hereby concludes as follows:

a. The Development Agreement applies to approximately 1.93 acres of land generally located southwest corner of Via Piemonte and Via Villagio; and

b. The Development Agreement establishes parameters for the development of a mixed-use project for Lot C, consisting of 94 residential units and up to 11,047 square feet retail uses, within the proposed Mixed-Use Subarea 8 of the Piemonte

Overlay of the Ontario Center Specific Plan. The Development Agreement also grants the Applicant, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Piemonte Overlay of the Ontario Center Specific Plan; and

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

d. 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

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

f. 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 reviewed with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) prepared for the related Amendment to the Piemonte Overlay at the Ontario Center Specific Plan (File No. PSPA21-001). This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

SECTION 6: ***Planning Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 through 5, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE the herein described Application, subject to each and every condition set forth in the Development Agreement (File No. PDA22-003-C) 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: ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

- - - - - - - - - - - - - -

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of June 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-029, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on June 28, 2022, by the following roll call vote, to wit:

AYES: Anderson, DeDiemar, Gage, Lampkin, Ricci, Willoughby

NOES: None

ABSENT: Dean

ABSTAIN: None

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

File No. PDA22-003-C

DEVELOPMENT AGREEMENT

By and Between

City of Ontario
a California municipal corporation

and

OTC Owner, LLC
Lot C

a Delaware limited liability company

(Development Agreement to follow this page)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

Exempt from Fees Per Gov. Code §§ 6103 and 27383

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

OTC Owner, LLC
Lot C

a Delaware limited liability company

DEVELOPMENT AGREEMENT NO. PDA22-033-C

This Development Agreement (hereinafter "Agreement") is dated as of July _____, 2022, for reference purposes only, and is entered into by and between the City of Ontario, a California municipal corporation (hereinafter "City"), and OTC Owner, LLC, Lot C, a Delaware limited liability company (together with its successors and assigns, "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

WHEREAS, Owner has a leasehold interest in the Property pursuant to the Ground Lease; 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, on July ____, 2022, the City Council adopted Ordinance No. _____ approving this Agreement, and such ordinance became effective on _____, 2022; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement. On April 19, 2022, pursuant to Resolution No. 2022-034, the City Council reviewed and adopted an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) dated March 2022 under City's File No. PSPA21-001 (the "EIR Addendum"). The proposed Project is consistent with the EIR Addendum and no further environmental review is required; and

WHEREAS, on April 19, 2022, pursuant to Resolution No. 2022-035, the City Council approved the Piemonte Overlay at the Ontario Center Specific Plan Amendment - File No. PSPA21-001 (the "Specific Plan Amendment"); and

WHEREAS, this Agreement and the Project are consistent with the City's Comprehensive General Plan and any specific plan applicable thereto; 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, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended.

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 "Approval Date" means _____, 2022 the hearing date on which the City Council adopted the ordinance approving this Agreement.

1.1.3 "Certificate" shall have the meaning set forth in Section 6.4.

1.1.4 "Certificate of Performance" shall have the meaning set forth in Section 2.5.3.

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

1.1.6 "City Council" means the City Council of the City of Ontario.

1.1.7 "City Manager" means City's City Manager or his or her designee.

1.1.8 "City Parties" shall have the meaning set forth in Section 9.2.

1.1.9 "City Response Delay" shall have the meaning set forth in Section 3.3.

1.1.10 "Completion" means the date on which all of the following has occurred (a) the Building Department of the City (in its capacity as the municipal authority) has issued (i) a temporary certificate of occupancy (or its equivalent) for the residential dwelling units within the Project and (ii) final sign off or its equivalent of the core and shell for the commercial space within the Project (but not the tenant improvements for such space) and (b) Owner has satisfied the conditions of the Development Approvals to the extent required in connection with the Project (as opposed to conditions required in connection with the development of the other Lots within the Phased Development) other than ongoing conditions that are not required to be satisfied prior to completion of the Project.

1.1.11 "Deferred DIF" shall have the meaning set forth in Section 4.2.2.

1.1.12 "Deferred DIF Repayment Date" shall have the meaning set forth in Section 4.2.2.

1.1.13 "Development Approval" or "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property whether Existing Development Approvals or Subsequent Development Approvals, including, but not limited to, the following:

(a) Amendment to the Piemonte Overlay at Ontario Center Specific Plan -File No. PSPA21-001;

(b) Development Plan Entitlement – File No. PDEV22-014;

(c) EIR Addendum;

(d) Development Agreement - File No. PDA22-003-C; and

(e) Amendment to the Piemonte Overlay Sign Program – File No. PSGP22-002.

1.1.14 "Development Impact Fee" means a monetary exaction, other than a tax or special assessment, whether characterized as a fee, exaction, charge, assessment 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. The rates as of the Approval Date for the Development Impact Fees that may apply to the Project are shown on Exhibit "C" attached hereto.

1.1.15 "Effective Date" means the date on which both of the following are true: (a) the ordinance approving this Agreement goes into effect; and (b) the Effective Date of the Ground Lease has occurred. Promptly after the Effective Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Effective Date and, thereafter, the Effective Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.16 "Existing Development Approvals" means all Development Approvals approved or issued on or prior to the Effective Date. Existing Development Approvals are listed in the definition of "Development Approvals" above and all other Development Approvals which are a matter of public record on the Effective Date.

1.1.17 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Approval Date, as modified by the Development Approvals.

1.1.18 "Final Non-Appealable Date" means the date Existing Development Approvals are final and non-appealable as set forth in the City Development Code and any applicable Laws and (ii) the applicable statute of limitations has expired under the California Environmental

Quality Act (Public Resources Code §21000 *et seq*.) and implementing Guidelines for CEQA (14 Cal. Code Regs. §15000 *et seq*.) with respect to the Addendum, in each case without the filing of any third party challenge, appeal, or lawsuit or, if filed, such challenge, appeal, or lawsuit has been resolved in a manner satisfactory to Owner. Promptly after the Final Non-Appealable Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Final Non-Appealable Date and, thereafter, the Final Non-Appealable Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.19 "Force Majeure Event(s)" shall have the meaning set forth in Section 11.11.

1.1.20 "General Plan" means the City's Comprehensive General Plan adopted on January 27, 2010, by Resolution No. 2010-006, as may be amended as of the Approval Date.

1.1.21 "Ground Lease" means that certain Ground Lease by and between City and Owner dated on or about the Approval Date pertaining to the Property, as the same may be amended, modified, or supplemented from time to time.

1.1.22 "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; or

(e) the exercise of the power of eminent domain.

1.1.23 "Lender Proposed Amendment" shall have the meaning set forth in Section 10.

1.1.24 "Lot" or "Lots" shall mean Lot A, B, C, or D, as the context may require, as shown on Exhibit "B" to this Agreement.

1.1.25 "Mortgagee" means any lender under any mortgage, deed of trust, or other security device securing financing with respect to the Owner's then-current interest in the Property, and their successors and assigns.

1.1.26 "Non-Deferrable Fees" shall have the meaning set forth in Section 4.2.2.

1.1.27 "Owner" means the person or entity defined as such in the introductory paragraph of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.28 "Owner Parties" shall have the meaning set forth in Section 9.3.2.

1.1.29 "Phased Development" means the phased development and construction contemplated by Owner on the Property and each of the other "Owners" under the Related Development Agreements (as defined below) on Lots A, B, and D. The projects to be developed and constructed in the Phased Development include the Project and projects on Lots A, B, and D as follows:

Lot A - Development Plan Entitlement – File No. PDEV22-014;

Lot B - Development Plan Entitlement – File No. PDEV22-014; and

Lot D - Development Plan Entitlement – File No. PDEV22-014.

Lots A, B, and D are each also currently subject to a ground lease between the City and ground lease tenant of the applicable Lot which is being entered into concurrently with the Ground Lease in form and content similar to the Ground Lease. The City is also concurrently entering into a statutory development agreement with each of the ground lease tenants for Lots A, B, and D in form and content similar to this Agreement (the "Related Development Agreements"). It is currently contemplated that the Project will be developed and constructed as part of the Phased Development of the Property and Lots A, B, and D currently comprised of the following development as shown on Table 1 below:

Table 1:
Maximum Development Density (Units) and Intensity
(Based on Piemonte Overlay at the Ontario Center Specific Plan)

DA File No's.	Approx. Acres	Lot	Subarea Area	Dwelling Units	Commercial (Square Feet)
PDA22-003-A	4.83	A	16	384	25,256
PDA22-003-B	1.69	B	17	112	20,802
PDA22-003-C	1.93	C	8	94	11,047
PDA22-003-D	2.04	D	11	104	14,095
Total	**10.49**			**694**	**71,200**

1.1.30 "Project" means the proposed development and construction on the Property (Lot C) of up to 11,047 square feet of commercial/office/retail uses and 94 multi-family residential dwelling units, all as consistent with File No. PDEV22-014 (as the same may be modified by Owner from time to time in accordance with the Existing Development Approvals). The commercial/office/retail uses shall be those permitted or conditionally permitted within Section 3.2 *Allowed Uses* of The Piemonte at Ontario Center Specific Plan.

1.1.1 "Property" means the real property described on Exhibit "A" and shown on Exhibit "B" to this Agreement. The Property is referred to as Lot C on Exhibit B. The Property constitutes one parcel of the Phased Development. Lots A, B, and D comprise the remaining parcels of the planned Phased Development.

1.1.2 "Protected Lot" shall have the meaning set forth in Section 8.2.3.

1.1.3 "Related Development Agreement" shall have the meaning set forth in the definition of "Phased Development" above.

1.1.4 "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.

1.1.5 "Security Instrument" shall have the meaning set forth in Section 10.

1.1.6 "Specific Plan" means that certain specific plan adopted by the City Council, and entitled, "Piemonte Overlay at the Ontario Center Specific Plan," as amended by the Specific Plan Amendment.

1.1.7 "Subsequent Development Approvals" means all Development Approvals obtained subsequent to the Approval Date in connection with development of the Property.

1.1.8 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Approval Date.

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 location of Property and the other Lots within the Phased Development

Exhibit "C" Development Impact Fees as of the Approval Date

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 if and to the extent commenced shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the owner of a leasehold interest in the Property or a portion 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;

(b) Owner is not then in uncured default of this Agreement (after notice and the expiration of any applicable cure periods); and

(c) if less than three (3) of the Lots in the Phased Development have achieved Completion, such extension must be approved by the City Manager in his or her reasonable discretion.

For the avoidance of doubt, any time limits that may otherwise apply to the Development Approvals absent this Development Agreement (including without limitation, any of the time limits imposed on approvals pursuant to Section 2.02.025A of the Ontario Development Code or any other the Land Use Regulations) shall not govern the Development Approvals or this Agreement and the term set forth in this Section 2.3 shall control.

2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer, or assign its interest in 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 and be made in strict compliance with the following:

(a) Any such sale, transfer, or assignment is done in compliance with the Ground Lease if such Ground Lease is then in effect;

(b) 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 substantially all of Owner's leasehold or fee interest (as applicable) in the Property;

(c) Prior to any such sale, transfer, or assignment, 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; and (2) the payment of the applicable processing charge to cover the City's review and consideration of such sale, transfer, or assignment; and

(d) 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 (c) 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 Subsection 2.4.1. Notwithstanding any contrary provision of this Agreement, the Owner of the Property shall not have any liability hereunder with respect to any other Lot and a default by the Owner of one Lot shall not impact the rights and obligations of the Owner of any other Lot.

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 all of the following conditions:

(a) such transferring owner no longer has a legal or equitable interest in the portion of the Property sold, transferred, or assigned;

(b) such transferring owner is not then in default under this Agreement (after notice and the expiration of any applicable cure periods), in which case such transferring owner shall remain liable for such default but not any future defaults by the assignee after the date of the transfer; and

(c) such transferring owner has provided City with the notice and executed agreement required under Paragraph (c) of Subsection 2.4.1 above.

2.4.3 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.

2.4.4 For the avoidance of doubt, this Section 2.4 does not apply to assignments or transfers of this Agreement to Mortgagees or their initial transferees after a foreclosure, deed in lieu, or similar action permitted under the mortgage, deed of trust, or other security device securing financing with respect to the Owner's interest in the Property.

2.5 Amendment or Cancellation of Agreement; Operating Memoranda.

2.5.1 Amendment or Cancellation. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section

65868. 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. The City hereby agrees to grant priority processing status to any request(s) to amend this Agreement made by Owner. 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.

2.5.2 Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the City and Owner and development of the Project hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of the City and Owner. If and when, from time to time, during the term of this Agreement, the City and Owner agree that such clarifications are necessary or appropriate, the City and Owner shall effectuate such clarifications through operating memoranda approved by the City and Owner, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary with future approval by the City and Owner. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The City Manager shall be authorized to make the determination on behalf of the City whether a requested clarification may be effectuated pursuant to this Section 2.5.2 or whether the requested clarification is of such a character to constitute an amendment hereof. The City Manager shall be authorized to execute any operating memoranda hereunder on behalf of the City without further Planning Commission or City Council action.

2.5.3 Certificate of Performance.

Upon Completion of the Project or upon the earlier revocation or termination of this Agreement, the City shall provide Owner, upon Owner's request, with a statement ("Certificate of Performance") evidencing such completion, revocation, or termination of this Agreement, and the release of Owner from further obligations hereunder with respect to the Property except with respect to the obligations which expressly survive such termination pursuant to Sections 3.9 (Rent Control), 4.2.2 (Development Impact Fees), 9 (Third Party Litigation) and 11.22 (Attorneys' Fees). The Certificate of Performance shall be signed by the appropriate agents of Owner and the City and shall be recorded with the County Recorder. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 8182.

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; or

(b) Completion of the Project to be developed and constructed on the Property in accordance with the terms of this Agreement.

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 right and/or 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 for residential units on which construction has not yet begun shall be refunded to Owner by City to the extent payment has been received.

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

If to Owner:
OTC Lot C Owner, LLC
c/o Adept Urban
388 Cordova Street, #280
Pasadena, CA 91101
Attention: Patrick Chraghchian; Robert Montano
Email:patrick@adept-dev.com; robert.m@adept-dev.com

with a copy to:
Ruben Duran, City Attorney
Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

with a copy to:
Munger, Tolles & Olson LLP
350 S. Grand Avenue, 50th Floor
Los Angeles, CA 90071
Attention: Misty M. Sanford, Esq.
Email: misty.sanford@mto.com

(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 Development of the Project; Rights to Develop.

3.1.1 Development of the Project. In consideration of the premises, purposes, and intentions set forth in this Agreement, and in consideration of the assurances for development of the Project pursuant to this Agreement, Owner agrees to develop the Project in accordance with: (i) the terms and conditions of this Agreement; (ii) the terms and conditions established in the Development Approvals; and (iii) the Existing Land Use Regulations. Owner further agrees that the use, density and intensity, maximum height and size of structures and provisions for the Property reservation and dedication of land for public purposes related to the Property shall be limited to those uses permitted by the Existing Land Use Regulations. The Project shall be developed in accordance with the Development Approvals. The Project shall be constructed in compliance with all applicable building codes and standards, as such may be modified from time to time.

3.1.2 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Project in accordance with the Existing Land Use Regulations, subject to the terms and conditions of this Agreement and the conditions established in the Development Approvals. The Project shall remain subject to all Development Approvals required to complete the Project. 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 Existing Land Use Regulations.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, 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 the Phased Development 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 Ca1. 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 (without the obligation) the Property in such order and at such rate and at such times as Owner deems appropriate within the exercise of its sole and subjective business judgment during the term of this Agreement. Notwithstanding the foregoing, subject to (a) Force Majeure Events, (b) up to three one-year extensions of time (provided, however, that (i) only the first one-year extension may be requested by Owner unilaterally and thereafter such extensions must be approved by the City Manager and (ii) such extensions shall not apply to the first milestone (i.e., submission of the building application) for the first of the Lots of the Phased Development to be developed) and (c) any extensions of entitlements or permits granted by any governmental authority on a statewide, citywide or countywide basis, Owner shall achieve the following milestones in accordance with the following schedule:

	Event	Date
1.	Submission by Owner of building permit application to the City for the Project	On or before one hundred eighty (180) days following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase.
2.	Commencement of Construction of the Project	On or before two (2) years following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase; provided, however

		Commencement of Construction shall occur within 6 months of the Commencement of Construction of Lot D. In order to achieve this milestone, City agrees to complete its review of (a) Owner's initial plan check submission within twenty-one (21) days after receipt of such initial submission by City (provided, however, prior to such submission Owner and the City shall meet to review the proposed application), and (b) any additional submissions required to obtain the required permits for the project within fourteen (14) days following receipt of such additional submissions by City. There shall be a day-for-day extension of this Commencement of Construction milestone if the City fails to timely respond to such submissions within the time periods set forth above (each, a "City Response Delay").

3.4 Requirement for Public Infrastructure Improvements. Owner shall comply with any conditions of the Development Approvals with respect to providing public infrastructure improvements or facilities, if any, to the extent required in connection with the Project (as opposed to the other Lots within the Phased Development).

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of the Property as a whole; or,

(b) Increase the density or intensity of use of the Property as a whole; (other than in de minimis amounts); or,

(c) Increase the maximum height and size of permitted buildings (other than in de minimis amounts); or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 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 its actual costs of processing applications for, or monitoring compliance with, any development approvals granted for the performance of any conditions imposed on the Project, unless otherwise waived by the City in writing;

(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;

(d) Regulations that may conflict with this Agreement or Existing Land Use Regulations but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety; and are generally applicable on a citywide basis (except in the event of natural disasters as found by the City Council such as floods, earthquakes, pandemics and similar acts of God);

(e) Reserved;

(f) Regulations to which the Owner consents in writing.

3.6.2 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 Approvals and the Existing Land Use Regulations, 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 Approvals and the Existing Land Use Regulations.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Approval Date, 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 or comply with as determined by Owner. 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).

3.6.4 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.

3.7 Public Works; Utilities. If Owner is required by any Development 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 to the construction standards that 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 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.

3.8 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 material out-of-pocket 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.

3.9 Rent Control. Notwithstanding anything to the contrary in this Agreement, City agrees that, to the extent permitted by applicable law, City shall not apply any rent control or other renter protections or other moratoria or interim control ordinance against the Property or the Project. The foregoing covenant shall survive the expiration of this Agreement indefinitely and shall be in effect unless this Agreement is terminated for any reason other than a termination due to the Completion of the Project.

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 Approvals and the Existing Land Use Regulations 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 amounts for Development Impact Fees established or imposed by the City to be paid by Owner shall be the amounts that are in effect as of the Approval Date, which are shown on Exhibit "C" attached hereto, and Development Impact Fees established or imposed by other public agencies to be paid by Owner shall be the amounts that are in effect at the time such fees are due and payable during the development process. 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. Notwithstanding the foregoing, the amounts imposed by the City to be paid by Owner for the following Development Impact Fees may be those in effect at the time such fees are due and payable (subject to the right to deferment set forth in Section 4.2.2 below), so long as such amounts do not increase by more than five percent (5%) over the amount of such rates in effect as of the Approval Date: 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.

4.2.2 Time of Payment.

(a) Owner shall have the right to elect (but is not obligated) to amortize the payment of up to fifty percent (50%) of the total amount of Development Impact Fees due and payable for the Project (the amount so elected, the "Deferred DIFs") over a period of thirty (30) years commencing from the Deferred DIF Repayment Date at an annual 3 percent (3%) simple interest rate. As used herein, "Deferred DIF Repayment Date" means the date of issuance of a temporary or other certificate of occupancy for the residential component of the Project. The parties understand and agree that the Development Impact Fees established or imposed by other public agencies that are not controlled by City even if such Development Impact Fees may be collected by City (including without limitation, if applicable, the IEUA Sewer Connection Fee, Ontario-Montclair School District (K-12) Fees, Cucamonga School District and Chaffey Joint Union High School Fees) (collectively, the "Non-Deferrable Fees") must be paid when and as required in their standard course and schedule and may not be deferred hereunder; provided, however, the amount of such Non-Deferrable Fees may be included in the calculation of the total amount of Development Impact Fees due and payable for the Project for

purposes of calculating the fifty percent (50%) amount that Owner may elect to include as Deferred DIFs.

(b) Owner agrees that, commencing upon the Deferred DIF Repayment Date, Owner shall pay to the City, on the 1st day of the next following month and each and every successive month for three hundred sixty (360) consecutive months, an amount equal to the amortized principal and interest of the actual amount of the Deferred DIFs amortized over thirty (30) years at an annual 3 percent (3%) simple interest rate. By way of example only, if the Deferred DIFs equal $4,5000,000, the monthly payment to be made to the City would be $18,972. The entire unpaid principal balance of the amortized Deferred DIFs and any accrued but unpaid interest shall be immediately due and payable to the City upon any of the following events: (1) the termination of this Agreement other than a termination due to the Completion of the Project; (2) any uncured default by Owner with regard to repayment of the amortized Deferred DIFs to the City (if such amounts have not been paid to the City within five (5) business days of Owner's receipt of written notice from the City); or (3) any sale, transfer or assignment of all or substantially all of the Owner's leasehold or fee interest (as applicable) in the Property that is not approved by the City in advance (which such approval shall not be unreasonably withheld, conditioned or delayed). Any monthly payment or portion thereof not paid to the City as and when due under the terms of this Agreement shall accrue interest from the date on which such payment was due at the rate of ten percent (10%), and if not paid within the five (5) business day cure period described above, City may file a lien against the Property for such delinquent amounts including any accrued and unpaid interest. All payments under this Subsection will be applied first to penalties and late fees, then to interest, then to reduce the principal amount owed. The Deferred DIFs and any accrued but unpaid interest may be pre-paid to the City at any time without any pre-payment penalty.

(c) The Deferred DIF payment obligation shall be a covenant running with the land and shall survive the expiration or early termination of this Agreement indefinitely until the Deferred DIFs are paid in full in accordance with this Agreement.

(d) Any Development Impact Fees that are not a Deferred DIF shall be paid when and as required in their standard course and schedule.

4.3 Reserved.

4.4 Reserved.

4.5 Schools Obligations. Owner shall satisfy its school obligations with the applicable school district by paying school impact fees. Written evidence of approval by the applicable school district that Owner has met its school obligations may be required by the City as the condition to the issuance by the City of any building permits for the Project.

4.6 Reserved.

4.7 Reserved.

4.8 Reserved.

4.9 Maintenance of Open Space. Owner shall provide for ongoing maintenance of all park, common areas, and open space areas within the Project as may be set forth in the Development Approvals.

4.10 Intentionally Omitted.

4.11 Compliance with Public Benefits Requirements. In the event Owner fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, 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 8.4 hereof, thereby entitling the City to any and all remedies permitted under this Agreement, including, without limitation, the right of the City to withhold Owner's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. [RESERVED]

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 in accordance with Section 65865.1 of the California Government Code. Upon completion of the City's review, 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/her designee. Owner shall be responsible for paying any processing charge in connection with each such annual review, if any, provided that such charge shall be generally consistent with the cost charged for annual reviews for other development agreements to which the City is a party.

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:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) 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. The cost of any such special review shall be borne by the City, unless such a special review demonstrates that Owner is not

acting in good-faith compliance with the provisions of this Agreement, in which case Owner shall reimburse the City for all costs incurred by the City in connection with such special review.

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 shall specify in writing the respects in which Owner has failed to so comply. The City shall provide Owner with written notice of such noncompliance, together with a written specification of the reasons therefor. Such written notice shall also specify a reasonable time for Owner to cure such non-compliance, which time shall be not less than thirty (30) days after Owner's receipt of such notice.

(c) The Owner may appeal a determination pursuant to paragraph (b) in accordance with the City's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Termination. If, upon a finding under Section 6.1.6(b), the City determines to proceed with 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 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 Termination. At the time and place set for the hearing on 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 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; Waiver of Monetary Damages. It is acknowledged by the parties that, subject to and without limiting the Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below, neither party would have entered into this Agreement if it were to be liable in monetary damages under this Agreement, or with respect to this Agreement or the application thereof. The parties agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages that would adequately compensate Owner for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify the exposure. Therefore, the parties agree that each of the parties may pursue any remedy at law or equity available for any breach of any provision of this Agreement, except that neither party shall be liable in monetary damages to the other party, or to any successor in interest of such other party, or to any other person, and each party covenants not to sue for monetary damages or claim any monetary damages:

8.1.1 For any breach of this Agreement or for any cause of action which arises out of this Agreement (other than in connection with Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below); or

8.1.2 For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

8.1.3 Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.1.4 The parties understand and agree, however, that nothing in this Section 8.1 shall prohibit, restrict or otherwise affect the rights of a party to seek monetary damages as a result of any default by the other party under any other agreement entered into by the parties with respect to the Property and the Project, including without limitation the Ground Lease, if and to the extent such other agreements allow for monetary damages. No part of this Agreement shall be deemed to abrogate or limit any immunities or defenses either party may otherwise have with respect to claims for monetary damages.

8.2 Default by Owner. In the event that Owner does not perform its obligations under the Agreement in a timely manner, subject to the limitations in Section 8.1, the City shall have all rights and remedies provided herein which shall include (a) the right to compel specific performance of the obligations of Owner under this Agreement or (b) termination of this Agreement, provided that the City has first complied with the procedures set forth in this Section 8.2 and in Section 8.5 below. If City elects to proceed under clause (b) with termination of this Agreement, the following shall apply:

8.2.1 If after the applicable cure period has elapsed, the City Manager finds and determines that Owner remains in default, the City Manager shall make a report to the Planning Commission and then set a public hearing before the Planning Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If, after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Owner has not cured the applicable default pursuant to this Section, and that the City should terminate this Agreement, Owner shall be entitled to appeal that finding and determination to the City Council in accordance with the procedure in Section 6.1.6(c) above. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity, and

8.2.2 City may terminate this Agreement after such final determination of the City Council or, where no appeal is taken, after the expiration of the appeal period in accordance with the procedure described in Section 6.1.6(c) above, relating to the defaulting party's rights and obligations.

8.2.3 City's Limited Cross Termination Right. If City terminates this Agreement in accordance with the procedures set forth herein as a result of a failure of Owner to achieve any of the milestones required pursuant to Section 3.3 above, City shall have the right to simultaneously terminate the Related Development Agreement(s) affecting the Lot(s) within the Phased Development for which none of the milestones under Section 3.3 of the applicable Related Development Agreement(s) have been achieved and for which a standard construction loan from an unrelated third party ("Loan") has not been executed for the development of such Lot(s). For example, if the owner of any Lot in the Phased Development (including the Property) has executed a Loan for the development of such Lot or any of the milestones under Section 3.3 of the applicable Related Development Agreement have been achieved with respect to such Lot (a "Protected Lot"), then the termination of this Agreement or the Related

Development Agreement for any other Lot shall not affect the Related Development Agreement of such Protected Lot and City shall not have any right hereunder to terminate such Related Development Agreement under this Section 8.2.3.

8.3 Default by City. In the event the City defaults under the provisions of this Agreement, subject to the limitations set forth in Section 8.1 above, Owner shall have all rights and remedies provided herein or by applicable law, which shall include compelling the specific performance of the City's obligations under this Agreement, provided that Owner has first complied with the procedures in Section 8.5 below.

8.4 Release. Subject to and without limiting the indemnity in Section 9.3 below, except for nondamage remedies, including the remedy of specific performance, each party, for itself, its successors and assignees, hereby releases the other party, 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.

8.5 Notice and Cure. Failure or delay by either party to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of written notice from the other party, identifying with specificity those obligations of the defaulting party which have not been performed, constitutes a default under this Agreement; provided, however, if such failure or delay cannot reasonably be cured within such thirty (30) day period, no default shall be deemed to have occurred hereunder if the party committing such failure or delay commences cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion; provided, however the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with due diligence but (a) with respect to the City only in no event later than sixty (60) days after receipt of written notice from the Owner and (b) with respect to Owner only in no event later than one hundred eighty (180) days after receipt of written notice from City. The injured party shall give written notice of default to the party in default specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default.

8.6 Ground Lease and Other Agreements Not Affected. This Section 8 shall not be deemed to implicate, modify, or affect in any way any provisions in the Ground Lease or any other agreement entered into by the parties with respect to the Property and the Project.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. City has determined that this Agreement is consistent with its General Plan, as such General Plan exists as of the Approval Date, and that the General Plan meets all requirements of law. 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 Project as the result of a judicial determination that on the Approval 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. Subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), at its expense, including attorneys' fees, indemnify, and hold harmless City and its officers and employees (collectively, the "City Parties") from any claim, action or proceeding against the City Parties 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

Nothing in this Section 9 or any other indemnification provision included as a condition to any of the Development Approvals shall be construed to mean that Owner or City shall indemnify, hold any of the City Parties or Owner Parties, as applicable, harmless and/or defend any of the City Parties or Owner Parties, as applicable, from any claims arising from (a) as to Sections 9.3.1 and 9.4 only, any of the City Parties' or Owner Parties', as applicable, violation of law, or (b) as to all such indemnities other than the indemnity set forth in Section 9.3.2, (i) any of the City Parties' or Owner Parties', as applicable, breach of contractual obligations to third parties or (ii) the gross negligence or willful misconduct of any of the City Parties or Owner Parties, as applicable.

9.3 Indemnity.

9.3.1 Owner. In addition to the provisions of 9.2 above, subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), indemnify, and hold harmless the City Parties from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses), based or asserted upon any act or omission of Owner or its officers or employees for property damage, bodily injury, or death (Owner's employees included) arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, and operation the Project. The 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

9.3.2 City. City agrees to indemnify, defend (with counsel chosen by City and approved by Owner, which such approval shall not be unreasonably withheld, conditioned or delayed), and hold harmless Owner, American General Design, Inc. (dba Adept Development), a

California corporation and Povac Investments, Inc., a California corporation and each of their respective officers and employees (collectively, the "Owner Parties") from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses) arising from any governmental agency stopping or delaying construction or occupancy of the Project after the "Commencement of Construction" (as defined below) as a result of City's failure to pay any amounts imposed by the State of California (if any) pursuant to California Government Code Sections 54220 through 54234 in connection with the City's disposition of the Property to Owner. Owner shall promptly notify City of any such stoppage or delay, and Owner shall cooperate in the defense. If Owner fails to promptly notify Owner of any such stopped or delay, or if any of the Owner Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, City shall not thereafter be responsible to defend, indemnify, or hold harmless the Owner Parties. For purposes of this Section 9.3.2, the term "Commencement of Construction" shall mean that both of the following have occurred: (a) construction of a building has commenced pursuant to and in accordance with a building permit issued by the City, City-approved final construction drawings, the Existing Land Use Regulations, the Development Approvals, and all applicable laws; and (b) Owner has expended at least $5,000 in labor and materials for such construction. For purposes of this definition only, "construction" shall mean construction of improvements permanently fixed to the site (e.g., a foundation or similar), including, without limitation, utilities, public or private streets, public or private site improvements, landscaping or ancillary structures such as block walls, trash enclosures, and any grading, excavation, demolition, grubbing, or other site preparation.

9.4 Environment Assurances. Owner shall defend (with counsel chosen by Owner), at its expense, including attorneys' fees, indemnify, and hold harmless the City Parties from any liability, based or asserted, upon any act or omission of Owner, its officers, agents, employees, subcontractors, and/or 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 that were not present prior to the date that Owner took possession of the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including reasonable attorneys' fees, the City Parties 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 Reserved.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement for a period of two (2) years after such termination, except to the extent such indemnification relates to any third party claims, in which event such indemnification shall survive until the expiration of any applicable statute of limitations.

10. 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 ("Security Instrument"). 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. The City further agrees to cooperate in including in this Agreement by suitable amendment from time to time any provision that may reasonably be requested by any proposed Mortgagee for the purpose of allowing such Mortgagee reasonable means to protect or preserve a lien and security interest of its Security Instrument, as well as such other documents containing terms and provisions customarily required by Mortgagees (taking into account the customary requirements of their participants, syndication partners or rating agencies) in connection with any such financing (a "Lender Proposed Amendment"). The City agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effectuate a Lender Proposed Amendment; provided, however, that any such Lender Proposed Amendment shall not in any way materially adversely affect any rights of the City under this Agreement. If there is any conflict between this Article 10 and any other provisions contained in this Agreement, this Article 10 shall control. 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 Security Instrument on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any Security Instrument, 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 for a period of sixty (60) days after Mortgagee receives written notice of non-compliance, or any longer period as is reasonably necessary, not to exceed one hundred eighty (180) days, to remedy such default, provided that Mortgagee shall continuously and diligently pursue the remedy at all times until the default is cured.

(d) Any Mortgagee who takes title of the Property, or any part thereof, pursuant to foreclosure trustee's sale, deed in lieu of foreclosure, lease or sublease termination or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement, provided that any such Mortgagee, including its affiliate, that takes title to the Property shall be entitled to all of the benefits arising under 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 after the initial sale, transfer, or assignment by any Mortgagee shall be subject to the provisions of Section 2.4 of this Agreement.

(e) If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceedings involving Owner, the times specified in Section clause (c) above, shall be extended for the period of the prohibition, except that any such extension shall not extend the term of this Agreement.

(f) If this Agreement is terminated by reason of (i) any default or (ii) as a result of a bankruptcy proceeding, this Agreement is disaffirmed by a receiver, liquidator, or trustee for Owner or its property, the City, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new development agreement for the Project as to such portion of the Property with the most senior Mortgagee requesting such new agreement. This Agreement does not require any Mortgagee or the City to enter into a new development agreement pursuant to this clause (f).

(g) The City shall, at any time and within thirty (30) days following the written request of a Mortgagee, but not more often than annually, certify in writing to such Mortgagee that (a) this Agreement is in full force and effect, (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments and modifications, and (c) to the actual knowledge of City with no duty to investigate, Owner is not in default in the performance of its obligations under this Agreement or, if in default, to describe therein the nature and extent of any such default. Any such estoppel certificate shall be administratively issued by the City Manager or his/her representative or designee.

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 this 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. A failure to record the Agreement in a timely fashion shall not impact its effectiveness to the extent permitted by applicable law.

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, in the event the provision regarding the payment of Deferred DIFs set forth in Section 4.2.2 of this Agreement is determined to be invalid, void or unenforceable, the parties shall enter into a separate written agreement for the repayment of such Deferred DIFs consistent with Section 4.2.2.

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. 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.

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, except that the Owner Parties and City Parties are third party beneficiaries of the indemnities in Section 9. 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, insurrection, riots, civil unrest, acts of terrorism or similar hostilities, strikes, boycotts, lock-outs, and other labor difficulties beyond the party's control (including the party's employment force), inability to procure services, labor or materials not related to the price thereof, failure of electric power, governmental actions, governmental laws, regulations or restrictions, third party litigation or administrative proceedings, actual or

threatened public health emergency (including epidemic, pandemic, famine, disease, plague, quarantine, and other public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization (including any shelter-in-place orders, stay at home orders or any restrictions on travel related thereto that preclude Owner, its agents, contractors or its employees from accessing the Property, national or regional emergency), declaration of a state or national emergency, casualties, weather that could not have reasonably been anticipated, changes in the Laws which would prevent the Property from being developed or operated in accordance with this Agreement, or other reasons beyond the reasonable control of the party (individually a "Force Majeure Event" or collectively, "Force Majeure Events"). 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 shall be automatically extended for the period of time that such events prevented such performance, provided that the extensions of the term of this Agreement solely as a result of one or more Force Majeure Events shall not exceed a period of more than five (5) years in the aggregate.

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; Covenants Running with the Land. 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. In any event, no owner or tenant of an individual completed residential unit within the Project shall have any rights under this Agreement.

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. Owner for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) 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 reasonable costs incurred by City in connection with the issuance of estoppel certificates under this Section 11.20 prior to City's issuance of such certificates.

11.21 Authority to Execute. Each party represents and warrants that the person or persons executing this Agreement on behalf of such party has the authority to execute this

Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations hereunder.

11.22 Attorneys' Fees. In the event of any action between the City and Owner for enforcement or interpretation of any of the terms or conditions of this Agreement, the prevailing party in such action shall be entitled to recover its reasonable costs and expenses, including without limitation court costs and attorneys' fees actually and reasonably incurred, as awarded by a court of competent jurisdiction. This Section shall survive the termination of this Agreement.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

"Owner"

OTC Lot C Owner, LLC
a Delaware limited liability company

By: _____
Name:
Its: _____
Date: _____

"CITY"

City OF ONTARIO

By:_____
Scott Ochoa
City Manager

Date: _____

ATTEST:

_____
City Clerk, Ontario

APPROVED AS TO FORM:

_____
Kane, Ballmer & Berkman, City Special Counsel

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

APN NO. 0210-204-38

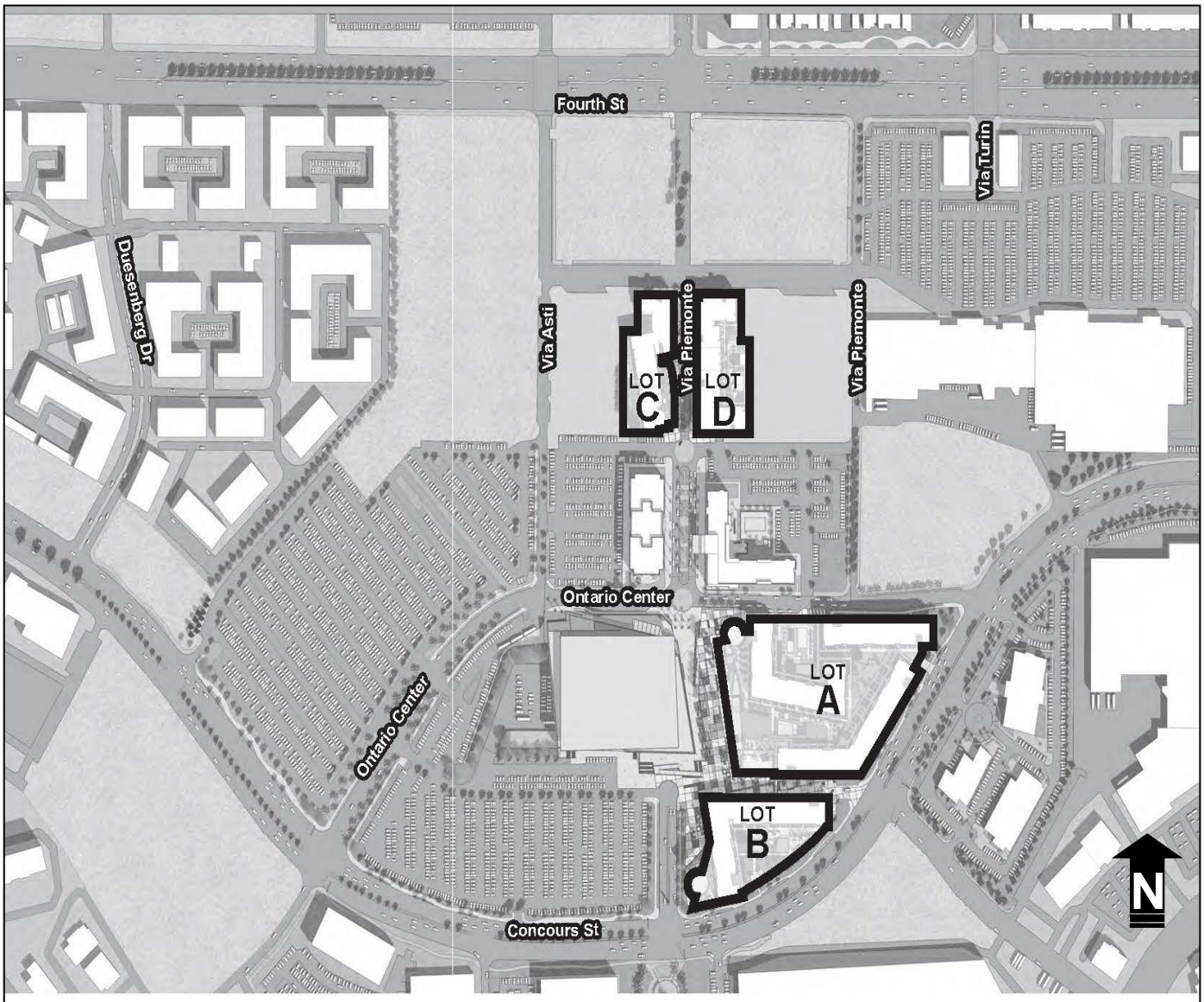
BEING A PORTION OF PARCEL 20, PARCEL MAP NO. 17550, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 216, PAGES 7 THROUGH 20, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL 20, AS SHOWN ON SAID PARCEL MAP;
THENCE NORTH 89° 22' 30" WEST, ALONG THE SOUTH LINE OF SAID PARCEL 20, 184.06 FEET;
THENCE LEAVING SAID SOUTH LINE, THE FOLLOWING THREE (3) COURSES:
NORTH 00° 00' 00' EAST 302.44 FEET;
NORTH 90° 00' 00" EAST 42.92 FEET;
NORTH 00° 00' 00" WEST 96.10 FEET, TO A POINT ON A LINE THAT IS PARALLEL WITH AND 31.00 FEET SOUTH, MEASURED AT RIGHT ANGLES, TO THE NORTH LINE OF SAID PARCEL 20;
THENCE, NORTH 89° 22' 30" WEST 287.51 FEET, TO A POINT ON THE WEST LINE OF SAID PARCEL 20;
THENCE, NORTH 00° 37' 30" EAST 31.00 FEET, TO THE NORTHWEST CORNER OF SAID PARCEL 20;
THENCE, SOUTH 89° 22' 30" EAST ALONG THE NORTH LINE OF SAID PARCEL 20, 430.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 20;
THENCE, SOUTH 00° 37' 30" WEST 430.00 FEET, TO THE POINT OF BEGINNING;

SAID LAND IS SHOWN AS PARCEL B OF LOT LINE ADJUSTMENT NO. LLA17-008, RECORDED SEPTEMBER 7, 2017 AS INSTRUMENT NO. 2017-0370546, OF OFFICIAL RECORDS.

EXHIBIT "B"
TO DEVELOPMENT AGREEMENT

Map showing Property and its location



Ontario Center Parkway, Ontario, CA 91764

EXHIBIT "B" CONTINUED
TO DEVELOPMENT AGREEMENT

Map showing Property and its location

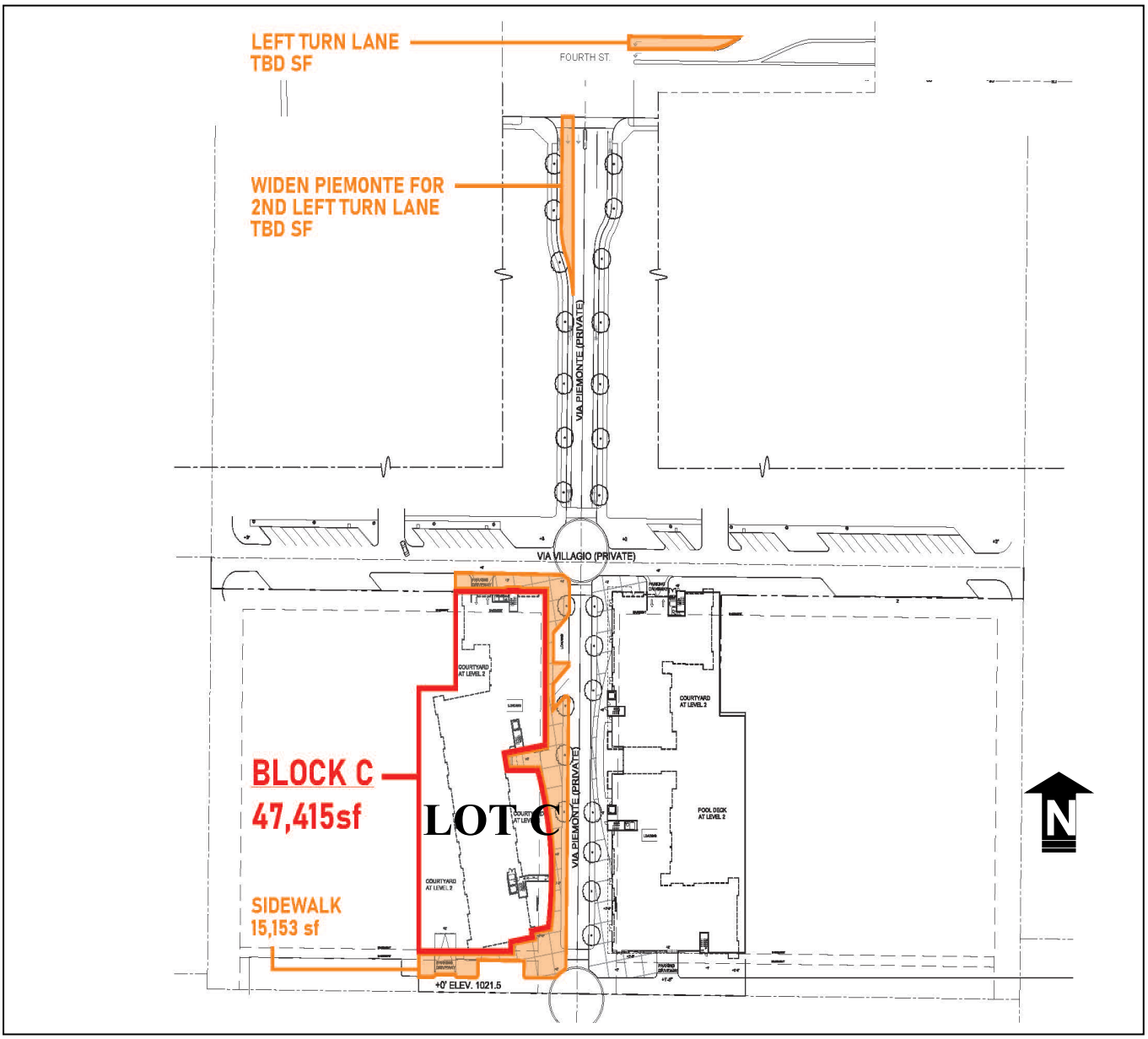


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Development Impact Fees as of the Approval Date

(Development Impact Fees to follow this page)

Exhibit C

FY 2021-22
Citywide Fee Schedule

(Fees, Fines & Charges)

Component of the FY 2021-22 Budget

Adopted June 21, 2021 (Resolution No. 2021-062)

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Section 2. Engineering Fees 15
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City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

II. - Community Life & Culture
Section 5. Housing Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Housing Fees					
1	Base Affordable Housing Monitoring Fee*	Base	$ 747.68	$ 747.00	7/1/2021
2	Per Unit Affordable Housing Monitoring Fee*	Per unit	$ 107.94	$ 107.00	7/1/2021
3	Loan Payoff Process Fee - without equity share	Each	$ 251.11	$ 251.00	7/1/2021
4	Loan Payoff Process Fee - with equity share	Each	$ 400.39	$ 400.00	7/1/2021
5	Preparation of Full Reconveyance	Each	$ 248.13	$ 248.00	7/1/2021

** Affordable Housing Monitoring Fee does not apply to bond-funded projects.*

Note: Loan Payoff and Reconveyance fees may be waived if individuals are under financial hardship.

Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Building Plan Check Fees					
1	Building Plan Check Fee	% of Permit	N/A	80.00%	7/1/2021
2	Building Plan Check for track housing or duplicate building	% of Permit	N/A	40.00%	7/1/2021
3	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Less than $1 million	N/A	50.00%	7/1/2021
4	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $1 and $5 million	N/A	40.00%	7/1/2021
5	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $5 and $10 million	N/A	30.00%	7/1/2021
6	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $10 and $20 million	N/A	20.00%	7/1/2021
7	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Greater than $20 million	N/A	10.00%	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Building Permit Fees					
8	Building Permit - Base Fee ($1-$500)	Valuation: $1 to $500	N/A	$ 23.50	7/1/2021
9	Building Permit - Base Fee ($501-$2000)	Valuation: $501 to $2,000	N/A	$ 23.50	7/1/2021
10	Building Permit Fee (Each additional $100, or fraction thereof, up to and including $2000)	Each additional $100, or fraction thereof, up to and including $2,000	N/A	$ 3.05	7/1/2021
11	Building Permit - Base Fee ($2001-$25,000)	Valuation: $2,001 to $25,000	N/A	$ 69.25	7/1/2021
12	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $25,000)	Each additional $1,000, or fraction thereof, up to and including $25,000	N/A	$ 14.00	7/1/2021
13	Building Permit - Base Fee ($25,001-$50,000)	Valuation: $25,001 to $50,000	N/A	$ 391.25	7/1/2021
14	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $50,000)	Each additional $1,000, or fraction thereof, up to and including $50,000	N/A	$ 10.10	7/1/2021
15	Building Permit - Base Fee ($50,001-$100,000)	Valuation: $50,001 to $100,000	N/A	$ 643.75	7/1/2021
16	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $100,000)	Each additional $1,000, or fraction thereof, up to and including $100,000	N/A	$ 7.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
17	Building Permit - Base Fee ($100,001-$500,000)	Valuation: $100,001 to $500,000	N/A	$ 993.75	7/1/2021
18	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $500,000)	Each additional $1,000, or fraction thereof, up to and including $500,000	N/A	$ 5.60	7/1/2021
19	Building Permit - Base Fee ($500,001-$1,000,000)	Valuation: $500,001 to $1,000,000	N/A	$ 3,233.75	7/1/2021
20	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $1,000,000)	Each additional $1,000, or fraction thereof, up to and including $1,000,000	N/A	$ 4.75	7/1/2021
21	Building Permit - Base Fee (Greater than $1,000,001)	Valuation: $1,000,001 and up	N/A	$ 5,608.75	7/1/2021
22	Building Permit Fee (Each additional $1,000 or fraction thereof, greater than $1,000,001)	Each additional $1,000, or fraction thereof	N/A	$ 3.65	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Misc. Standard Building Permits					
23	Kitchen Remodel (non-structural)	Each	$ 258.99	$ 258.00	7/1/2021
24	Bathroom Remodel	Each	$ 129.50	$ 129.00	7/1/2021
25	Demolition - Entire Structure	Valuation	N/A	Varies	7/1/2021
26	Patio Covers - Solid	Valuation	N/A	Varies	7/1/2021
27	Patio Covers - Lattice	Valuation	N/A	Varies	7/1/2021
28	Patio Covers - Enclosures	Valuation	N/A	Varies	7/1/2021
29	Pole Bases	Valuation	N/A	Varies	7/1/2021
30	Roofing	Valuation	N/A	Varies	7/1/2021
31	Storage Sheds	Valuation	N/A	Varies	7/1/2021
32	Stucco	Valuation	N/A	Varies	7/1/2021
33	Swimming Pools/Spas	Valuation	N/A	Varies	7/1/2021
34	Tenant Improvements - With Ceiling	Valuation	N/A	Varies	7/1/2021
35	Tenant Improvements - Without Ceiling	Valuation	N/A	Varies	7/1/2021
36	Trash Enclosures - Single	Valuation	N/A	Varies	7/1/2021
37	Trash Enclosures - Double	Valuation	N/A	Varies	7/1/2021
38	Walls - Retaining	Valuation	N/A	Varies	7/1/2021
39	Walls - Screen Garden	Valuation	N/A	Varies	7/1/2021
40	Walls - Tilt-Up Screen Walls	Valuation	N/A	Varies	7/1/2021
41	Window Changeout	Valuation	N/A	Varies	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Electrical Permit Fees					
42	Electrical Permit Issuance Fee	Each	$ 41.63	$ 41.00	7/1/2021
43	Electrical Permit - Temporary Power Service Pedestal	Each	$ 86.33	$ 86.00	7/1/2021
44	Electrical Permit - Temporary Power Service Distribution system	Each	$ 43.17	$ 43.00	7/1/2021
45	Electrical Permit - outlet/switch/fixture	First 20 fixtures	$ 129.50	$ 129.00	7/1/2021
46	Electrical Permit - Additional Fixtures	Each	$ 2.94	$ 2.90	7/1/2021
47	Electrical Permit - Power Apparatus -up to and including 1	each HP, kW, kVA or kVAR	$ 143.83	$ 143.00	7/1/2021
48	Electrical Permit - Power Apparatus - over 1 to 10	each HP, kW, kVA or kVAR	$ 158.33	$ 158.00	7/1/2021
49	Electrical Permit - Power Apparatus - over 10 to 50	each HP, kW, kVA or kVAR	$ 172.66	$ 172.00	7/1/2021
50	Electrical Permit - Power Apparatus - over 50 to 100	each HP, kW, kVA or kVAR	$ 258.99	$ 258.00	7/1/2021
51	Electrical Permit - Power Apparatus - over 100	each HP, kW, kVA or kVAR	$ 345.32	$ 345.00	7/1/2021
52	Electrical Permit - Services -for services of 600 volts or less and not over 200 amperes in rating	Each	$ 172.66	$ 172.00	7/1/2021
53	Electrical Permit Fee - Services -for services of 600 volts or less and over 200 amperes to 1,000 amperes in rating	Each	$ 258.99	$ 258.00	7/1/2021
54	Electrical Permit Fee - Services -for services over 600 volts or over 1,000 amperes in rating	Each	$ 431.65	$ 431.00	7/1/2021
55	Electrical Permit Fee - Miscellaneous Apparatus, Conduits and Conductors	Each	$ 143.83	$ 143.00	7/1/2021
56	Electrical Permit Fee- Subpanel	Each	N/A	$ 172.00	7/1/2021
57	Electrical Permit Fee - Signs	Each	N/A	$ 86.00	7/1/2021
58	Electrical Permit Fee - Private Swimming Pools	Each Pool or Spa	N/A	$ 129.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
59	Electrical Permit Fee - Other Inspections and Fees, inspections outside of normal business hours: minimum charge 3 hrs.	Per Hour	$ 113.00	$ 113.00	7/1/2021
60	Electrical Permit Fee - Inspections	Per Hour	$ 113.00	$ 113.00	7/1/2021
61	Electrical Permit Fee - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
62	Electrical Permit Fee - Additional plan review	Per Hour	$ 113.00	$ 113.00	7/1/2021
63	New Construction Trades - Electrical : Residential	Per Square Foot	$ 0.10791	$ 0.1079	7/1/2021
64	New Construction Trades - Electrical : Commercial	Per Square Foot	$ 5.22301	$ 0.1200	7/1/2021
65	New Construction Trades - Electrical: Industrial / warehouse (0-50,000 sf)	Per Square Foot	$ 0.01209	$ 0.0120	7/1/2021
66	New Construction Trades - Electrical : Industrial / warehouse (>50,000 sf)	Per Square Foot	$ 0.00388	$ 0.0038	7/1/2021
Mechanical Permit Fees					
67	Mechanical Permit Issuance Fee	Each	$ 41.75	$ 41.00	7/1/2021
68	Mechanical Permit Fee (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems -under 3 HP (10.6kW) or to and including 100,000 Btu/h (29.3kW)	Each	$ 172.66	$ 172.00	7/1/2021
69	Mechanical Permit Fees (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems-over 3 HP (10.6kW) to and including 15 HP (52.7kW), or over 100,000 Btu (29.3kW) to and including 500,000 Btu/h (146.6kW)	Each	$ 215.83	$ 215.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
70	Mechanical Permit Fees (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems -over 15 HP (52.7 kW) to and including 30 HP (105.5 kW), over 500,000 Btu/h (146.6 kW) to and including 1,000,000 Btu/h (293.1 kW)	Each	$ 258.99	$ 258.00	7/1/2021
71	Mechanical Permit Fees (includes issuance fee)- Furnaces, Boilers, Compressors and Absorption Systems -over 30 HP (105.5 kW) to and including 50 HP (176 kW), or over 1,000,000 Btu/h (293.1 kW) to and including 1,750,000 Btu/h (512.9 kW)	Each	$ 345.32	$ 345.00	7/1/2021
72	Mechanical Permit Fees (includes issuance fee)- Furnaces, Boilers, Compressors and Absorption Systems -over 50 HP (176 kW) or over 1,7500,000 Btu/h (512.9kW)	Each	$ 517.98	$ 517.00	7/1/2021
73	Mechanical Permit Fees (includes issuance fee)- Evaporative Coolers	Each	$ 172.66	$ 172.00	7/1/2021
74	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust -each fan connected to single duct	Each	$ 172.66	$ 172.00	7/1/2021
75	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust-each which is not a portion of any heating or a/c system authorized by a permit	Each	$ 172.66	$ 172.00	7/1/2021
76	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust -each hood served by mechanical exhaust	Each	$ 345.32	$ 345.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
77	Mechanical Permit Fee - Process Piping	Valuation	N/A	Varies	7/1/2021
78	Mechanical Permit Fee - Wall Heater	Each	N/A	$ 43.00	7/1/2021
79	Mechanical Permit Fees - Miscellaneous (one inspection)	Each	$ 86.33	$ 86.00	7/1/2021
80	Mechanical Permit Fees - Inspection outside of normal business hours	Per Hour	$ 113.00	$ 113.00	7/1/2021
81	Mechanical Permit Fees - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
82	Mechanical Permit Fees - No Fee Specifically Indicated	Per Hour	$ 113.00	$ 113.00	7/1/2021
83	Mechanical Permit Fees - Additional Plan Review	Per Hour	$ 113.00	$ 113.00	7/1/2021
84	New Construction Trades - Mechanical: Residential	Per Square Foot	$ 0.0647	$ 0.0647	7/1/2021
85	New Construction Trades - Mechanical : Commercial	Per Square Foot	$ 0.0647	$ 0.0647	7/1/2021
Plumbing Permit Fees					
86	Permit issuance fee	Each	$ 41.75	$ 41.00	7/1/2021
87	Plumbing Permit Fees - First 15 Fixtures and Vents (new & alterations)	First 15 Fixtures/Vents	$ 172.66	$ 172.50	7/1/2021
88	Plumbing Permit Fees - Each Additional	Each	$ 172.66	$ 10.78	7/1/2021
89	Plumbing Permit Fees - Sewers	Each	$ 172.66	$ 172.50	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
90	Plumbing Permit Fees - Sewage disposal system	Each	$ 431.65	$ 431.50	7/1/2021
91	Plumbing Permit Fees -Industrial waste pretreatment interceptor	Each	$ 172.66	$ 172.50	7/1/2021
92	Plumbing Permit Fees - Water Piping First 20 outlets	First 20 Outlets	$ 129.50	$ 129.00	7/1/2021
93	Plumbing Permit Fees - Water Piping Each Additional Outlet	Each Outlet	$ 129.50	$ 5.23	7/1/2021
94	Plumbing Permit Fees - Water heater including vent	Each	$ 172.66	$ 12.92	7/1/2021
95	Plumbing Permit Fees - Gas Piping Systems First 5 Outlets	First 5 Outlets	$ 647.50	$ 129.50	7/1/2021
96	Plumbing Permit Fees - Gas Piping Systems Each Additional	Each Addt'l Outlet	$ 129.50	$ 6.77	7/1/2021
97	Plumbing Permit Fees - Lawn Sprinklers	Each lawn sprinkler system on any one meter	$ 172.66	$ 172.50	7/1/2021
98	Plumbing Permit Fees - Backflow Protection Devices	Each Device	$ 172.66	$ 172.50	7/1/2021
99	Plumbing Permit Fees - Miscellaneous	Each appliance or equipment regulated by the Plumbing Code but not classed in other appliance categories, or for which no fee is listed in this code	$ 86.33	$ 86.00	7/1/2021

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FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
100	Plumbing Permit Fees - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
101	Plumbing Permit Fees - No Fee Specifically Indicated	Per Hour	$ 113.00	$ 113.00	7/1/2021
102	Plumbing Permit Fees - Additional Plan Review	Per Hour	$ 113.00	$ 113.00	7/1/2021
103	New Construction Trades - Plumbing : Residential	Per SF	$ 0.10791	$ 0.1070	7/1/2021
	Grading Plan Review Fees (up to three submittals of plans)				
104	Grading plan check, rough (0-10 acres)	Each	$ 1,381.29	$ 1,381.00	7/1/2021
105	Grading plan check, rough (>10 acres)	Each	$ 1,381.29	$ 1,381.00	7/1/2021
106	Grading plan check, rough (each additional 5 acres)	Each	$ 345.32	$ 345.00	7/1/2021
107	Grading plan check, precise (0-10 acres)	Each	$ 1,726.61	$ 1,726.50	7/1/2021
108	Grading plan check, precise (>10 acres)	Each	$ 1,726.61	$ 1,726.50	7/1/2021
109	Grading plan check, precise (each additional 5 acres)	Each	$ 517.98	$ 517.50	7/1/2021
	Grading Permit Fees				
110	Grading permit, rough (0-50 acres)	Each	$ 345.32	$ 345.00	7/1/2021
111	Grading permit, rough (each additional 10 acres)	Each	$ 86.33	$ 86.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
112	Grading permit, precise (0-50 acres)	Each	$ 431.65	$ 431.50	7/1/2021
113	Grading permit, precise (each additional 10 acres)	Each	$ 129.50	$ 129.50	7/1/2021
114	Soil Disturbance Permit - Dust Control	Each	N/A	$ 250.00	7/1/2021
Miscellaneous Fees					
115	Building plan retention fee	Per Plan Page	N/A	$ 1.50	7/1/2021
116	Permits, Calcs and Misc. doc	8.5x11 / per page	N/A	$ 0.35	7/1/2021
Sewer, Water, Storm Drain Permit & Plan Check Fees					
117	Sewer Main Inspection Permit	Per Lineal Foot	$ 3.17	$ 3.17	7/1/2021
118	Water Main Inspection Permit	Per Lineal Foot	$ 0.63	$ 0.63	7/1/2021
119	Storm Drain - main Inspection Permit	Per Lineal Foot	$ 0.63	$ 0.63	7/1/2021
120	Storm Drain - yard Inspection Permit	Per Lineal Foot	$ 0.29	$ 0.29	7/1/2021
121	Sewer, Water, Storm Drain Plan check fee = % of permit valuation	% of Permit Valuation	2.00%	2.00%	7/1/2021

Resolution No. 2004-065
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

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FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
1	Inspection / Permit - Base Fee	Base	$ 164.09	$ 164.00	7/1/2021
2	Inspection / Permit Fees $1 - $50,000	Construction cost estimate	5.97%	5.97%	7/1/2021
3	Inspection / Permit Fees $50,001 - $500,000	Construction cost estimate	5.45%	5.45%	7/1/2021
4	Inspection / Permit Fees >$500,000	Construction cost estimate	4.24%	4.24%	7/1/2021
5	Plan Check - Base Fee (includes grading, NPDES etc.)	Base	$ 1,371.16	$ 1,371.00	7/1/2021
6	Plan Check Fees $1 - $50,000	Construction cost estimate	6.00%	6.00%	7/1/2021
7	Plan Check Fees $50,001 - $500,000	Construction cost estimate	4.65%	4.65%	7/1/2021
8	Plan Check Fees >$500,000	Construction cost estimate	3.62%	3.62%	7/1/2021
9	Encroachment Permit Fee	Each	$ 162.91	$ 112.80	8/21/2021

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III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
10	Inspection for minor improvements (driveways, pole replacement, etc.)	Inspection for single item (2 inspections, before and after)	$ 167.02	$ 108.15	8/21/2021
11	Traffic Control Permit	Each	$ 103.49	$ 103.00	7/1/2021
12	Overload Permit (single trip) - One time	Each	N/A	$ 19.20	8/21/2021
13	Overload Permit (round trip) - Annual	Each	N/A	$ 108.00	8/21/2021
14	Permit Penalty Fee	Percent of Permit Value	N/A	50.00%	7/1/2021
15	Map Review (Parcel/Tract) - Base Fee	Each	$ 7,666.96	$ 2,588.40	8/21/2021
16	Map Review - Addt'l per parcel	Per Parcel	$ 70.48	$ 70.00	8/21/2021
17	Certificate of Compliance	Each	$ 790.69	$ 745.20	8/21/2021
18	Lot Line Adjustment - Base Fee	Each	$ 1,286.16	$ 1,159.20	8/21/2021
19	Lot Line Adjustment - Addt'l per parcel	Per parcel	$ 59.43	$ 59.00	7/1/2021
20	General Vacation	Each	$ 3,805.94	$ 1,902.00	8/21/2021

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III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
21	Quit Claim / Summary Vacation	Each	$ 2,049.22	$ 1,087.20	8/21/2021
22	Certificate of Correction	Each	$ 823.10	$ 480.00	8/21/2021
23	Easement review	Each	$ 1,691.08	$ 1,691.00	7/1/2021
24	NPDES business inspection fee - low priority	One inspection every 5 years	$ 59.43	$ 59.00	7/1/2021
25	NPDES business inspection fee - medium priority	One inspection every 2 years	$ 118.85	$ 118.00	7/1/2021
26	NPDES business inspection fee - high priority	Inspection each year	$ 237.70	$ 237.50	7/1/2021
27	NPDES/WQMP Plan Review	Each	$ 2,160.65	$ 1,112.40	8/21/2021
28	NPDES Construction Inspection Fee (< 10 acres)	Each	$ 505.66	$ 505.50	7/1/2021
29	NPDES Construction Inspection Fee (10-25 acres)	Each	$ 905.50	$ 905.50	7/1/2021
30	NPDES Construction Inspection Fee (> 25 acres)	Each	$ 2,074.37	$ 2,074.00	8/21/2021

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III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
31	Overtime Pay for Inspection (Weekends & Holidays)	Per Hour	N/A	Hourly Rate	7/1/2021
32	Misc. / Special Technical Report Review Fee	Actual Cost (Plus 25% Admin for consultant review, if applicable)	N/A	Varies	7/1/2021
33	Water Meter - OMUC Fee	Based on meter size - OMUC Fee	N/A	Varies	7/1/2021
34	Storm Water Pollution Abatement	Monthly BAU fee based on land use type & site acreage (applied to utility bill)	N/A	Varies	7/1/2021
35	Legal review	Per Hour	N/A	Hourly Rate	7/1/2021
PLANNING APPLICATIONS REVIEWED BY LAND DEVELOPMENT ENGINEERING					
36	Development Agreement	Deposit	N/A	Varies	7/1/2021
37	Development Agreement Amendment	Deposit	N/A	Varies	7/1/2021
38	Development Code Amendment	Deposit	N/A	Varies	7/1/2021
39	Environmental Impact Report	Deposit	N/A	Varies	7/1/2021
40	General Plan Amendment	Deposit	N/A	Varies	7/1/2021

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FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
41	Planned Unit Development	Deposit	N/A	Varies	7/1/2021
42	Planned Unit Development Amendment	Deposit	N/A	Varies	7/1/2021
43	Specific Plan	Deposit	N/A	Varies	7/1/2021
44	Specific Plan Amendment	Deposit	N/A	Varies	7/1/2021
45	Specific Plan Minor Amendment	Deposit	N/A	Varies	7/1/2021
46	Zone Change - 5 acres or more	Deposit	N/A	Varies	7/1/2021
47	Zone Change - Less than 5 acres	Deposit	N/A	Varies	7/1/2021

Resolution No. 2004-065
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
1	Land Conservation Contract Non-renewal	Each	$ 3,817.21	$ 1,401.85	8/21/2021
2	Land Conservation Contract Cancellation	Each	$ 16,679.06	$ 6,431.53	8/21/2021
3	Appeal-Homeowner	Each	N/A	$ 130.00	7/1/2021
4	Appeal-Other	Each	N/A	$ 902.00	7/1/2021
5	Covenants Conditions and Restrictions Review	Each	$ 4,940.68	$ 3,067.50	8/21/2021
6	Conditional Use Permit-Homeowner	Each	$ 4,894.70	$ 1,784.26	8/21/2021
7	Conditional Use Permit-Nonprofit	Each	$ 3,520.01	$ 2,691.60	8/21/2021
8	Conditional Use Permit-Other	Each	$ 5,901.35	$ 5,900.00	7/1/2021
9	Conditional Use Permit-Modification	Each	$ 5,901.35	$ 3,693.27	8/21/2021
10	Conditional Use Permit-w/ Development Plan	Each	$ 4,724.75	$ 1,567.20	8/21/2021
11	Conditional Use Permit Time Extension	Each	$ 1,381.04	$ 1,380.00	7/1/2021
12	Determination of Use	Each	$ 3,316.06	$ 3,316.00	7/1/2021
13	Development Agreement	Deposit	N/A	$ 10,000.00	7/1/2021

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III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
14	Development Agreement Amendment	Deposit	N/A	$ 7,500.00	7/1/2021
15	Development Code Amendment	Deposit	N/A	$ 2,000.00	7/1/2021
16	Development Plan Review - 5 acres or more	Each	$ 24,846.74	$ 17,914.80	8/21/2021
17	Development Plan Review - less than 5 acres	Each	$ 21,465.84	$ 11,913.15	8/21/2021
18	Development Plan Revision	Each	$ 16,735.49	$ 4,582.85	8/21/2021
19	Development Plan Time Extension	Each	$ 1,381.04	$ 1,380.00	7/1/2021
20	Environmental Assessment/Negative Declaration	Each	$ 3,155.59	$ 3,155.00	7/1/2021
21	Environmental Impact Report	Deposit	N/A	$ 10,000.00	7/1/2021
22	General Plan Amendment - Text	Deposit	N/A	$ 5,000.00	7/1/2021
23	General Plan Amendment - Map	Deposit	N/A	$ 7,500.00	7/1/2021
24	Historic Preservation - COA-Nonresidential	Each	$ 4,677.04	$ 1,533.75	8/21/2021
25	Historic Preservation - COA-Residential	Each	$ 4,677.04	$ 214.73	8/21/2021
26	Historic Preservation - COEH-Nonresidential	Each	$ 6,846.51	$ 2,045.00	8/21/2021
27	Historic Preservation - COEH-Residential	Each	$ 6,846.51	$ 268.92	8/21/2021
28	Historic Preservation - Removal from Eligibility List (No Charge)	Each	$ 6,366.15	No Charge	7/1/2021

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III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
29	Historic Preservation - Waiver	Each	$ 42.96	$ 42.50	7/1/2021
30	Historic Preservation - Landmark Designation (No Charge)	Each	$ 12,025.51	No Charge	7/1/2021
31	Historic Preservation - Plaque	Actual Cost	Varies	Varies	7/1/2021
32	Inspection - Construction (3 inspections)	Each	$ 5,342.05	$ 613.50	8/21/2021
33	Inspection - Field (includes construction inspections in excess of 3)	Each	$ 1,335.51	$ 255.63	8/21/2021
34	Residential Mills Act[A]	Each	$ 10,939.36	$ 214.73	8/21/2021
35	Nonresidential Mills Act[A]	Each	$ 10,939.36	$ 669.74	8/21/2021
36	Large Family Daycare	Each	$ 2,127.81	$ 1,116.57	8/21/2021
37	Lodging House Permit	Each	$ 2,127.81	$ 2,127.00	7/1/2021
38	Massage Permits	Each	$ 2,127.81	$ 2,127.00	7/1/2021
39	Plan Check - 5 or more acres	Each	$ 9,196.43	$ 3,070.10	8/21/2021
40	Plan Check - less than 5 acres	Each	$ 5,685.72	$ 1,717.10	8/21/2021
41	Planned Unit Development	Deposit	$ 20,926.28	$ 10,225.00	8/21/2021
42	Planned Unit Development Amendment	Deposit	$ 13,947.59	$ 7,668.75	8/21/2021
43	Planning Area Plan	Deposit	N/A	$ 7,500.00	7/1/2021

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III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
44	Planning Director Review	Each	$ 1,057.33	$ 706.55	8/21/2021
45	Preliminary Plan Review	Each	$ 4,207.14	$ 4,203.00	7/1/2021
46	Public Hearing - City Council	Each	$ 769.75	$ 604.30	8/21/2021
47	Public Hearing - Development Advisory Board	Each	$ 497.12	$ 325.16	8/21/2021
48	Public Hearing - Planning Commission	Each	$ 1,325.44	$ 604.30	8/21/2021
49	Public Hearing - Zoning Administrator-Homeowner	Each	$ 1,764.14	$ 74.64	8/21/2021
50	Public Hearing - Zoning Administrator-Other	Each	$ 1,764.14	$ 584.87	8/21/2021
51	Sign Plan	Each	$ 519.34	$ 246.42	8/21/2021
52	Sign Program - administrative approval	Each	$ 2,825.58	$ 862.99	8/21/2021
53	Sign Program - planning commission approval	Each	$ 3,059.86	$ 2,934.58	8/21/2021
54	Specific Plan	Deposit	N/A	$ 20,000.00	7/1/2021
55	Specific Plan Amendment	Deposit	N/A	$ 7,500.00	7/1/2021
56	Specific Plan Minor Amendment	Deposit	N/A	$ 620.00	7/1/2021
57	Temporary Sign Permit	Each	$ 124.89	$ 58.28	8/21/2021
58	Temporary Use Permit - interim uses	Each	$ 2,757.54	$ 838.45	8/21/2021
59	Temporary Use Permit - special event	Each	$ 1,064.72	$ 492.00	8/21/2021

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III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
60	Tentative Parcel Map	Each	$ 15,986.07	$ 6,641.14	8/21/2021
61	Tentative Parcel Map Modification	Each	$ 11,706.32	$ 4,262.80	8/21/2021
62	Tentative Tract Map (Base)	Flat	$ 18,403.54	$ 9,805.78	8/21/2021
63	Tentative Tract Map (per lot)	Each	$ 65.00	$ 65.00	7/1/2021
64	Tentative Tract Map Modification	Each	$ 12,681.18	$ 3,125.78	8/21/2021
65	Tentative Tract/Parcel Map Time Extension	Each	$ 7,378.97	$ 1,227.00	8/21/2021
66	Variance - Administrative Exception or Minor	Each	$ 3,978.78	$ 2,451.96	8/21/2021
67	Variance - Homeowner	Each	$ 3,978.78	$ 309.82	8/21/2021
68	Variance - Other	Each	$ 5,266.37	$ 3,508.20	8/21/2021
69	Wireless Permit: Facilities in Public Rights-of-Way	Each	$ 3,978.78	$ 3,978.00	7/1/2021
70	Zone Change - 5 acres or more	Each	$ 10,575.56	$ 7,666.71	8/21/2021
71	Zone Change - Less than 5 acres	Each	$ 9,194.99	$ 7,497.99	8/21/2021
72	Zoning Administrator Review - Homeowner	Each	$ 3,978.78	$ 200.41	8/21/2021
73	Zoning Administrator Review - Other	Each	$ 3,978.78	$ 1,160.54	8/21/2021
74	Zoning/Land Use Verification Letter	Each	$ 499.56	$ 195.30	8/21/2021

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III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
75	Notice of Exemption Filing Fee	County Fee	N/A	$ 50.00	7/1/2021
76	Notice of Determination Filing Fee	County Fee	N/A	$ 50.00	7/1/2021
77	Filing of a Negative/Mitigated Declaration	County Fee	N/A	$ 2,404.75	7/1/2021
78	Filing of an Environmental Impact Report	County Fee	N/A	$ 3,321.00	7/1/2021
79	Outside consultant or legal expenses	Actual Cost Plus 25% Admin. Fee	N/A	Varies	7/1/2021
80	Advanced Long Range Planning	Percent of all Building Permits & Planning Applications	$ 914,960.12	5.00%	7/1/2021

Resolution No. 2004-065 (Entitlement Processing Fees excl. Mills Act)
[A] Resolution No. 2005-115 (Mills Act Fees)
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062
CPI Adjustment of 2.25% applied to select fees based on year-over-year change from Jan. 2020 to Jan. 2021 as measured by "Riverside-San Bernardino-Ontario Consumer Price Index"

RESOLUTION NO. PC22-030

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE FILE NO. PDA22-003-D, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC OWNER, LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 104 RESIDENTIAL UNITS AND UP TO 14,095 SQUARE FEET OF COMMERCIAL/OFFICE/ RETAIL USES, ON APPROXIMETLY 2.04 ACRES OF LAND LOCATED AT THE SOUTHEAST CORNER OF ONTARIO VIA PIEMONTE AND VIA VILLAGIO WITHIN THE MIXED-USE SUBAREAS 11 OF THE PIEMONTE OVERLAY AT THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0210-204-38.

WHEREAS, OTC Owner, LLC, ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA22-003-D, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 2.04 acres of land, located at the southeast corner of Via Piemonte and Via Villagio. The project site within the proposed mixed-use Subarea 8 of the Piemonte Overlay at the Ontario Center Specific Plan, and is presently vacant; and

WHEREAS, in 2006, the City Council approved the creation of the Piemonte Overlay of the Ontario Center Specific Plan (“Piemonte Overlay”), within the Urban Commercial land use district of the Ontario Center Specific Plan, establishing a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre overlay site. Several Specific Plan Amendments have been approved for the Piemonte Overlay, modifying development intensities, parking requirements, architectural guidelines, and land use designations. The most recent Specific Plan Amendment, File No. PSPA21-001, was approved by the City Council on April 19, 2022, and involved expanding the overlay boundary, adding the Mixed-Use land use designation, and establishing design guidelines for mixed-use projects; and

WHEREAS, the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) was certified on March 19, 1991, (hereinafter referred to as “Certified EIR”), in which development and use of the Project site was discussed in the Amendment to the Ontario Center Specific Plan (File No. 4059-SPA); and

WHEREAS, a Mitigated Negative Declaration was subsequently adopted on May 16, 2017, (hereinafter referred to as “MND”), in which development and use of the Project site was discussed in association with an Amendment to the Ontario Center Specific Plan (File No. PSPA16-003); and

WHEREAS, the Planning Director of the City of Ontario prepared and approved for attachment to the Certified EIR and adopted MND, an Addendum to the Certified EIR and MND (hereinafter collectively 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 was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

WHEREAS, the environmental impacts of this Project were thoroughly analyzed in the Certified EIR and EIR Addendum, which concluded that implementation of the Project could result in a number of significant effects on the environment and 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and make recommendations to the City Council 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, A Development Plan Application (File No. PDEV22-014) to construct four mixed-use buildings totaling 63,655 commercial square feet and 694 dwelling units on 13.3 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corner of Via Piemonte and Via Villagio, within the Mixed-Use land use district of the Piemonte Overlay of the Ontario Center Specific Plan, has been filed in conjunction with the Development Agreement Application; 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 June 28, 2022, the Planning Commission 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 Planning Commission of the City of Ontario, as follows:

SECTION 1: ***Environmental Determination and Findings.*** As the recommending body for the Project, the Planning Commission 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 Planning Commission finds as follows:

(1) The environmental impacts of the Project were reviewed in conjunction with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) ("Certified EIR"), certified by the Ontario City Council on March 19, 1991, in conjunction with File No. 4059-SPA, in combination with an Addendum to the Mitigated Negative Declaration, adopted by the Ontario City Council on May 17, 2017, in conjunction with File No. PSPA16-003. In addition, an EIR Addendum was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

(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 Planning Commission; 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 Planning Commission, and the specific findings set forth in Section 1, above, the Planning Commission 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

SECTION 3: ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending body for the Project, the Planning Commission 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 site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The proposed changes affect two of the four properties listed in the Available Land Inventory (Subareas 8 and 11; Map ID No. 124 and 125). The residential capacity proposed in this Project is consistent with the number of dwelling units (198) and density (48 du/ac) specified in the Available Land Inventory.

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 body 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 PLANNING COMMISSION, 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 Planning Commission during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 4, above, the Planning Commission hereby concludes as follows:

a. The Development Agreement applies to approximately 2.04 acres of land generally located southeast corner of Via Piemonte and Via Villagio; and

b. The Development Agreement establishes parameters for the development of a mixed-use project for Lot D, consisting of 104 residential units and up to 14,095 square feet retail uses, within the proposed Mixed-Use Subarea 11 of the Piemonte Overlay of the Ontario Center Specific Plan. The Development Agreement also grants the Applicant, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are

consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Piemonte Overlay of the Ontario Center Specific Plan; and

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

d. 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

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

f. 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 reviewed with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) prepared for the related Amendment to the Piemonte Overlay at the Ontario Center Specific Plan (File No. PSPA21-001). This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

SECTION 6: ***Planning Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 through 5, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE the herein described Application, subject to each and every condition set forth in the Development Agreement (File No. PDA22-003-D) 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: ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of June 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-030, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on June 28, 2022, by the following roll call vote, to wit:

AYES: Anderson, DeDiemar, Gage, Lampkin, Ricci, Willoughby

NOES: None

ABSENT: Dean

ABSTAIN: None

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

File No. PDA22-003-D

DEVELOPMENT AGREEMENT

By and Between

City of Ontario
a California municipal corporation

and

OTC Owner, LLC
Lot D

a Delaware limited liability company

(Development Agreement to follow this page)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

Exempt from Fees Per Gov. Code §§ 6103 and 27383

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

OTC Owner, LLC
Lot D

a Delaware limited liability company

DEVELOPMENT AGREEMENT NO. PDA22-033-D

This Development Agreement (hereinafter "Agreement") is dated as of July _____, 2022, for reference purposes only, and is entered into by and between the City of Ontario, a California municipal corporation (hereinafter "City"), and OTC Owner, LLC, Lot D, a Delaware limited liability company (together with its successors and assigns, "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

WHEREAS, Owner has a leasehold interest in the Property pursuant to the Ground Lease; 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, on July ____, 2022, the City Council adopted Ordinance No. _____ approving this Agreement, and such ordinance became effective on _____, 2022; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement. On April 19, 2022, pursuant to Resolution No. 2022-034, the City Council reviewed and adopted an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) dated March 2022 under City's File No. PSPA21-001 (the "EIR Addendum"). The proposed Project is consistent with the EIR Addendum and no further environmental review is required; and

WHEREAS, on April 19, 2022, pursuant to Resolution No. 2022-035, the City Council approved the Piemonte Overlay at the Ontario Center Specific Plan Amendment - File No. PSPA21-001 (the "Specific Plan Amendment"); and

WHEREAS, this Agreement and the Project are consistent with the City's Comprehensive General Plan and any specific plan applicable thereto; 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, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended.

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 "Approval Date" means _____, 2022 the hearing date on which the City Council adopted the ordinance approving this Agreement.

1.1.3 "Certificate" shall have the meaning set forth in Section 6.4.

1.1.4 "Certificate of Performance" shall have the meaning set forth in Section 2.5.3.

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

1.1.6 "City Council" means the City Council of the City of Ontario.

1.1.7 "City Manager" means City's City Manager or his or her designee.

1.1.8 "City Parties" shall have the meaning set forth in Section 9.2.

1.1.9 "City Response Delay" shall have the meaning set forth in Section 3.3.

1.1.10 "Completion" means the date on which all of the following has occurred (a) the Building Department of the City (in its capacity as the municipal authority) has issued (i) a temporary certificate of occupancy (or its equivalent) for the residential dwelling units within the Project and (ii) final sign off or its equivalent of the core and shell for the commercial space within the Project (but not the tenant improvements for such space) and (b) Owner has satisfied the conditions of the Development Approvals to the extent required in connection with the Project (as opposed to conditions required in connection with the development of the other Lots within the Phased Development) other than ongoing conditions that are not required to be satisfied prior to completion of the Project.

1.1.11 "Deferred DIF" shall have the meaning set forth in Section 4.2.2.

1.1.12 "Deferred DIF Repayment Date" shall have the meaning set forth in Section 4.2.2.

1.1.13 "Development Approval" or "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property whether Existing Development Approvals or Subsequent Development Approvals, including, but not limited to, the following:

(a) Amendment to the Piemonte Overlay at Ontario Center Specific Plan -File No. PSPA21-001;

(b) Development Plan Entitlement – File No. PDEV22-014;

(c) EIR Addendum;

(d) Development Agreement - File No. PDA22-003-D; and

(e) Amendment to the Piemonte Overlay Sign Program – File No. PSGP22-002.

1.1.14 "Development Impact Fee" means a monetary exaction, other than a tax or special assessment, whether characterized as a fee, exaction, charge, assessment 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. The rates as of the Approval Date for the Development Impact Fees that may apply to the Project are shown on Exhibit "C" attached hereto.

1.1.15 "Effective Date" means the date on which both of the following are true: (a) the ordinance approving this Agreement goes into effect; and (b) the Effective Date of the Ground Lease has occurred. Promptly after the Effective Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Effective Date and, thereafter, the Effective Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.16 "Existing Development Approvals" means all Development Approvals approved or issued on or prior to the Effective Date. Existing Development Approvals are listed in the definition of "Development Approvals" above and all other Development Approvals which are a matter of public record on the Effective Date.

1.1.17 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Approval Date, as modified by the Development Approvals.

1.1.18 "Final Non-Appealable Date" means the date Existing Development Approvals are final and non-appealable as set forth in the City Development Code and any applicable Laws and (ii) the applicable statute of limitations has expired under the California Environmental

Quality Act (Public Resources Code §21000 *et seq*.) and implementing Guidelines for CEQA (14 Cal. Code Regs. §15000 *et seq*.) with respect to the Addendum, in each case without the filing of any third party challenge, appeal, or lawsuit or, if filed, such challenge, appeal, or lawsuit has been resolved in a manner satisfactory to Owner. Promptly after the Final Non-Appealable Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Final Non-Appealable Date and, thereafter, the Final Non-Appealable Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.19 "Force Majeure Event(s)" shall have the meaning set forth in Section 11.11.

1.1.20 "General Plan" means the City's Comprehensive General Plan adopted on January 27, 2010, by Resolution No. 2010-006, as may be amended as of the Approval Date.

1.1.21 "Ground Lease" means that certain Ground Lease by and between City and Owner dated on or about the Approval Date pertaining to the Property, as the same may be amended, modified, or supplemented from time to time.

1.1.22 "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; or

(e) the exercise of the power of eminent domain.

1.1.23 "Lender Proposed Amendment" shall have the meaning set forth in Section 10.

1.1.24 "Lot" or "Lots" shall mean Lot A, B, C, or D, as the context may require, as shown on Exhibit "B" to this Agreement.

1.1.25 "Mortgagee" means any lender under any mortgage, deed of trust, or other security device securing financing with respect to the Owner's then-current interest in the Property, and their successors and assigns.

1.1.26 "Non-Deferrable Fees" shall have the meaning set forth in Section 4.2.2.

1.1.27 "Owner" means the person or entity defined as such in the introductory paragraph of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.28 "Owner Parties" shall have the meaning set forth in Section 9.3.2.

1.1.29 "Phased Development" means the phased development and construction contemplated by Owner on the Property and each of the other "Owners" under the Related Development Agreements (as defined below) on Lots A, B, and C. The projects to be developed and constructed in the Phased Development include the Project and projects on Lots A, B, and C as follows:

Lot A - Development Plan Entitlement – File No. PDEV22-014;

Lot B - Development Plan Entitlement – File No. PDEV22-014; and

Lot C - Development Plan Entitlement – File No. PDEV22-014.

Lots A, B, and C are each also currently subject to a ground lease between the City and ground lease tenant of the applicable Lot which is being entered into concurrently with the Ground Lease in form and content similar to the Ground Lease. The City is also concurrently entering into a statutory development agreement with each of the ground lease tenants for Lots A, B, and C in form and content similar to this Agreement (the "Related Development Agreements"). It is currently contemplated that the Project will be developed and constructed as part of the Phased Development of the Property and Lots A, B, and C currently comprised of the following development as shown on Table 1 below:

Table 1:
Maximum Development Density (Units) and Intensity
(Based on Piemonte Overlay at the Ontario Center Specific Plan)

DA File No's.	Approx. Acres	Lot	Subarea Area	Dwelling Units	Commercial (Square Feet)
PDA22-003-A	4.83	A	16	384	25,256
PDA22-003-B	1.69	B	17	112	20,802
PDA22-003-C	1.93	C	8	94	11,047
PDA22-003-D	2.04	D	11	104	14,095
Total	**10.49**			**694**	**71,200**

1.1.30 "Project" means the proposed development and construction on the Property (Lot D) of up to 14,095 square feet of commercial/office/ retail uses and 104 multi-family residential dwelling units, all as consistent with File No. PDEV22-014 (as the same may be modified by Owner from time to time in accordance with the Existing Development Approvals). The commercial/office/retail uses shall be those permitted or conditionally permitted within Section 3.2 *Allowed Uses* of The Piemonte at Ontario Center Specific Plan.

1.1.31 "Property" means the real property described on Exhibit "A" and shown on Exhibit "B" to this Agreement. The Property is referred to as Lot D on Exhibit B. The Property constitutes one parcel of the Phased Development. Lots A, B, and C comprise the remaining parcels of the planned Phased Development.

1.1.32 "Protected Lot" shall have the meaning set forth in Section 8.2.3.

1.1.33 "Related Development Agreement" shall have the meaning set forth in the definition of "Phased Development" above.

1.1.34 "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.

1.1.35 "Security Instrument" shall have the meaning set forth in Section 10.

1.1.36 "Specific Plan" means that certain specific plan adopted by the City Council, and entitled, "Piemonte Overlay at the Ontario Center Specific Plan," as amended by the Specific Plan Amendment.

1.1.37 "Subsequent Development Approvals" means all Development Approvals obtained subsequent to the Approval Date in connection with development of the Property.

1.1.38 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Approval Date.

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 location of Property and the other Lots within the Phased Development

Exhibit "C" Development Impact Fees as of the Approval Date

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 if and to the extent commenced shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the owner of a leasehold interest in the Property or a portion 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;

(b) Owner is not then in uncured default of this Agreement (after notice and the expiration of any applicable cure periods); and

(c) if less than three (3) of the Lots in the Phased Development have achieved Completion, such extension must be approved by the City Manager in his or her reasonable discretion.

For the avoidance of doubt, any time limits that may otherwise apply to the Development Approvals absent this Development Agreement (including without limitation, any of the time limits imposed on approvals pursuant to Section 2.02.025A of the Ontario Development Code or any other the Land Use Regulations) shall not govern the Development Approvals or this Agreement and the term set forth in this Section 2.3 shall control.

2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer, or assign its interest in 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 and be made in strict compliance with the following:

(a) Any such sale, transfer, or assignment is done in compliance with the Ground Lease if such Ground Lease is then in effect;

(b) 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 substantially all of Owner's leasehold or fee interest (as applicable) in the Property;

(c) Prior to any such sale, transfer, or assignment, 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; and (2) the payment of the applicable processing charge to cover the City's review and consideration of such sale, transfer, or assignment; and

(d) 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 (c) 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 Subsection 2.4.1. Notwithstanding any contrary provision of this Agreement, the Owner of the Property shall not have any liability hereunder with respect to any other Lot and a default by the Owner of one Lot shall not impact the rights and obligations of the Owner of any other Lot.

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 all of the following conditions:

(a) such transferring owner no longer has a legal or equitable interest in the portion of the Property sold, transferred, or assigned;

(b) such transferring owner is not then in default under this Agreement (after notice and the expiration of any applicable cure periods), in which case such transferring owner shall remain liable for such default but not any future defaults by the assignee after the date of the transfer; and

(c) such transferring owner has provided City with the notice and executed agreement required under Paragraph (c) of Subsection 2.4.1 above.

2.4.3 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.

2.4.4 For the avoidance of doubt, this Section 2.4 does not apply to assignments or transfers of this Agreement to Mortgagees or their initial transferees after a foreclosure, deed in lieu, or similar action permitted under the mortgage, deed of trust, or other security device securing financing with respect to the Owner's interest in the Property.

2.5 Amendment or Cancellation of Agreement; Operating Memoranda.

2.5.1 Amendment or Cancellation. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section

65868. 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. The City hereby agrees to grant priority processing status to any request(s) to amend this Agreement made by Owner. 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.

2.5.2 Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the City and Owner and development of the Project hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of the City and Owner. If and when, from time to time, during the term of this Agreement, the City and Owner agree that such clarifications are necessary or appropriate, the City and Owner shall effectuate such clarifications through operating memoranda approved by the City and Owner, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary with future approval by the City and Owner. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The City Manager shall be authorized to make the determination on behalf of the City whether a requested clarification may be effectuated pursuant to this Section 2.5.2 or whether the requested clarification is of such a character to constitute an amendment hereof. The City Manager shall be authorized to execute any operating memoranda hereunder on behalf of the City without further Planning Commission or City Council action.

2.5.3 Certificate of Performance.

Upon Completion of the Project or upon the earlier revocation or termination of this Agreement, the City shall provide Owner, upon Owner's request, with a statement ("Certificate of Performance") evidencing such completion, revocation, or termination of this Agreement, and the release of Owner from further obligations hereunder with respect to the Property except with respect to the obligations which expressly survive such termination pursuant to Sections 3.9 (Rent Control), 4.2.2 (Development Impact Fees), 9 (Third Party Litigation) and 11.22 (Attorneys' Fees). The Certificate of Performance shall be signed by the appropriate agents of Owner and the City and shall be recorded with the County Recorder. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 8182.

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; or

(b) Completion of the Project to be developed and constructed on the Property in accordance with the terms of this Agreement.

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 right and/or 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 for residential units on which construction has not yet begun shall be refunded to Owner by City to the extent payment has been received.

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

If to Owner:
OTC Lot D Owner, LLC
c/o Adept Urban
388 Cordova Street, #280
Pasadena, CA 91101
Attention: Patrick Chraghchian; Robert Montano
Email:patrick@adept-dev.com; robert.m@adept-dev.com

with a copy to:
Ruben Duran, City Attorney
Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

with a copy to:
Munger, Tolles & Olson LLP
350 S. Grand Avenue, 50th Floor
Los Angeles, CA 90071
Attention: Misty M. Sanford, Esq.
Email: misty.sanford@mto.com

(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 Development of the Project; Rights to Develop.

3.1.1 Development of the Project. In consideration of the premises, purposes, and intentions set forth in this Agreement, and in consideration of the assurances for development of the Project pursuant to this Agreement, Owner agrees to develop the Project in accordance with: (i) the terms and conditions of this Agreement; (ii) the terms and conditions established in the Development Approvals; and (iii) the Existing Land Use Regulations. Owner further agrees that the use, density and intensity, maximum height and size of structures and provisions for the Property reservation and dedication of land for public purposes related to the Property shall be limited to those uses permitted by the Existing Land Use Regulations. The Project shall be developed in accordance with the Development Approvals. The Project shall be constructed in compliance with all applicable building codes and standards, as such may be modified from time to time.

3.1.2 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Project in accordance with the Existing Land Use Regulations, subject to the terms and conditions of this Agreement and the conditions established in the Development Approvals. The Project shall remain subject to all Development Approvals required to complete the Project. 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 Existing Land Use Regulations.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, 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 the Phased Development 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 Ca1. 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 (without the obligation) the Property in such order and at such rate and at such times as Owner deems appropriate within the exercise of its sole and subjective business judgment during the term of this Agreement. Notwithstanding the foregoing, subject to (a) Force Majeure Events, (b) up to three one-year extensions of time (provided, however, that (i) only the first one-year extension may be requested by Owner unilaterally and thereafter such extensions must be approved by the City Manager and (ii) such extensions shall not apply to the first milestone (i.e., submission of the building application) for the first of the Lots of the Phased Development to be developed) and (c) any extensions of entitlements or permits granted by any governmental authority on a statewide, citywide or countywide basis, Owner shall achieve the following milestones in accordance with the following schedule:

	Event	Date
1.	Submission by Owner of building permit application to the City for the Project	On or before one hundred eighty (180) days following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase.
2.	Commencement of Construction of the Project	On or before two (2) years following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase; provided, however

		Commencement of Construction shall occur within 6 months of the Commencement of Construction of Lot C. In order to achieve this milestone, City agrees to complete its review of (a) Owner's initial plan check submission within twenty-one (21) days after receipt of such initial submission by City (provided, however, prior to such submission Owner and the City shall meet to review the proposed application), and (b) any additional submissions required to obtain the required permits for the project within fourteen (14) days following receipt of such additional submissions by City. There shall be a day-for-day extension of this Commencement of Construction milestone if the City fails to timely respond to such submissions within the time periods set forth above (each, a "City Response Delay").

3.4 Requirement for Public Infrastructure Improvements. Owner shall comply with any conditions of the Development Approvals with respect to providing public infrastructure improvements or facilities, if any, to the extent required in connection with the Project (as opposed to the other Lots within the Phased Development).

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of the Property as a whole; or,

(b) Increase the density or intensity of use of the Property as a whole; (other than in de minimis amounts); or,

(c) Increase the maximum height and size of permitted buildings (other than in de minimis amounts); or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 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 its actual costs of processing applications for, or monitoring compliance with, any development approvals granted for the performance of any conditions imposed on the Project, unless otherwise waived by the City in writing;

(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;

(d) Regulations that may conflict with this Agreement or Existing Land Use Regulations but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety; and are generally applicable on a citywide basis (except in the event of natural disasters as found by the City Council such as floods, earthquakes, pandemics and similar acts of God);

(e) Reserved;

(f) Regulations to which the Owner consents in writing.

3.6.2 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 Approvals and the Existing Land Use Regulations, 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 Approvals and the Existing Land Use Regulations.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Approval Date, 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 or comply with as determined by Owner. 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).

3.6.4 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.

3.7 Public Works; Utilities. If Owner is required by any Development 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 to the construction standards that 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 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.

3.8 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 material out-of-pocket 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.

3.9 Rent Control. Notwithstanding anything to the contrary in this Agreement, City agrees that, to the extent permitted by applicable law, City shall not apply any rent control or other renter protections or other moratoria or interim control ordinance against the Property or the Project. The foregoing covenant shall survive the expiration of this Agreement indefinitely and shall be in effect unless this Agreement is terminated for any reason other than a termination due to the Completion of the Project.

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 Approvals and the Existing Land Use Regulations 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 amounts for Development Impact Fees established or imposed by the City to be paid by Owner shall be the amounts that are in effect as of the Approval Date, which are shown on Exhibit "C" attached hereto, and Development Impact Fees established or imposed by other public agencies to be paid by Owner shall be the amounts that are in effect at the time such fees are due and payable during the development process. 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. Notwithstanding the foregoing, the amounts imposed by the City to be paid by Owner for the following Development Impact Fees may be those in effect at the time such fees are due and payable (subject to the right to deferment set forth in Section 4.2.2 below), so long as such amounts do not increase by more than five percent (5%) over the amount of such rates in effect as of the Approval Date: 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.

4.2.2 Time of Payment.

(a) Owner shall have the right to elect (but is not obligated) to amortize the payment of up to fifty percent (50%) of the total amount of Development Impact Fees due and payable for the Project (the amount so elected, the "Deferred DIFs") over a period of thirty (30) years commencing from the Deferred DIF Repayment Date at an annual 3 percent (3%) simple interest rate. As used herein, "Deferred DIF Repayment Date" means the date of issuance of a temporary or other certificate of occupancy for the residential component of the Project. The parties understand and agree that the Development Impact Fees established or imposed by other public agencies that are not controlled by City even if such Development Impact Fees may be collected by City (including without limitation, if applicable, the IEUA Sewer Connection Fee, Ontario-Montclair School District (K-12) Fees, Cucamonga School District and Chaffey Joint Union High School Fees) (collectively, the "Non-Deferrable Fees") must be paid when and as required in their standard course and schedule and may not be deferred hereunder; provided, however, the amount of such Non-Deferrable Fees may be included in the calculation of the total amount of Development Impact Fees due and payable for the Project for

purposes of calculating the fifty percent (50%) amount that Owner may elect to include as Deferred DIFs.

(b) Owner agrees that, commencing upon the Deferred DIF Repayment Date, Owner shall pay to the City, on the 1st day of the next following month and each and every successive month for three hundred sixty (360) consecutive months, an amount equal to the amortized principal and interest of the actual amount of the Deferred DIFs amortized over thirty (30) years at an annual 3 percent (3%) simple interest rate. By way of example only, if the Deferred DIFs equal $4,5000,000, the monthly payment to be made to the City would be $18,972. The entire unpaid principal balance of the amortized Deferred DIFs and any accrued but unpaid interest shall be immediately due and payable to the City upon any of the following events: (1) the termination of this Agreement other than a termination due to the Completion of the Project; (2) any uncured default by Owner with regard to repayment of the amortized Deferred DIFs to the City (if such amounts have not been paid to the City within five (5) business days of Owner's receipt of written notice from the City); or (3) any sale, transfer or assignment of all or substantially all of the Owner's leasehold or fee interest (as applicable) in the Property that is not approved by the City in advance (which such approval shall not be unreasonably withheld, conditioned or delayed). Any monthly payment or portion thereof not paid to the City as and when due under the terms of this Agreement shall accrue interest from the date on which such payment was due at the rate of ten percent (10%), and if not paid within the five (5) business day cure period described above, City may file a lien against the Property for such delinquent amounts including any accrued and unpaid interest. All payments under this Subsection will be applied first to penalties and late fees, then to interest, then to reduce the principal amount owed. The Deferred DIFs and any accrued but unpaid interest may be pre-paid to the City at any time without any pre-payment penalty.

(c) The Deferred DIF payment obligation shall be a covenant running with the land and shall survive the expiration or early termination of this Agreement indefinitely until the Deferred DIFs are paid in full in accordance with this Agreement.

(d) Any Development Impact Fees that are not a Deferred DIF shall be paid when and as required in their standard course and schedule.

4.3 Reserved.

4.4 Reserved.

4.5 Schools Obligations. Owner shall satisfy its school obligations with the applicable school district by paying school impact fees. Written evidence of approval by the applicable school district that Owner has met its school obligations may be required by the City as the condition to the issuance by the City of any building permits for the Project.

4.6 Reserved.

4.7 Reserved.

4.8 Reserved.

4.9 Maintenance of Open Space. Owner shall provide for ongoing maintenance of all park, common areas, and open space areas within the Project as may be set forth in the Development Approvals.

4.10 Intentionally Omitted.

4.11 Compliance with Public Benefits Requirements. In the event Owner fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, 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 8.4 hereof, thereby entitling the City to any and all remedies permitted under this Agreement, including, without limitation, the right of the City to withhold Owner's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. [RESERVED]

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 in accordance with Section 65865.1 of the California Government Code. Upon completion of the City's review, 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/her designee. Owner shall be responsible for paying any processing charge in connection with each such annual review, if any, provided that such charge shall be generally consistent with the cost charged for annual reviews for other development agreements to which the City is a party.

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:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) 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. The cost of any such special review shall be borne by the City, unless such a special review demonstrates that Owner is not

acting in good-faith compliance with the provisions of this Agreement, in which case Owner shall reimburse the City for all costs incurred by the City in connection with such special review.

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 shall specify in writing the respects in which Owner has failed to so comply. The City shall provide Owner with written notice of such noncompliance, together with a written specification of the reasons therefor. Such written notice shall also specify a reasonable time for Owner to cure such non-compliance, which time shall be not less than thirty (30) days after Owner's receipt of such notice.

(c) The Owner may appeal a determination pursuant to paragraph (b) in accordance with the City's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Termination. If, upon a finding under Section 6.1.6(b), the City determines to proceed with 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 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 Termination. At the time and place set for the hearing on 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 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; Waiver of Monetary Damages. It is acknowledged by the parties that, subject to and without limiting the Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below, neither party would have entered into this Agreement if it were to be liable in monetary damages under this Agreement, or with respect to this Agreement or the application thereof. The parties agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages that would adequately compensate Owner for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify the exposure. Therefore, the parties agree that each of the parties may pursue any remedy at law or equity available for any breach of any provision of this Agreement, except that neither party shall be liable in monetary damages to the other party, or to any successor in interest of such other party, or to any other person, and each party covenants not to sue for monetary damages or claim any monetary damages:

8.1.1 For any breach of this Agreement or for any cause of action which arises out of this Agreement (other than in connection with Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below); or

8.1.2 For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

8.1.3 Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.1.4 The parties understand and agree, however, that nothing in this Section 8.1 shall prohibit, restrict or otherwise affect the rights of a party to seek monetary damages as a result of any default by the other party under any other agreement entered into by the parties with respect to the Property and the Project, including without limitation the Ground Lease, if and to the extent such other agreements allow for monetary damages. No part of this Agreement shall be deemed to abrogate or limit any immunities or defenses either party may otherwise have with respect to claims for monetary damages.

8.2 Default by Owner. In the event that Owner does not perform its obligations under the Agreement in a timely manner, subject to the limitations in Section 8.1, the City shall have all rights and remedies provided herein which shall include (a) the right to compel specific performance of the obligations of Owner under this Agreement or (b) termination of this Agreement, provided that the City has first complied with the procedures set forth in this Section 8.2 and in Section 8.5 below. If City elects to proceed under clause (b) with termination of this Agreement, the following shall apply:

8.2.1 If after the applicable cure period has elapsed, the City Manager finds and determines that Owner remains in default, the City Manager shall make a report to the Planning Commission and then set a public hearing before the Planning Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If, after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Owner has not cured the applicable default pursuant to this Section, and that the City should terminate this Agreement, Owner shall be entitled to appeal that finding and determination to the City Council in accordance with the procedure in Section 6.1.6(c) above. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity, and

8.2.2 City may terminate this Agreement after such final determination of the City Council or, where no appeal is taken, after the expiration of the appeal period in accordance with the procedure described in Section 6.1.6(c) above, relating to the defaulting party's rights and obligations.

8.2.3 City's Limited Cross Termination Right. If City terminates this Agreement in accordance with the procedures set forth herein as a result of a failure of Owner to achieve any of the milestones required pursuant to Section 3.3 above, City shall have the right to simultaneously terminate the Related Development Agreement(s) affecting the Lot(s) within the Phased Development for which none of the milestones under Section 3.3 of the applicable Related Development Agreement(s) have been achieved and for which a standard construction loan from an unrelated third party ("Loan") has not been executed for the development of such Lot(s). For example, if the owner of any Lot in the Phased Development (including the Property) has executed a Loan for the development of such Lot or any of the milestones under Section 3.3 of the applicable Related Development Agreement have been achieved with respect to such Lot (a "Protected Lot"), then the termination of this Agreement or the Related

Development Agreement for any other Lot shall not affect the Related Development Agreement of such Protected Lot and City shall not have any right hereunder to terminate such Related Development Agreement under this Section 8.2.3.

8.3 Default by City. In the event the City defaults under the provisions of this Agreement, subject to the limitations set forth in Section 8.1 above, Owner shall have all rights and remedies provided herein or by applicable law, which shall include compelling the specific performance of the City's obligations under this Agreement, provided that Owner has first complied with the procedures in Section 8.5 below.

8.4 Release. Subject to and without limiting the indemnity in Section 9.3 below, except for nondamage remedies, including the remedy of specific performance, each party, for itself, its successors and assignees, hereby releases the other party, 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.

8.5 Notice and Cure. Failure or delay by either party to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of written notice from the other party, identifying with specificity those obligations of the defaulting party which have not been performed, constitutes a default under this Agreement; provided, however, if such failure or delay cannot reasonably be cured within such thirty (30) day period, no default shall be deemed to have occurred hereunder if the party committing such failure or delay commences cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion; provided, however the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with due diligence but (a) with respect to the City only in no event later than sixty (60) days after receipt of written notice from the Owner and (b) with respect to Owner only in no event later than one hundred eighty (180) days after receipt of written notice from City. The injured party shall give written notice of default to the party in default specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default.

8.6 Ground Lease and Other Agreements Not Affected. This Section 8 shall not be deemed to implicate, modify, or affect in any way any provisions in the Ground Lease or any other agreement entered into by the parties with respect to the Property and the Project.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. City has determined that this Agreement is consistent with its General Plan, as such General Plan exists as of the Approval Date, and that the General Plan meets all requirements of law. 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 Project as the result of a judicial determination that on the Approval 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. Subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), at its expense, including attorneys' fees, indemnify, and hold harmless City and its officers and employees (collectively, the "City Parties") from any claim, action or proceeding against the City Parties 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

Nothing in this Section 9 or any other indemnification provision included as a condition to any of the Development Approvals shall be construed to mean that Owner or City shall indemnify, hold any of the City Parties or Owner Parties, as applicable, harmless and/or defend any of the City Parties or Owner Parties, as applicable, from any claims arising from (a) as to Sections 9.3.1 and 9.4 only, any of the City Parties' or Owner Parties', as applicable, violation of law, or (b) as to all such indemnities other than the indemnity set forth in Section 9.3.2, (i) any of the City Parties' or Owner Parties', as applicable, breach of contractual obligations to third parties or (ii) the gross negligence or willful misconduct of any of the City Parties or Owner Parties, as applicable.

9.3 Indemnity.

9.3.1 Owner. In addition to the provisions of 9.2 above, subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), indemnify, and hold harmless the City Parties from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses), based or asserted upon any act or omission of Owner or its officers or employees for property damage, bodily injury, or death (Owner's employees included) arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, and operation the Project. The 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

9.3.2 City. City agrees to indemnify, defend (with counsel chosen by City and approved by Owner, which such approval shall not be unreasonably withheld, conditioned or delayed), and hold harmless Owner, American General Design, Inc. (dba Adept Development), a

California corporation and Povac Investments, Inc., a California corporation and each of their respective officers and employees (collectively, the "Owner Parties") from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses) arising from any governmental agency stopping or delaying construction or occupancy of the Project after the "Commencement of Construction" (as defined below) as a result of City's failure to pay any amounts imposed by the State of California (if any) pursuant to California Government Code Sections 54220 through 54234 in connection with the City's disposition of the Property to Owner. Owner shall promptly notify City of any such stoppage or delay, and Owner shall cooperate in the defense. If Owner fails to promptly notify Owner of any such stopped or delay, or if any of the Owner Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, City shall not thereafter be responsible to defend, indemnify, or hold harmless the Owner Parties. For purposes of this Section 9.3.2, the term "Commencement of Construction" shall mean that both of the following have occurred: (a) construction of a building has commenced pursuant to and in accordance with a building permit issued by the City, City-approved final construction drawings, the Existing Land Use Regulations, the Development Approvals, and all applicable laws; and (b) Owner has expended at least $5,000 in labor and materials for such construction. For purposes of this definition only, "construction" shall mean construction of improvements permanently fixed to the site (e.g., a foundation or similar), including, without limitation, utilities, public or private streets, public or private site improvements, landscaping or ancillary structures such as block walls, trash enclosures, and any grading, excavation, demolition, grubbing, or other site preparation.

9.4 Environment Assurances. Owner shall defend (with counsel chosen by Owner), at its expense, including attorneys' fees, indemnify, and hold harmless the City Parties from any liability, based or asserted, upon any act or omission of Owner, its officers, agents, employees, subcontractors, and/or 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 that were not present prior to the date that Owner took possession of the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including reasonable attorneys' fees, the City Parties 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 Reserved.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement for a period of two (2) years after such termination, except to the extent such indemnification relates to any third party claims, in which event such indemnification shall survive until the expiration of any applicable statute of limitations.

10. 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 ("Security Instrument"). 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. The City further agrees to cooperate in including in this Agreement by suitable amendment from time to time any provision that may reasonably be requested by any proposed Mortgagee for the purpose of allowing such Mortgagee reasonable means to protect or preserve a lien and security interest of its Security Instrument, as well as such other documents containing terms and provisions customarily required by Mortgagees (taking into account the customary requirements of their participants, syndication partners or rating agencies) in connection with any such financing (a "Lender Proposed Amendment"). The City agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effectuate a Lender Proposed Amendment; provided, however, that any such Lender Proposed Amendment shall not in any way materially adversely affect any rights of the City under this Agreement. If there is any conflict between this Article 10 and any other provisions contained in this Agreement, this Article 10 shall control. 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 Security Instrument on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any Security Instrument, 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 for a period of sixty (60) days after Mortgagee receives written notice of non-compliance, or any longer period as is reasonably necessary, not to exceed one hundred eighty (180) days, to remedy such default, provided that Mortgagee shall continuously and diligently pursue the remedy at all times until the default is cured.

(d) Any Mortgagee who takes title of the Property, or any part thereof, pursuant to foreclosure trustee's sale, deed in lieu of foreclosure, lease or sublease termination or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement, provided that any such Mortgagee, including its affiliate, that takes title to the Property shall be entitled to all of the benefits arising under 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 after the initial sale, transfer, or assignment by any Mortgagee shall be subject to the provisions of Section 2.4 of this Agreement.

(e) If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceedings involving Owner, the times specified in Section clause (c) above, shall be extended for the period of the prohibition, except that any such extension shall not extend the term of this Agreement.

(f) If this Agreement is terminated by reason of (i) any default or (ii) as a result of a bankruptcy proceeding, this Agreement is disaffirmed by a receiver, liquidator, or trustee for Owner or its property, the City, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new development agreement for the Project as to such portion of the Property with the most senior Mortgagee requesting such new agreement. This Agreement does not require any Mortgagee or the City to enter into a new development agreement pursuant to this clause (f).

(g) The City shall, at any time and within thirty (30) days following the written request of a Mortgagee, but not more often than annually, certify in writing to such Mortgagee that (a) this Agreement is in full force and effect, (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments and modifications, and (c) to the actual knowledge of City with no duty to investigate, Owner is not in default in the performance of its obligations under this Agreement or, if in default, to describe therein the nature and extent of any such default. Any such estoppel certificate shall be administratively issued by the City Manager or his/her representative or designee.

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 this 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. A failure to record the Agreement in a timely fashion shall not impact its effectiveness to the extent permitted by applicable law.

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, in the event the provision regarding the payment of Deferred DIFs set forth in Section 4.2.2 of this Agreement is determined to be invalid, void or unenforceable, the parties shall enter into a separate written agreement for the repayment of such Deferred DIFs consistent with Section 4.2.2.

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. 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.

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, except that the Owner Parties and City Parties are third party beneficiaries of the indemnities in Section 9. 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, insurrection, riots, civil unrest, acts of terrorism or similar hostilities, strikes, boycotts, lock-outs, and other labor difficulties beyond the party's control (including the party's employment force), inability to procure services, labor or materials not related to the price thereof, failure of electric power, governmental actions, governmental laws, regulations or restrictions, third party litigation or administrative proceedings, actual or

threatened public health emergency (including epidemic, pandemic, famine, disease, plague, quarantine, and other public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization (including any shelter-in-place orders, stay at home orders or any restrictions on travel related thereto that preclude Owner, its agents, contractors or its employees from accessing the Property, national or regional emergency), declaration of a state or national emergency, casualties, weather that could not have reasonably been anticipated, changes in the Laws which would prevent the Property from being developed or operated in accordance with this Agreement, or other reasons beyond the reasonable control of the party (individually a "Force Majeure Event" or collectively, "Force Majeure Events"). 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 shall be automatically extended for the period of time that such events prevented such performance, provided that the extensions of the term of this Agreement solely as a result of one or more Force Majeure Events shall not exceed a period of more than five (5) years in the aggregate.

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; Covenants Running with the Land. 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. In any event, no owner or tenant of an individual completed residential unit within the Project shall have any rights under this Agreement.

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. Owner for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) 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 reasonable costs incurred by City in connection with the issuance of estoppel certificates under this Section 11.20 prior to City's issuance of such certificates.

11.21 Authority to Execute. Each party represents and warrants that the person or persons executing this Agreement on behalf of such party has the authority to execute this

Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations hereunder.

11.22 Attorneys' Fees. In the event of any action between the City and Owner for enforcement or interpretation of any of the terms or conditions of this Agreement, the prevailing party in such action shall be entitled to recover its reasonable costs and expenses, including without limitation court costs and attorneys' fees actually and reasonably incurred, as awarded by a court of competent jurisdiction. This Section shall survive the termination of this Agreement.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

"Owner"

OTC Lot D Owner, LLC
a Delaware limited liability company

By: _____
Name:
Its: _____
Date: _____

"CITY"

City OF ONTARIO

By:_____
Scott Ochoa
City Manager

Date: _____

ATTEST:

_____
City Clerk, Ontario

APPROVED AS TO FORM:

_____
Kane, Ballmer & Berkman, City Special Counsel

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

APN NO. 0210-204-39

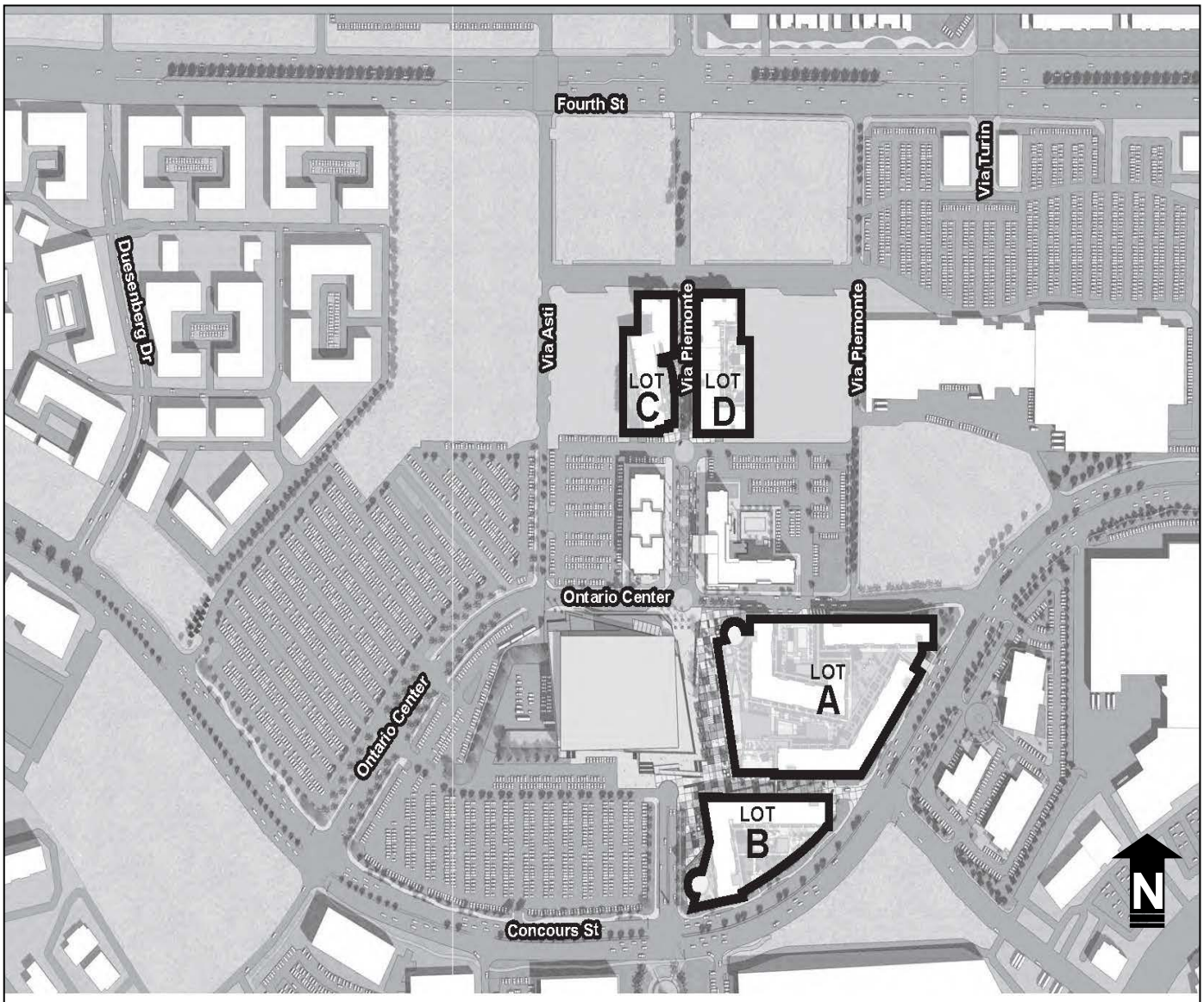
BEING A PORTION OF PARCEL 23, PARCEL MAP NO. 17550, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 216, PAGE(S) 7 THROUGH 20, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 23, AS SHOWN ON SAID PARCEL MAP;
THENCE NORTH 00°37'30" EAST, ALONG THE WEST LINE OF SAID PARCEL 23, 430.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 23;
THENCE SOUTH 89°22'30" EAST, ALONG THE NORTH LINE OF SAID PARCEL 23, 515.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 23;
THENCE, SOUTH 00°37'30" WEST, ALONG THE EAST LINE OF SAID PARCEL 23, 31.00 FEET TO A POINT ON A LINE THAT IS PARALLEL WITH AND 31.00 FEET SOUTH, MEASURED AT RIGHT ANGLES, TO THE NORTH LINE OF SAID PARCEL 23;
THENCE, ALONG SAID PARALLEL LINE NORTH 89°22'30" WEST 351.45 FEET;
THENCE SOUTH 00°37'22" WEST 116.97 FEET;
THENCE NORTH 89°59'51" EAST 29.41 FEET;
THENCE, SOUTH 00°00'06" EAST 282.37 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 23;
THENCE NORTH 89°22'30" WEST, ALONG SAID SOUTH LINE, 196.05 FEET TO THE POINT OF BEGINNING;

SAID LAND IS SHOWN AS PARCEL C OF LOT LINE ADJUSTMENT NO. LLA 17-008 RECORDED SEPTEMBER 7, 2017, AS INSTRUMENT NO. 2017-0370546, OFFICIAL RECORDS.

EXHIBIT "B"
TO DEVELOPMENT AGREEMENT

Map showing Property and its location



Ontario Center Parkway, Ontario, CA 91764

EXHIBIT "B" CONTINUED
TO DEVELOPMENT AGREEMENT

Map showing Property and its location

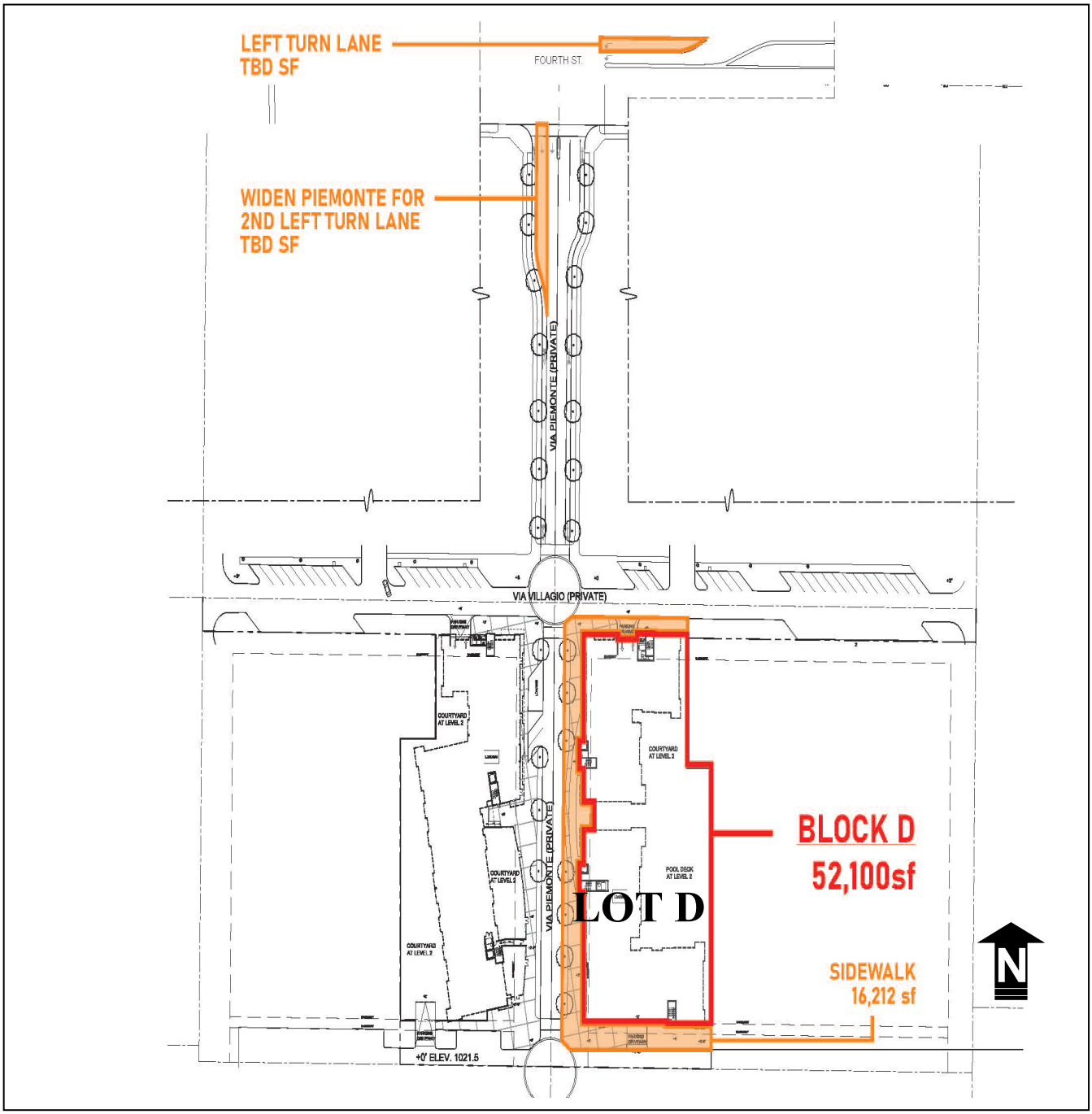


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Development Impact Fees as of the Approval Date

(Development Impact Fees to follow this page)

Exhibit C

FY 2021-22
Citywide Fee Schedule

(Fees, Fines & Charges)

Component of the FY 2021-22 Budget

Adopted June 21, 2021 (Resolution No. 2021-062)

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City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

II. - Community Life & Culture
Section 5. Housing Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Housing Fees					
1	Base Affordable Housing Monitoring Fee*	Base	$ 747.68	$ 747.00	7/1/2021
2	Per Unit Affordable Housing Monitoring Fee*	Per unit	$ 107.94	$ 107.00	7/1/2021
3	Loan Payoff Process Fee - without equity share	Each	$ 251.11	$ 251.00	7/1/2021
4	Loan Payoff Process Fee - with equity share	Each	$ 400.39	$ 400.00	7/1/2021
5	Preparation of Full Reconveyance	Each	$ 248.13	$ 248.00	7/1/2021

** Affordable Housing Monitoring Fee does not apply to bond-funded projects.*

Note: Loan Payoff and Reconveyance fees may be waived if individuals are under financial hardship.

Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Building Plan Check Fees					
1	Building Plan Check Fee	% of Permit	N/A	80.00%	7/1/2021
2	Building Plan Check for track housing or duplicate building	% of Permit	N/A	40.00%	7/1/2021
3	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Less than $1 million	N/A	50.00%	7/1/2021
4	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $1 and $5 million	N/A	40.00%	7/1/2021
5	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $5 and $10 million	N/A	30.00%	7/1/2021
6	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Between $10 and $20 million	N/A	20.00%	7/1/2021
7	Expedited Plan Check Program	Original Plan Check Fee Plus Additional Percent: Greater than $20 million	N/A	10.00%	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Building Permit Fees					
8	Building Permit - Base Fee ($1-$500)	Valuation: $1 to $500	N/A	$ 23.50	7/1/2021
9	Building Permit - Base Fee ($501-$2000)	Valuation: $501 to $2,000	N/A	$ 23.50	7/1/2021
10	Building Permit Fee (Each additional $100, or fraction thereof, up to and including $2000)	Each additional $100, or fraction thereof, up to and including $2,000	N/A	$ 3.05	7/1/2021
11	Building Permit - Base Fee ($2001-$25,000)	Valuation: $2,001 to $25,000	N/A	$ 69.25	7/1/2021
12	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $25,000)	Each additional $1,000, or fraction thereof, up to and including $25,000	N/A	$ 14.00	7/1/2021
13	Building Permit - Base Fee ($25,001-$50,000)	Valuation: $25,001 to $50,000	N/A	$ 391.25	7/1/2021
14	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $50,000)	Each additional $1,000, or fraction thereof, up to and including $50,000	N/A	$ 10.10	7/1/2021
15	Building Permit - Base Fee ($50,001-$100,000)	Valuation: $50,001 to $100,000	N/A	$ 643.75	7/1/2021
16	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $100,000)	Each additional $1,000, or fraction thereof, up to and including $100,000	N/A	$ 7.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
17	Building Permit - Base Fee ($100,001-$500,000)	Valuation: $100,001 to $500,000	N/A	$ 993.75	7/1/2021
18	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $500,000)	Each additional $1,000, or fraction thereof, up to and including $500,000	N/A	$ 5.60	7/1/2021
19	Building Permit - Base Fee ($500,001-$1,000,000)	Valuation: $500,001 to $1,000,000	N/A	$ 3,233.75	7/1/2021
20	Building Permit Fee (Each additional $1,000, or fraction thereof, up to and including $1,000,000)	Each additional $1,000, or fraction thereof, up to and including $1,000,000	N/A	$ 4.75	7/1/2021
21	Building Permit - Base Fee (Greater than $1,000,001)	Valuation: $1,000,001 and up	N/A	$ 5,608.75	7/1/2021
22	Building Permit Fee (Each additional $1,000 or fraction thereof, greater than $1,000,001)	Each additional $1,000, or fraction thereof	N/A	$ 3.65	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Misc. Standard Building Permits					
23	Kitchen Remodel (non-structural)	Each	$ 258.99	$ 258.00	7/1/2021
24	Bathroom Remodel	Each	$ 129.50	$ 129.00	7/1/2021
25	Demolition - Entire Structure	Valuation	N/A	Varies	7/1/2021
26	Patio Covers - Solid	Valuation	N/A	Varies	7/1/2021
27	Patio Covers - Lattice	Valuation	N/A	Varies	7/1/2021
28	Patio Covers - Enclosures	Valuation	N/A	Varies	7/1/2021
29	Pole Bases	Valuation	N/A	Varies	7/1/2021
30	Roofing	Valuation	N/A	Varies	7/1/2021
31	Storage Sheds	Valuation	N/A	Varies	7/1/2021
32	Stucco	Valuation	N/A	Varies	7/1/2021
33	Swimming Pools/Spas	Valuation	N/A	Varies	7/1/2021
34	Tenant Improvements - With Ceiling	Valuation	N/A	Varies	7/1/2021
35	Tenant Improvements - Without Ceiling	Valuation	N/A	Varies	7/1/2021
36	Trash Enclosures - Single	Valuation	N/A	Varies	7/1/2021
37	Trash Enclosures - Double	Valuation	N/A	Varies	7/1/2021
38	Walls - Retaining	Valuation	N/A	Varies	7/1/2021
39	Walls - Screen Garden	Valuation	N/A	Varies	7/1/2021
40	Walls - Tilt-Up Screen Walls	Valuation	N/A	Varies	7/1/2021
41	Window Changeout	Valuation	N/A	Varies	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
Electrical Permit Fees					
42	Electrical Permit Issuance Fee	Each	$ 41.63	$ 41.00	7/1/2021
43	Electrical Permit - Temporary Power Service Pedestal	Each	$ 86.33	$ 86.00	7/1/2021
44	Electrical Permit - Temporary Power Service Distribution system	Each	$ 43.17	$ 43.00	7/1/2021
45	Electrical Permit - outlet/switch/fixture	First 20 fixtures	$ 129.50	$ 129.00	7/1/2021
46	Electrical Permit - Additional Fixtures	Each	$ 2.94	$ 2.90	7/1/2021
47	Electrical Permit - Power Apparatus -up to and including 1	each HP, kW, kVA or kVAR	$ 143.83	$ 143.00	7/1/2021
48	Electrical Permit - Power Apparatus - over 1 to 10	each HP, kW, kVA or kVAR	$ 158.33	$ 158.00	7/1/2021
49	Electrical Permit - Power Apparatus - over 10 to 50	each HP, kW, kVA or kVAR	$ 172.66	$ 172.00	7/1/2021
50	Electrical Permit - Power Apparatus - over 50 to 100	each HP, kW, kVA or kVAR	$ 258.99	$ 258.00	7/1/2021
51	Electrical Permit - Power Apparatus - over 100	each HP, kW, kVA or kVAR	$ 345.32	$ 345.00	7/1/2021
52	Electrical Permit - Services -for services of 600 volts or less and not over 200 amperes in rating	Each	$ 172.66	$ 172.00	7/1/2021
53	Electrical Permit Fee - Services -for services of 600 volts or less and over 200 amperes to 1,000 amperes in rating	Each	$ 258.99	$ 258.00	7/1/2021
54	Electrical Permit Fee - Services -for services over 600 volts or over 1,000 amperes in rating	Each	$ 431.65	$ 431.00	7/1/2021
55	Electrical Permit Fee - Miscellaneous Apparatus, Conduits and Conductors	Each	$ 143.83	$ 143.00	7/1/2021
56	Electrical Permit Fee- Subpanel	Each	N/A	$ 172.00	7/1/2021
57	Electrical Permit Fee - Signs	Each	N/A	$ 86.00	7/1/2021
58	Electrical Permit Fee - Private Swimming Pools	Each Pool or Spa	N/A	$ 129.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
59	Electrical Permit Fee - Other Inspections and Fees, inspections outside of normal business hours: minimum charge 3 hrs.	Per Hour	$ 113.00	$ 113.00	7/1/2021
60	Electrical Permit Fee - Inspections	Per Hour	$ 113.00	$ 113.00	7/1/2021
61	Electrical Permit Fee - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
62	Electrical Permit Fee - Additional plan review	Per Hour	$ 113.00	$ 113.00	7/1/2021
63	New Construction Trades - Electrical : Residential	Per Square Foot	$ 0.10791	$ 0.1079	7/1/2021
64	New Construction Trades - Electrical : Commercial	Per Square Foot	$ 5.22301	$ 0.1200	7/1/2021
65	New Construction Trades - Electrical: Industrial / warehouse (0-50,000 sf)	Per Square Foot	$ 0.01209	$ 0.0120	7/1/2021
66	New Construction Trades - Electrical : Industrial / warehouse (>50,000 sf)	Per Square Foot	$ 0.00388	$ 0.0038	7/1/2021
Mechanical Permit Fees					
67	Mechanical Permit Issuance Fee	Each	$ 41.75	$ 41.00	7/1/2021
68	Mechanical Permit Fee (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems -under 3 HP (10.6kW) or to and including 100,000 Btu/h (29.3kW)	Each	$ 172.66	$ 172.00	7/1/2021
69	Mechanical Permit Fees (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems-over 3 HP (10.6kW) to and including 15 HP (52.7kW), or over 100,000 Btu (29.3kW) to and including 500,000 Btu/h (146.6kW)	Each	$ 215.83	$ 215.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
70	Mechanical Permit Fees (includes issuance fee) - Furnaces, Boilers, Compressors and Absorption Systems -over 15 HP (52.7 kW) to and including 30 HP (105.5 kW), over 500,000 Btu/h (146.6 kW) to and including 1,000,000 Btu/h (293.1 kW)	Each	$ 258.99	$ 258.00	7/1/2021
71	Mechanical Permit Fees (includes issuance fee)- Furnaces, Boilers, Compressors and Absorption Systems -over 30 HP (105.5 kW) to and including 50 HP (176 kW), or over 1,000,000 Btu/h (293.1 kW) to and including 1,750,000 Btu/h (512.9 kW)	Each	$ 345.32	$ 345.00	7/1/2021
72	Mechanical Permit Fees (includes issuance fee)- Furnaces, Boilers, Compressors and Absorption Systems -over 50 HP (176 kW) or over 1,7500,000 Btu/h (512.9kW)	Each	$ 517.98	$ 517.00	7/1/2021
73	Mechanical Permit Fees (includes issuance fee)- Evaporative Coolers	Each	$ 172.66	$ 172.00	7/1/2021
74	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust -each fan connected to single duct	Each	$ 172.66	$ 172.00	7/1/2021
75	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust-each which is not a portion of any heating or a/c system authorized by a permit	Each	$ 172.66	$ 172.00	7/1/2021
76	Mechanical Permit Fees (includes issuance fee)- Ventilation and Exhaust -each hood served by mechanical exhaust	Each	$ 345.32	$ 345.00	7/1/2021

III. - Community Development

Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
77	Mechanical Permit Fee - Process Piping	Valuation	N/A	Varies	7/1/2021
78	Mechanical Permit Fee - Wall Heater	Each	N/A	$ 43.00	7/1/2021
79	Mechanical Permit Fees - Miscellaneous (one inspection)	Each	$ 86.33	$ 86.00	7/1/2021
80	Mechanical Permit Fees - Inspection outside of normal business hours	Per Hour	$ 113.00	$ 113.00	7/1/2021
81	Mechanical Permit Fees - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
82	Mechanical Permit Fees - No Fee Specifically Indicated	Per Hour	$ 113.00	$ 113.00	7/1/2021
83	Mechanical Permit Fees - Additional Plan Review	Per Hour	$ 113.00	$ 113.00	7/1/2021
84	New Construction Trades - Mechanical: Residential	Per Square Foot	$ 0.0647	$ 0.0647	7/1/2021
85	New Construction Trades - Mechanical : Commercial	Per Square Foot	$ 0.0647	$ 0.0647	7/1/2021
Plumbing Permit Fees					
86	Permit issuance fee	Each	$ 41.75	$ 41.00	7/1/2021
87	Plumbing Permit Fees - First 15 Fixtures and Vents (new & alterations)	First 15 Fixtures/Vents	$ 172.66	$ 172.50	7/1/2021
88	Plumbing Permit Fees - Each Additional	Each	$ 172.66	$ 10.78	7/1/2021
89	Plumbing Permit Fees - Sewers	Each	$ 172.66	$ 172.50	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
90	Plumbing Permit Fees - Sewage disposal system	Each	$ 431.65	$ 431.50	7/1/2021
91	Plumbing Permit Fees -Industrial waste pretreatment interceptor	Each	$ 172.66	$ 172.50	7/1/2021
92	Plumbing Permit Fees - Water Piping First 20 outlets	First 20 Outlets	$ 129.50	$ 129.00	7/1/2021
93	Plumbing Permit Fees - Water Piping Each Additional Outlet	Each Outlet	$ 129.50	$ 5.23	7/1/2021
94	Plumbing Permit Fees - Water heater including vent	Each	$ 172.66	$ 12.92	7/1/2021
95	Plumbing Permit Fees - Gas Piping Systems First 5 Outlets	First 5 Outlets	$ 647.50	$ 129.50	7/1/2021
96	Plumbing Permit Fees - Gas Piping Systems Each Additional	Each Addt'l Outlet	$ 129.50	$ 6.77	7/1/2021
97	Plumbing Permit Fees - Lawn Sprinklers	Each lawn sprinkler system on any one meter	$ 172.66	$ 172.50	7/1/2021
98	Plumbing Permit Fees - Backflow Protection Devices	Each Device	$ 172.66	$ 172.50	7/1/2021
99	Plumbing Permit Fees - Miscellaneous	Each appliance or equipment regulated by the Plumbing Code but not classed in other appliance categories, or for which no fee is listed in this code	$ 86.33	$ 86.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
100	Plumbing Permit Fees - Reinspection Fees	Per Hour	$ 113.00	$ 113.00	7/1/2021
101	Plumbing Permit Fees - No Fee Specifically Indicated	Per Hour	$ 113.00	$ 113.00	7/1/2021
102	Plumbing Permit Fees - Additional Plan Review	Per Hour	$ 113.00	$ 113.00	7/1/2021
103	New Construction Trades - Plumbing : Residential	Per SF	$ 0.10791	$ 0.1070	7/1/2021
	Grading Plan Review Fees (up to three submittals of plans)				
104	Grading plan check, rough (0-10 acres)	Each	$ 1,381.29	$ 1,381.00	7/1/2021
105	Grading plan check, rough (>10 acres)	Each	$ 1,381.29	$ 1,381.00	7/1/2021
106	Grading plan check, rough (each additional 5 acres)	Each	$ 345.32	$ 345.00	7/1/2021
107	Grading plan check, precise (0-10 acres)	Each	$ 1,726.61	$ 1,726.50	7/1/2021
108	Grading plan check, precise (>10 acres)	Each	$ 1,726.61	$ 1,726.50	7/1/2021
109	Grading plan check, precise (each additional 5 acres)	Each	$ 517.98	$ 517.50	7/1/2021
	Grading Permit Fees				
110	Grading permit, rough (0-50 acres)	Each	$ 345.32	$ 345.00	7/1/2021
111	Grading permit, rough (each additional 10 acres)	Each	$ 86.33	$ 86.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 1. Building Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
112	Grading permit, precise (0-50 acres)	Each	$ 431.65	$ 431.50	7/1/2021
113	Grading permit, precise (each additional 10 acres)	Each	$ 129.50	$ 129.50	7/1/2021
114	Soil Disturbance Permit - Dust Control	Each	N/A	$ 250.00	7/1/2021
Miscellaneous Fees					
115	Building plan retention fee	Per Plan Page	N/A	$ 1.50	7/1/2021
116	Permits, Calcs and Misc. doc	8.5x11 / per page	N/A	$ 0.35	7/1/2021
Sewer, Water, Storm Drain Permit & Plan Check Fees					
117	Sewer Main Inspection Permit	Per Lineal Foot	$ 3.17	$ 3.17	7/1/2021
118	Water Main Inspection Permit	Per Lineal Foot	$ 0.63	$ 0.63	7/1/2021
119	Storm Drain - main Inspection Permit	Per Lineal Foot	$ 0.63	$ 0.63	7/1/2021
120	Storm Drain - yard Inspection Permit	Per Lineal Foot	$ 0.29	$ 0.29	7/1/2021
121	Sewer, Water, Storm Drain Plan check fee = % of permit valuation	% of Permit Valuation	2.00%	2.00%	7/1/2021

Resolution No. 2004-065
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
1	Inspection / Permit - Base Fee	Base	$ 164.09	$ 164.00	7/1/2021
2	Inspection / Permit Fees $1 - $50,000	Construction cost estimate	5.97%	5.97%	7/1/2021
3	Inspection / Permit Fees $50,001 - $500,000	Construction cost estimate	5.45%	5.45%	7/1/2021
4	Inspection / Permit Fees >$500,000	Construction cost estimate	4.24%	4.24%	7/1/2021
5	Plan Check - Base Fee (includes grading, NPDES etc.)	Base	$ 1,371.16	$ 1,371.00	7/1/2021
6	Plan Check Fees $1 - $50,000	Construction cost estimate	6.00%	6.00%	7/1/2021
7	Plan Check Fees $50,001 - $500,000	Construction cost estimate	4.65%	4.65%	7/1/2021
8	Plan Check Fees >$500,000	Construction cost estimate	3.62%	3.62%	7/1/2021
9	Encroachment Permit Fee	Each	$ 162.91	$ 112.80	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
10	Inspection for minor improvements (driveways, pole replacement, etc.)	Inspection for single item (2 inspections, before and after)	$ 167.02	$ 108.15	8/21/2021
11	Traffic Control Permit	Each	$ 103.49	$ 103.00	7/1/2021
12	Overload Permit (single trip) - One time	Each	N/A	$ 19.20	8/21/2021
13	Overload Permit (round trip) - Annual	Each	N/A	$ 108.00	8/21/2021
14	Permit Penalty Fee	Percent of Permit Value	N/A	50.00%	7/1/2021
15	Map Review (Parcel/Tract) - Base Fee	Each	$ 7,666.96	$ 2,588.40	8/21/2021
16	Map Review - Addt'l per parcel	Per Parcel	$ 70.48	$ 70.00	8/21/2021
17	Certificate of Compliance	Each	$ 790.69	$ 745.20	8/21/2021
18	Lot Line Adjustment - Base Fee	Each	$ 1,286.16	$ 1,159.20	8/21/2021
19	Lot Line Adjustment - Addt'l per parcel	Per parcel	$ 59.43	$ 59.00	7/1/2021
20	General Vacation	Each	$ 3,805.94	$ 1,902.00	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
21	Quit Claim / Summary Vacation	Each	$ 2,049.22	$ 1,087.20	8/21/2021
22	Certificate of Correction	Each	$ 823.10	$ 480.00	8/21/2021
23	Easement review	Each	$ 1,691.08	$ 1,691.00	7/1/2021
24	NPDES business inspection fee - low priority	One inspection every 5 years	$ 59.43	$ 59.00	7/1/2021
25	NPDES business inspection fee - medium priority	One inspection every 2 years	$ 118.85	$ 118.00	7/1/2021
26	NPDES business inspection fee - high priority	Inspection each year	$ 237.70	$ 237.50	7/1/2021
27	NPDES/WQMP Plan Review	Each	$ 2,160.65	$ 1,112.40	8/21/2021
28	NPDES Construction Inspection Fee (< 10 acres)	Each	$ 505.66	$ 505.50	7/1/2021
29	NPDES Construction Inspection Fee (10-25 acres)	Each	$ 905.50	$ 905.50	7/1/2021
30	NPDES Construction Inspection Fee (> 25 acres)	Each	$ 2,074.37	$ 2,074.00	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
31	Overtime Pay for Inspection (Weekends & Holidays)	Per Hour	N/A	Hourly Rate	7/1/2021
32	Misc. / Special Technical Report Review Fee	Actual Cost (Plus 25% Admin for consultant review, if applicable)	N/A	Varies	7/1/2021
33	Water Meter - OMUC Fee	Based on meter size - OMUC Fee	N/A	Varies	7/1/2021
34	Storm Water Pollution Abatement	Monthly BAU fee based on land use type & site acreage (applied to utility bill)	N/A	Varies	7/1/2021
35	Legal review	Per Hour	N/A	Hourly Rate	7/1/2021
PLANNING APPLICATIONS REVIEWED BY LAND DEVELOPMENT ENGINEERING					
36	Development Agreement	Deposit	N/A	Varies	7/1/2021
37	Development Agreement Amendment	Deposit	N/A	Varies	7/1/2021
38	Development Code Amendment	Deposit	N/A	Varies	7/1/2021
39	Environmental Impact Report	Deposit	N/A	Varies	7/1/2021
40	General Plan Amendment	Deposit	N/A	Varies	7/1/2021

III. - Community Development

Section 2. Engineering Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
41	Planned Unit Development	Deposit	N/A	Varies	7/1/2021
42	Planned Unit Development Amendment	Deposit	N/A	Varies	7/1/2021
43	Specific Plan	Deposit	N/A	Varies	7/1/2021
44	Specific Plan Amendment	Deposit	N/A	Varies	7/1/2021
45	Specific Plan Minor Amendment	Deposit	N/A	Varies	7/1/2021
46	Zone Change - 5 acres or more	Deposit	N/A	Varies	7/1/2021
47	Zone Change - Less than 5 acres	Deposit	N/A	Varies	7/1/2021

Resolution No. 2004-065
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
1	Land Conservation Contract Non-renewal	Each	$ 3,817.21	$ 1,401.85	8/21/2021
2	Land Conservation Contract Cancellation	Each	$ 16,679.06	$ 6,431.53	8/21/2021
3	Appeal-Homeowner	Each	N/A	$ 130.00	7/1/2021
4	Appeal-Other	Each	N/A	$ 902.00	7/1/2021
5	Covenants Conditions and Restrictions Review	Each	$ 4,940.68	$ 3,067.50	8/21/2021
6	Conditional Use Permit-Homeowner	Each	$ 4,894.70	$ 1,784.26	8/21/2021
7	Conditional Use Permit-Nonprofit	Each	$ 3,520.01	$ 2,691.60	8/21/2021
8	Conditional Use Permit-Other	Each	$ 5,901.35	$ 5,900.00	7/1/2021
9	Conditional Use Permit-Modification	Each	$ 5,901.35	$ 3,693.27	8/21/2021
10	Conditional Use Permit-w/ Development Plan	Each	$ 4,724.75	$ 1,567.20	8/21/2021
11	Conditional Use Permit Time Extension	Each	$ 1,381.04	$ 1,380.00	7/1/2021
12	Determination of Use	Each	$ 3,316.06	$ 3,316.00	7/1/2021
13	Development Agreement	Deposit	N/A	$ 10,000.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
14	Development Agreement Amendment	Deposit	N/A	$ 7,500.00	7/1/2021
15	Development Code Amendment	Deposit	N/A	$ 2,000.00	7/1/2021
16	Development Plan Review - 5 acres or more	Each	$ 24,846.74	$ 17,914.80	8/21/2021
17	Development Plan Review - less than 5 acres	Each	$ 21,465.84	$ 11,913.15	8/21/2021
18	Development Plan Revision	Each	$ 16,735.49	$ 4,582.85	8/21/2021
19	Development Plan Time Extension	Each	$ 1,381.04	$ 1,380.00	7/1/2021
20	Environmental Assessment/Negative Declaration	Each	$ 3,155.59	$ 3,155.00	7/1/2021
21	Environmental Impact Report	Deposit	N/A	$ 10,000.00	7/1/2021
22	General Plan Amendment - Text	Deposit	N/A	$ 5,000.00	7/1/2021
23	General Plan Amendment - Map	Deposit	N/A	$ 7,500.00	7/1/2021
24	Historic Preservation - COA-Nonresidential	Each	$ 4,677.04	$ 1,533.75	8/21/2021
25	Historic Preservation - COA-Residential	Each	$ 4,677.04	$ 214.73	8/21/2021
26	Historic Preservation - COEH-Nonresidential	Each	$ 6,846.51	$ 2,045.00	8/21/2021
27	Historic Preservation - COEH-Residential	Each	$ 6,846.51	$ 268.92	8/21/2021
28	Historic Preservation - Removal from Eligibility List (No Charge)	Each	$ 6,366.15	No Charge	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
29	Historic Preservation - Waiver	Each	$ 42.96	$ 42.50	7/1/2021
30	Historic Preservation - Landmark Designation (No Charge)	Each	$ 12,025.51	No Charge	7/1/2021
31	Historic Preservation - Plaque	Actual Cost	Varies	Varies	7/1/2021
32	Inspection - Construction (3 inspections)	Each	$ 5,342.05	$ 613.50	8/21/2021
33	Inspection - Field (includes construction inspections in excess of 3)	Each	$ 1,335.51	$ 255.63	8/21/2021
34	Residential Mills Act[A]	Each	$ 10,939.36	$ 214.73	8/21/2021
35	Nonresidential Mills Act[A]	Each	$ 10,939.36	$ 669.74	8/21/2021
36	Large Family Daycare	Each	$ 2,127.81	$ 1,116.57	8/21/2021
37	Lodging House Permit	Each	$ 2,127.81	$ 2,127.00	7/1/2021
38	Massage Permits	Each	$ 2,127.81	$ 2,127.00	7/1/2021
39	Plan Check - 5 or more acres	Each	$ 9,196.43	$ 3,070.10	8/21/2021
40	Plan Check - less than 5 acres	Each	$ 5,685.72	$ 1,717.10	8/21/2021
41	Planned Unit Development	Deposit	$ 20,926.28	$ 10,225.00	8/21/2021
42	Planned Unit Development Amendment	Deposit	$ 13,947.59	$ 7,668.75	8/21/2021
43	Planning Area Plan	Deposit	N/A	$ 7,500.00	7/1/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
44	Planning Director Review	Each	$ 1,057.33	$ 706.55	8/21/2021
45	Preliminary Plan Review	Each	$ 4,207.14	$ 4,203.00	7/1/2021
46	Public Hearing - City Council	Each	$ 769.75	$ 604.30	8/21/2021
47	Public Hearing - Development Advisory Board	Each	$ 497.12	$ 325.16	8/21/2021
48	Public Hearing - Planning Commission	Each	$ 1,325.44	$ 604.30	8/21/2021
49	Public Hearing - Zoning Administrator-Homeowner	Each	$ 1,764.14	$ 74.64	8/21/2021
50	Public Hearing - Zoning Administrator-Other	Each	$ 1,764.14	$ 584.87	8/21/2021
51	Sign Plan	Each	$ 519.34	$ 246.42	8/21/2021
52	Sign Program - administrative approval	Each	$ 2,825.58	$ 862.99	8/21/2021
53	Sign Program - planning commission approval	Each	$ 3,059.86	$ 2,934.58	8/21/2021
54	Specific Plan	Deposit	N/A	$ 20,000.00	7/1/2021
55	Specific Plan Amendment	Deposit	N/A	$ 7,500.00	7/1/2021
56	Specific Plan Minor Amendment	Deposit	N/A	$ 620.00	7/1/2021
57	Temporary Sign Permit	Each	$ 124.89	$ 58.28	8/21/2021
58	Temporary Use Permit - interim uses	Each	$ 2,757.54	$ 838.45	8/21/2021
59	Temporary Use Permit - special event	Each	$ 1,064.72	$ 492.00	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
60	Tentative Parcel Map	Each	$ 15,986.07	$ 6,641.14	8/21/2021
61	Tentative Parcel Map Modification	Each	$ 11,706.32	$ 4,262.80	8/21/2021
62	Tentative Tract Map (Base)	Flat	$ 18,403.54	$ 9,805.78	8/21/2021
63	Tentative Tract Map (per lot)	Each	$ 65.00	$ 65.00	7/1/2021
64	Tentative Tract Map Modification	Each	$ 12,681.18	$ 3,125.78	8/21/2021
65	Tentative Tract/Parcel Map Time Extension	Each	$ 7,378.97	$ 1,227.00	8/21/2021
66	Variance - Administrative Exception or Minor	Each	$ 3,978.78	$ 2,451.96	8/21/2021
67	Variance - Homeowner	Each	$ 3,978.78	$ 309.82	8/21/2021
68	Variance - Other	Each	$ 5,266.37	$ 3,508.20	8/21/2021
69	Wireless Permit: Facilities in Public Rights-of-Way	Each	$ 3,978.78	$ 3,978.00	7/1/2021
70	Zone Change - 5 acres or more	Each	$ 10,575.56	$ 7,666.71	8/21/2021
71	Zone Change - Less than 5 acres	Each	$ 9,194.99	$ 7,497.99	8/21/2021
72	Zoning Administrator Review - Homeowner	Each	$ 3,978.78	$ 200.41	8/21/2021
73	Zoning Administrator Review - Other	Each	$ 3,978.78	$ 1,160.54	8/21/2021
74	Zoning/Land Use Verification Letter	Each	$ 499.56	$ 195.30	8/21/2021

City of Ontario
FY 2021-22 Citywide Fee Schedule - *Fees, Fines & Charges*

III. - Community Development
Section 3. Planning Fees

Fee #	Fee Description	Unit/Notes	Total Cost to Provide Services	FY 2021-22 Fee	Effective Date
75	Notice of Exemption Filing Fee	County Fee	N/A	$ 50.00	7/1/2021
76	Notice of Determination Filing Fee	County Fee	N/A	$ 50.00	7/1/2021
77	Filing of a Negative/Mitigated Declaration	County Fee	N/A	$ 2,404.75	7/1/2021
78	Filing of an Environmental Impact Report	County Fee	N/A	$ 3,321.00	7/1/2021
79	Outside consultant or legal expenses	Actual Cost Plus 25% Admin. Fee	N/A	Varies	7/1/2021
80	Advanced Long Range Planning	Percent of all Building Permits & Planning Applications	$ 914,960.12	5.00%	7/1/2021

Resolution No. 2004-065 (Entitlement Processing Fees excl. Mills Act)
[A] Resolution No. 2005-115 (Mills Act Fees)
Resolution No. 2020-009
Resolution No. 2020-083
Resolution No. 2021-062
CPI Adjustment of 2.25% applied to select fees based on year-over-year change from Jan. 2020 to Jan. 2021 as measured by "Riverside-San Bernardino-Ontario Consumer Price Index"

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA22-003-A, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC LOT A OWNER LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 384 RESIDENTIAL UNITS AND UP TO 25,256 SQUARE FEET OF COMMERCIAL/OFFICE/ RETAIL USES, ON APPROXIMETLY 4.83 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF ONTARIO CENTER PARKWAY AND CONCOURS STREET, WITHIN MIXED-USE SUBAREA 16 OF THE PIEMONTE OVERLAY OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: NORTHEAST PORTION OF 0210-205-01.

WHEREAS, OTC Lot A Owner LLC, ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA22-003-A, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 4.83 acres of land, consisting of the northeast Toyota Arena Parking lot, located at the southwest corner of Ontario Center Parkway and Concours Street. The project site within the proposed mixed-use Subarea 16 of the Piemonte Overlay at the Ontario Center Specific Plan, and is presently vacant and improved with the Toyota Area parking lot; and

WHEREAS, in 2006, the City Council approved the creation of the Piemonte Overlay of the Ontario Center Specific Plan (“Piemonte Overlay”), within the Urban Commercial land use district of the Ontario Center Specific Plan, establishing a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre overlay site. Several Specific Plan Amendments have been approved for the Piemonte Overlay, modifying development intensities, parking requirements, architectural guidelines, and land use designations. The most recent Specific Plan Amendment, File No. PSPA21-001, was approved by the City Council on April 19, 2022, and involved expanding the overlay boundary, adding the Mixed-Use land use designation, and establishing design guidelines for mixed-use projects; and

WHEREAS, the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) was certified on March 19, 1991, (hereinafter referred to as “Certified EIR”), in which development and use of the Project site was discussed in the Amendment to the Ontario Center Specific Plan (File No. 4059-SPA); and

WHEREAS, a Mitigated Negative Declaration (hereinafter referred to as “MND”) was subsequently adopted on May 16, 2017, in which development and use of the Project site was discussed in association with an Amendment to the Ontario Center Specific Plan (File No. PSPA16-003); and

WHEREAS, the Planning Director of the City of Ontario prepared and approved for attachment to the Certified EIR and adopted MND, an Addendum to the Certified EIR and MND (hereinafter collectively 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 was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay of the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

WHEREAS, the environmental impacts of this Project were thoroughly analyzed in the Certified EIR and EIR Addendum, which concluded that implementation of the Project could result in a number of significant effects on the environment and 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to approve 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, A Development Plan Application (File No. PDEV22-014) to construct four mixed-use buildings totaling 63,655 commercial square feet and 694 dwelling units on 13.3 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corner of Via Piemonte and Via Villagio, within the Mixed-Use land use district of the Piemonte Overlay of the Ontario Center Specific Plan, has been filed in conjunction with the Development Agreement Application; 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 June 28, 2022, 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 PC22-027, recommending the City Council approve the Application; and

WHEREAS, on July 19, 2022, 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 authority 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 the Project were reviewed in conjunction with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) ("Certified EIR"), certified by the Ontario City Council on March 19, 1991, in conjunction with File No. 4059-SPA, in combination with an Addendum to the Mitigated Negative Declaration, adopted by the Ontario City Council on May 17, 2017, in conjunction with File No. PSPA16-003. In addition, an EIR Addendum was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

(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.

SECTION 3. ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making authority 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 site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The proposed changes affect two of the four properties listed in the Available Land Inventory (Subareas 8 and 11; Map ID No. 124 and 125). The residential capacity proposed in this Project is consistent with the number of dwelling units (198) and density (48 du/ac) specified in the Available Land Inventory.

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, 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 authority 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 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 4.83 acres of land generally located southwest corner of Ontario Center Parkway and Concours Street; and

b. The Development Agreement establishes parameters for the development of a mixed-use project for Lot A, consisting of 384 residential units and up to 25,256 square feet retail uses, within the proposed Mixed-Use Subarea 16 of the Piemonte Overlay of the Ontario Center Specific Plan. The Development Agreement also grants the Applicant, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Piemonte Overlay of the Ontario Center Specific Plan; and

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

d. 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

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

f. 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 reviewed with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) prepared for the related Amendment to the Piemonte Overlay at the Ontario Center Specific Plan (File No. PSPA21-001). This

Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this 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 Application, subject to each and every condition set forth in the Development Agreement (File No. PDA222-003-A) 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 _____ 2022.

_____
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 Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held July 19, 2022 and adopted at the regular meeting held _____, 2022 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. PDA22-003-A

DEVELOPMENT AGREEMENT

By and Between

City of Ontario
a California municipal corporation

and

OTC Lot A Owner LLC

a Delaware limited liability company

(Development Agreement to follow this page)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

Exempt from Fees Per Gov. Code §§ 6103 and 27383

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

OTC LOT A Owner, LLC

a Delaware limited liability company

DEVELOPMENT AGREEMENT NO. PDA22-003-A

This Development Agreement (hereinafter "Agreement") is dated as of July _____, 2022, for reference purposes only, and is entered into by and between the City of Ontario, a California municipal corporation (hereinafter "City"), and OTC Owner, LLC, Lot A, a Delaware limited liability company (together with its successors and assigns, "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

WHEREAS, Owner has a leasehold interest in the Property pursuant to the Ground Lease; 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, on July ____, 2022, the City Council adopted Ordinance No. _____ approving this Agreement, and such ordinance became effective on _____, 2022; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement. On April 19, 2022, pursuant to Resolution No. 2022-034, the City Council reviewed and adopted an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) dated March 2022 under City's File No. PSPA21-001 (the "EIR Addendum"). The proposed Project is consistent with the EIR Addendum and no further environmental review is required; and

WHEREAS, on April 19, 2022, pursuant to Resolution No. 2022-035, the City Council approved the Piemonte Overlay at the Ontario Center Specific Plan Amendment - File No. PSPA21-001 (the "Specific Plan Amendment"); and

WHEREAS, this Agreement and the Project are consistent with the City's Comprehensive General Plan and any specific plan applicable thereto; 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, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended.

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 "Approval Date" means _____, 2022 the hearing date on which the City Council adopted the ordinance approving this Agreement.

1.1.3 "Certificate" shall have the meaning set forth in Section 6.4.

1.1.4 "Certificate of Performance" shall have the meaning set forth in Section 2.5.3.

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

1.1.6 "City Council" means the City Council of the City of Ontario.

1.1.7 "City Manager" means City's City Manager or his or her designee.

1.1.8 "City Parties" shall have the meaning set forth in Section 9.2.

1.1.9 "City Response Delay" shall have the meaning set forth in Section 3.3.

1.1.10 "Completion" means the date on which all of the following has occurred (a) the Building Department of the City (in its capacity as the municipal authority) has issued (i) a temporary certificate of occupancy (or its equivalent) for the residential dwelling units within the Project and (ii) final sign off or its equivalent of the core and shell for the commercial space within the Project (but not the tenant improvements for such space) and (b) Owner has satisfied the conditions of the Development Approvals to the extent required in connection with the Project (as opposed to conditions required in connection with the development of the other Lots within the Phased Development) other than ongoing conditions that are not required to be satisfied prior to completion of the Project.

1.1.11 "Deferred DIF" shall have the meaning set forth in Section 4.2.2.

1.1.12 "Deferred DIF Repayment Date" shall have the meaning set forth in Section 4.2.2.

1.1.13 "Development Approval" or "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property whether Existing Development Approvals or Subsequent Development Approvals, including, but not limited to, the following:

(a) Amendment to the Piemonte Overlay at Ontario Center Specific Plan -File No. PSPA21-001;

(b) Development Plan Entitlement – File No. PDEV22-014;

(c) EIR Addendum;

(d) Development Agreement - File No. PDA22-003-A; and

(e) Amendment to the Piemonte Overlay Sign Program – File No. PSGP22-002.

1.1.14 "Development Impact Fee" means a monetary exaction, other than a tax or special assessment, whether characterized as a fee, exaction, charge, assessment 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. The rates as of the Approval Date for the Development Impact Fees that may apply to the Project are shown on Exhibit "C" attached hereto.

1.1.15 "Effective Date" means the date on which both of the following are true: (a) the ordinance approving this Agreement goes into effect; and (b) the Effective Date of the Ground Lease has occurred. Promptly after the Effective Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Effective Date and, thereafter, the Effective Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.16 "Existing Development Approvals" means all Development Approvals approved or issued on or prior to the Effective Date. Existing Development Approvals are listed in the definition of "Development Approvals" above and all other Development Approvals which are a matter of public record on the Effective Date.

1.1.17 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Approval Date, as modified by the Development Approvals.

1.1.18 "Final Non-Appealable Date" means the date Existing Development Approvals are final and non-appealable as set forth in the City Development Code and any applicable Laws and (ii) the applicable statute of limitations has expired under the California Environmental

Quality Act (Public Resources Code §21000 *et seq*.) and implementing Guidelines for CEQA (14 Cal. Code Regs. §15000 *et seq*.) with respect to the Addendum, in each case without the filing of any third party challenge, appeal, or lawsuit or, if filed, such challenge, appeal, or lawsuit has been resolved in a manner satisfactory to Owner. Promptly after the Final Non-Appealable Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Final Non-Appealable Date and, thereafter, the Final Non-Appealable Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.19 "Force Majeure Event(s)" shall have the meaning set forth in Section 11.11.

1.1.20 "General Plan" means the City's Comprehensive General Plan adopted on January 27, 2010, by Resolution No. 2010-006, as may be amended as of the Approval Date.

1.1.21 "Ground Lease" means that certain Ground Lease by and between City and Owner dated on or about the Approval Date pertaining to the Property, as the same may be amended, modified, or supplemented from time to time.

1.1.22 "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; or

(e) the exercise of the power of eminent domain.

1.1.23 "Lender Proposed Amendment" shall have the meaning set forth in Section 10.

1.1.24 "Lot" or "Lots" shall mean Lot A, B, C, or D, as the context may require, as shown on Exhibit "B" to this Agreement.

1.1.25 "Mortgagee" means any lender under any mortgage, deed of trust, or other security device securing financing with respect to the Owner's then-current interest in the Property, and their successors and assigns.

1.1.26 "Non-Deferrable Fees" shall have the meaning set forth in Section 4.2.2.

1.1.27 "Owner" means the person or entity defined as such in the introductory paragraph of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.28 "Owner Parties" shall have the meaning set forth in Section 9.3.2.

1.1.29 "Phased Development" means the phased development and construction contemplated by Owner on the Property and each of the other "Owners" under the Related Development Agreements (as defined below) on Lots B, C, and D. The projects to be developed and constructed in the Phased Development include the Project and projects on Lots B, C, and D as follows:

Lot B - Development Plan Entitlement – File No. PDEV22-014;

Lot C - Development Plan Entitlement – File No. PDEV22-014; and

Lot D - Development Plan Entitlement – File No. PDEV22-014.

Lots B, C, and D are each also currently subject to a ground lease between the City and ground lease tenant of the applicable Lot which is being entered into concurrently with the Ground Lease in form and content similar to the Ground Lease. The City is also concurrently entering into a statutory development agreement with each of the ground lease tenants for Lots B, C, and D in form and content similar to this Agreement (the "Related Development Agreements"). It is currently contemplated that the Project will be developed and constructed as part of the Phased Development of the Property and Lots B, C, and D currently comprised of the following development as shown on Table 1 below:

Table 1:
Maximum Development Density (Units) and Intensity
(Based on Piemonte Overlay at the Ontario Center Specific Plan)

DA File No's.	Approx. Acres	Lot	Subarea Area	Dwelling Units	Commercial (Square Feet)
PDA22-003-A	4.83	A	16	384	25,256
PDA22-003-B	1.69	B	17	112	20,802
PDA22-003-C	1.93	C	8	94	11,047
PDA22-003-D	2.04	D	11	104	14,095
Total	**10.49**			**694**	**71,200**

1.1.30 "Project" means the proposed development and construction on the Property (Lot A) of up to 25,256 square feet of commercial/office/retail uses and 384 multi-family residential dwelling units, all as consistent with File No. PDEV22-014 (as the same may be modified by Owner from time to time in accordance with the Existing Development Approvals). The commercial/office/retail uses shall be those permitted or conditionally permitted within Section 3.2 *Allowed Uses* of The Piemonte at Ontario Center Specific Plan.

1.1.31 "Property" means the real property described and depicted on Exhibit "A" to this Agreement. The Property is referred to as Lot A on Exhibit "B". The Property constitutes one parcel of the Phased Development. Lots B, C, and D comprise the remaining parcels of the planned Phased Development.

1.1.32 "Protected Lot" shall have the meaning set forth in Section 8.2.3.

1.1.33 "Related Development Agreement" shall have the meaning set forth in the definition of "Phased Development" above.

1.1.34 "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.

1.1.35 "Security Instrument" shall have the meaning set forth in Section 10.

1.1.36 "Specific Plan" means that certain specific plan adopted by the City Council, and entitled, "Piemonte Overlay at the Ontario Center Specific Plan," as amended by the Specific Plan Amendment.

1.1.37 "Subsequent Development Approvals" means all Development Approvals obtained subsequent to the Approval Date in connection with development of the Property.

1.1.38 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Approval Date.

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

Exhibit "A" Legal Description and depiction of the Property

Exhibit "B" Map showing location of Property and the other Lots within the Phased Development

Exhibit "C" Development Impact Fees as of the Approval Date

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 if and to the extent commenced shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the owner of a leasehold interest in the Property or a portion 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;

(b) Owner is not then in uncured default of this Agreement (after notice and the expiration of any applicable cure periods); and

(c) if less than three (3) of the Lots in the Phased Development have achieved Completion, such extension must be approved by the City Manager in his or her reasonable discretion.

For the avoidance of doubt, any time limits that may otherwise apply to the Development Approvals absent this Development Agreement (including without limitation, any of the time limits imposed on approvals pursuant to Section 2.02.025A of the Ontario Development Code or any other the Land Use Regulations) shall not govern the Development Approvals or this Agreement and the term set forth in this Section 2.3 shall control.

2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer, or assign its interest in 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 and be made in strict compliance with the following:

(a) Any such sale, transfer, or assignment is done in compliance with the Ground Lease if such Ground Lease is then in effect;

(b) 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 substantially all of Owner's leasehold or fee interest (as applicable) in the Property;

(c) Prior to any such sale, transfer, or assignment, 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; and (2) the payment of the applicable processing charge to cover the City's review and consideration of such sale, transfer, or assignment; and

(d) 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 (c) 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 Subsection 2.4.1. Notwithstanding any contrary provision of this Agreement, the Owner of the Property shall not have any liability hereunder with respect to any other Lot and a default by the Owner of one Lot shall not impact the rights and obligations of the Owner of any other Lot.

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 all of the following conditions:

(a) such transferring owner no longer has a legal or equitable interest in the portion of the Property sold, transferred, or assigned;

(b) such transferring owner is not then in default under this Agreement (after notice and the expiration of any applicable cure periods), in which case such transferring owner shall remain liable for such default but not any future defaults by the assignee after the date of the transfer; and

(c) such transferring owner has provided City with the notice and executed agreement required under Paragraph (c) of Subsection 2.4.1 above.

2.4.3 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.

2.4.4 For the avoidance of doubt, this Section 2.4 does not apply to assignments or transfers of this Agreement to Mortgagees or their initial transferees after a foreclosure, deed in lieu, or similar action permitted under the mortgage, deed of trust, or other security device securing financing with respect to the Owner's interest in the Property.

2.5 Amendment or Cancellation of Agreement; Operating Memoranda.

2.5.1 Amendment or Cancellation. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section

65868. 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. The City hereby agrees to grant priority processing status to any request(s) to amend this Agreement made by Owner. 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.

2.5.2 Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the City and Owner and development of the Project hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of the City and Owner. If and when, from time to time, during the term of this Agreement, the City and Owner agree that such clarifications are necessary or appropriate, the City and Owner shall effectuate such clarifications through operating memoranda approved by the City and Owner, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary with future approval by the City and Owner. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The City Manager shall be authorized to make the determination on behalf of the City whether a requested clarification may be effectuated pursuant to this Section 2.5.2 or whether the requested clarification is of such a character to constitute an amendment hereof. The City Manager shall be authorized to execute any operating memoranda hereunder on behalf of the City without further Planning Commission or City Council action.

2.5.3 Certificate of Performance.

Upon Completion of the Project or upon the earlier revocation or termination of this Agreement, the City shall provide Owner, upon Owner's request, with a statement ("Certificate of Performance") evidencing such completion, revocation, or termination of this Agreement, and the release of Owner from further obligations hereunder with respect to the Property except with respect to the obligations which expressly survive such termination pursuant to Sections 3.9 (Rent Control), 4.2.2 (Development Impact Fees), 9 (Third Party Litigation) and 11.22 (Attorneys' Fees). The Certificate of Performance shall be signed by the appropriate agents of Owner and the City and shall be recorded with the County Recorder. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 8182.

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; or

(b) Completion of the Project to be developed and constructed on the Property in accordance with the terms of this Agreement.

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 right and/or 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 for residential units on which construction has not yet begun shall be refunded to Owner by City to the extent payment has been received.

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

If to Owner:
OTC Lot A Owner, LLC
c/o Adept Urban
388 Cordova Street, #280
Pasadena, CA 91101
Attention: Patrick Chraghchian; Robert Montano
Email:patrick@adept-dev.com; robert.m@adept-dev.com

with a copy to:
Ruben Duran, City Attorney
Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

with a copy to:
Munger, Tolles & Olson LLP
350 S. Grand Avenue, 50th Floor
Los Angeles, CA 90071
Attention: Misty M. Sanford, Esq.
Email: misty.sanford@mto.com

(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 Development of the Project; Rights to Develop.

3.1.1 Development of the Project. In consideration of the premises, purposes, and intentions set forth in this Agreement, and in consideration of the assurances for development of the Project pursuant to this Agreement, Owner agrees to develop the Project in accordance with: (i) the terms and conditions of this Agreement; (ii) the terms and conditions established in the Development Approvals; and (iii) the Existing Land Use Regulations. Owner further agrees that the use, density and intensity, maximum height and size of structures and provisions for the Property reservation and dedication of land for public purposes related to the Property shall be limited to those uses permitted by the Existing Land Use Regulations. The Project shall be developed in accordance with the Development Approvals. The Project shall be constructed in compliance with all applicable building codes and standards, as such may be modified from time to time.

3.1.2 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Project in accordance with the Existing Land Use Regulations, subject to the terms and conditions of this Agreement and the conditions established in the Development Approvals. The Project shall remain subject to all Development Approvals required to complete the Project. 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 Existing Land Use Regulations.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, 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 the Phased Development 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 Ca1. 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 (without the obligation) the Property in such order and at such rate and at such times as Owner deems appropriate within the exercise of its sole and subjective business judgment during the term of this Agreement. Notwithstanding the foregoing, subject to (a) Force Majeure Events, (b) up to three one-year extensions of time (provided, however, that (i) only the first one-year extension may be requested by Owner unilaterally and thereafter such extensions must be approved by the City Manager and (ii) such extensions shall not apply to the first milestone (i.e., submission of the building application) for the first of the Lots of the Phased Development to be developed) and (c) any extensions of entitlements or permits granted by any governmental authority on a statewide, citywide or countywide basis, Owner shall achieve the following milestones in accordance with the following schedule:

	Event	Date
1.	Submission by Owner of building permit application to the City for the Project	On or before one hundred eighty (180) days following the Final Non-Appealable Date.
2.	Commencement of Construction of the Project	On or before two (2) years following the Final Non-Appealable Date. In order to achieve this milestone, City agrees to complete its review of (a) Owner's initial plan check submission within twenty-one (21)

		days after receipt of such initial submission by City (provided, however, prior to such submission Owner and the City shall meet to review the proposed application), and (b) any additional submissions required to obtain the required permits for the project within fourteen (14) days following receipt of such additional submissions by City. There shall be a day-for-day extension of this Commencement of Construction milestone if the City fails to timely respond to such submissions within the time periods set forth above (each, a "City Response Delay").

3.4 Requirement for Public Infrastructure Improvements. Owner shall comply with any conditions of the Development Approvals with respect to providing public infrastructure improvements or facilities, if any, to the extent required in connection with the Project (as opposed to the other Lots within the Phased Development).

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of the Property as a whole; or,

(b) Increase the density or intensity of use of the Property as a whole; (other than in de minimis amounts); or,

(c) Increase the maximum height and size of permitted buildings (other than in de minimis amounts); or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 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 its actual costs of processing applications for, or monitoring compliance with, any development approvals granted for the performance of any conditions imposed on the Project, unless otherwise waived by the City in writing;

(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;

(d) Regulations that may conflict with this Agreement or Existing Land Use Regulations but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety; and are generally applicable on a citywide basis (except in the event of natural disasters as found by the City Council such as floods, earthquakes, pandemics and similar acts of God);

(e) Reserved;

(f) Regulations to which the Owner consents in writing.

3.6.2 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 Approvals and the Existing Land Use Regulations, 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 Approvals and the Existing Land Use Regulations.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Approval Date, 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 or comply with as determined by Owner. 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).

3.6.4 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.

3.7 Public Works; Utilities. If Owner is required by any Development 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 to the construction standards that 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 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.

3.8 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 material out-of-pocket 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.

3.9 Rent Control. Notwithstanding anything to the contrary in this Agreement, City agrees that, to the extent permitted by applicable law, City shall not apply any rent control or other renter protections or other moratoria or interim control ordinance against the Property or the Project. The foregoing covenant shall survive the expiration of this Agreement indefinitely and shall be in effect unless this Agreement is terminated for any reason other than a termination due to the Completion of the Project.

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 Approvals and the Existing Land Use Regulations 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 amounts for Development Impact Fees established or imposed by the City to be paid by Owner shall be the amounts that are in effect as of the Approval Date, which are shown on Exhibit "C" attached hereto, and Development Impact Fees established or imposed by other public agencies to be paid by Owner shall be the amounts that are in effect at the time such fees are due and payable during the development process. 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. Notwithstanding the foregoing, the amounts imposed by the City to be paid by Owner for the following Development Impact Fees may be those in effect at the time such fees are due and payable (subject to the right to deferment set forth in Section 4.2.2 below), so long as such amounts do not increase by more than five percent (5%) over the amount of such rates in effect as of the Approval Date: 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.

4.2.2 Time of Payment.

(a) Owner shall have the right to elect (but is not obligated) to amortize the payment of up to fifty percent (50%) of the total amount of Development Impact Fees due and payable for the Project (the amount so elected, the "Deferred DIFs") over a period of thirty (30) years commencing from the Deferred DIF Repayment Date at an annual 3 percent

(3%) simple interest rate. As used herein, "Deferred DIF Repayment Date" means the date of issuance of a temporary or other certificate of occupancy for the residential component of the Project. The parties understand and agree that the Development Impact Fees established or imposed by other public agencies that are not controlled by City even if such Development Impact Fees may be collected by City (including without limitation, if applicable, the IEUA Sewer Connection Fee, Ontario-Montclair School District (K-12) Fees, Cucamonga School District and Chaffey Joint Union High School Fees) (collectively, the "Non-Deferrable Fees") must be paid when and as required in their standard course and schedule and may not be deferred hereunder; provided, however, the amount of such Non-Deferrable Fees may be included in the calculation of the total amount of Development Impact Fees due and payable for the Project for purposes of calculating the fifty percent (50%) amount that Owner may elect to include as Deferred DIFs.

(b) Owner agrees that, commencing upon the Deferred DIF Repayment Date, Owner shall pay to the City, on the 1st day of the next following month and each and every successive month for three hundred sixty (360) consecutive months, an amount equal to the amortized principal and interest of the actual amount of the Deferred DIFs amortized over thirty (30) years at an annual 3 percent (3%) simple interest rate. By way of example only, if the Deferred DIFs equal $4,5000,000, the monthly payment to be made to the City would be $18,972. The entire unpaid principal balance of the amortized Deferred DIFs and any accrued but unpaid interest shall be immediately due and payable to the City upon any of the following events: (1) the termination of this Agreement other than a termination due to the Completion of the Project; (2) any uncured default by Owner with regard to repayment of the amortized Deferred DIFs to the City (if such amounts have not been paid to the City within five (5) business days of Owner's receipt of written notice from the City); or (3) any sale, transfer or assignment of all or substantially all of the Owner's leasehold or fee interest (as applicable) in the Property that is not approved by the City in advance (which such approval shall not be unreasonably withheld, conditioned or delayed). Any monthly payment or portion thereof not paid to the City as and when due under the terms of this Agreement shall accrue interest from the date on which such payment was due at the rate of ten percent (10%), and if not paid within the five (5) business day cure period described above, City may file a lien against the Property for such delinquent amounts including any accrued and unpaid interest. All payments under this Subsection will be applied first to penalties and late fees, then to interest, then to reduce the principal amount owed. The Deferred DIFs and any accrued but unpaid interest may be pre-paid to the City at any time without any pre-payment penalty.

(c) The Deferred DIF payment obligation shall be a covenant running with the land and shall survive the expiration or early termination of this Agreement indefinitely until the Deferred DIFs are paid in full in accordance with this Agreement.

(d) Any Development Impact Fees that are not a Deferred DIF shall be paid when and as required in their standard course and schedule.

4.3 Reserved.

4.4 Reserved.

4.5 Schools Obligations. Owner shall satisfy its school obligations with the applicable school district by paying school impact fees. Written evidence of approval by the applicable school district that Owner has met its school obligations may be required by the City as the condition to the issuance by the City of any building permits for the Project.

4.6 Reserved.

4.7 Reserved.

4.8 Reserved.

4.9 Maintenance of Open Space. Owner shall provide for ongoing maintenance of all park, common areas, and open space areas within the Project as may be set forth in the Development Approvals.

4.10 Intentionally Omitted.

4.11 Compliance with Public Benefits Requirements. In the event Owner fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, 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 8.4 hereof, thereby entitling the City to any and all remedies permitted under this Agreement, including, without limitation, the right of the City to withhold Owner's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. [RESERVED]

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 in accordance with Section 65865.1 of the California Government Code. Upon completion of the City's review, 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/her designee. Owner shall be responsible for paying any processing charge in connection with each such annual review, if any, provided that such charge shall be generally consistent with the cost charged for annual reviews for other development agreements to which the City is a party.

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:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) 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. The cost of any such special review shall be borne by the City, unless such a special review demonstrates that Owner is not acting in good-faith compliance with the provisions of this Agreement, in which case Owner shall reimburse the City for all costs incurred by the City in connection with such special review.

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 shall specify in writing the respects in which Owner has failed to so comply. The City shall provide Owner with written notice of such noncompliance, together with a written specification of the reasons therefor. Such written notice shall also specify a reasonable time for Owner to cure such non-compliance, which time shall be not less than thirty (30) days after Owner's receipt of such notice.

(c) The Owner may appeal a determination pursuant to paragraph (b) in accordance with the City's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Termination. If, upon a finding under Section 6.1.6(b), the City determines to proceed with 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 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 Termination. At the time and place set for the hearing on 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 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; Waiver of Monetary Damages. It is acknowledged by the parties that, subject to and without limiting the Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below, neither party would have entered into this Agreement if it were to be liable in monetary damages under this Agreement, or with respect to this Agreement or the application thereof. The parties agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages that would adequately compensate Owner for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify the exposure. Therefore, the parties agree that each of the parties may pursue any remedy at law or equity available for any breach of any provision of this Agreement, except that neither party shall be liable in monetary damages to the other party, or to

any successor in interest of such other party, or to any other person, and each party covenants not to sue for monetary damages or claim any monetary damages:

8.1.1 For any breach of this Agreement or for any cause of action which arises out of this Agreement (other than in connection with Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below); or

8.1.2 For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

8.1.3 Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.1.4 The parties understand and agree, however, that nothing in this Section 8.1 shall prohibit, restrict or otherwise affect the rights of a party to seek monetary damages as a result of any default by the other party under any other agreement entered into by the parties with respect to the Property and the Project, including without limitation the Ground Lease, if and to the extent such other agreements allow for monetary damages. No part of this Agreement shall be deemed to abrogate or limit any immunities or defenses either party may otherwise have with respect to claims for monetary damages.

8.2 Default by Owner. In the event that Owner does not perform its obligations under the Agreement in a timely manner, subject to the limitations in Section 8.1, the City shall have all rights and remedies provided herein which shall include (a) the right to compel specific performance of the obligations of Owner under this Agreement or (b) termination of this Agreement, provided that the City has first complied with the procedures set forth in this Section 8.2 and in Section 8.5 below. If City elects to proceed under clause (b) with termination of this Agreement, the following shall apply:

8.2.1 If after the applicable cure period has elapsed, the City Manager finds and determines that Owner remains in default, the City Manager shall make a report to the Planning Commission and then set a public hearing before the Planning Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If, after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Owner has not cured the applicable default pursuant to this Section, and that the City should terminate this Agreement, Owner shall be entitled to appeal that finding and determination to the City Council in accordance with the procedure in Section 6.1.6(c) above. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity, and

8.2.2 City may terminate this Agreement after such final determination of the City Council or, where no appeal is taken, after the expiration of the appeal period in accordance with the procedure described in Section 6.1.6(c) above, relating to the defaulting party's rights and obligations.

8.2.3 City's Limited Cross Termination Right. If City terminates this Agreement in accordance with the procedures set forth herein as a result of a failure of Owner to achieve any of the milestones required pursuant to Section 3.3 above, City shall have the right to simultaneously terminate the Related Development Agreement(s) affecting the Lot(s) within the Phased Development for which none of the milestones under Section 3.3 of the applicable Related Development Agreement(s) have been achieved and for which a standard construction loan from an unrelated third party ("Loan") has not been executed for the development of such Lot(s). For example, if the owner of any Lot in the Phased Development (including the Property) has executed a Loan for the development of such Lot or any of the milestones under Section 3.3 of the applicable Related Development Agreement have been achieved with respect to such Lot (a "Protected Lot"), then the termination of this Agreement or the Related Development Agreement for any other Lot shall not affect the Related Development Agreement of such Protected Lot and City shall not have any right hereunder to terminate such Related Development Agreement under this Section 8.2.3.

8.3 Default by City. In the event the City defaults under the provisions of this Agreement, subject to the limitations set forth in Section 8.1 above, Owner shall have all rights and remedies provided herein or by applicable law, which shall include compelling the specific performance of the City's obligations under this Agreement, provided that Owner has first complied with the procedures in Section 8.5 below.

8.4 Release. Subject to and without limiting the indemnity in Section 9.3 below, except for nondamage remedies, including the remedy of specific performance, each party, for itself, its successors and assignees, hereby releases the other party, 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.

8.5 Notice and Cure. Failure or delay by either party to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of written notice from the other party, identifying with specificity those obligations of the defaulting party which have not been performed, constitutes a default under this Agreement; provided, however, if such failure or delay cannot reasonably be cured within such thirty (30) day period, no default shall be deemed to have occurred hereunder if the party committing such failure or delay commences cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion; provided, however the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with due diligence but (a) with respect to the City only in no event later than sixty (60) days after receipt of written notice from the Owner and (b) with respect to Owner only in no event later than one hundred eighty (180) days after receipt of written notice from City. The injured party shall give written notice of default to the party in default specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default.

8.6 Ground Lease and Other Agreements Not Affected. This Section 8 shall not be deemed to implicate, modify, or affect in any way any provisions in the Ground Lease or any other agreement entered into by the parties with respect to the Property and the Project.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. City has determined that this Agreement is consistent with its General Plan, as such General Plan exists as of the Approval Date, and that the General Plan meets all requirements of law. 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 Project as the result of a judicial determination that on the Approval 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. Subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), at its expense, including attorneys' fees, indemnify, and hold harmless City and its officers and employees (collectively, the "City Parties") from any claim, action or proceeding against the City Parties 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

Nothing in this Section 9 or any other indemnification provision included as a condition to any of the Development Approvals shall be construed to mean that Owner or City shall indemnify, hold any of the City Parties or Owner Parties, as applicable, harmless and/or defend any of the City Parties or Owner Parties, as applicable, from any claims arising from (a) as to Sections 9.3.1 and 9.4 only, any of the City Parties' or Owner Parties', as applicable, violation of law, or (b) as to all such indemnities other than the indemnity set forth in Section 9.3.2, (i) any of the City Parties' or Owner Parties', as applicable, breach of contractual obligations to third parties or (ii) the gross negligence or willful misconduct of any of the City Parties or Owner Parties, as applicable.

9.3 Indemnity.

9.3.1 Owner. In addition to the provisions of 9.2 above, subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), indemnify, and hold harmless the City Parties from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses), based or asserted upon any act or omission of Owner or its officers or employees for property damage, bodily injury, or death

(Owner's employees included) arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, and operation the Project. The 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

9.3.2 City. City agrees to indemnify, defend (with counsel chosen by City and approved by Owner, which such approval shall not be unreasonably withheld, conditioned or delayed), and hold harmless Owner, American General Design, Inc. (dba Adept Development), a California corporation and Povac Investments, Inc., a California corporation and each of their respective officers and employees (collectively, the "Owner Parties") from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses) arising from any governmental agency stopping or delaying construction or occupancy of the Project after the "Commencement of Construction" (as defined below) as a result of City's failure to pay any amounts imposed by the State of California (if any) pursuant to California Government Code Sections 54220 through 54234 in connection with the City's disposition of the Property to Owner. Owner shall promptly notify City of any such stoppage or delay, and Owner shall cooperate in the defense. If Owner fails to promptly notify Owner of any such stopped or delay, or if any of the Owner Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, City shall not thereafter be responsible to defend, indemnify, or hold harmless the Owner Parties. For purposes of this Section 9.3.2, the term "Commencement of Construction" shall mean that both of the following have occurred: (a) construction of a building has commenced pursuant to and in accordance with a building permit issued by the City, City-approved final construction drawings, the Existing Land Use Regulations, the Development Approvals, and all applicable laws; and (b) Owner has expended at least $5,000 in labor and materials for such construction. For purposes of this definition only, "construction" shall mean construction of improvements permanently fixed to the site (e.g., a foundation or similar), including, without limitation, utilities, public or private streets, public or private site improvements, landscaping or ancillary structures such as block walls, trash enclosures, and any grading, excavation, demolition, grubbing, or other site preparation.

9.4 Environment Assurances. Owner shall defend (with counsel chosen by Owner), at its expense, including attorneys' fees, indemnify, and hold harmless the City Parties from any liability, based or asserted, upon any act or omission of Owner, its officers, agents, employees, subcontractors, and/or 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 that were not present prior to the date that Owner took possession of the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including reasonable attorneys' fees, the City Parties 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 Reserved.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement for a period of two (2) years after such termination, except to the extent such indemnification relates to any third party claims, in which event such indemnification shall survive until the expiration of any applicable statute of limitations.

10. 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 ("Security Instrument"). 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. The City further agrees to cooperate in including in this Agreement by suitable amendment from time to time any provision that may reasonably be requested by any proposed Mortgagee for the purpose of allowing such Mortgagee reasonable means to protect or preserve a lien and security interest of its Security Instrument, as well as such other documents containing terms and provisions customarily required by Mortgagees (taking into account the customary requirements of their participants, syndication partners or rating agencies) in connection with any such financing (a "Lender Proposed Amendment"). The City agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effectuate a Lender Proposed Amendment; provided, however, that any such Lender Proposed Amendment shall not in any way materially adversely affect any rights of the City under this Agreement. If there is any conflict between this Article 10 and any other provisions contained in this Agreement, this Article 10 shall control. 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 Security Instrument on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any Security Instrument, 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 for a period of sixty (60) days after Mortgagee receives written notice of non-compliance, or any longer period as is reasonably necessary, not to exceed one hundred eighty (180) days, to remedy such default, provided that Mortgagee shall continuously and diligently pursue the remedy at all times until the default is cured.

(d) Any Mortgagee who takes title of the Property, or any part thereof, pursuant to foreclosure trustee's sale, deed in lieu of foreclosure, lease or sublease termination or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement, provided that any such Mortgagee, including its affiliate, that takes title to the Property shall be entitled to all of the benefits arising under 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 after the initial sale, transfer, or assignment by any Mortgagee shall be subject to the provisions of Section 2.4 of this Agreement.

(e) If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceedings involving Owner, the times specified in Section clause (c) above, shall be extended for the period of the prohibition, except that any such extension shall not extend the term of this Agreement.

(f) If this Agreement is terminated by reason of (i) any default or (ii) as a result of a bankruptcy proceeding, this Agreement is disaffirmed by a receiver, liquidator, or trustee for Owner or its property, the City, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new development agreement for the Project as to such portion of the Property with the most senior Mortgagee requesting such new agreement. This Agreement does not require any Mortgagee or the City to enter into a new development agreement pursuant to this clause (f).

(g) The City shall, at any time and within thirty (30) days following the written request of a Mortgagee, but not more often than annually, certify in writing to such Mortgagee that (a) this Agreement is in full force and effect, (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments and modifications, and (c) to the actual knowledge of City with no duty to investigate, Owner is not in default in the performance of its obligations under this Agreement or, if in default, to describe therein the nature and extent of any such default. Any such estoppel certificate shall be administratively issued by the City Manager or his/her representative or designee.

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 this 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. A failure to record the Agreement in a timely fashion shall not impact its effectiveness to the extent permitted by applicable law.

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, in the event the provision regarding the payment of Deferred DIFs set forth in Section 4.2.2 of this Agreement is determined to be invalid, void or unenforceable, the parties shall enter into a separate written agreement for the repayment of such Deferred DIFs consistent with Section 4.2.2.

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. 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.

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, except that the Owner

Parties and City Parties are third party beneficiaries of the indemnities in Section 9. 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, insurrection, riots, civil unrest, acts of terrorism or similar hostilities, strikes, boycotts, lock-outs, and other labor difficulties beyond the party's control (including the party's employment force), inability to procure services, labor or materials not related to the price thereof, failure of electric power, governmental actions, governmental laws, regulations or restrictions, third party litigation or administrative proceedings, actual or threatened public health emergency (including epidemic, pandemic, famine, disease, plague, quarantine, and other public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization (including any shelter-in-place orders, stay at home orders or any restrictions on travel related thereto that preclude Owner, its agents, contractors or its employees from accessing the Property, national or regional emergency), declaration of a state or national emergency, casualties, weather that could not have reasonably been anticipated, changes in the Laws which would prevent the Property from being developed or operated in accordance with this Agreement, or other reasons beyond the reasonable control of the party (individually a "Force Majeure Event" or collectively, "Force Majeure Events"). 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 shall be automatically extended for the period of time that such events prevented such performance, provided that the extensions of the term of this Agreement solely as a result of one or more Force Majeure Events shall not exceed a period of more than five (5) years in the aggregate.

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; Covenants Running with the Land. 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. In any event, no owner or tenant of an individual completed residential unit within the Project shall have any rights under this Agreement.

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. Owner for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) 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 reasonable costs incurred by City in connection with the issuance of estoppel certificates under this Section 11.20 prior to City's issuance of such certificates.

11.21 Authority to Execute. Each party represents and warrants that the person or persons executing this Agreement on behalf of such party has the authority to execute this Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations hereunder.

11.22 Attorneys' Fees. In the event of any action between the City and Owner for enforcement or interpretation of any of the terms or conditions of this Agreement, the prevailing party in such action shall be entitled to recover its reasonable costs and expenses, including without limitation court costs and attorneys' fees actually and reasonably incurred, as awarded by a court of competent jurisdiction. This Section shall survive the termination of this Agreement.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

"Owner"

OTC Lot A Owner, LLC
a Delaware limited liability company

By: _____
Name:
Its: _____
Date: _____

"CITY"

CITY OF ONTARIO

By:_____
Scott Ochoa
City Manager

Date: _____

ATTEST:

_____
City Clerk, Ontario

APPROVED AS TO FORM:

_____
Kane, Ballmer & Berkman, City Special Counsel

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

LEASE AREA DESCRIPTION (LOT A)

APN NO. 0210-205-01

THAT PORTION OF LAND IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, LYING WITHIN A PORTION OF PARCEL 1 OF PARCEL MAP NO. 17978 AS PER MAP FILED IN BOOK 216 PAGES 44 AND 45 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY TERMINUS OF THAT CERTAIN COURSE ALONG THE EASTERLY BOUNDARY LINE OF SAID PARCEL 1, SAID COURSE HAVING A BEARING OF N 33°23' 13" E AS SHOWN ON SAID PARCEL MAP. THENCE, N 33° 23' 13" E 42.97' ALONG SAID EASTERLY LINE. THENCE, LEAVING SAID EASTERLY LINEN 56°36' 47" W 18.58' TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION. THENCE, ALONG THE FOLLOWING DESCRIBED COURSES:

N 33°23' 24" E 259.97'

S 56°36' 36" E 8.00'

N 33°23' 24" E 25.41'

N 56°36' 36" W 5.50'

N 33°23' 24" E 30.58'

N 56°36' 36" W 18.50'

N 33°23' 24" E 46.27'

N 0° 00' 00" E 19.25'

N 90° 00' 00" E 30.59'

N 0° 00' 00" E 67.50'

N 90° 00' 00" W 274.60'

EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

LEASE AREA DESCRIPTION (LOT A)

N O' 00' 00" E 8.00'

N 90° 00' 00" W 25.41'

SO' 00' 00" W 8.00'

N 90° 00' 00" W 251.51'

SO' 00' 00" W 30.58'

N 90° 00' 00" W 16.82' TO THE BEGINNING OF A NON-TANGENT 31.67' RADIUS CURVE CONCAVE SOUTHEASTERLY AND TO WHICH A RADIAL LINE BEARS N 78°55' 48" E. THENCE, NORTHWESTERLY, WESTERLY, AND SOUTHEASTERLY 110.94' ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 200' 43' 26". THENCE, ALONG THE FOLLOWING DESCRIBED COURSES:

S 80' 09' 47" W 25.36'

S 09° 50' 13" E 343.01'

N 90° 00' 00" E 121.65

S 00° 00' 00" W 4.00'

S 90° 00' 00" E 32.63'

S 00° 00' 00" E 6.35'

N 90° 00' 00" E 25.41'

NO' 00' 00" E 10.11'

S 90° 00' 00" E 43.73'

S 00° 00' 00" W 2.11'

EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

LEASE AREA DESCRIPTION (LOT A)

THENCE, S 90° 00' 00" E 152.72' TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

THE ABOVE-DESCRIBED PARCEL OF LAND CONTAINS 210,250 SQUARE FEET, 4.83 ACRES MORE OR LESS.

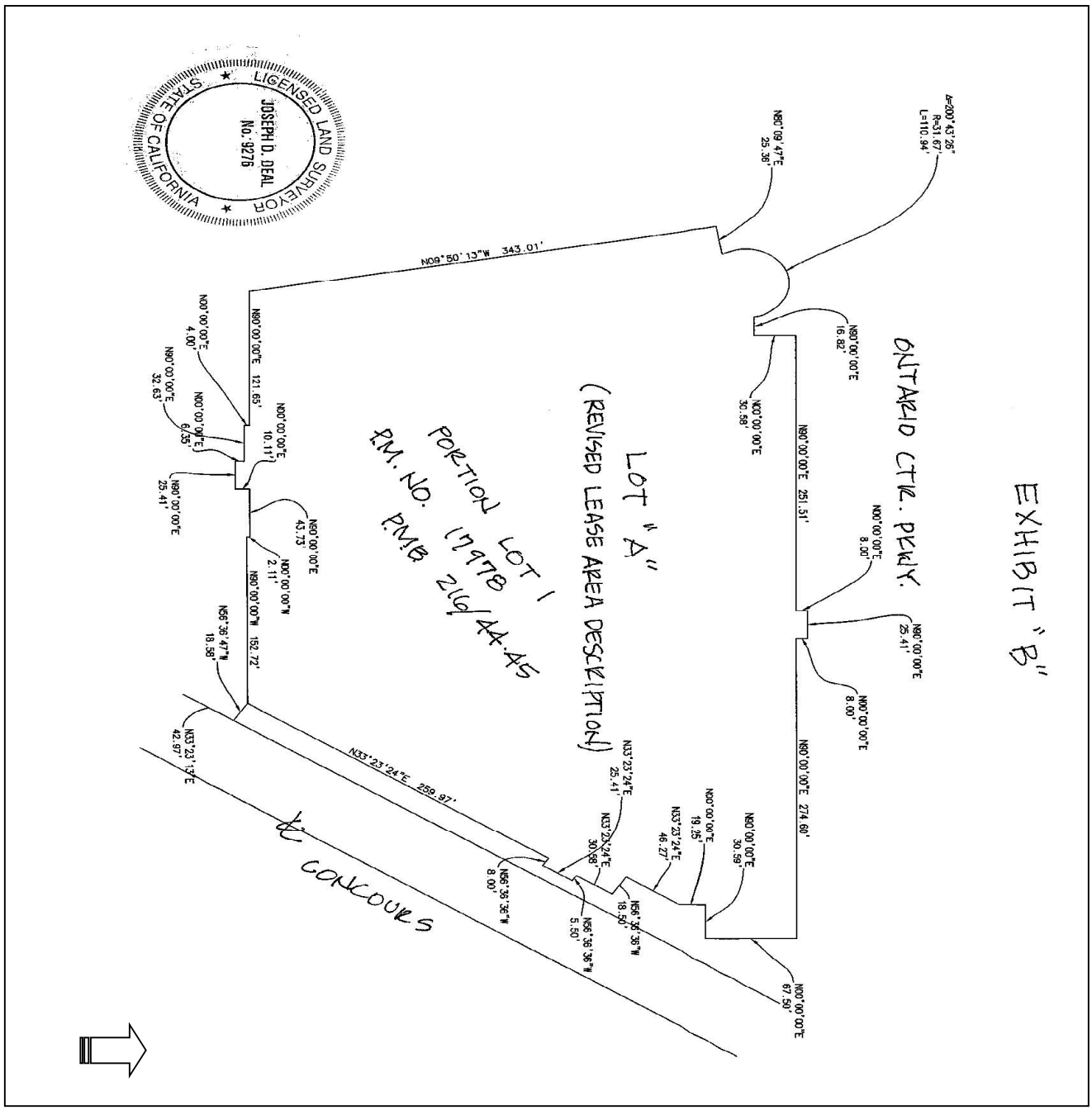


EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

LEASE AREA DEPICTION (LOT A)

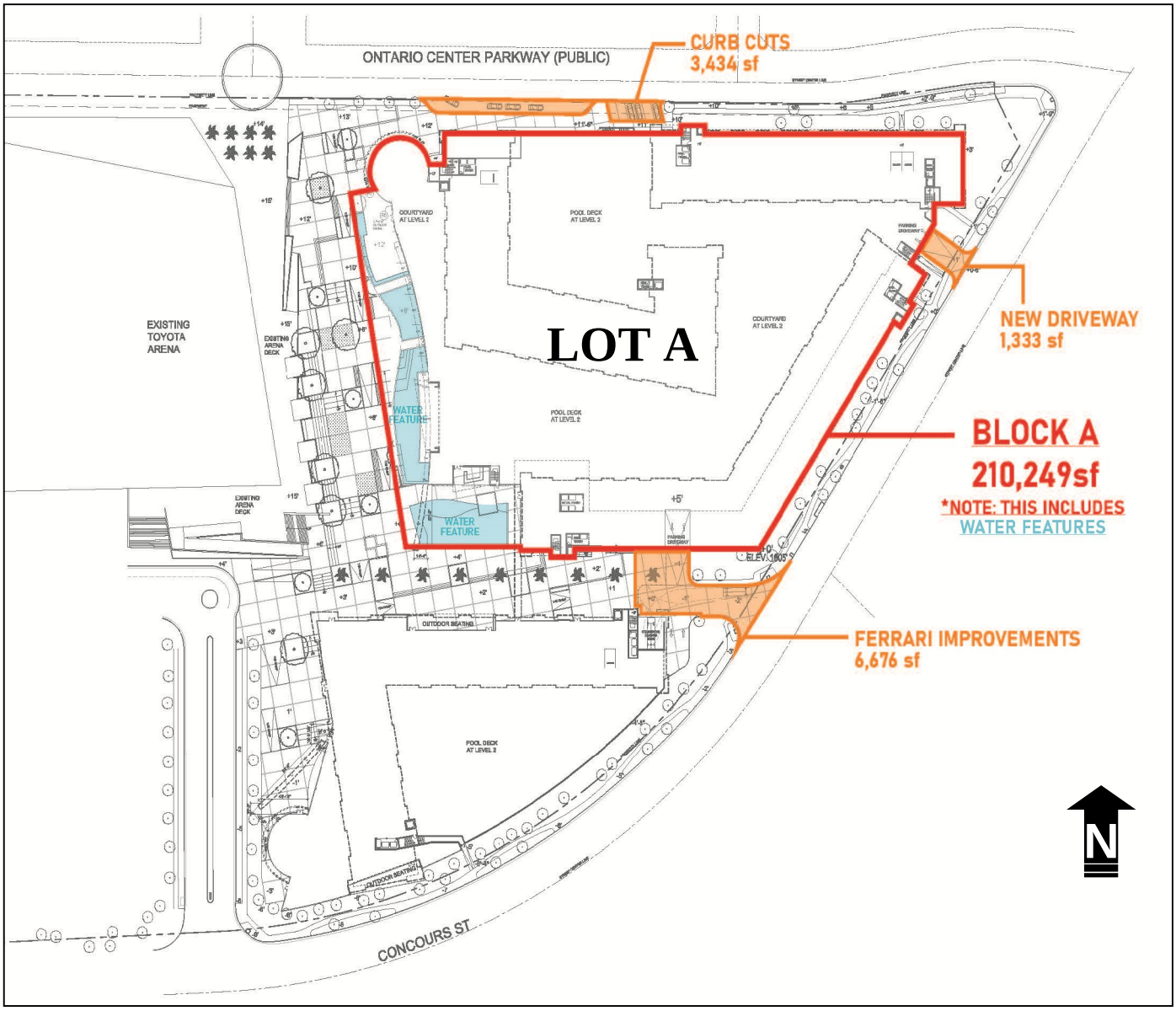
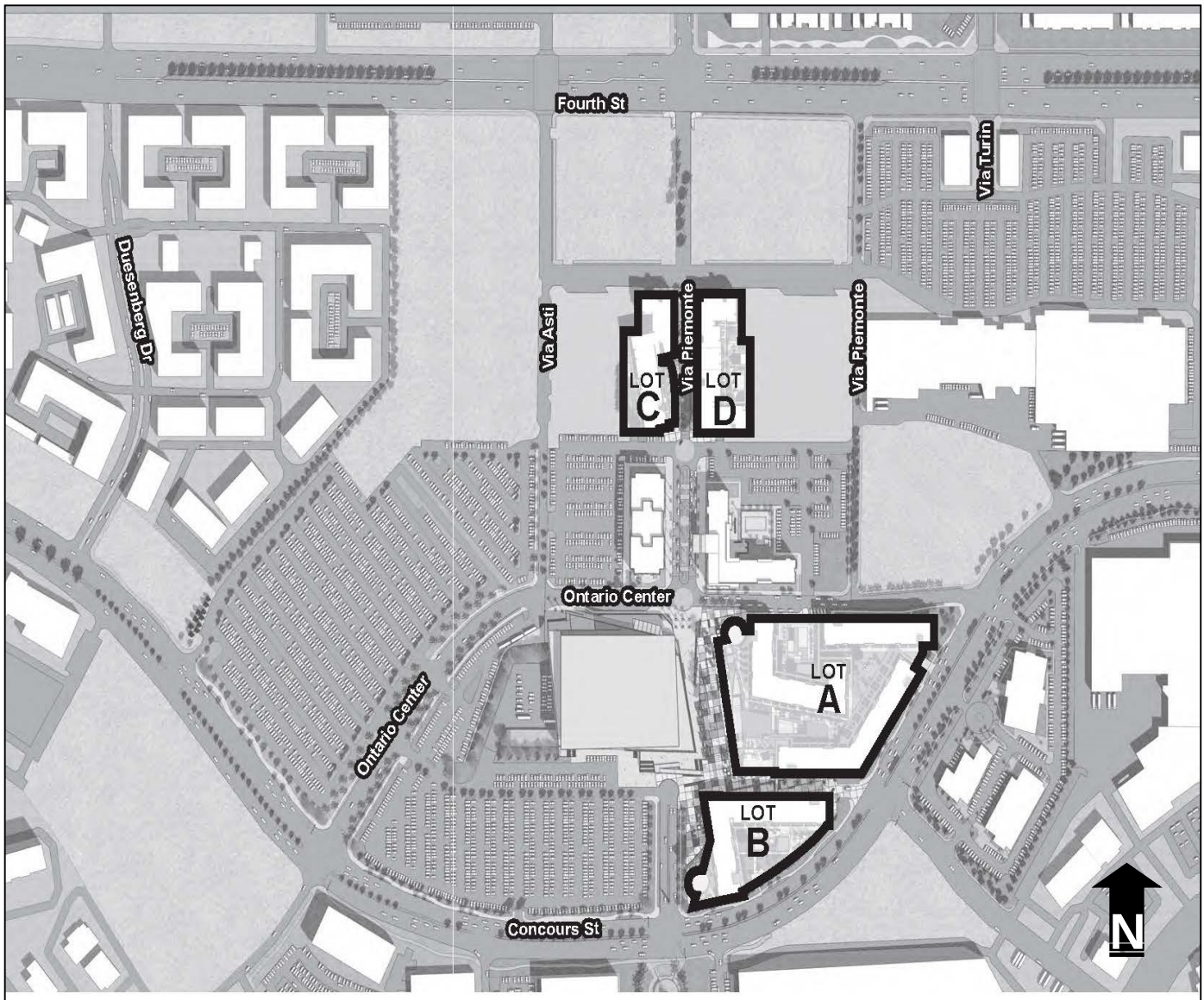


EXHIBIT "B"
TO DEVELOPMENT AGREEMENT

MAP SHOWING PROPERTY AND ITS LOCATION



Ontario Center Parkway, Ontario, CA 91764

EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Development Impact Fees as of the Approval Date

(Development Impact Fees to follow this page)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA22-003-B, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC LOT B OWNER LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 112 RESIDENTIAL UNITS AND UP TO 20,802 SQUARE FEET OF COMMERCIAL/OFFICE/RETAIL USES, ON APPROXIMATELY 1.69 ACRES OF LAND LOCATED AT THE SOUTHWEST CORNER OF ONTARIO CENTER PARKWAY AND FERRARI LANE, WITHIN MIXED-USE SUBAREA 17 OF THE PIEMONTE OVERLAY OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: SOUTHEAST PORTION OF 0210-205-01.

WHEREAS, OTC Lot B Owner LLC, ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA22-003-B, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 1.69 acres of land, consisting of the southeast parking Toyota Arena Parking lot, located at the southwest corner of Ontario Center Parkway and Ferrari Lane. The project site is within the proposed mixed-use Subarea 17 of the Piemonte Overlay of the Ontario Center Specific Plan, and is presently vacant and improved with the Toyota Area parking lot; and

WHEREAS, in 2006, the City Council approved the creation of the Piemonte Overlay of the Ontario Center Specific Plan (“Piemonte Overlay”), within the Urban Commercial land use district of the Ontario Center Specific Plan, establishing a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre overlay site. Several Specific Plan Amendments have been approved for the Piemonte Overlay, modifying development intensities, parking requirements, architectural guidelines, and land use designations. The most recent Specific Plan Amendment, File No. PSPA21-001, was approved by the City Council on April 19, 2022, and involved expanding the overlay boundary, adding the Mixed-Use land use designation, and establishing design guidelines for mixed-use projects; and

WHEREAS, the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) was certified on March 19, 1991, (hereinafter referred to as “Certified EIR”), in which development and use of the Project site was discussed in the Amendment to the Ontario Center Specific Plan (File No. 4059-SPA); and

WHEREAS, a Mitigated Negative Declaration (hereinafter referred to as “MND”) was subsequently adopted on May 16, 2017, in which development and use of the Project site was discussed in association with an Amendment to the Ontario Center Specific Plan (File No. PSPA16-003); and

WHEREAS, the Planning Director of the City of Ontario prepared and approved for attachment to the Certified EIR and adopted MND, an Addendum to the Certified EIR and MND (hereinafter collectively 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 was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay of the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

WHEREAS, the environmental impacts of this Project were thoroughly analyzed in the Certified EIR and EIR Addendum, which concluded that implementation of the Project could result in a number of significant effects on the environment and 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to approve 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, A Development Plan Application (File No. PDEV22-014) to construct four mixed-use buildings totaling 63,655 commercial square feet and 694 dwelling units on 13.3 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corner of Via Piemonte and Via Villagio, within the Mixed-Use land use district of the Piemonte Overlay of the Ontario Center Specific Plan, has been filed in conjunction with the Development Agreement Application; 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 June 28, 2022, 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 PC22-028, recommending the City Council approve the Application; and

WHEREAS, on July 19, 2022, 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 authority 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 the Project were reviewed in conjunction with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) ("Certified EIR"), certified by the Ontario City Council on March 19, 1991, in conjunction with File No. 4059-SPA, in combination with an Addendum to the Mitigated Negative Declaration, adopted by the Ontario City Council on May 17, 2017, in conjunction with File No. PSPA16-003. In addition, an EIR Addendum was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

(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.

SECTION 3. ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making authority 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 site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The proposed changes affect two of the four properties listed in the Available Land Inventory (Subareas 8 and 11; Map ID No. 124 and 125). The residential capacity proposed in this Project is consistent with the number of dwelling units (198) and density (48 du/ac) specified in the Available Land Inventory.

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, 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 authority 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 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 4.83 acres of land generally located southwest corner of Ontario Center Parkway and Concours Street; and

b. The Development Agreement establishes parameters for the development of a mixed-use project for lot b, consisting of 112 residential units and up to 20,802 square feet of commercial/office/retail uses, within the proposed Mixed-Use Subarea 17 of the Piemonte Overlay of the Ontario Center Specific Plan. The Development Agreement also grants the Applicant the right to develop, the ability to quantify the fees; and establish the terms, and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Piemonte Overlay of the Ontario Center Specific Plan; and

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

d. 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

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

f. 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 reviewed with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) prepared for the related Amendment to the Piemonte

Overlay at the Ontario Center Specific Plan (File No. PSPA21-001). This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this 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 Application, subject to each and every condition set forth in the Development Agreement (File No. PDA222-003-B) 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 _____ 2022.

_____
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 Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held July 19, 2022 and adopted at the regular meeting held _____, 2022 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. PDA22-003-B

DEVELOPMENT AGREEMENT

By and Between

City of Ontario
a California municipal corporation

and

OTC Lot B Owner LLC

a Delaware limited liability company

(Development Agreement to follow this page)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

Exempt from Fees Per Gov. Code §§ 6103 and 27383

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

OTC Lot B Owner, LLC

a Delaware limited liability company

DEVELOPMENT AGREEMENT NO. PDA22-003-B

This Development Agreement (hereinafter "Agreement") is dated as of July _____, 2022, for reference purposes only, and is entered into by and between the City of Ontario, a California municipal corporation (hereinafter "City"), and OTC Owner, LLC, Lot B, a Delaware limited liability company (together with its successors and assigns, "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

WHEREAS, Owner has a leasehold interest in the Property pursuant to the Ground Lease; 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, on July ____, 2022, the City Council adopted Ordinance No. _____ approving this Agreement, and such ordinance became effective on _____, 2022; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement. On April 19, 2022, pursuant to Resolution No. 2022-034, the City Council reviewed and adopted an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) dated March 2022 under City's File No. PSPA21-001 (the "EIR Addendum"). The proposed Project is consistent with the EIR Addendum and no further environmental review is required; and

WHEREAS, on April 19, 2022, pursuant to Resolution No. 2022-035, the City Council approved the Piemonte Overlay at the Ontario Center Specific Plan Amendment - File No. PSPA21-001 (the "Specific Plan Amendment"); and

WHEREAS, this Agreement and the Project are consistent with the City's Comprehensive General Plan and any specific plan applicable thereto; 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, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended.

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 "Approval Date" means _____, 2022 the hearing date on which the City Council adopted the ordinance approving this Agreement.

1.1.3 "Certificate" shall have the meaning set forth in Section 6.4.

1.1.4 "Certificate of Performance" shall have the meaning set forth in Section 2.5.3.

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

1.1.6 "City Council" means the City Council of the City of Ontario.

1.1.7 "City Manager" means City's City Manager or his or her designee.

1.1.8 "City Parties" shall have the meaning set forth in Section 9.2.

1.1.9 "City Response Delay" shall have the meaning set forth in Section 3.3.

1.1.10 "Completion" means the date on which all of the following has occurred (a) the Building Department of the City (in its capacity as the municipal authority) has issued (i) a temporary certificate of occupancy (or its equivalent) for the residential dwelling units within the Project and (ii) final sign off or its equivalent of the core and shell for the commercial space within the Project (but not the tenant improvements for such space) and (b) Owner has satisfied the conditions of the Development Approvals to the extent required in connection with the Project (as opposed to conditions required in connection with the development of the other Lots within the Phased Development) other than ongoing conditions that are not required to be satisfied prior to completion of the Project.

1.1.11 "Deferred DIF" shall have the meaning set forth in Section 4.2.2.

1.1.12 "Deferred DIF Repayment Date" shall have the meaning set forth in Section 4.2.2.

1.1.13 "Development Approval" or "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property whether Existing Development Approvals or Subsequent Development Approvals, including, but not limited to, the following:

(a) Amendment to the Piemonte Overlay at Ontario Center Specific Plan -File No. PSPA21-001;

(b) Development Plan Entitlement – File No. PDEV22-014;

(c) EIR Addendum;

(d) Development Agreement - File No. PDA22-003-B; and

(e) Amendment to the Piemonte Overlay Sign Program – File No. PSGP22-002.

1.1.14 "Development Impact Fee" means a monetary exaction, other than a tax or special assessment, whether characterized as a fee, exaction, charge, assessment 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. The rates as of the Approval Date for the Development Impact Fees that may apply to the Project are shown on Exhibit "C" attached hereto.

1.1.15 "Effective Date" means the date on which both of the following are true: (a) the ordinance approving this Agreement goes into effect; and (b) the Effective Date of the Ground Lease has occurred. Promptly after the Effective Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Effective Date and, thereafter, the Effective Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.16 "Existing Development Approvals" means all Development Approvals approved or issued on or prior to the Effective Date. Existing Development Approvals are listed in the definition of "Development Approvals" above and all other Development Approvals which are a matter of public record on the Effective Date.

1.1.17 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Approval Date, as modified by the Development Approvals.

1.1.18 "Final Non-Appealable Date" means the date Existing Development Approvals are final and non-appealable as set forth in the City Development Code and any applicable Laws and (ii) the applicable statute of limitations has expired under the California Environmental

Quality Act (Public Resources Code §21000 *et seq*.) and implementing Guidelines for CEQA (14 Cal. Code Regs. §15000 *et seq.*) with respect to the Addendum, in each case without the filing of any third party challenge, appeal, or lawsuit or, if filed, such challenge, appeal, or lawsuit has been resolved in a manner satisfactory to Owner. Promptly after the Final Non-Appealable Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Final Non-Appealable Date and, thereafter, the Final Non-Appealable Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.19 "Force Majeure Event(s)" shall have the meaning set forth in Section 11.11.

1.1.20 "General Plan" means the City's Comprehensive General Plan adopted on January 27, 2010, by Resolution No. 2010-006, as may be amended as of the Approval Date.

1.1.21 "Ground Lease" means that certain Ground Lease by and between City and Owner dated on or about the Approval Date pertaining to the Property, as the same may be amended, modified, or supplemented from time to time.

1.1.22 "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; or

(e) the exercise of the power of eminent domain.

1.1.23 "Lender Proposed Amendment" shall have the meaning set forth in Section 10.

1.1.24 "Lot" or "Lots" shall mean Lot A, B, C, or D, as the context may require, as shown on Exhibit "B" to this Agreement.

1.1.25 "Mortgagee" means any lender under any mortgage, deed of trust, or other security device securing financing with respect to the Owner's then-current interest in the Property, and their successors and assigns.

1.1.26 "Non-Deferrable Fees" shall have the meaning set forth in Section 4.2.2.

1.1.27 "Owner" means the person or entity defined as such in the introductory paragraph of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.28 "Owner Parties" shall have the meaning set forth in Section 9.3.2.

1.1.29 "Phased Development" means the phased development and construction contemplated by Owner on the Property and each of the other "Owners" under the Related Development Agreements (as defined below) on Lots A, C, and D. The projects to be developed and constructed in the Phased Development include the Project and projects on Lots A, C, and D as follows:

Lot A - Development Plan Entitlement – File No. PDEV22-014;

Lot C - Development Plan Entitlement – File No. PDEV22-014; and

Lot D - Development Plan Entitlement – File No. PDEV22-014.

Lots A, C, and D are each also currently subject to a ground lease between the City and ground lease tenant of the applicable Lot which is being entered into concurrently with the Ground Lease in form and content similar to the Ground Lease. The City is also concurrently entering into a statutory development agreement with each of the ground lease tenants for Lots A, C, and D in form and content similar to this Agreement (the "Related Development Agreements"). It is currently contemplated that the Project will be developed and constructed as part of the Phased Development of the Property and Lots A, C, and D currently comprised of the following development:

Table 1:
Maximum Development Density (Units) and Intensity
(Based on Piemonte Overlay at the Ontario Center Specific Plan)

DA File No's.	Approx. Acres	Lot	Subarea Area	Dwelling Units	Commercial (Square Feet)
PDA22-003-A	4.83	A	16	384	25,256
PDA22-003-B	1.69	B	17	112	20,802
PDA22-003-C	1.93	C	8	94	11,047
PDA22-003-D	2.04	D	11	104	14,095
Total	**10.49**			**694**	**71,200**

1.1.30 "Project" means the proposed development and construction on the Property (Lot B) of up to 20,802 square feet of commercial/office/retail uses and 112 multi-family residential dwelling units, all as consistent with File No. PDEV22-014 (as the same may be modified by Owner from time to time in accordance with the Existing Development Approvals). The commercial/office/retail uses shall be those permitted or conditionally permitted within Section 3.2 *Allowed Uses* of The Piemonte at Ontario Center Specific Plan.

1.131 "Property" means the real property described and depicted Exhibit "A" to this Agreement. The Property is referred to as Lot B on Exhibit B. The Property constitutes one parcel of the Phased Development. Lots A, C, and D comprise the remaining parcels of the planned Phased Development.

1.1.32 "Protected Lot" shall have the meaning set forth in Section 8.2.3.

1.1.33"Related Development Agreement" shall have the meaning set forth in the definition of "Phased Development" above.

1.1.34"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.

1.1.35"Security Instrument" shall have the meaning set forth in Section 10.

1.1.36"Specific Plan" means that certain specific plan adopted by the City Council, and entitled, "Piemonte Overlay at the Ontario Center Specific Plan," as amended by the Specific Plan Amendment.

1.1.37"Subsequent Development Approvals" means all Development Approvals obtained subsequent to the Approval Date in connection with development of the Property.

1.1.38"Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Approval Date.

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

Exhibit "A" Legal Description and depiction of the Property

Exhibit "B" Map showing location of Property and the other Lots within the Phased Development

Exhibit "C" Development Impact Fees as of the Approval Date

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 if and to the extent commenced shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the owner of a leasehold interest in the Property or a portion 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;

(b) Owner is not then in uncured default of this Agreement (after notice and the expiration of any applicable cure periods); and

(c) if less than three (3) of the Lots in the Phased Development have achieved Completion, such extension must be approved by the City Manager in his or her reasonable discretion.

For the avoidance of doubt, any time limits that may otherwise apply to the Development Approvals absent this Development Agreement (including without limitation, any of the time limits imposed on approvals pursuant to Section 2.02.025A of the Ontario Development Code or any other the Land Use Regulations) shall not govern the Development Approvals or this Agreement and the term set forth in this Section 2.3 shall control.

2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer, or assign its interest in 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 and be made in strict compliance with the following:

(a) Any such sale, transfer, or assignment is done in compliance with the Ground Lease if such Ground Lease is then in effect;

(b) 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 substantially all of Owner's leasehold or fee interest (as applicable) in the Property;

(c) Prior to any such sale, transfer, or assignment, 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; and (2) the payment of the applicable processing charge to cover the City's review and consideration of such sale, transfer, or assignment; and

(d) 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 (c) 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 Subsection 2.4.1. Notwithstanding any contrary provision of this Agreement, the Owner of the Property shall not have any liability hereunder with respect to any other Lot and a default by the Owner of one Lot shall not impact the rights and obligations of the Owner of any other Lot.

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 all of the following conditions:

(a) such transferring owner no longer has a legal or equitable interest in the portion of the Property sold, transferred, or assigned;

(b) such transferring owner is not then in default under this Agreement (after notice and the expiration of any applicable cure periods), in which case such transferring owner shall remain liable for such default but not any future defaults by the assignee after the date of the transfer; and

(c) such transferring owner has provided City with the notice and executed agreement required under Paragraph (c) of Subsection 2.4.1 above.

2.4.3 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.

2.4.4 For the avoidance of doubt, this Section 2.4 does not apply to assignments or transfers of this Agreement to Mortgagees or their initial transferees after a foreclosure, deed in lieu, or similar action permitted under the mortgage, deed of trust, or other security device securing financing with respect to the Owner's interest in the Property.

2.5 Amendment or Cancellation of Agreement; Operating Memoranda.

2.5.1 Amendment or Cancellation. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section

65868. 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. The City hereby agrees to grant priority processing status to any request(s) to amend this Agreement made by Owner. 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.

2.5.2 Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the City and Owner and development of the Project hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of the City and Owner. If and when, from time to time, during the term of this Agreement, the City and Owner agree that such clarifications are necessary or appropriate, the City and Owner shall effectuate such clarifications through operating memoranda approved by the City and Owner, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary with future approval by the City and Owner. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The City Manager shall be authorized to make the determination on behalf of the City whether a requested clarification may be effectuated pursuant to this Section 2.5.2 or whether the requested clarification is of such a character to constitute an amendment hereof. The City Manager shall be authorized to execute any operating memoranda hereunder on behalf of the City without further Planning Commission or City Council action.

2.5.3 Certificate of Performance.

Upon Completion of the Project or upon the earlier revocation or termination of this Agreement, the City shall provide Owner, upon Owner's request, with a statement ("Certificate of Performance") evidencing such completion, revocation, or termination of this Agreement, and the release of Owner from further obligations hereunder with respect to the Property except with respect to the obligations which expressly survive such termination pursuant to Sections 3.9 (Rent Control), 4.2.2 (Development Impact Fees), 9 (Third Party Litigation) and 11.22 (Attorneys' Fees). The Certificate of Performance shall be signed by the appropriate agents of Owner and the City and shall be recorded with the County Recorder. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 8182.

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; or

(b) Completion of the Project to be developed and constructed on the Property in accordance with the terms of this Agreement.

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 right and/or 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 for residential units on which construction has not yet begun shall be refunded to Owner by City to the extent payment has been received.

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

If to Owner:
OTC Lot B Owner, LLC
c/o Adept Urban
388 Cordova Street, #280
Pasadena, CA 91101
Attention: Patrick Chraghchian; Robert Montano
Email:patrick@adept-dev.com; robert.m@adept-dev.com

with a copy to:
Ruben Duran, City Attorney
Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

with a copy to:
Munger, Tolles & Olson LLP
350 S. Grand Avenue, 50th Floor
Los Angeles, CA 90071
Attention: Misty M. Sanford, Esq.
Email: misty.sanford@mto.com

(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 Development of the Project; Rights to Develop.

3.1.1 Development of the Project. In consideration of the premises, purposes, and intentions set forth in this Agreement, and in consideration of the assurances for development of the Project pursuant to this Agreement, Owner agrees to develop the Project in accordance with: (i) the terms and conditions of this Agreement; (ii) the terms and conditions established in the Development Approvals; and (iii) the Existing Land Use Regulations. Owner further agrees that the use, density and intensity, maximum height and size of structures and provisions for the Property reservation and dedication of land for public purposes related to the Property shall be limited to those uses permitted by the Existing Land Use Regulations. The Project shall be developed in accordance with the Development Approvals. The Project shall be constructed in compliance with all applicable building codes and standards, as such may be modified from time to time.

3.1.2 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Project in accordance with the Existing Land Use Regulations, subject to the terms and conditions of this Agreement and the conditions established in the Development Approvals. The Project shall remain subject to all Development Approvals required to complete the Project. 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 Existing Land Use Regulations.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, 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 the Phased Development 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 Ca1. 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 (without the obligation) the Property in such order and at such rate and at such times as Owner deems appropriate within the exercise of its sole and subjective business judgment during the term of this Agreement. Notwithstanding the foregoing, subject to (a) Force Majeure Events, (b) up to three one-year extensions of time (provided, however, that (i) only the first one-year extension may be requested by Owner unilaterally and thereafter such extensions must be approved by the City Manager and (ii) such extensions shall not apply to the first milestone (i.e., submission of the building application) for the first of the Lots of the Phased Development to be developed) and (c) any extensions of entitlements or permits granted by any governmental authority on a statewide, citywide or countywide basis, Owner shall achieve the following milestones in accordance with the following schedule:

	Event	Date
1.	Submission by Owner of building permit application to the City for the Project	On or before one hundred eighty (180) days following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase.
2.	Commencement of Construction of the Project	On or before two (2) years following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase.

		In order to achieve this milestone, City agrees to complete its review of (a) Owner's initial plan check submission within twenty-one (21) days after receipt of such initial submission by City (provided, however, prior to such submission Owner and the City shall meet to review the proposed application), and (b) any additional submissions required to obtain the required permits for the project within fourteen (14) days following receipt of such additional submissions by City. There shall be a day-for-day extension of this Commencement of Construction milestone if the City fails to timely respond to such submissions within the time periods set forth above (each, a "City Response Delay").

3.4 Requirement for Public Infrastructure Improvements. Owner shall comply with any conditions of the Development Approvals with respect to providing public infrastructure improvements or facilities, if any, to the extent required in connection with the Project (as opposed to the other Lots within the Phased Development).

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of the Property as a whole; or,

(b) Increase the density or intensity of use of the Property as a whole; (other than in de minimis amounts); or,

(c) Increase the maximum height and size of permitted buildings (other than in de minimis amounts); or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 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 its actual costs of processing applications for, or monitoring compliance with, any development approvals granted for the performance of any conditions imposed on the Project, unless otherwise waived by the City in writing;

(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;

(d) Regulations that may conflict with this Agreement or Existing Land Use Regulations but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety; and are generally applicable on a citywide basis (except in the event of natural disasters as found by the City Council such as floods, earthquakes, pandemics and similar acts of God);

(e) Reserved;

(f) Regulations to which the Owner consents in writing.

3.6.2 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 Approvals and the Existing Land Use Regulations, 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 Approvals and the Existing Land Use Regulations.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Approval Date, 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 or comply with as determined by Owner. 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).

3.6.4 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.

3.7 Public Works; Utilities. If Owner is required by any Development 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 to the construction standards that 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 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.

3.8 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 material out-of-pocket 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.

3.9 Rent Control. Notwithstanding anything to the contrary in this Agreement, City agrees that, to the extent permitted by applicable law, City shall not apply any rent control or other renter protections or other moratoria or interim control ordinance against the Property or the Project. The foregoing covenant shall survive the expiration of this Agreement indefinitely and shall be in effect unless this Agreement is terminated for any reason other than a termination due to the Completion of the Project.

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 Approvals and the Existing Land Use Regulations 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 amounts for Development Impact Fees established or imposed by the City to be paid by Owner shall be the amounts that are in effect as of the Approval Date, which are shown on Exhibit "C" attached hereto, and Development Impact Fees established or imposed by other public agencies to be paid by Owner shall be the amounts that are in effect at the time such fees are due and payable during the development process. 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. Notwithstanding the foregoing, the amounts imposed by the City to be paid by Owner for the following Development Impact Fees may be those in effect at the time such fees are due and payable (subject to the right to deferment set forth in Section 4.2.2 below), so long as such amounts do not increase by more than five percent (5%) over the amount of such rates in effect as of the Approval Date: 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.

4.2.2 Time of Payment.

(a) Owner shall have the right to elect (but is not obligated) to amortize the payment of up to fifty percent (50%) of the total amount of Development Impact Fees due and payable for the Project (the amount so elected, the "Deferred DIFs") over a period of thirty (30) years commencing from the Deferred DIF Repayment Date at an annual 3 percent (3%) simple interest rate. As used herein, "Deferred DIF Repayment Date" means the date of issuance of a temporary or other certificate of occupancy for the residential component of the Project. The parties understand and agree that the Development Impact Fees established or imposed by other public agencies that are not controlled by City even if such Development Impact Fees may be collected by City (including without limitation, if applicable, the IEUA Sewer Connection Fee, Ontario-Montclair School District (K-12) Fees, Cucamonga School District and Chaffey Joint Union High School Fees) (collectively, the "Non-Deferrable Fees") must be paid when and as required in their standard course and schedule and may not be deferred hereunder; provided, however, the amount of such Non-Deferrable Fees may be included in the calculation of the total amount of Development Impact Fees due and payable for the Project for

purposes of calculating the fifty percent (50%) amount that Owner may elect to include as Deferred DIFs.

(b) Owner agrees that, commencing upon the Deferred DIF Repayment Date, Owner shall pay to the City, on the 1st day of the next following month and each and every successive month for three hundred sixty (360) consecutive months, an amount equal to the amortized principal and interest of the actual amount of the Deferred DIFs amortized over thirty (30) years at an annual 3 percent (3%) simple interest rate. By way of example only, if the Deferred DIFs equal $4,5000,000, the monthly payment to be made to the City would be $18,972. The entire unpaid principal balance of the amortized Deferred DIFs and any accrued but unpaid interest shall be immediately due and payable to the City upon any of the following events: (1) the termination of this Agreement other than a termination due to the Completion of the Project; (2) any uncured default by Owner with regard to repayment of the amortized Deferred DIFs to the City (if such amounts have not been paid to the City within five (5) business days of Owner's receipt of written notice from the City); or (3) any sale, transfer or assignment of all or substantially all of the Owner's leasehold or fee interest (as applicable) in the Property that is not approved by the City in advance (which such approval shall not be unreasonably withheld, conditioned or delayed). Any monthly payment or portion thereof not paid to the City as and when due under the terms of this Agreement shall accrue interest from the date on which such payment was due at the rate of ten percent (10%), and if not paid within the five (5) business day cure period described above, City may file a lien against the Property for such delinquent amounts including any accrued and unpaid interest. All payments under this Subsection will be applied first to penalties and late fees, then to interest, then to reduce the principal amount owed. The Deferred DIFs and any accrued but unpaid interest may be pre-paid to the City at any time without any pre-payment penalty.

(c) The Deferred DIF payment obligation shall be a covenant running with the land and shall survive the expiration or early termination of this Agreement indefinitely until the Deferred DIFs are paid in full in accordance with this Agreement.

(d) Any Development Impact Fees that are not a Deferred DIF shall be paid when and as required in their standard course and schedule.

4.3 Reserved.

4.4 Reserved.

4.5 Schools Obligations. Owner shall satisfy its school obligations with the applicable school district by paying school impact fees. Written evidence of approval by the applicable school district that Owner has met its school obligations may be required by the City as the condition to the issuance by the City of any building permits for the Project.

4.6 Reserved.

4.7 Reserved.

4.8 Reserved.

4.9 Maintenance of Open Space. Owner shall provide for ongoing maintenance of all park, common areas, and open space areas within the Project as may be set forth in the Development Approvals.

4.10 Intentionally Omitted.

4.11 Compliance with Public Benefits Requirements. In the event Owner fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, 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 8.4 hereof, thereby entitling the City to any and all remedies permitted under this Agreement, including, without limitation, the right of the City to withhold Owner's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. [RESERVED]

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 in accordance with Section 65865.1 of the California Government Code. Upon completion of the City's review, 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/her designee. Owner shall be responsible for paying any processing charge in connection with each such annual review, if any, provided that such charge shall be generally consistent with the cost charged for annual reviews for other development agreements to which the City is a party.

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:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) 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. The cost of any such special review shall be borne by the City, unless such a special review demonstrates that Owner is not

acting in good-faith compliance with the provisions of this Agreement, in which case Owner shall reimburse the City for all costs incurred by the City in connection with such special review.

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 shall specify in writing the respects in which Owner has failed to so comply. The City shall provide Owner with written notice of such noncompliance, together with a written specification of the reasons therefor. Such written notice shall also specify a reasonable time for Owner to cure such non-compliance, which time shall be not less than thirty (30) days after Owner's receipt of such notice.

(c) The Owner may appeal a determination pursuant to paragraph (b) in accordance with the City's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Termination. If, upon a finding under Section 6.1.6(b), the City determines to proceed with 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 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 Termination. At the time and place set for the hearing on 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 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; Waiver of Monetary Damages. It is acknowledged by the parties that, subject to and without limiting the Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below, neither party would have entered into this Agreement if it were to be liable in monetary damages under this Agreement, or with respect to this Agreement or the application thereof. The parties agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages that would adequately compensate Owner for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify the exposure. Therefore, the parties agree that each of the parties may pursue any remedy at law or equity available for any breach of any provision of this Agreement, except that neither party shall be liable in monetary damages to the other party, or to any successor in interest of such other party, or to any other person, and each party covenants not to sue for monetary damages or claim any monetary damages:

8.1.1 For any breach of this Agreement or for any cause of action which arises out of this Agreement (other than in connection with Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below); or

8.1.2 For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

8.1.3 Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.1.4 The parties understand and agree, however, that nothing in this Section 8.1 shall prohibit, restrict or otherwise affect the rights of a party to seek monetary damages as a result of any default by the other party under any other agreement entered into by the parties with respect to the Property and the Project, including without limitation the Ground Lease, if and to the extent such other agreements allow for monetary damages. No part of this Agreement shall be deemed to abrogate or limit any immunities or defenses either party may otherwise have with respect to claims for monetary damages.

8.2 Default by Owner. In the event that Owner does not perform its obligations under the Agreement in a timely manner, subject to the limitations in Section 8.1, the City shall have all rights and remedies provided herein which shall include (a) the right to compel specific performance of the obligations of Owner under this Agreement or (b) termination of this Agreement, provided that the City has first complied with the procedures set forth in this Section 8.2 and in Section 8.5 below. If City elects to proceed under clause (b) with termination of this Agreement, the following shall apply:

8.2.1 If after the applicable cure period has elapsed, the City Manager finds and determines that Owner remains in default, the City Manager shall make a report to the Planning Commission and then set a public hearing before the Planning Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If, after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Owner has not cured the applicable default pursuant to this Section, and that the City should terminate this Agreement, Owner shall be entitled to appeal that finding and determination to the City Council in accordance with the procedure in Section 6.1.6(c) above. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity, and

8.2.2 City may terminate this Agreement after such final determination of the City Council or, where no appeal is taken, after the expiration of the appeal period in accordance with the procedure described in Section 6.1.6(c) above, relating to the defaulting party's rights and obligations.

8.2.3 City's Limited Cross Termination Right. If City terminates this Agreement in accordance with the procedures set forth herein as a result of a failure of Owner to achieve any of the milestones required pursuant to Section 3.3 above, City shall have the right to simultaneously terminate the Related Development Agreement(s) affecting the Lot(s) within the Phased Development for which none of the milestones under Section 3.3 of the applicable Related Development Agreement(s) have been achieved and for which a standard construction loan from an unrelated third party ("Loan") has not been executed for the development of such Lot(s). For example, if the owner of any Lot in the Phased Development (including the Property) has executed a Loan for the development of such Lot or any of the milestones under Section 3.3 of the applicable Related Development Agreement have been achieved with respect to such Lot (a "Protected Lot"), then the termination of this Agreement or the Related

Development Agreement for any other Lot shall not affect the Related Development Agreement of such Protected Lot and City shall not have any right hereunder to terminate such Related Development Agreement under this Section 8.2.3.

8.3 Default by City. In the event the City defaults under the provisions of this Agreement, subject to the limitations set forth in Section 8.1 above, Owner shall have all rights and remedies provided herein or by applicable law, which shall include compelling the specific performance of the City's obligations under this Agreement, provided that Owner has first complied with the procedures in Section 8.5 below.

8.4 Release. Subject to and without limiting the indemnity in Section 9.3 below, except for nondamage remedies, including the remedy of specific performance, each party, for itself, its successors and assignees, hereby releases the other party, 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.

8.5 Notice and Cure. Failure or delay by either party to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of written notice from the other party, identifying with specificity those obligations of the defaulting party which have not been performed, constitutes a default under this Agreement; provided, however, if such failure or delay cannot reasonably be cured within such thirty (30) day period, no default shall be deemed to have occurred hereunder if the party committing such failure or delay commences cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion; provided, however the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with due diligence but (a) with respect to the City only in no event later than sixty (60) days after receipt of written notice from the Owner and (b) with respect to Owner only in no event later than one hundred eighty (180) days after receipt of written notice from City. The injured party shall give written notice of default to the party in default specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default.

8.6 Ground Lease and Other Agreements Not Affected. This Section 8 shall not be deemed to implicate, modify, or affect in any way any provisions in the Ground Lease or any other agreement entered into by the parties with respect to the Property and the Project.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. City has determined that this Agreement is consistent with its General Plan, as such General Plan exists as of the Approval Date, and that the General Plan meets all requirements of law. 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 Project as the result of a judicial determination that on the Approval 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. Subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), at its expense, including attorneys' fees, indemnify, and hold harmless City and its officers and employees (collectively, the "City Parties") from any claim, action or proceeding against the City Parties 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

Nothing in this Section 9 or any other indemnification provision included as a condition to any of the Development Approvals shall be construed to mean that Owner or City shall indemnify, hold any of the City Parties or Owner Parties, as applicable, harmless and/or defend any of the City Parties or Owner Parties, as applicable, from any claims arising from (a) as to Sections 9.3.1 and 9.4 only, any of the City Parties' or Owner Parties', as applicable, violation of law, or (b) as to all such indemnities other than the indemnity set forth in Section 9.3.2, (i) any of the City Parties' or Owner Parties', as applicable, breach of contractual obligations to third parties or (ii) the gross negligence or willful misconduct of any of the City Parties or Owner Parties, as applicable.

9.3 Indemnity.

9.3.1 Owner. In addition to the provisions of 9.2 above, subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), indemnify, and hold harmless the City Parties from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses), based or asserted upon any act or omission of Owner or its officers or employees for property damage, bodily injury, or death (Owner's employees included) arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, and operation the Project. The 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

9.3.2 City. City agrees to indemnify, defend (with counsel chosen by City and approved by Owner, which such approval shall not be unreasonably withheld, conditioned or delayed), and hold harmless Owner, American General Design, Inc. (dba Adept Development), a

California corporation and Povac Investments, Inc., a California corporation and each of their respective officers and employees (collectively, the "Owner Parties") from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses) arising from any governmental agency stopping or delaying construction or occupancy of the Project after the "Commencement of Construction" (as defined below) as a result of City's failure to pay any amounts imposed by the State of California (if any) pursuant to California Government Code Sections 54220 through 54234 in connection with the City's disposition of the Property to Owner. Owner shall promptly notify City of any such stoppage or delay, and Owner shall cooperate in the defense. If Owner fails to promptly notify Owner of any such stopped or delay, or if any of the Owner Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, City shall not thereafter be responsible to defend, indemnify, or hold harmless the Owner Parties. For purposes of this Section 9.3.2, the term "Commencement of Construction" shall mean that both of the following have occurred: (a) construction of a building has commenced pursuant to and in accordance with a building permit issued by the City, City-approved final construction drawings, the Existing Land Use Regulations, the Development Approvals, and all applicable laws; and (b) Owner has expended at least $5,000 in labor and materials for such construction. For purposes of this definition only, "construction" shall mean construction of improvements permanently fixed to the site (e.g., a foundation or similar), including, without limitation, utilities, public or private streets, public or private site improvements, landscaping or ancillary structures such as block walls, trash enclosures, and any grading, excavation, demolition, grubbing, or other site preparation.

9.4 Environment Assurances. Owner shall defend (with counsel chosen by Owner), at its expense, including attorneys' fees, indemnify, and hold harmless the City Parties from any liability, based or asserted, upon any act or omission of Owner, its officers, agents, employees, subcontractors, and/or 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 that were not present prior to the date that Owner took possession of the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including reasonable attorneys' fees, the City Parties 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 Reserved.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement for a period of two (2) years after such termination, except to the extent such indemnification relates to any third party claims, in which event such indemnification shall survive until the expiration of any applicable statute of limitations.

10. 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 ("Security Instrument"). 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. The City further agrees to cooperate in including in this Agreement by suitable amendment from time to time any provision that may reasonably be requested by any proposed Mortgagee for the purpose of allowing such Mortgagee reasonable means to protect or preserve a lien and security interest of its Security Instrument, as well as such other documents containing terms and provisions customarily required by Mortgagees (taking into account the customary requirements of their participants, syndication partners or rating agencies) in connection with any such financing (a "Lender Proposed Amendment"). The City agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effectuate a Lender Proposed Amendment; provided, however, that any such Lender Proposed Amendment shall not in any way materially adversely affect any rights of the City under this Agreement. If there is any conflict between this Article 10 and any other provisions contained in this Agreement, this Article 10 shall control. 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 Security Instrument on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any Security Instrument, 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 for a period of sixty (60) days after Mortgagee receives written notice of non-compliance, or any longer period as is reasonably necessary, not to exceed one hundred eighty (180) days, to remedy such default, provided that Mortgagee shall continuously and diligently pursue the remedy at all times until the default is cured.

(d) Any Mortgagee who takes title of the Property, or any part thereof, pursuant to foreclosure trustee's sale, deed in lieu of foreclosure, lease or sublease termination or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement, provided that any such Mortgagee, including its affiliate, that takes title to the Property shall be entitled to all of the benefits arising under 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 after the initial sale, transfer, or assignment by any Mortgagee shall be subject to the provisions of Section 2.4 of this Agreement.

(e) If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceedings involving Owner, the times specified in Section clause (c) above, shall be extended for the period of the prohibition, except that any such extension shall not extend the term of this Agreement.

(f) If this Agreement is terminated by reason of (i) any default or (ii) as a result of a bankruptcy proceeding, this Agreement is disaffirmed by a receiver, liquidator, or trustee for Owner or its property, the City, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new development agreement for the Project as to such portion of the Property with the most senior Mortgagee requesting such new agreement. This Agreement does not require any Mortgagee or the City to enter into a new development agreement pursuant to this clause (f).

(g) The City shall, at any time and within thirty (30) days following the written request of a Mortgagee, but not more often than annually, certify in writing to such Mortgagee that (a) this Agreement is in full force and effect, (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments and modifications, and (c) to the actual knowledge of City with no duty to investigate, Owner is not in default in the performance of its obligations under this Agreement or, if in default, to describe therein the nature and extent of any such default. Any such estoppel certificate shall be administratively issued by the City Manager or his/her representative or designee.

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 this 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. A failure to record the Agreement in a timely fashion shall not impact its effectiveness to the extent permitted by applicable law.

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, in the event the provision regarding the payment of Deferred DIFs set forth in Section 4.2.2 of this Agreement is determined to be invalid, void or unenforceable, the parties shall enter into a separate written agreement for the repayment of such Deferred DIFs consistent with Section 4.2.2.

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. 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.

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, except that the Owner Parties and City Parties are third party beneficiaries of the indemnities in Section 9. 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, insurrection, riots, civil unrest, acts of terrorism or similar hostilities, strikes, boycotts, lock-outs, and other labor difficulties beyond the party's control (including the party's employment force), inability to procure services, labor or materials not related to the price thereof, failure of electric power, governmental actions, governmental laws, regulations or restrictions, third party litigation or administrative proceedings, actual or

threatened public health emergency (including epidemic, pandemic, famine, disease, plague, quarantine, and other public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization (including any shelter-in-place orders, stay at home orders or any restrictions on travel related thereto that preclude Owner, its agents, contractors or its employees from accessing the Property, national or regional emergency), declaration of a state or national emergency, casualties, weather that could not have reasonably been anticipated, changes in the Laws which would prevent the Property from being developed or operated in accordance with this Agreement, or other reasons beyond the reasonable control of the party (individually a "Force Majeure Event" or collectively, "Force Majeure Events"). 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 shall be automatically extended for the period of time that such events prevented such performance, provided that the extensions of the term of this Agreement solely as a result of one or more Force Majeure Events shall not exceed a period of more than five (5) years in the aggregate.

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; Covenants Running with the Land. 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. In any event, no owner or tenant of an individual completed residential unit within the Project shall have any rights under this Agreement.

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. Owner for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) 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 reasonable costs incurred by City in connection with the issuance of estoppel certificates under this Section 11.20 prior to City's issuance of such certificates.

11.21 Authority to Execute. Each party represents and warrants that the person or persons executing this Agreement on behalf of such party has the authority to execute this

Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations hereunder.

11.22 Attorneys' Fees. In the event of any action between the City and Owner for enforcement or interpretation of any of the terms or conditions of this Agreement, the prevailing party in such action shall be entitled to recover its reasonable costs and expenses, including without limitation court costs and attorneys' fees actually and reasonably incurred, as awarded by a court of competent jurisdiction. This Section shall survive the termination of this Agreement.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

"Owner"

OTC Lot B Owner, LLC
a Delaware limited liability company

By: _____
Name:
Its: _____
Date: _____

"CITY"

City OF ONTARIO

By:_____
Scott Ochoa
City Manager

Date: _____

ATTEST:

_____
City Clerk, Ontario

APPROVED AS TO FORM:

_____
Kane, Ballmer & Berkman, City Special Counsel

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

APN NO. 0210-205-01

That portion of land in the City of Ontario, County of San Bernardino, State of California, lying within a portion of Parcel 1 of Parcel Map No. 17978 as per map filed in Book 216 pages 44 and 45 of Parcel Maps in the office of the County Recorder of said County; described as follows:

Beginning at the southwesterly terminus of that certain course along the easterly boundary line of said Parcel 1, said course having a bearing of N 33°23' 13" E as shown on said Parcel Map, said point also being the beginning of a 717.00' radius curve, concave northwesterly. Thence, southwesterly 128.35' along said curve through a central angle of 10°15' 22". Thence, leaving said easterly boundary line, N 46°21' 25" W 18.33' to the true point of beginning of this description. Thence, along the following described courses:

N 00°00'00" E 63.07'

N 90°00'00" W 28.23'

N 00°00'00" E 12.67'

N 90°00'00" W 25.77'

S 00°00'00" W 11.00'

N 90°00'00" W 46.21'

N 00°00'00" E 0.67'

N 90°00'00" W 13.71'

S 00°00'00" W 0.67'

N 90°00'00" W 65.95'

N 00°00'00" E 6.00'

EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF PROPERTY

N 90°00'00" W 119.26'

S 00°00'00" W 5.00'

N 90°00'00" W 15.98'

S 00°00'00" W 1.00'

N 90°00'00" W 54.75'

S 09°56'06" E 19.72'

S 80°03'54" W 1.00'

S 09°56'06" E 38.55'

N 80°03'54" E 1.00'

S 09°56'06" E 42.96'

S 17°02'26" W 90.75' to the beginning of a non□tangent 31.67' radius curve concave southeasterly and to which point a radial line bears N 20°28'42" E. Thence, westerly, southerly, and southeasterly 103.28' along said curve through a central angle of 186°52'31". Thence, S 17°02'26" W 34.39' to the beginning of a non□tangent 751.75' radius curve concave northerly, and to which point a radial line bears S 09°26'45" E. Thence, northeasterly 74.89' along said curve through a central angle of 5°42'27". Thence, N 15°12'11" W 8.83'. Thence, N 71°45'08" E
78.87'. Thence, S 21°24'33" E 8.83' to the beginning of a non□tangent 750.49' radius curve concave northwesterly and to which point a radial line bears
S 21°17'23" E. Thence, northeasterly 46.48' along said curve through a central angle of 3°32'55". Thence, N 24°54'42" W 4.01' to the beginning of a non□tangent 747.42' radius curve concave northwesterly to which point a radial line bears
S 24°49'36" E. Thence, northeasterly 266.34' along said curve through a central angle of 20°25'03" to the true point of beginning of this description.

The above□described parcel of land contains 73,640 Square Feet, 1.69 Acres more or less.

EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF PROPERTY

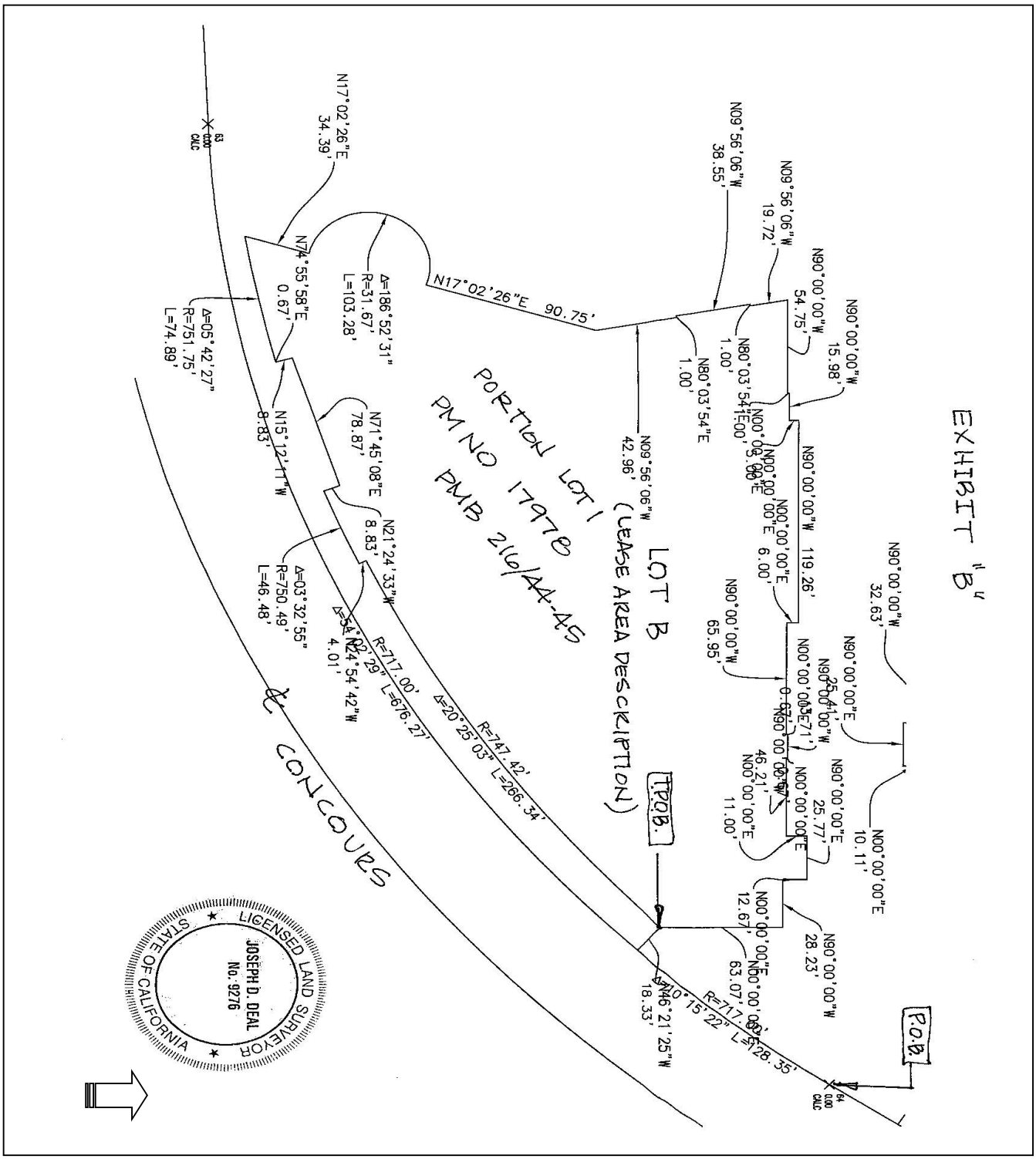


EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

LEASE AREA DEPICTION (LOT B)

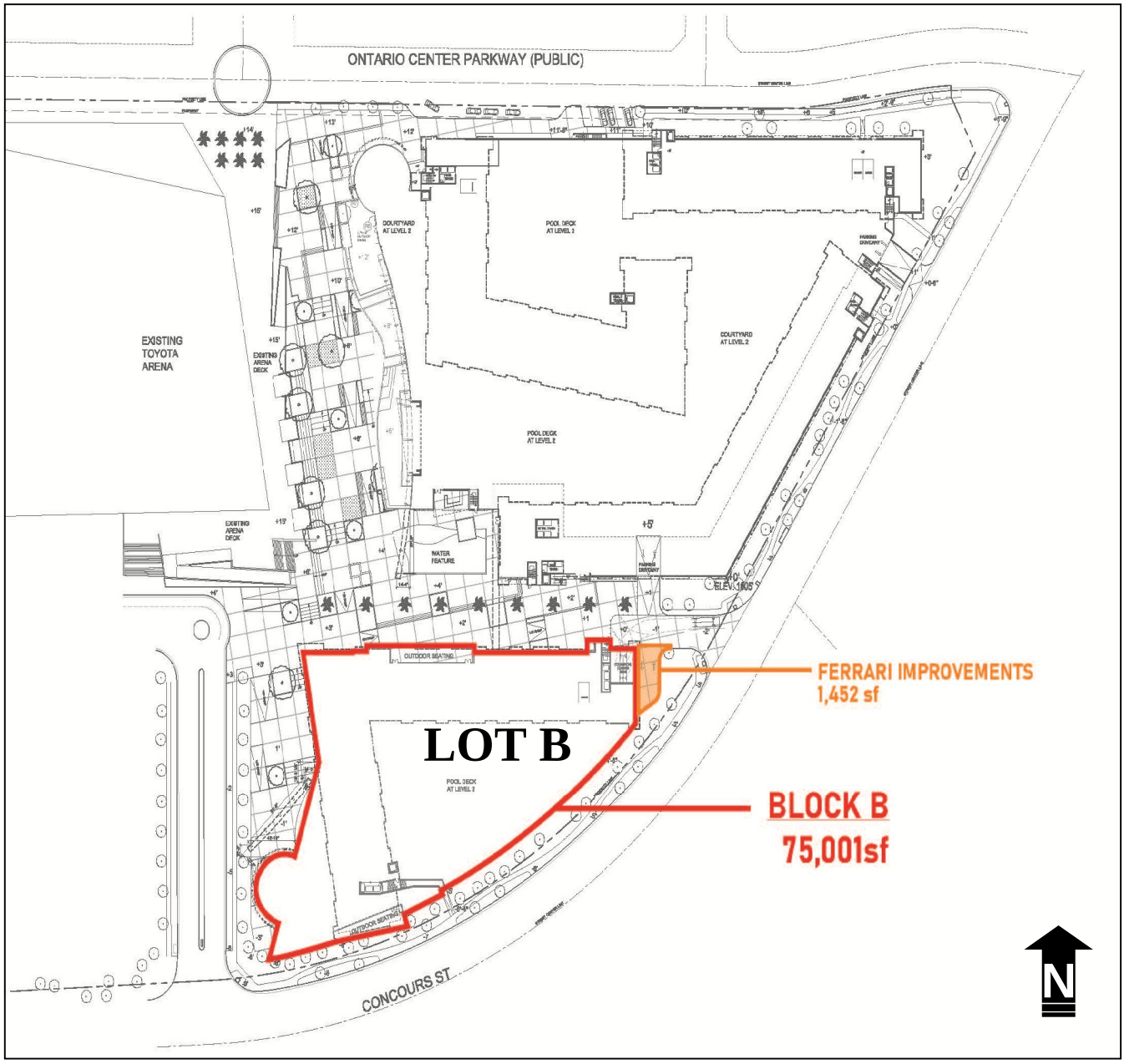
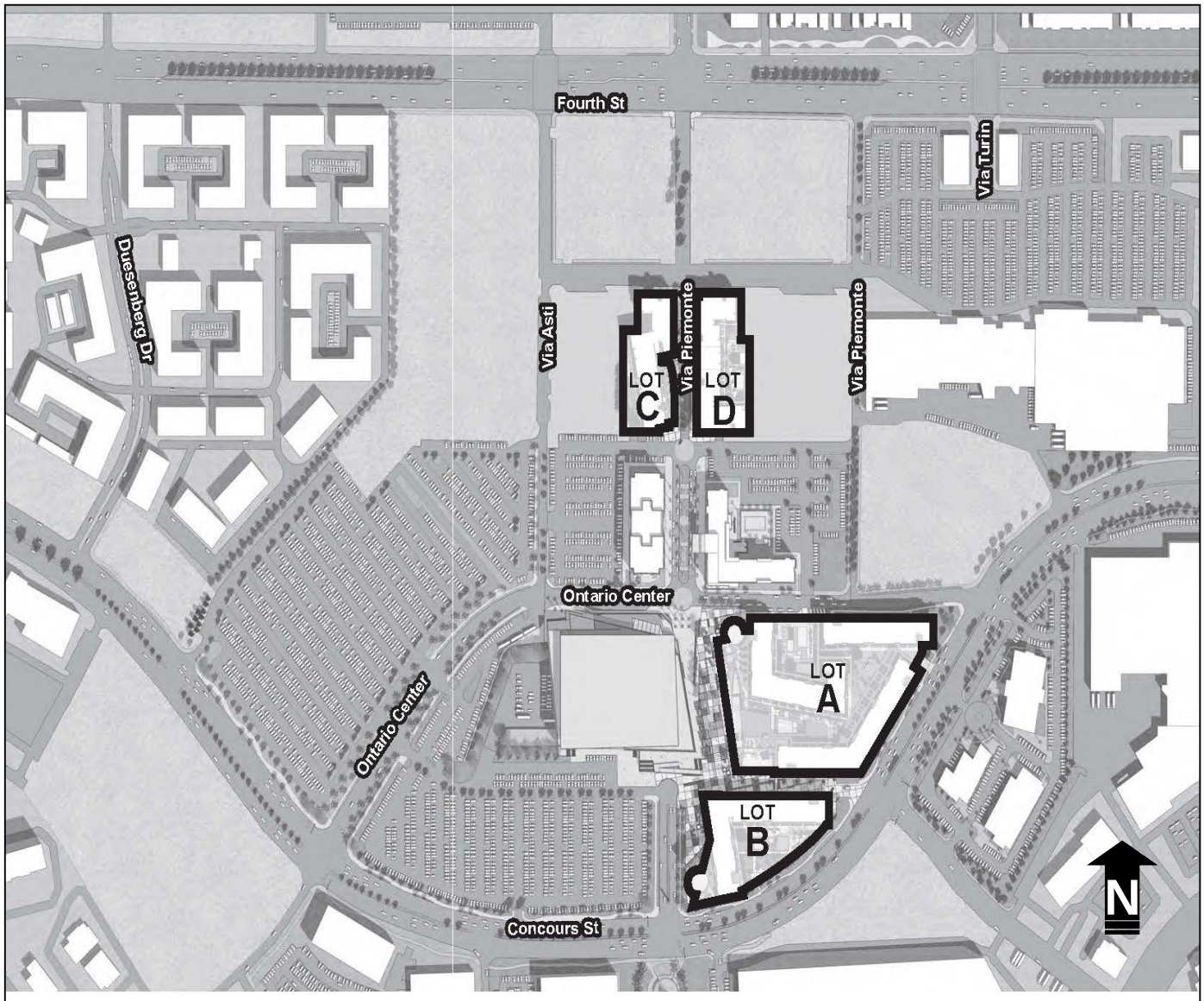


EXHIBIT "B"
TO DEVELOPMENT AGREEMENT

MAP SHOWING PROPERTY AND ITS LOCATION



Ontario Center Parkway, Ontario, CA 91764

EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

DEVELOPMENT IMPACT FEES AS OF THE APPROVAL DATE

(Development Impact Fees to follow this page)

ORDINANCE NO. _____+_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA22-003-C, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC LOT C OWNER LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 94 RESIDENTIAL UNITS AND UP TO 11,047 SQUARE FEET OF COMMERCIAL/OFFICE/RETAIL USES, ON APPROXIMATELY 1.93 ACRES OF LAND FOR LOCATED AT THE SOUTHWEST CORNER OF ONTARIO VIA PIEMONTE AND VIA VILLAGIO, WITHIN MIXED-USE SUBAREA 8 OF THE PIEMONTE OVERLAY OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0210-204-39.

WHEREAS, OTC Lot C Owner LLC, ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA22-003-C, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 1.93 acres of land, located at the southwest corner of Via Piemonte and Via Villagio. The project site within the proposed mixed-use Subarea 8 of the Piemonte Overlay at the Ontario Center Specific Plan, and is presently vacant; and

WHEREAS, in 2006, the City Council approved the creation of the Piemonte Overlay of the Ontario Center Specific Plan (“Piemonte Overlay”), within the Urban Commercial land use district of the Ontario Center Specific Plan, establishing a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre overlay site. Several Specific Plan Amendments have been approved for the Piemonte Overlay, modifying development intensities, parking requirements, architectural guidelines, and land use designations. The most recent Specific Plan Amendment, File No. PSPA21-001, was approved by the City Council on April 19, 2022, and involved expanding the overlay boundary, adding the Mixed-Use land use designation, and establishing design guidelines for mixed-use projects; and

WHEREAS, the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) was certified on March 19, 1991, (hereinafter referred to as “Certified EIR”), in which development and use of the Project site was discussed in the Amendment to the Ontario Center Specific Plan (File No. 4059-SPA); and

WHEREAS, a Mitigated Negative Declaration (hereinafter referred to as “MND”) was subsequently adopted on May 16, 2017, in which development and use of the Project site was discussed in association with an Amendment to the Ontario Center Specific Plan (File No. PSPA16-003); and

WHEREAS, the Planning Director of the City of Ontario prepared and approved for attachment to the Certified EIR and adopted MND, an Addendum to the Certified EIR and MND (hereinafter collectively 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 was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay of the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

WHEREAS, the environmental impacts of this Project were thoroughly analyzed in the Certified EIR and EIR Addendum, which concluded that implementation of the Project could result in a number of significant effects on the environment and 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to approve 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, a Development Plan Application (File No. PDEV22-014) to construct four mixed-use buildings totaling 63,655 commercial square feet and 694 dwelling units on 13.3 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corner of Via Piemonte and Via Villagio, within the Mixed-Use land use district of the Piemonte Overlay of the Ontario Center Specific Plan, has been filed in conjunction with the Development Agreement Application; 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 June 28, 2022, 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 PC22-029, recommending the City Council approve the Application; and

WHEREAS, on July 19, 2022, 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 authority 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 the Project were reviewed in conjunction with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) ("Certified EIR"), certified by the Ontario City Council on March 19, 1991, in conjunction with File No. 4059-SPA, in combination with an Addendum to the Mitigated Negative Declaration, adopted by the Ontario City Council on May 17, 2017, in conjunction with File No. PSPA16-003. In addition, an EIR Addendum was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

(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.

SECTION 3. ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making authority 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 site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The proposed changes affect two of the four properties listed in the Available Land Inventory (Subareas 8 and 11; Map ID No. 124 and 125). The residential capacity proposed in this Project is consistent with the number of dwelling units (198) and density (48 du/ac) specified in the Available Land Inventory.

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, 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 authority 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 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 4.83 acres of land generally located southwest corner of Ontario Center Parkway and Concours Street; and

b. The Development Agreement establishes parameters for the development of a mixed-use project for Lot C, consisting of 94 residential units and up to 11,047 square feet of retail uses, within the proposed Mixed-Use Subarea 8 of the Piemonte Overlay of the Ontario Center Specific Plan. The Development Agreement also grants the Applicant, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Piemonte Overlay of the Ontario Center Specific Plan; and

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

d. 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

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

f. 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 reviewed with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) prepared for the related Amendment to the Piemonte Overlay at the Ontario Center Specific Plan (File No. PSPA21-001). This Application introduces no new significant environmental impacts. All previously adopted

mitigation measures are a condition of project approval and are incorporated herein by this 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 Application, subject to each and every condition set forth in the Development Agreement (File No. PDA222-003-C) 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 _____ 2022.

_____
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 Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held July 19, 2022 and adopted at the regular meeting held _____, 2022 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. PDA22-003-C

DEVELOPMENT AGREEMENT

By and Between

City of Ontario
a California municipal corporation

and

OTC Lot C Owner LLC

a Delaware limited liability company

(Development Agreement to follow this page)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

Exempt from Fees Per Gov. Code §§ 6103 and 27383

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

OTC Lot C Owner, LLC

a Delaware limited liability company

DEVELOPMENT AGREEMENT NO. PDA22-033-C

This Development Agreement (hereinafter "Agreement") is dated as of July _____, 2022, for reference purposes only, and is entered into by and between the City of Ontario, a California municipal corporation (hereinafter "City"), and OTC Owner, LLC, Lot C, a Delaware limited liability company (together with its successors and assigns, "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

WHEREAS, Owner has a leasehold interest in the Property pursuant to the Ground Lease; 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, on July ____, 2022, the City Council adopted Ordinance No. _____ approving this Agreement, and such ordinance became effective on _____, 2022; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement. On April 19, 2022, pursuant to Resolution No. 2022-034, the City Council reviewed and adopted an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) dated March 2022 under City's File No. PSPA21-001 (the "EIR Addendum"). The proposed Project is consistent with the EIR Addendum and no further environmental review is required; and

WHEREAS, on April 19, 2022, pursuant to Resolution No. 2022-035, the City Council approved the Piemonte Overlay at the Ontario Center Specific Plan Amendment - File No. PSPA21-001 (the "Specific Plan Amendment"); and

WHEREAS, this Agreement and the Project are consistent with the City's Comprehensive General Plan and any specific plan applicable thereto; 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, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended.

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 "Approval Date" means _____, 2022 the hearing date on which the City Council adopted the ordinance approving this Agreement.

1.1.3 "Certificate" shall have the meaning set forth in Section 6.4.

1.1.4 "Certificate of Performance" shall have the meaning set forth in Section 2.5.3.

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

1.1.6 "City Council" means the City Council of the City of Ontario.

1.1.7 "City Manager" means City's City Manager or his or her designee.

1.1.8 "City Parties" shall have the meaning set forth in Section 9.2.

1.1.9 "City Response Delay" shall have the meaning set forth in Section 3.3.

1.1.10 "Completion" means the date on which all of the following has occurred (a) the Building Department of the City (in its capacity as the municipal authority) has issued (i) a temporary certificate of occupancy (or its equivalent) for the residential dwelling units within the Project and (ii) final sign off or its equivalent of the core and shell for the commercial space within the Project (but not the tenant improvements for such space) and (b) Owner has satisfied the conditions of the Development Approvals to the extent required in connection with the Project (as opposed to conditions required in connection with the development of the other Lots within the Phased Development) other than ongoing conditions that are not required to be satisfied prior to completion of the Project.

1.1.11 "Deferred DIF" shall have the meaning set forth in Section 4.2.2.

1.1.12 "Deferred DIF Repayment Date" shall have the meaning set forth in Section 4.2.2.

1.1.13 "Development Approval" or "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property whether Existing Development Approvals or Subsequent Development Approvals, including, but not limited to, the following:

(a) Amendment to the Piemonte Overlay at Ontario Center Specific Plan -File No. PSPA21-001;

(b) Development Plan Entitlement – File No. PDEV22-014;

(c) EIR Addendum;

(d) Development Agreement - File No. PDA22-003-C; and

(e) Amendment to the Piemonte Overlay Sign Program – File No. PSGP22-002.

1.1.14 "Development Impact Fee" means a monetary exaction, other than a tax or special assessment, whether characterized as a fee, exaction, charge, assessment 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. The rates as of the Approval Date for the Development Impact Fees that may apply to the Project are shown on Exhibit "C" attached hereto.

1.1.15 "Effective Date" means the date on which both of the following are true: (a) the ordinance approving this Agreement goes into effect; and (b) the Effective Date of the Ground Lease has occurred. Promptly after the Effective Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Effective Date and, thereafter, the Effective Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.16 "Existing Development Approvals" means all Development Approvals approved or issued on or prior to the Effective Date. Existing Development Approvals are listed in the definition of "Development Approvals" above and all other Development Approvals which are a matter of public record on the Effective Date.

1.1.17 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Approval Date, as modified by the Development Approvals.

1.1.18 "Final Non-Appealable Date" means the date Existing Development Approvals are final and non-appealable as set forth in the City Development Code and any applicable Laws and (ii) the applicable statute of limitations has expired under the California Environmental

Quality Act (Public Resources Code §21000 *et seq*.) and implementing Guidelines for CEQA (14 Cal. Code Regs. §15000 *et seq*.) with respect to the Addendum, in each case without the filing of any third party challenge, appeal, or lawsuit or, if filed, such challenge, appeal, or lawsuit has been resolved in a manner satisfactory to Owner. Promptly after the Final Non-Appealable Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Final Non-Appealable Date and, thereafter, the Final Non-Appealable Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.19 "Force Majeure Event(s)" shall have the meaning set forth in Section 11.11.

1.1.20 "General Plan" means the City's Comprehensive General Plan adopted on January 27, 2010, by Resolution No. 2010-006, as may be amended as of the Approval Date.

1.1.21 "Ground Lease" means that certain Ground Lease by and between City and Owner dated on or about the Approval Date pertaining to the Property, as the same may be amended, modified, or supplemented from time to time.

1.1.22 "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; or

(e) the exercise of the power of eminent domain.

1.1.23 "Lender Proposed Amendment" shall have the meaning set forth in Section 10.

1.1.24 "Lot" or "Lots" shall mean Lot A, B, C, or D, as the context may require, as shown on Exhibit "B" to this Agreement.

1.1.25 "Mortgagee" means any lender under any mortgage, deed of trust, or other security device securing financing with respect to the Owner's then-current interest in the Property, and their successors and assigns.

1.1.26 "Non-Deferrable Fees" shall have the meaning set forth in Section 4.2.2.

1.1.27 "Owner" means the person or entity defined as such in the introductory paragraph of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.28 "Owner Parties" shall have the meaning set forth in Section 9.3.2.

1.1.29 "Phased Development" means the phased development and construction contemplated by Owner on the Property and each of the other "Owners" under the Related Development Agreements (as defined below) on Lots A, B, and D. The projects to be developed and constructed in the Phased Development include the Project and projects on Lots A, B, and D as follows:

Lot A - Development Plan Entitlement – File No. PDEV22-014;

Lot B - Development Plan Entitlement – File No. PDEV22-014; and

Lot D - Development Plan Entitlement – File No. PDEV22-014.

Lots A, B, and D are each also currently subject to a ground lease between the City and ground lease tenant of the applicable Lot which is being entered into concurrently with the Ground Lease in form and content similar to the Ground Lease. The City is also concurrently entering into a statutory development agreement with each of the ground lease tenants for Lots A, B, and D in form and content similar to this Agreement (the "Related Development Agreements"). It is currently contemplated that the Project will be developed and constructed as part of the Phased Development of the Property and Lots A, B, and D currently comprised of the following development as shown on Table 1 below:

Table 1:
Maximum Development Density (Units) and Intensity
(Based on Piemonte Overlay at the Ontario Center Specific Plan)

DA File No's.	Approx. Acres	Lot	Subarea Area	Dwelling Units	Commercial (Square Feet)
PDA22-003-A	4.83	A	16	384	25,256
PDA22-003-B	1.69	B	17	112	20,802
PDA22-003-C	1.93	C	8	94	11,047
PDA22-003-D	2.04	D	11	104	14,095
Total	**10.49**			**694**	**71,200**

1.1.30 "Project" means the proposed development and construction on the Property (Lot C) of up to 11,047 square feet of commercial/office/retail uses and 94 multi-family residential dwelling units, all as consistent with File No. PDEV22-014 (as the same may be modified by Owner from time to time in accordance with the Existing Development Approvals). The commercial/office/retail uses shall be those permitted or conditionally permitted within Section 3.2 *Allowed Uses* of The Piemonte at Ontario Center Specific Plan.

1.1.31 "Property" means the real property described and depicted on Exhibit "A" to this Agreement. The Property is referred to as Lot C on Exhibit "B". The Property constitutes one parcel of the Phased Development. Lots A, B, and D comprise the remaining parcels of the planned Phased Development.

1.1.32 "Protected Lot" shall have the meaning set forth in Section 8.2.3.

1.1.33 "Related Development Agreement" shall have the meaning set forth in the definition of "Phased Development" above.

1.1.34 "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.

1.1.35 "Security Instrument" shall have the meaning set forth in Section 10.

1.1.36 "Specific Plan" means that certain specific plan adopted by the City Council, and entitled, "Piemonte Overlay at the Ontario Center Specific Plan," as amended by the Specific Plan Amendment.

1.1.37 "Subsequent Development Approvals" means all Development Approvals obtained subsequent to the Approval Date in connection with development of the Property.

1.1.38"Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Approval Date.

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

Exhibit "A" Legal Description and depiction Property

Exhibit "B" Map showing location of Property and the other Lots within the Phased Development

Exhibit "C" Development Impact Fees as of the Approval Date

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 if and to the extent commenced shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the owner of a leasehold interest in the Property or a portion 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;

(b) Owner is not then in uncured default of this Agreement (after notice and the expiration of any applicable cure periods); and

(c) if less than three (3) of the Lots in the Phased Development have achieved Completion, such extension must be approved by the City Manager in his or her reasonable discretion.

For the avoidance of doubt, any time limits that may otherwise apply to the Development Approvals absent this Development Agreement (including without limitation, any of the time limits imposed on approvals pursuant to Section 2.02.025A of the Ontario Development Code or any other the Land Use Regulations) shall not govern the Development Approvals or this Agreement and the term set forth in this Section 2.3 shall control.

2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer, or assign its interest in 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 and be made in strict compliance with the following:

(a) Any such sale, transfer, or assignment is done in compliance with the Ground Lease if such Ground Lease is then in effect;

(b) 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 substantially all of Owner's leasehold or fee interest (as applicable) in the Property;

(c) Prior to any such sale, transfer, or assignment, 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; and (2) the payment of the applicable processing charge to cover the City's review and consideration of such sale, transfer, or assignment; and

(d) 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 (c) 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 Subsection 2.4.1. Notwithstanding any contrary provision of this Agreement, the Owner of the Property shall not have any liability hereunder with respect to any other Lot and a default by the Owner of one Lot shall not impact the rights and obligations of the Owner of any other Lot.

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 all of the following conditions:

(a) such transferring owner no longer has a legal or equitable interest in the portion of the Property sold, transferred, or assigned;

(b) such transferring owner is not then in default under this Agreement (after notice and the expiration of any applicable cure periods), in which case such transferring owner shall remain liable for such default but not any future defaults by the assignee after the date of the transfer; and

(c) such transferring owner has provided City with the notice and executed agreement required under Paragraph (c) of Subsection 2.4.1 above.

2.4.3 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.

2.4.4 For the avoidance of doubt, this Section 2.4 does not apply to assignments or transfers of this Agreement to Mortgagees or their initial transferees after a foreclosure, deed in lieu, or similar action permitted under the mortgage, deed of trust, or other security device securing financing with respect to the Owner's interest in the Property.

2.5 Amendment or Cancellation of Agreement; Operating Memoranda.

2.5.1 Amendment or Cancellation. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section

65868. 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. The City hereby agrees to grant priority processing status to any request(s) to amend this Agreement made by Owner. 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.

2.5.2 Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the City and Owner and development of the Project hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of the City and Owner. If and when, from time to time, during the term of this Agreement, the City and Owner agree that such clarifications are necessary or appropriate, the City and Owner shall effectuate such clarifications through operating memoranda approved by the City and Owner, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary with future approval by the City and Owner. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The City Manager shall be authorized to make the determination on behalf of the City whether a requested clarification may be effectuated pursuant to this Section 2.5.2 or whether the requested clarification is of such a character to constitute an amendment hereof. The City Manager shall be authorized to execute any operating memoranda hereunder on behalf of the City without further Planning Commission or City Council action.

2.5.3 Certificate of Performance.

Upon Completion of the Project or upon the earlier revocation or termination of this Agreement, the City shall provide Owner, upon Owner's request, with a statement ("Certificate of Performance") evidencing such completion, revocation, or termination of this Agreement, and the release of Owner from further obligations hereunder with respect to the Property except with respect to the obligations which expressly survive such termination pursuant to Sections 3.9 (Rent Control), 4.2.2 (Development Impact Fees), 9 (Third Party Litigation) and 11.22 (Attorneys' Fees). The Certificate of Performance shall be signed by the appropriate agents of Owner and the City and shall be recorded with the County Recorder. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 8182.

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; or

(b) Completion of the Project to be developed and constructed on the Property in accordance with the terms of this Agreement.

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 right and/or 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 for residential units on which construction has not yet begun shall be refunded to Owner by City to the extent payment has been received.

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

If to Owner:
OTC Lot C Owner, LLC
c/o Adept Urban
388 Cordova Street, #280
Pasadena, CA 91101
Attention: Patrick Chraghchian; Robert Montano
Email:patrick@adept-dev.com; robert.m@adept-dev.com

with a copy to:
Ruben Duran, City Attorney
Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

with a copy to:
Munger, Tolles & Olson LLP
350 S. Grand Avenue, 50th Floor
Los Angeles, CA 90071
Attention: Misty M. Sanford, Esq.
Email: misty.sanford@mto.com

(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 Development of the Project; Rights to Develop.

3.1.1 Development of the Project. In consideration of the premises, purposes, and intentions set forth in this Agreement, and in consideration of the assurances for development of the Project pursuant to this Agreement, Owner agrees to develop the Project in accordance with: (i) the terms and conditions of this Agreement; (ii) the terms and conditions established in the Development Approvals; and (iii) the Existing Land Use Regulations. Owner further agrees that the use, density and intensity, maximum height and size of structures and provisions for the Property reservation and dedication of land for public purposes related to the Property shall be limited to those uses permitted by the Existing Land Use Regulations. The Project shall be developed in accordance with the Development Approvals. The Project shall be constructed in compliance with all applicable building codes and standards, as such may be modified from time to time.

3.1.2 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Project in accordance with the Existing Land Use Regulations, subject to the terms and conditions of this Agreement and the conditions established in the Development Approvals. The Project shall remain subject to all Development Approvals required to complete the Project. 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 Existing Land Use Regulations.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, 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 the Phased Development 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 Ca1. 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 (without the obligation) the Property in such order and at such rate and at such times as Owner deems appropriate within the exercise of its sole and subjective business judgment during the term of this Agreement. Notwithstanding the foregoing, subject to (a) Force Majeure Events, (b) up to three one-year extensions of time (provided, however, that (i) only the first one-year extension may be requested by Owner unilaterally and thereafter such extensions must be approved by the City Manager and (ii) such extensions shall not apply to the first milestone (i.e., submission of the building application) for the first of the Lots of the Phased Development to be developed) and (c) any extensions of entitlements or permits granted by any governmental authority on a statewide, citywide or countywide basis, Owner shall achieve the following milestones in accordance with the following schedule:

	Event	Date
1.	Submission by Owner of building permit application to the City for the Project	On or before one hundred eighty (180) days following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase.
2.	Commencement of Construction of the Project	On or before two (2) years following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase; provided, however

		Commencement of Construction shall occur within 6 months of the Commencement of Construction of Lot D. In order to achieve this milestone, City agrees to complete its review of (a) Owner's initial plan check submission within twenty-one (21) days after receipt of such initial submission by City (provided, however, prior to such submission Owner and the City shall meet to review the proposed application), and (b) any additional submissions required to obtain the required permits for the project within fourteen (14) days following receipt of such additional submissions by City. There shall be a day-for-day extension of this Commencement of Construction milestone if the City fails to timely respond to such submissions within the time periods set forth above (each, a "City Response Delay").

3.4 Requirement for Public Infrastructure Improvements. Owner shall comply with any conditions of the Development Approvals with respect to providing public infrastructure improvements or facilities, if any, to the extent required in connection with the Project (as opposed to the other Lots within the Phased Development).

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of the Property as a whole; or,

(b) Increase the density or intensity of use of the Property as a whole; (other than in de minimis amounts); or,

(c) Increase the maximum height and size of permitted buildings (other than in de minimis amounts); or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 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 its actual costs of processing applications for, or monitoring compliance with, any development approvals granted for the performance of any conditions imposed on the Project, unless otherwise waived by the City in writing;

(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;

(d) Regulations that may conflict with this Agreement or Existing Land Use Regulations but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety; and are generally applicable on a citywide basis (except in the event of natural disasters as found by the City Council such as floods, earthquakes, pandemics and similar acts of God);

(e) Reserved;

(f) Regulations to which the Owner consents in writing.

3.6.2 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 Approvals and the Existing Land Use Regulations, 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 Approvals and the Existing Land Use Regulations.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Approval Date, 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 or comply with as determined by Owner. 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).

3.6.4 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.

3.7 Public Works; Utilities. If Owner is required by any Development 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 to the construction standards that 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 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.

3.8 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 material out-of-pocket 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.

3.9 Rent Control. Notwithstanding anything to the contrary in this Agreement, City agrees that, to the extent permitted by applicable law, City shall not apply any rent control or other renter protections or other moratoria or interim control ordinance against the Property or the Project. The foregoing covenant shall survive the expiration of this Agreement indefinitely and shall be in effect unless this Agreement is terminated for any reason other than a termination due to the Completion of the Project.

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 Approvals and the Existing Land Use Regulations 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 amounts for Development Impact Fees established or imposed by the City to be paid by Owner shall be the amounts that are in effect as of the Approval Date, which are shown on Exhibit "C" attached hereto, and Development Impact Fees established or imposed by other public agencies to be paid by Owner shall be the amounts that are in effect at the time such fees are due and payable during the development process. 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. Notwithstanding the foregoing, the amounts imposed by the City to be paid by Owner for the following Development Impact Fees may be those in effect at the time such fees are due and payable (subject to the right to deferment set forth in Section 4.2.2 below), so long as such amounts do not increase by more than five percent (5%) over the amount of such rates in effect as of the Approval Date: 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.

4.2.2 Time of Payment.

(a) Owner shall have the right to elect (but is not obligated) to amortize the payment of up to fifty percent (50%) of the total amount of Development Impact Fees due and payable for the Project (the amount so elected, the "Deferred DIFs") over a period of thirty (30) years commencing from the Deferred DIF Repayment Date at an annual 3 percent (3%) simple interest rate. As used herein, "Deferred DIF Repayment Date" means the date of issuance of a temporary or other certificate of occupancy for the residential component of the Project. The parties understand and agree that the Development Impact Fees established or imposed by other public agencies that are not controlled by City even if such Development Impact Fees may be collected by City (including without limitation, if applicable, the IEUA Sewer Connection Fee, Ontario-Montclair School District (K-12) Fees, Cucamonga School District and Chaffey Joint Union High School Fees) (collectively, the "Non-Deferrable Fees") must be paid when and as required in their standard course and schedule and may not be deferred hereunder; provided, however, the amount of such Non-Deferrable Fees may be included in the calculation of the total amount of Development Impact Fees due and payable for the Project for

purposes of calculating the fifty percent (50%) amount that Owner may elect to include as Deferred DIFs.

(b) Owner agrees that, commencing upon the Deferred DIF Repayment Date, Owner shall pay to the City, on the 1st day of the next following month and each and every successive month for three hundred sixty (360) consecutive months, an amount equal to the amortized principal and interest of the actual amount of the Deferred DIFs amortized over thirty (30) years at an annual 3 percent (3%) simple interest rate. By way of example only, if the Deferred DIFs equal $4,5000,000, the monthly payment to be made to the City would be $18,972. The entire unpaid principal balance of the amortized Deferred DIFs and any accrued but unpaid interest shall be immediately due and payable to the City upon any of the following events: (1) the termination of this Agreement other than a termination due to the Completion of the Project; (2) any uncured default by Owner with regard to repayment of the amortized Deferred DIFs to the City (if such amounts have not been paid to the City within five (5) business days of Owner's receipt of written notice from the City); or (3) any sale, transfer or assignment of all or substantially all of the Owner's leasehold or fee interest (as applicable) in the Property that is not approved by the City in advance (which such approval shall not be unreasonably withheld, conditioned or delayed). Any monthly payment or portion thereof not paid to the City as and when due under the terms of this Agreement shall accrue interest from the date on which such payment was due at the rate of ten percent (10%), and if not paid within the five (5) business day cure period described above, City may file a lien against the Property for such delinquent amounts including any accrued and unpaid interest. All payments under this Subsection will be applied first to penalties and late fees, then to interest, then to reduce the principal amount owed. The Deferred DIFs and any accrued but unpaid interest may be pre-paid to the City at any time without any pre-payment penalty.

(c) The Deferred DIF payment obligation shall be a covenant running with the land and shall survive the expiration or early termination of this Agreement indefinitely until the Deferred DIFs are paid in full in accordance with this Agreement.

(d) Any Development Impact Fees that are not a Deferred DIF shall be paid when and as required in their standard course and schedule.

4.3 Reserved.

4.4 Reserved.

4.5 Schools Obligations. Owner shall satisfy its school obligations with the applicable school district by paying school impact fees. Written evidence of approval by the applicable school district that Owner has met its school obligations may be required by the City as the condition to the issuance by the City of any building permits for the Project.

4.6 Reserved.

4.7 Reserved.

4.8 Reserved.

4.9 Maintenance of Open Space. Owner shall provide for ongoing maintenance of all park, common areas, and open space areas within the Project as may be set forth in the Development Approvals.

4.10 Intentionally Omitted.

4.11 Compliance with Public Benefits Requirements. In the event Owner fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, 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 8.4 hereof, thereby entitling the City to any and all remedies permitted under this Agreement, including, without limitation, the right of the City to withhold Owner's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. [RESERVED]

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 in accordance with Section 65865.1 of the California Government Code. Upon completion of the City's review, 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/her designee. Owner shall be responsible for paying any processing charge in connection with each such annual review, if any, provided that such charge shall be generally consistent with the cost charged for annual reviews for other development agreements to which the City is a party.

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:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) 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. The cost of any such special review shall be borne by the City, unless such a special review demonstrates that Owner is not

acting in good-faith compliance with the provisions of this Agreement, in which case Owner shall reimburse the City for all costs incurred by the City in connection with such special review.

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 shall specify in writing the respects in which Owner has failed to so comply. The City shall provide Owner with written notice of such noncompliance, together with a written specification of the reasons therefor. Such written notice shall also specify a reasonable time for Owner to cure such non-compliance, which time shall be not less than thirty (30) days after Owner's receipt of such notice.

(c) The Owner may appeal a determination pursuant to paragraph (b) in accordance with the City's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Termination. If, upon a finding under Section 6.1.6(b), the City determines to proceed with 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 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 Termination. At the time and place set for the hearing on 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 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; Waiver of Monetary Damages. It is acknowledged by the parties that, subject to and without limiting the Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below, neither party would have entered into this Agreement if it were to be liable in monetary damages under this Agreement, or with respect to this Agreement or the application thereof. The parties agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages that would adequately compensate Owner for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify the exposure. Therefore, the parties agree that each of the parties may pursue any remedy at law or equity available for any breach of any provision of this Agreement, except that neither party shall be liable in monetary damages to the other party, or to any successor in interest of such other party, or to any other person, and each party covenants not to sue for monetary damages or claim any monetary damages:

8.1.1 For any breach of this Agreement or for any cause of action which arises out of this Agreement (other than in connection with Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below); or

8.1.2 For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

8.1.3 Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.1.4 The parties understand and agree, however, that nothing in this Section 8.1 shall prohibit, restrict or otherwise affect the rights of a party to seek monetary damages as a result of any default by the other party under any other agreement entered into by the parties with respect to the Property and the Project, including without limitation the Ground Lease, if and to the extent such other agreements allow for monetary damages. No part of this Agreement shall be deemed to abrogate or limit any immunities or defenses either party may otherwise have with respect to claims for monetary damages.

8.2 Default by Owner. In the event that Owner does not perform its obligations under the Agreement in a timely manner, subject to the limitations in Section 8.1, the City shall have all rights and remedies provided herein which shall include (a) the right to compel specific performance of the obligations of Owner under this Agreement or (b) termination of this Agreement, provided that the City has first complied with the procedures set forth in this Section 8.2 and in Section 8.5 below. If City elects to proceed under clause (b) with termination of this Agreement, the following shall apply:

8.2.1 If after the applicable cure period has elapsed, the City Manager finds and determines that Owner remains in default, the City Manager shall make a report to the Planning Commission and then set a public hearing before the Planning Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If, after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Owner has not cured the applicable default pursuant to this Section, and that the City should terminate this Agreement, Owner shall be entitled to appeal that finding and determination to the City Council in accordance with the procedure in Section 6.1.6(c) above. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity, and

8.2.2 City may terminate this Agreement after such final determination of the City Council or, where no appeal is taken, after the expiration of the appeal period in accordance with the procedure described in Section 6.1.6(c) above, relating to the defaulting party's rights and obligations.

8.2.3 City's Limited Cross Termination Right. If City terminates this Agreement in accordance with the procedures set forth herein as a result of a failure of Owner to achieve any of the milestones required pursuant to Section 3.3 above, City shall have the right to simultaneously terminate the Related Development Agreement(s) affecting the Lot(s) within the Phased Development for which none of the milestones under Section 3.3 of the applicable Related Development Agreement(s) have been achieved and for which a standard construction loan from an unrelated third party ("Loan") has not been executed for the development of such Lot(s). For example, if the owner of any Lot in the Phased Development (including the Property) has executed a Loan for the development of such Lot or any of the milestones under Section 3.3 of the applicable Related Development Agreement have been achieved with respect to such Lot (a "Protected Lot"), then the termination of this Agreement or the Related

Development Agreement for any other Lot shall not affect the Related Development Agreement of such Protected Lot and City shall not have any right hereunder to terminate such Related Development Agreement under this Section 8.2.3.

8.3 Default by City. In the event the City defaults under the provisions of this Agreement, subject to the limitations set forth in Section 8.1 above, Owner shall have all rights and remedies provided herein or by applicable law, which shall include compelling the specific performance of the City's obligations under this Agreement, provided that Owner has first complied with the procedures in Section 8.5 below.

8.4 Release. Subject to and without limiting the indemnity in Section 9.3 below, except for nondamage remedies, including the remedy of specific performance, each party, for itself, its successors and assignees, hereby releases the other party, 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.

8.5 Notice and Cure. Failure or delay by either party to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of written notice from the other party, identifying with specificity those obligations of the defaulting party which have not been performed, constitutes a default under this Agreement; provided, however, if such failure or delay cannot reasonably be cured within such thirty (30) day period, no default shall be deemed to have occurred hereunder if the party committing such failure or delay commences cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion; provided, however the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with due diligence but (a) with respect to the City only in no event later than sixty (60) days after receipt of written notice from the Owner and (b) with respect to Owner only in no event later than one hundred eighty (180) days after receipt of written notice from City. The injured party shall give written notice of default to the party in default specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default.

8.6 Ground Lease and Other Agreements Not Affected. This Section 8 shall not be deemed to implicate, modify, or affect in any way any provisions in the Ground Lease or any other agreement entered into by the parties with respect to the Property and the Project.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. City has determined that this Agreement is consistent with its General Plan, as such General Plan exists as of the Approval Date, and that the General Plan meets all requirements of law. 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 Project as the result of a judicial determination that on the Approval 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. Subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), at its expense, including attorneys' fees, indemnify, and hold harmless City and its officers and employees (collectively, the "City Parties") from any claim, action or proceeding against the City Parties 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

Nothing in this Section 9 or any other indemnification provision included as a condition to any of the Development Approvals shall be construed to mean that Owner or City shall indemnify, hold any of the City Parties or Owner Parties, as applicable, harmless and/or defend any of the City Parties or Owner Parties, as applicable, from any claims arising from (a) as to Sections 9.3.1 and 9.4 only, any of the City Parties' or Owner Parties', as applicable, violation of law, or (b) as to all such indemnities other than the indemnity set forth in Section 9.3.2, (i) any of the City Parties' or Owner Parties', as applicable, breach of contractual obligations to third parties or (ii) the gross negligence or willful misconduct of any of the City Parties or Owner Parties, as applicable.

9.3 Indemnity.

9.3.1 Owner. In addition to the provisions of 9.2 above, subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), indemnify, and hold harmless the City Parties from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses), based or asserted upon any act or omission of Owner or its officers or employees for property damage, bodily injury, or death (Owner's employees included) arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, and operation the Project. The 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

9.3.2 City. City agrees to indemnify, defend (with counsel chosen by City and approved by Owner, which such approval shall not be unreasonably withheld, conditioned or delayed), and hold harmless Owner, American General Design, Inc. (dba Adept Development), a

California corporation and Povac Investments, Inc., a California corporation and each of their respective officers and employees (collectively, the "Owner Parties") from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses) arising from any governmental agency stopping or delaying construction or occupancy of the Project after the "Commencement of Construction" (as defined below) as a result of City's failure to pay any amounts imposed by the State of California (if any) pursuant to California Government Code Sections 54220 through 54234 in connection with the City's disposition of the Property to Owner. Owner shall promptly notify City of any such stoppage or delay, and Owner shall cooperate in the defense. If Owner fails to promptly notify Owner of any such stopped or delay, or if any of the Owner Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, City shall not thereafter be responsible to defend, indemnify, or hold harmless the Owner Parties. For purposes of this Section 9.3.2, the term "Commencement of Construction" shall mean that both of the following have occurred: (a) construction of a building has commenced pursuant to and in accordance with a building permit issued by the City, City-approved final construction drawings, the Existing Land Use Regulations, the Development Approvals, and all applicable laws; and (b) Owner has expended at least $5,000 in labor and materials for such construction. For purposes of this definition only, "construction" shall mean construction of improvements permanently fixed to the site (e.g., a foundation or similar), including, without limitation, utilities, public or private streets, public or private site improvements, landscaping or ancillary structures such as block walls, trash enclosures, and any grading, excavation, demolition, grubbing, or other site preparation.

9.4 Environment Assurances. Owner shall defend (with counsel chosen by Owner), at its expense, including attorneys' fees, indemnify, and hold harmless the City Parties from any liability, based or asserted, upon any act or omission of Owner, its officers, agents, employees, subcontractors, and/or 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 that were not present prior to the date that Owner took possession of the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including reasonable attorneys' fees, the City Parties 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 Reserved.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement for a period of two (2) years after such termination, except to the extent such indemnification relates to any third party claims, in which event such indemnification shall survive until the expiration of any applicable statute of limitations.

10. 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 ("Security Instrument"). 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. The City further agrees to cooperate in including in this Agreement by suitable amendment from time to time any provision that may reasonably be requested by any proposed Mortgagee for the purpose of allowing such Mortgagee reasonable means to protect or preserve a lien and security interest of its Security Instrument, as well as such other documents containing terms and provisions customarily required by Mortgagees (taking into account the customary requirements of their participants, syndication partners or rating agencies) in connection with any such financing (a "Lender Proposed Amendment"). The City agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effectuate a Lender Proposed Amendment; provided, however, that any such Lender Proposed Amendment shall not in any way materially adversely affect any rights of the City under this Agreement. If there is any conflict between this Article 10 and any other provisions contained in this Agreement, this Article 10 shall control. 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 Security Instrument on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any Security Instrument, 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 for a period of sixty (60) days after Mortgagee receives written notice of non-compliance, or any longer period as is reasonably necessary, not to exceed one hundred eighty (180) days, to remedy such default, provided that Mortgagee shall continuously and diligently pursue the remedy at all times until the default is cured.

(d) Any Mortgagee who takes title of the Property, or any part thereof, pursuant to foreclosure trustee's sale, deed in lieu of foreclosure, lease or sublease termination or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement, provided that any such Mortgagee, including its affiliate, that takes title to the Property shall be entitled to all of the benefits arising under 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 after the initial sale, transfer, or assignment by any Mortgagee shall be subject to the provisions of Section 2.4 of this Agreement.

(e) If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceedings involving Owner, the times specified in Section clause (c) above, shall be extended for the period of the prohibition, except that any such extension shall not extend the term of this Agreement.

(f) If this Agreement is terminated by reason of (i) any default or (ii) as a result of a bankruptcy proceeding, this Agreement is disaffirmed by a receiver, liquidator, or trustee for Owner or its property, the City, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new development agreement for the Project as to such portion of the Property with the most senior Mortgagee requesting such new agreement. This Agreement does not require any Mortgagee or the City to enter into a new development agreement pursuant to this clause (f).

(g) The City shall, at any time and within thirty (30) days following the written request of a Mortgagee, but not more often than annually, certify in writing to such Mortgagee that (a) this Agreement is in full force and effect, (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments and modifications, and (c) to the actual knowledge of City with no duty to investigate, Owner is not in default in the performance of its obligations under this Agreement or, if in default, to describe therein the nature and extent of any such default. Any such estoppel certificate shall be administratively issued by the City Manager or his/her representative or designee.

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 this 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. A failure to record the Agreement in a timely fashion shall not impact its effectiveness to the extent permitted by applicable law.

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, in the event the provision regarding the payment of Deferred DIFs set forth in Section 4.2.2 of this Agreement is determined to be invalid, void or unenforceable, the parties shall enter into a separate written agreement for the repayment of such Deferred DIFs consistent with Section 4.2.2.

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. 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.

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, except that the Owner Parties and City Parties are third party beneficiaries of the indemnities in Section 9. 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, insurrection, riots, civil unrest, acts of terrorism or similar hostilities, strikes, boycotts, lock-outs, and other labor difficulties beyond the party's control (including the party's employment force), inability to procure services, labor or materials not related to the price thereof, failure of electric power, governmental actions, governmental laws, regulations or restrictions, third party litigation or administrative proceedings, actual or

threatened public health emergency (including epidemic, pandemic, famine, disease, plague, quarantine, and other public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization (including any shelter-in-place orders, stay at home orders or any restrictions on travel related thereto that preclude Owner, its agents, contractors or its employees from accessing the Property, national or regional emergency), declaration of a state or national emergency, casualties, weather that could not have reasonably been anticipated, changes in the Laws which would prevent the Property from being developed or operated in accordance with this Agreement, or other reasons beyond the reasonable control of the party (individually a "Force Majeure Event" or collectively, "Force Majeure Events"). 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 shall be automatically extended for the period of time that such events prevented such performance, provided that the extensions of the term of this Agreement solely as a result of one or more Force Majeure Events shall not exceed a period of more than five (5) years in the aggregate.

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; Covenants Running with the Land. 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. In any event, no owner or tenant of an individual completed residential unit within the Project shall have any rights under this Agreement.

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. Owner for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) 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 reasonable costs incurred by City in connection with the issuance of estoppel certificates under this Section 11.20 prior to City's issuance of such certificates.

11.21 Authority to Execute. Each party represents and warrants that the person or persons executing this Agreement on behalf of such party has the authority to execute this

Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations hereunder.

11.22 Attorneys' Fees. In the event of any action between the City and Owner for enforcement or interpretation of any of the terms or conditions of this Agreement, the prevailing party in such action shall be entitled to recover its reasonable costs and expenses, including without limitation court costs and attorneys' fees actually and reasonably incurred, as awarded by a court of competent jurisdiction. This Section shall survive the termination of this Agreement.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

"Owner"

OTC Lot C Owner, LLC
a Delaware limited liability company

By: _____
Name:
Its: _____
Date: _____

"CITY"

City OF ONTARIO

By:_____
Scott Ochoa
City Manager

Date: _____

ATTEST:

_____
City Clerk, Ontario

APPROVED AS TO FORM:

_____
Kane, Ballmer & Berkman, City Special Counsel

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

APN NO. 0210-204-38

BEING A PORTION OF PARCEL 20, PARCEL MAP NO. 17550, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 216, PAGES 7 THROUGH 20, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL 20, AS SHOWN ON SAID PARCEL MAP;
THENCE NORTH 89° 22' 30" WEST, ALONG THE SOUTH LINE OF SAID PARCEL 20, 184.06 FEET;
THENCE LEAVING SAID SOUTH LINE, THE FOLLOWING THREE (3) COURSES:
NORTH 00° 00' 00' EAST 302.44 FEET;
NORTH 90° 00' 00" EAST 42.92 FEET;
NORTH 00° 00' 00" WEST 96.10 FEET, TO A POINT ON A LINE THAT IS PARALLEL WITH AND 31.00 FEET SOUTH, MEASURED AT RIGHT ANGLES, TO THE NORTH LINE OF SAID PARCEL 20;
THENCE, NORTH 89° 22' 30" WEST 287.51 FEET, TO A POINT ON THE WEST LINE OF SAID PARCEL 20;
THENCE, NORTH 00° 37' 30" EAST 31.00 FEET, TO THE NORTHWEST CORNER OF SAID PARCEL 20;
THENCE, SOUTH 89° 22' 30" EAST ALONG THE NORTH LINE OF SAID PARCEL 20, 430.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 20;
THENCE, SOUTH 00° 37' 30" WEST 430.00 FEET, TO THE POINT OF BEGINNING;

SAID LAND IS SHOWN AS PARCEL B OF LOT LINE ADJUSTMENT NO. LLA17-008, RECORDED SEPTEMBER 7, 2017 AS INSTRUMENT NO. 2017-0370546, OF OFFICIAL RECORDS.

EXHIBIT "A" CONTINUED
TO DEVELOPMENT AGREEMENT

LEASE AREA DEPICTION (LOT C)

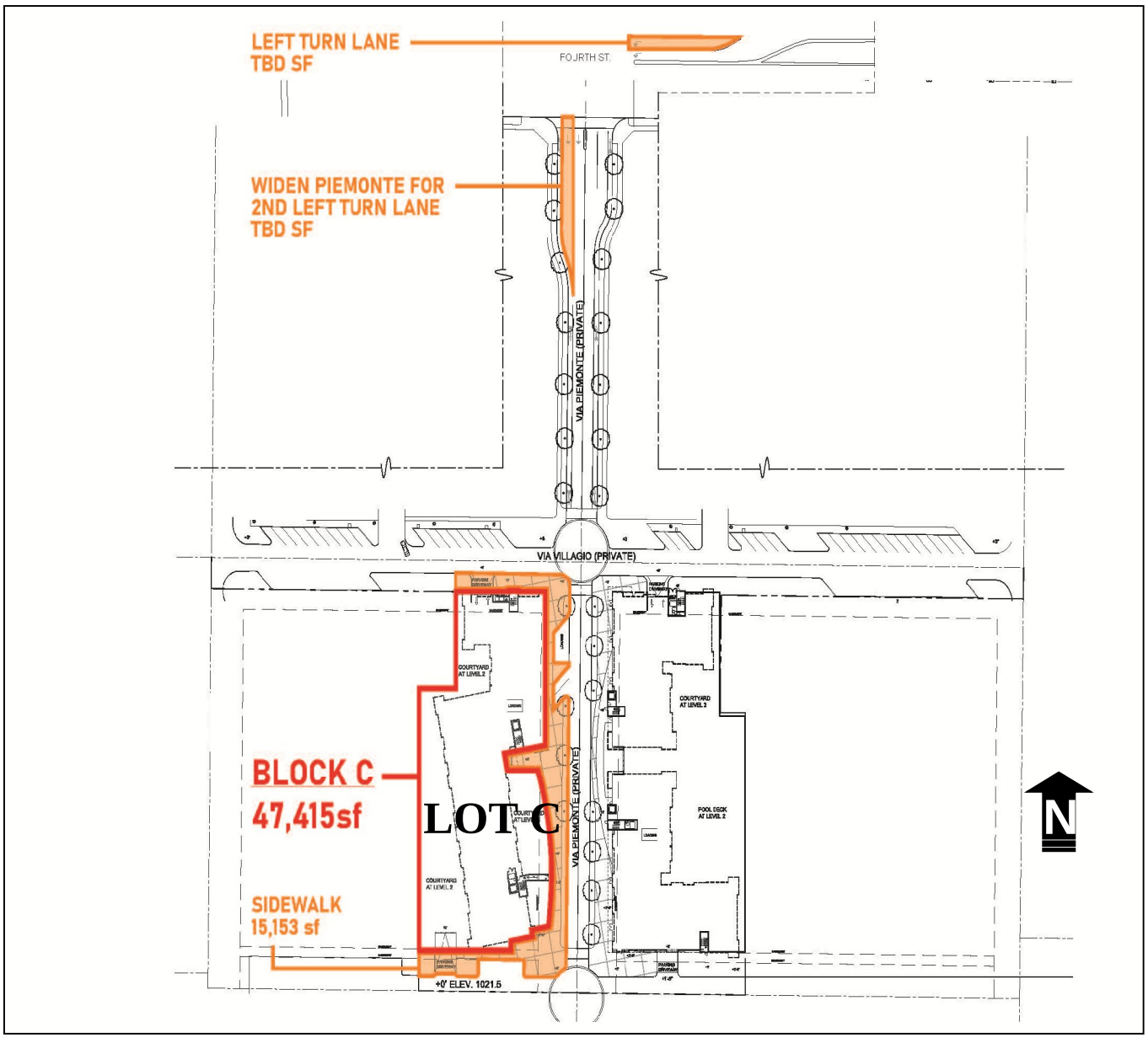
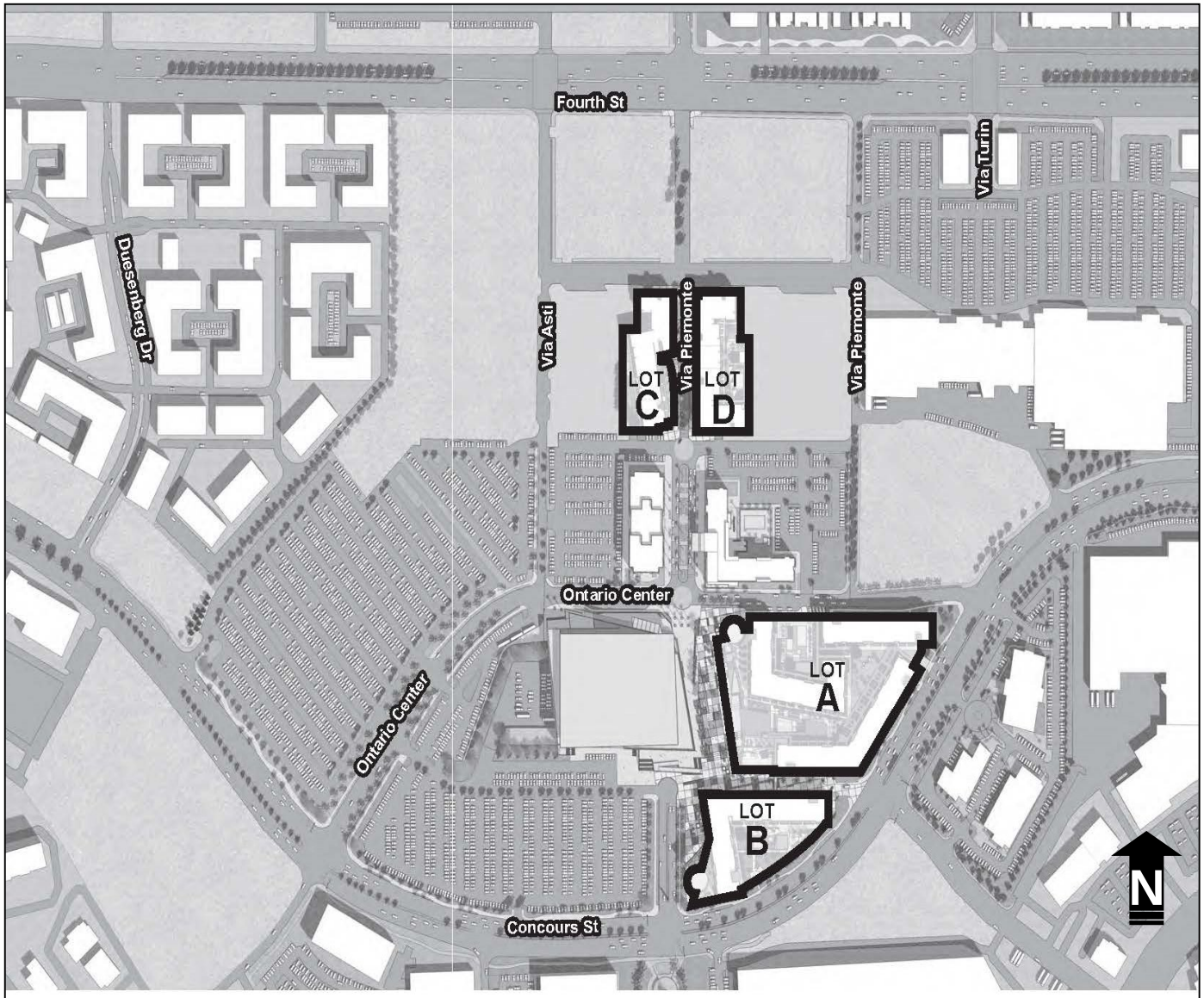


EXHIBIT "B"
TO DEVELOPMENT AGREEMENT

MAP SHOWING PROPERTY AND ITS LOCATION



Ontario Center Parkway, Ontario, CA 91764

EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

DEVELOPMENT IMPACT FEES AS OF THE APPROVAL DATE

(Development Impact Fees to follow this page)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, FILE NO. PDA22-003-D, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND OTC LOT D OWNER, LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR A DEVELOPMENT PLAN (FILE NO. PDEV22-014) TO CONSTRUCT 104 RESIDENTIAL UNITS AND UP TO 14,095 SQUARE FEET OF COMMERCIAL/OFFICE/RETAIL USES, ON APPROXIMATELY 2.04 ACRES OF LAND LOCATED AT THE SOUTHEAST CORNER OF ONTARIO VIA PIEMONTE AND VIA VILLAGIO WITHIN THE MIXED-USE SUBAREA 11 OF THE PIEMONTE OVERLAY OF THE ONTARIO CENTER SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0210-204-38.

WHEREAS, OTC Lot D Owner LLC, ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA22-003-D, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to approximately 2.04 acres of land, located at the southeast corner of Via Piemonte and Via Villagio. The project site within the proposed mixed-use Subarea 11 of the Piemonte Overlay of the Ontario Center Specific Plan, and is presently vacant; and

WHEREAS, in 2006, the City Council approved the creation of the Piemonte Overlay of the Ontario Center Specific Plan (“Piemonte Overlay”), within the Urban Commercial land use district of the Ontario Center Specific Plan, establishing a master plan for the development of approximately 1.3 million square feet of retail, office, hotel, and entertainment uses, and more than 800 multiple-family dwelling units on the 84-acre overlay site. Several Specific Plan Amendments have been approved for the Piemonte Overlay, modifying development intensities, parking requirements, architectural guidelines, and land use designations. The most recent Specific Plan Amendment, File No. PSPA21-001, was approved by the City Council on April 19, 2022, and involved expanding the overlay boundary, adding the Mixed-Use land use designation, and establishing design guidelines for mixed-use projects; and

WHEREAS, the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) was certified on March 19, 1991, (hereinafter referred to as “Certified EIR”), in which development and use of the Project site was discussed in the Amendment to the Ontario Center Specific Plan (File No. 4059-SPA); and

WHEREAS, a Mitigated Negative Declaration (hereinafter referred to as “MND”) was subsequently adopted on May 16, 2017, in which development and use of the Project site was discussed in association with an Amendment to the Ontario Center Specific Plan (File No. PSPA16-003); and

WHEREAS, the Planning Director of the City of Ontario prepared and approved for attachment to the Certified EIR and adopted MND, an Addendum to the Certified EIR and MND (hereinafter collectively 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 was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay of the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

WHEREAS, the environmental impacts of this Project were thoroughly analyzed in the Certified EIR and EIR Addendum, which concluded that implementation of the Project could result in a number of significant effects on the environment and 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, Ontario Development Code Table 2.02-1 (Review Matrix) grants the City Council the responsibility and authority to approve 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, A Development Plan Application (File No. PDEV22-014) to construct four mixed-use buildings totaling 63,655 commercial square feet and 694 dwelling units on 13.3 acres of land located at 4000 East Ontario Center Parkway and the southeast and southwest corner of Via Piemonte and Via Villagio, within the Mixed-Use land use district of the Piemonte Overlay of the Ontario Center Specific Plan, has been filed in conjunction with the Development Agreement Application; 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 June 28, 2022, 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 PC22-030, recommending the City Council approve the Application; and

WHEREAS, on July 19, 2022, 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 authority 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 the Project were reviewed in conjunction with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearinghouse No. 1989041009) ("Certified EIR"), certified by the Ontario City Council on March 19, 1991, in conjunction with File No. 4059-SPA, in combination with an Addendum to the Mitigated Negative Declaration, adopted by the Ontario City Council on May 17, 2017, in conjunction with File No. PSPA16-003. In addition, an EIR Addendum was adopted by the City Council on April 19, 2022, in conjunction with File No. PSPA21-001, a Specific Plan Amendment to the Piemonte Overlay at the Ontario Center Specific Plan, in which development and use of the Project site was discussed; and

(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.

SECTION 3. ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making authority 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 site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix. The proposed changes affect two of the four properties listed in the Available Land Inventory (Subareas 8 and 11; Map ID No. 124 and 125). The residential capacity proposed in this Project is consistent with the number of dwelling units (198) and density (48 du/ac) specified in the Available Land Inventory.

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, 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 authority 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 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 4.83 acres of land generally located southwest corner of Ontario Center Parkway and Concours Street; and

b. The Development Agreement establishes parameters for the development of a mixed-use project for Lot D, consisting of 104 residential units and up to 14,095 square feet of commercial/office/retail uses, within the proposed mixed-use subarea 11 of the Piemonte Overlay of the Ontario Center Specific Plan. the Development Agreement also grants the Applicant, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Piemonte Overlay of the Ontario Center Specific Plan; and

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

d. 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

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

f. 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 reviewed with an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) prepared for the related Amendment to the Piemonte Overlay at the Ontario Center Specific Plan (File No. PSPA21-001). This

Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this 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 Application, subject to each and every condition set forth in the Development Agreement (File No. PDA22-003-D) 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 _____ 2022.

_____
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 Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held July 19, 2022 and adopted at the regular meeting held _____, 2022 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. PDA22-003-D

DEVELOPMENT AGREEMENT

By and Between

City of Ontario
a California municipal corporation

and

OTC Lot D Owner LLC

a Delaware limited liability company

(Development Agreement to follow this page)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

Exempt from Fees Per Gov. Code §§ 6103 and 27383

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

OTC Lot D Owner, LLC
Lot

a Delaware limited liability company

DEVELOPMENT AGREEMENT NO. PDA22-033-D

This Development Agreement (hereinafter "Agreement") is dated as of July _____, 2022, for reference purposes only, and is entered into by and between the City of Ontario, a California municipal corporation (hereinafter "City"), and OTC Owner, LLC, Lot D, a Delaware limited liability company (together with its successors and assigns, "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

WHEREAS, Owner has a leasehold interest in the Property pursuant to the Ground Lease; 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, on July ____, 2022, the City Council adopted Ordinance No. _____ approving this Agreement, and such ordinance became effective on _____, 2022; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement. On April 19, 2022, pursuant to Resolution No. 2022-034, the City Council reviewed and adopted an Addendum to the Ontario Center Specific Plan Environmental Impact Report (State Clearing House No. 89041009) dated March 2022 under City's File No. PSPA21-001 (the "EIR Addendum"). The proposed Project is consistent with the EIR Addendum and no further environmental review is required; and

WHEREAS, on April 19, 2022, pursuant to Resolution No. 2022-035, the City Council approved the Piemonte Overlay at the Ontario Center Specific Plan Amendment - File No. PSPA21-001 (the "Specific Plan Amendment"); and

WHEREAS, this Agreement and the Project are consistent with the City's Comprehensive General Plan and any specific plan applicable thereto; 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, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended.

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 "Approval Date" means _____, 2022 the hearing date on which the City Council adopted the ordinance approving this Agreement.

1.1.3 "Certificate" shall have the meaning set forth in Section 6.4.

1.1.4 "Certificate of Performance" shall have the meaning set forth in Section 2.5.3.

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

1.1.6 "City Council" means the City Council of the City of Ontario.

1.1.7 "City Manager" means City's City Manager or his or her designee.

1.1.8 "City Parties" shall have the meaning set forth in Section 9.2.

1.1.9 "City Response Delay" shall have the meaning set forth in Section 3.3.

1.1.10 "Completion" means the date on which all of the following has occurred (a) the Building Department of the City (in its capacity as the municipal authority) has issued (i) a temporary certificate of occupancy (or its equivalent) for the residential dwelling units within the Project and (ii) final sign off or its equivalent of the core and shell for the commercial space within the Project (but not the tenant improvements for such space) and (b) Owner has satisfied the conditions of the Development Approvals to the extent required in connection with the Project (as opposed to conditions required in connection with the development of the other Lots within the Phased Development) other than ongoing conditions that are not required to be satisfied prior to completion of the Project.

1.1.11 "Deferred DIF" shall have the meaning set forth in Section 4.2.2.

1.1.12 "Deferred DIF Repayment Date" shall have the meaning set forth in Section 4.2.2.

1.1.13 "Development Approval" or "Development Approvals" means all permits and other entitlements for use subject to approval or issuance by City in connection with development of the Property whether Existing Development Approvals or Subsequent Development Approvals, including, but not limited to, the following:

(a) Amendment to the Piemonte Overlay at Ontario Center Specific Plan -File No. PSPA21-001;

(b) Development Plan Entitlement – File No. PDEV22-014;

(c) EIR Addendum;

(d) Development Agreement - File No. PDA22-003-D; and

(e) Amendment to the Piemonte Overlay Sign Program – File No. PSGP22-002.

1.1.14 "Development Impact Fee" means a monetary exaction, other than a tax or special assessment, whether characterized as a fee, exaction, charge, assessment 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. The rates as of the Approval Date for the Development Impact Fees that may apply to the Project are shown on Exhibit "C" attached hereto.

1.1.15 "Effective Date" means the date on which both of the following are true: (a) the ordinance approving this Agreement goes into effect; and (b) the Effective Date of the Ground Lease has occurred. Promptly after the Effective Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Effective Date and, thereafter, the Effective Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.16 "Existing Development Approvals" means all Development Approvals approved or issued on or prior to the Effective Date. Existing Development Approvals are listed in the definition of "Development Approvals" above and all other Development Approvals which are a matter of public record on the Effective Date.

1.1.17 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Approval Date, as modified by the Development Approvals.

1.1.18 "Final Non-Appealable Date" means the date Existing Development Approvals are final and non-appealable as set forth in the City Development Code and any applicable Laws and (ii) the applicable statute of limitations has expired under the California Environmental

Quality Act (Public Resources Code §21000 *et seq*.) and implementing Guidelines for CEQA (14 Cal. Code Regs. §15000 *et seq*.) with respect to the Addendum, in each case without the filing of any third party challenge, appeal, or lawsuit or, if filed, such challenge, appeal, or lawsuit has been resolved in a manner satisfactory to Owner. Promptly after the Final Non-Appealable Date occurs, the parties shall execute a joint memorandum or side letter confirming the final date of the Final Non-Appealable Date and, thereafter, the Final Non-Appealable Date shall be deemed to be the date agreed upon by the parties in such memorandum or side letter.

1.1.19 "Force Majeure Event(s)" shall have the meaning set forth in Section 11.11.

1.1.20 "General Plan" means the City's Comprehensive General Plan adopted on January 27, 2010, by Resolution No. 2010-006, as may be amended as of the Approval Date.

1.1.21 "Ground Lease" means that certain Ground Lease by and between City and Owner dated on or about the Approval Date pertaining to the Property, as the same may be amended, modified, or supplemented from time to time.

1.1.22 "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; or

(e) the exercise of the power of eminent domain.

1.1.23 "Lender Proposed Amendment" shall have the meaning set forth in Section 10.

1.1.24 "Lot" or "Lots" shall mean Lot A, B, C, or D, as the context may require, as shown on Exhibit "B" to this Agreement.

1.1.25 "Mortgagee" means any lender under any mortgage, deed of trust, or other security device securing financing with respect to the Owner's then-current interest in the Property, and their successors and assigns.

1.1.26 "Non-Deferrable Fees" shall have the meaning set forth in Section 4.2.2.

1.1.27 "Owner" means the person or entity defined as such in the introductory paragraph of this Agreement and their permitted successors in interest to all or any part of the Property.

1.1.28 "Owner Parties" shall have the meaning set forth in Section 9.3.2.

1.1.29 "Phased Development" means the phased development and construction contemplated by Owner on the Property and each of the other "Owners" under the Related Development Agreements (as defined below) on Lots A, B, and C. The projects to be developed and constructed in the Phased Development include the Project and projects on Lots A, B, and C as follows:

Lot A - Development Plan Entitlement – File No. PDEV22-014;

Lot B - Development Plan Entitlement – File No. PDEV22-014; and

Lot C - Development Plan Entitlement – File No. PDEV22-014.

Lots A, B, and C are each also currently subject to a ground lease between the City and ground lease tenant of the applicable Lot which is being entered into concurrently with the Ground Lease in form and content similar to the Ground Lease. The City is also concurrently entering into a statutory development agreement with each of the ground lease tenants for Lots A, B, and C in form and content similar to this Agreement (the "Related Development Agreements"). It is currently contemplated that the Project will be developed and constructed as part of the Phased Development of the Property and Lots A, B, and C currently comprised of the following development as shown on Table 1 below:

Table 1:
Maximum Development Density (Units) and Intensity
(Based on Piemonte Overlay at the Ontario Center Specific Plan)

DA File No's.	Approx. Acres	Lot	Subarea Area	Dwelling Units	Commercial (Square Feet)
PDA22-003-A	4.83	A	16	384	25,256
PDA22-003-B	1.69	B	17	112	20,802
PDA22-003-C	1.93	C	8	94	11,047
PDA22-003-D	2.04	D	11	104	14,095
Total	**10.49**			**694**	**71,200**

1.1.30 "Project" means the proposed development and construction on the Property (Lot D) of up to 14,095 square feet of commercial/office/ retail uses and 104 multi-family residential dwelling units, all as consistent with File No. PDEV22-014 (as the same may be modified by Owner from time to time in accordance with the Existing Development Approvals). The commercial/office/retail uses shall be those permitted or conditionally permitted within Section 3.2 *Allowed Uses* of The Piemonte at Ontario Center Specific Plan.

1.1.31 "Property" means the real property described and depicted on Exhibit "A" to this Agreement. The Property is referred to as Lot D on Exhibit "B". The Property constitutes one parcel of the Phased Development. Lots A, B, and C comprise the remaining parcels of the planned Phased Development.

1.1.32 "Protected Lot" shall have the meaning set forth in Section 8.2.3.

1.1.33 "Related Development Agreement" shall have the meaning set forth in the definition of "Phased Development" above.

1.1.34 "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.

1.1.35 "Security Instrument" shall have the meaning set forth in Section 10.

1.1.36 "Specific Plan" means that certain specific plan adopted by the City Council, and entitled, "Piemonte Overlay at the Ontario Center Specific Plan," as amended by the Specific Plan Amendment.

1.1.37 "Subsequent Development Approvals" means all Development Approvals obtained subsequent to the Approval Date in connection with development of the Property.

1.1.38 "Subsequent Land Use Regulations" means any Land Use Regulations adopted and effective after the Approval Date.

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

Exhibit "A" Legal Description and depiction of the Property

Exhibit "B" Map showing location of Property and the other Lots within the Phased Development

Exhibit "C" Development Impact Fees as of the Approval Date

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 if and to the extent commenced shall be carried out in accordance with the terms of this Agreement.

2.2 Ownership of Property. Owner represents and covenants that it is the owner of a leasehold interest in the Property or a portion 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;

(b) Owner is not then in uncured default of this Agreement (after notice and the expiration of any applicable cure periods); and

(c) if less than three (3) of the Lots in the Phased Development have achieved Completion, such extension must be approved by the City Manager in his or her reasonable discretion.

For the avoidance of doubt, any time limits that may otherwise apply to the Development Approvals absent this Development Agreement (including without limitation, any of the time limits imposed on approvals pursuant to Section 2.02.025A of the Ontario Development Code or any other the Land Use Regulations) shall not govern the Development Approvals or this Agreement and the term set forth in this Section 2.3 shall control.

2.4 Assignment.

2.4.1 Right to Assign. Owner shall have the right to sell, transfer, or assign its interest in 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 and be made in strict compliance with the following:

(a) Any such sale, transfer, or assignment is done in compliance with the Ground Lease if such Ground Lease is then in effect;

(b) 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 substantially all of Owner's leasehold or fee interest (as applicable) in the Property;

(c) Prior to any such sale, transfer, or assignment, 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; and (2) the payment of the applicable processing charge to cover the City's review and consideration of such sale, transfer, or assignment; and

(d) 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 (c) 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 Subsection 2.4.1. Notwithstanding any contrary provision of this Agreement, the Owner of the Property shall not have any liability hereunder with respect to any other Lot and a default by the Owner of one Lot shall not impact the rights and obligations of the Owner of any other Lot.

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 all of the following conditions:

(a) such transferring owner no longer has a legal or equitable interest in the portion of the Property sold, transferred, or assigned;

(b) such transferring owner is not then in default under this Agreement (after notice and the expiration of any applicable cure periods), in which case such transferring owner shall remain liable for such default but not any future defaults by the assignee after the date of the transfer; and

(c) such transferring owner has provided City with the notice and executed agreement required under Paragraph (c) of Subsection 2.4.1 above.

2.4.3 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.

2.4.4 For the avoidance of doubt, this Section 2.4 does not apply to assignments or transfers of this Agreement to Mortgagees or their initial transferees after a foreclosure, deed in lieu, or similar action permitted under the mortgage, deed of trust, or other security device securing financing with respect to the Owner's interest in the Property.

2.5 Amendment or Cancellation of Agreement; Operating Memoranda.

2.5.1 Amendment or Cancellation. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section

65868. 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. The City hereby agrees to grant priority processing status to any request(s) to amend this Agreement made by Owner. 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.

2.5.2 Operating Memoranda.

The provisions of this Agreement require a close degree of cooperation between the City and Owner and development of the Project hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of the City and Owner. If and when, from time to time, during the term of this Agreement, the City and Owner agree that such clarifications are necessary or appropriate, the City and Owner shall effectuate such clarifications through operating memoranda approved by the City and Owner, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary with future approval by the City and Owner. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The City Manager shall be authorized to make the determination on behalf of the City whether a requested clarification may be effectuated pursuant to this Section 2.5.2 or whether the requested clarification is of such a character to constitute an amendment hereof. The City Manager shall be authorized to execute any operating memoranda hereunder on behalf of the City without further Planning Commission or City Council action.

2.5.3 Certificate of Performance.

Upon Completion of the Project or upon the earlier revocation or termination of this Agreement, the City shall provide Owner, upon Owner's request, with a statement ("Certificate of Performance") evidencing such completion, revocation, or termination of this Agreement, and the release of Owner from further obligations hereunder with respect to the Property except with respect to the obligations which expressly survive such termination pursuant to Sections 3.9 (Rent Control), 4.2.2 (Development Impact Fees), 9 (Third Party Litigation) and 11.22 (Attorneys' Fees). The Certificate of Performance shall be signed by the appropriate agents of Owner and the City and shall be recorded with the County Recorder. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 8182.

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; or

(b) Completion of the Project to be developed and constructed on the Property in accordance with the terms of this Agreement.

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 right and/or 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 for residential units on which construction has not yet begun shall be refunded to Owner by City to the extent payment has been received.

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

If to Owner:
OTC Lot D Owner, LLC
c/o Adept Urban
388 Cordova Street, #280
Pasadena, CA 91101
Attention: Patrick Chraghchian; Robert Montano
Email:patrick@adept-dev.com; robert.m@adept-dev.com

with a copy to:
Ruben Duran, City Attorney
Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

with a copy to:
Munger, Tolles & Olson LLP
350 S. Grand Avenue, 50th Floor
Los Angeles, CA 90071
Attention: Misty M. Sanford, Esq.
Email: misty.sanford@mto.com

(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 Development of the Project; Rights to Develop.

3.1.1 Development of the Project. In consideration of the premises, purposes, and intentions set forth in this Agreement, and in consideration of the assurances for development of the Project pursuant to this Agreement, Owner agrees to develop the Project in accordance with: (i) the terms and conditions of this Agreement; (ii) the terms and conditions established in the Development Approvals; and (iii) the Existing Land Use Regulations. Owner further agrees that the use, density and intensity, maximum height and size of structures and provisions for the Property reservation and dedication of land for public purposes related to the Property shall be limited to those uses permitted by the Existing Land Use Regulations. The Project shall be developed in accordance with the Development Approvals. The Project shall be constructed in compliance with all applicable building codes and standards, as such may be modified from time to time.

3.1.2 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, Owner shall have a vested right to develop the Project in accordance with the Existing Land Use Regulations, subject to the terms and conditions of this Agreement and the conditions established in the Development Approvals. The Project shall remain subject to all Development Approvals required to complete the Project. 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 Existing Land Use Regulations.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, 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 the Phased Development 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 Ca1. 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 (without the obligation) the Property in such order and at such rate and at such times as Owner deems appropriate within the exercise of its sole and subjective business judgment during the term of this Agreement. Notwithstanding the foregoing, subject to (a) Force Majeure Events, (b) up to three one-year extensions of time (provided, however, that (i) only the first one-year extension may be requested by Owner unilaterally and thereafter such extensions must be approved by the City Manager and (ii) such extensions shall not apply to the first milestone (i.e., submission of the building application) for the first of the Lots of the Phased Development to be developed) and (c) any extensions of entitlements or permits granted by any governmental authority on a statewide, citywide or countywide basis, Owner shall achieve the following milestones in accordance with the following schedule:

	Event	Date
1.	Submission by Owner of building permit application to the City for the Project	On or before one hundred eighty (180) days following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase.
2.	Commencement of Construction of the Project	On or before two (2) years following the date a final Certificate of Occupancy is issued with respect to the building(s) of the immediately prior phase; provided, however

		Commencement of Construction shall occur within 6 months of the Commencement of Construction of Lot C. In order to achieve this milestone, City agrees to complete its review of (a) Owner's initial plan check submission within twenty-one (21) days after receipt of such initial submission by City (provided, however, prior to such submission Owner and the City shall meet to review the proposed application), and (b) any additional submissions required to obtain the required permits for the project within fourteen (14) days following receipt of such additional submissions by City. There shall be a day-for-day extension of this Commencement of Construction milestone if the City fails to timely respond to such submissions within the time periods set forth above (each, a "City Response Delay").

3.4 Requirement for Public Infrastructure Improvements. Owner shall comply with any conditions of the Development Approvals with respect to providing public infrastructure improvements or facilities, if any, to the extent required in connection with the Project (as opposed to the other Lots within the Phased Development).

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event Owner finds that a change in the Existing Development Approvals is necessary or appropriate, Owner shall apply for a Subsequent Development Approval to effectuate such change and City shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. Unless otherwise required by law, as determined in City's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of the Property as a whole; or,

(b) Increase the density or intensity of use of the Property as a whole; (other than in de minimis amounts); or,

(c) Increase the maximum height and size of permitted buildings (other than in de minimis amounts); or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 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 its actual costs of processing applications for, or monitoring compliance with, any development approvals granted for the performance of any conditions imposed on the Project, unless otherwise waived by the City in writing;

(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;

(d) Regulations that may conflict with this Agreement or Existing Land Use Regulations but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety; and are generally applicable on a citywide basis (except in the event of natural disasters as found by the City Council such as floods, earthquakes, pandemics and similar acts of God);

(e) Reserved;

(f) Regulations to which the Owner consents in writing.

3.6.2 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 Approvals and the Existing Land Use Regulations, 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 Approvals and the Existing Land Use Regulations.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Approval Date, 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 or comply with as determined by Owner. 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).

3.6.4 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.

3.7 Public Works; Utilities. If Owner is required by any Development 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 to the construction standards that 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 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.

3.8 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 material out-of-pocket 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.

3.9 Rent Control. Notwithstanding anything to the contrary in this Agreement, City agrees that, to the extent permitted by applicable law, City shall not apply any rent control or other renter protections or other moratoria or interim control ordinance against the Property or the Project. The foregoing covenant shall survive the expiration of this Agreement indefinitely and shall be in effect unless this Agreement is terminated for any reason other than a termination due to the Completion of the Project.

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 Approvals and the Existing Land Use Regulations 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 amounts for Development Impact Fees established or imposed by the City to be paid by Owner shall be the amounts that are in effect as of the Approval Date, which are shown on Exhibit "C" attached hereto, and Development Impact Fees established or imposed by other public agencies to be paid by Owner shall be the amounts that are in effect at the time such fees are due and payable during the development process. 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. Notwithstanding the foregoing, the amounts imposed by the City to be paid by Owner for the following Development Impact Fees may be those in effect at the time such fees are due and payable (subject to the right to deferment set forth in Section 4.2.2 below), so long as such amounts do not increase by more than five percent (5%) over the amount of such rates in effect as of the Approval Date: 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.

4.2.2 Time of Payment.

(a) Owner shall have the right to elect (but is not obligated) to amortize the payment of up to fifty percent (50%) of the total amount of Development Impact Fees due and payable for the Project (the amount so elected, the "Deferred DIFs") over a period of thirty (30) years commencing from the Deferred DIF Repayment Date at an annual 3 percent (3%) simple interest rate. As used herein, "Deferred DIF Repayment Date" means the date of issuance of a temporary or other certificate of occupancy for the residential component of the Project. The parties understand and agree that the Development Impact Fees established or imposed by other public agencies that are not controlled by City even if such Development Impact Fees may be collected by City (including without limitation, if applicable, the IEUA Sewer Connection Fee, Ontario-Montclair School District (K-12) Fees, Cucamonga School District and Chaffey Joint Union High School Fees) (collectively, the "Non-Deferrable Fees") must be paid when and as required in their standard course and schedule and may not be deferred hereunder; provided, however, the amount of such Non-Deferrable Fees may be included in the calculation of the total amount of Development Impact Fees due and payable for the Project for

purposes of calculating the fifty percent (50%) amount that Owner may elect to include as Deferred DIFs.

(b) Owner agrees that, commencing upon the Deferred DIF Repayment Date, Owner shall pay to the City, on the 1st day of the next following month and each and every successive month for three hundred sixty (360) consecutive months, an amount equal to the amortized principal and interest of the actual amount of the Deferred DIFs amortized over thirty (30) years at an annual 3 percent (3%) simple interest rate. By way of example only, if the Deferred DIFs equal $4,5000,000, the monthly payment to be made to the City would be $18,972. The entire unpaid principal balance of the amortized Deferred DIFs and any accrued but unpaid interest shall be immediately due and payable to the City upon any of the following events: (1) the termination of this Agreement other than a termination due to the Completion of the Project; (2) any uncured default by Owner with regard to repayment of the amortized Deferred DIFs to the City (if such amounts have not been paid to the City within five (5) business days of Owner's receipt of written notice from the City); or (3) any sale, transfer or assignment of all or substantially all of the Owner's leasehold or fee interest (as applicable) in the Property that is not approved by the City in advance (which such approval shall not be unreasonably withheld, conditioned or delayed). Any monthly payment or portion thereof not paid to the City as and when due under the terms of this Agreement shall accrue interest from the date on which such payment was due at the rate of ten percent (10%), and if not paid within the five (5) business day cure period described above, City may file a lien against the Property for such delinquent amounts including any accrued and unpaid interest. All payments under this Subsection will be applied first to penalties and late fees, then to interest, then to reduce the principal amount owed. The Deferred DIFs and any accrued but unpaid interest may be pre-paid to the City at any time without any pre-payment penalty.

(c) The Deferred DIF payment obligation shall be a covenant running with the land and shall survive the expiration or early termination of this Agreement indefinitely until the Deferred DIFs are paid in full in accordance with this Agreement.

(d) Any Development Impact Fees that are not a Deferred DIF shall be paid when and as required in their standard course and schedule.

4.3 Reserved.

4.4 Reserved.

4.5 Schools Obligations. Owner shall satisfy its school obligations with the applicable school district by paying school impact fees. Written evidence of approval by the applicable school district that Owner has met its school obligations may be required by the City as the condition to the issuance by the City of any building permits for the Project.

4.6 Reserved.

4.7 Reserved.

4.8 Reserved.

4.9 Maintenance of Open Space. Owner shall provide for ongoing maintenance of all park, common areas, and open space areas within the Project as may be set forth in the Development Approvals.

4.10 Intentionally Omitted.

4.11 Compliance with Public Benefits Requirements. In the event Owner fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, 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 8.4 hereof, thereby entitling the City to any and all remedies permitted under this Agreement, including, without limitation, the right of the City to withhold Owner's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. [RESERVED]

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 in accordance with Section 65865.1 of the California Government Code. Upon completion of the City's review, 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/her designee. Owner shall be responsible for paying any processing charge in connection with each such annual review, if any, provided that such charge shall be generally consistent with the cost charged for annual reviews for other development agreements to which the City is a party.

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:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) 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. The cost of any such special review shall be borne by the City, unless such a special review demonstrates that Owner is not

acting in good-faith compliance with the provisions of this Agreement, in which case Owner shall reimburse the City for all costs incurred by the City in connection with such special review.

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 shall specify in writing the respects in which Owner has failed to so comply. The City shall provide Owner with written notice of such noncompliance, together with a written specification of the reasons therefor. Such written notice shall also specify a reasonable time for Owner to cure such non-compliance, which time shall be not less than thirty (30) days after Owner's receipt of such notice.

(c) The Owner may appeal a determination pursuant to paragraph (b) in accordance with the City's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Termination. If, upon a finding under Section 6.1.6(b), the City determines to proceed with 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 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 Termination. At the time and place set for the hearing on 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 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; Waiver of Monetary Damages. It is acknowledged by the parties that, subject to and without limiting the Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below, neither party would have entered into this Agreement if it were to be liable in monetary damages under this Agreement, or with respect to this Agreement or the application thereof. The parties agree and recognize that, as a practical matter, it may not be possible to determine an amount of monetary damages that would adequately compensate Owner for its investment of time and financial resources in planning to arrive at the kind, location, intensity of use, and improvements for the Project, nor to calculate the consideration the City would require to enter into this Agreement to justify the exposure. Therefore, the parties agree that each of the parties may pursue any remedy at law or equity available for any breach of any provision of this Agreement, except that neither party shall be liable in monetary damages to the other party, or to any successor in interest of such other party, or to any other person, and each party covenants not to sue for monetary damages or claim any monetary damages:

8.1.1 For any breach of this Agreement or for any cause of action which arises out of this Agreement (other than in connection with Development Impact Fees in Section 4.2, indemnities in Sections 9.2, 9.3 and 9.4 below and the award of attorneys' fees under Section 11.22 below); or

8.1.2 For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

8.1.3 Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.1.4 The parties understand and agree, however, that nothing in this Section 8.1 shall prohibit, restrict or otherwise affect the rights of a party to seek monetary damages as a result of any default by the other party under any other agreement entered into by the parties with respect to the Property and the Project, including without limitation the Ground Lease, if and to the extent such other agreements allow for monetary damages. No part of this Agreement shall be deemed to abrogate or limit any immunities or defenses either party may otherwise have with respect to claims for monetary damages.

8.2 Default by Owner. In the event that Owner does not perform its obligations under the Agreement in a timely manner, subject to the limitations in Section 8.1, the City shall have all rights and remedies provided herein which shall include (a) the right to compel specific performance of the obligations of Owner under this Agreement or (b) termination of this Agreement, provided that the City has first complied with the procedures set forth in this Section 8.2 and in Section 8.5 below. If City elects to proceed under clause (b) with termination of this Agreement, the following shall apply:

8.2.1 If after the applicable cure period has elapsed, the City Manager finds and determines that Owner remains in default, the City Manager shall make a report to the Planning Commission and then set a public hearing before the Planning Commission in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868. If, after public hearing, the Planning Commission finds and determines, on the basis of substantial evidence, that Owner has not cured the applicable default pursuant to this Section, and that the City should terminate this Agreement, Owner shall be entitled to appeal that finding and determination to the City Council in accordance with the procedure in Section 6.1.6(c) above. In the event of a finding and determination that all defaults are cured, there shall be no appeal by any person or entity, and

8.2.2 City may terminate this Agreement after such final determination of the City Council or, where no appeal is taken, after the expiration of the appeal period in accordance with the procedure described in Section 6.1.6(c) above, relating to the defaulting party's rights and obligations.

8.2.3 City's Limited Cross Termination Right. If City terminates this Agreement in accordance with the procedures set forth herein as a result of a failure of Owner to achieve any of the milestones required pursuant to Section 3.3 above, City shall have the right to simultaneously terminate the Related Development Agreement(s) affecting the Lot(s) within the Phased Development for which none of the milestones under Section 3.3 of the applicable Related Development Agreement(s) have been achieved and for which a standard construction loan from an unrelated third party ("Loan") has not been executed for the development of such Lot(s). For example, if the owner of any Lot in the Phased Development (including the Property) has executed a Loan for the development of such Lot or any of the milestones under Section 3.3 of the applicable Related Development Agreement have been achieved with respect to such Lot (a "Protected Lot"), then the termination of this Agreement or the Related

Development Agreement for any other Lot shall not affect the Related Development Agreement of such Protected Lot and City shall not have any right hereunder to terminate such Related Development Agreement under this Section 8.2.3.

8.3 Default by City. In the event the City defaults under the provisions of this Agreement, subject to the limitations set forth in Section 8.1 above, Owner shall have all rights and remedies provided herein or by applicable law, which shall include compelling the specific performance of the City's obligations under this Agreement, provided that Owner has first complied with the procedures in Section 8.5 below.

8.4 Release. Subject to and without limiting the indemnity in Section 9.3 below, except for nondamage remedies, including the remedy of specific performance, each party, for itself, its successors and assignees, hereby releases the other party, 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.

8.5 Notice and Cure. Failure or delay by either party to perform any term or provision of this Agreement, which is not cured within thirty (30) days after receipt of written notice from the other party, identifying with specificity those obligations of the defaulting party which have not been performed, constitutes a default under this Agreement; provided, however, if such failure or delay cannot reasonably be cured within such thirty (30) day period, no default shall be deemed to have occurred hereunder if the party committing such failure or delay commences cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion; provided, however the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with due diligence but (a) with respect to the City only in no event later than sixty (60) days after receipt of written notice from the Owner and (b) with respect to Owner only in no event later than one hundred eighty (180) days after receipt of written notice from City. The injured party shall give written notice of default to the party in default specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default.

8.6 Ground Lease and Other Agreements Not Affected. This Section 8 shall not be deemed to implicate, modify, or affect in any way any provisions in the Ground Lease or any other agreement entered into by the parties with respect to the Property and the Project.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. City has determined that this Agreement is consistent with its General Plan, as such General Plan exists as of the Approval Date, and that the General Plan meets all requirements of law. 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 Project as the result of a judicial determination that on the Approval 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. Subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), at its expense, including attorneys' fees, indemnify, and hold harmless City and its officers and employees (collectively, the "City Parties") from any claim, action or proceeding against the City Parties 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

Nothing in this Section 9 or any other indemnification provision included as a condition to any of the Development Approvals shall be construed to mean that Owner or City shall indemnify, hold any of the City Parties or Owner Parties, as applicable, harmless and/or defend any of the City Parties or Owner Parties, as applicable, from any claims arising from (a) as to Sections 9.3.1 and 9.4 only, any of the City Parties' or Owner Parties', as applicable, violation of law, or (b) as to all such indemnities other than the indemnity set forth in Section 9.3.2, (i) any of the City Parties' or Owner Parties', as applicable, breach of contractual obligations to third parties or (ii) the gross negligence or willful misconduct of any of the City Parties or Owner Parties, as applicable.

9.3 Indemnity.

9.3.1 Owner. In addition to the provisions of 9.2 above, subject to and without limiting the indemnity in Section 9.3.2 below, Owner shall defend (with counsel chosen by Owner and approved by City, which such approval shall not be unreasonably withheld, conditioned or delayed), indemnify, and hold harmless the City Parties from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses), based or asserted upon any act or omission of Owner or its officers or employees for property damage, bodily injury, or death (Owner's employees included) arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, and operation the Project. The 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 any of the City Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, Owner shall not thereafter be responsible to defend, indemnify, or hold harmless the City Parties.

9.3.2 City. City agrees to indemnify, defend (with counsel chosen by City and approved by Owner, which such approval shall not be unreasonably withheld, conditioned or delayed), and hold harmless Owner, American General Design, Inc. (dba Adept Development), a

California corporation and Povac Investments, Inc., a California corporation and each of their respective officers and employees (collectively, the "Owner Parties") from and against any and all liabilities, losses, damages, judgments, fines, demands, claims, recoveries, deficiencies, costs and expenses (including, but not limited to, reasonable attorneys' fees, disbursements and court costs and all other professional or consultant's expenses) arising from any governmental agency stopping or delaying construction or occupancy of the Project after the "Commencement of Construction" (as defined below) as a result of City's failure to pay any amounts imposed by the State of California (if any) pursuant to California Government Code Sections 54220 through 54234 in connection with the City's disposition of the Property to Owner. Owner shall promptly notify City of any such stoppage or delay, and Owner shall cooperate in the defense. If Owner fails to promptly notify Owner of any such stopped or delay, or if any of the Owner Parties fail to cooperate in the defense as finally determined by a court or arbitrator of competent jurisdiction, City shall not thereafter be responsible to defend, indemnify, or hold harmless the Owner Parties. For purposes of this Section 9.3.2, the term "Commencement of Construction" shall mean that both of the following have occurred: (a) construction of a building has commenced pursuant to and in accordance with a building permit issued by the City, City-approved final construction drawings, the Existing Land Use Regulations, the Development Approvals, and all applicable laws; and (b) Owner has expended at least $5,000 in labor and materials for such construction. For purposes of this definition only, "construction" shall mean construction of improvements permanently fixed to the site (e.g., a foundation or similar), including, without limitation, utilities, public or private streets, public or private site improvements, landscaping or ancillary structures such as block walls, trash enclosures, and any grading, excavation, demolition, grubbing, or other site preparation.

9.4 Environment Assurances. Owner shall defend (with counsel chosen by Owner), at its expense, including attorneys' fees, indemnify, and hold harmless the City Parties from any liability, based or asserted, upon any act or omission of Owner, its officers, agents, employees, subcontractors, and/or 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 that were not present prior to the date that Owner took possession of the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including reasonable attorneys' fees, the City Parties 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 Reserved.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement for a period of two (2) years after such termination, except to the extent such indemnification relates to any third party claims, in which event such indemnification shall survive until the expiration of any applicable statute of limitations.

10. 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 ("Security Instrument"). 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. The City further agrees to cooperate in including in this Agreement by suitable amendment from time to time any provision that may reasonably be requested by any proposed Mortgagee for the purpose of allowing such Mortgagee reasonable means to protect or preserve a lien and security interest of its Security Instrument, as well as such other documents containing terms and provisions customarily required by Mortgagees (taking into account the customary requirements of their participants, syndication partners or rating agencies) in connection with any such financing (a "Lender Proposed Amendment"). The City agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effectuate a Lender Proposed Amendment; provided, however, that any such Lender Proposed Amendment shall not in any way materially adversely affect any rights of the City under this Agreement. If there is any conflict between this Article 10 and any other provisions contained in this Agreement, this Article 10 shall control. 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 Security Instrument on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any Security Instrument, 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 for a period of sixty (60) days after Mortgagee receives written notice of non-compliance, or any longer period as is reasonably necessary, not to exceed one hundred eighty (180) days, to remedy such default, provided that Mortgagee shall continuously and diligently pursue the remedy at all times until the default is cured.

(d) Any Mortgagee who takes title of the Property, or any part thereof, pursuant to foreclosure trustee's sale, deed in lieu of foreclosure, lease or sublease termination or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement, provided that any such Mortgagee, including its affiliate, that takes title to the Property shall be entitled to all of the benefits arising under 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 after the initial sale, transfer, or assignment by any Mortgagee shall be subject to the provisions of Section 2.4 of this Agreement.

(e) If any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceedings involving Owner, the times specified in Section clause (c) above, shall be extended for the period of the prohibition, except that any such extension shall not extend the term of this Agreement.

(f) If this Agreement is terminated by reason of (i) any default or (ii) as a result of a bankruptcy proceeding, this Agreement is disaffirmed by a receiver, liquidator, or trustee for Owner or its property, the City, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new development agreement for the Project as to such portion of the Property with the most senior Mortgagee requesting such new agreement. This Agreement does not require any Mortgagee or the City to enter into a new development agreement pursuant to this clause (f).

(g) The City shall, at any time and within thirty (30) days following the written request of a Mortgagee, but not more often than annually, certify in writing to such Mortgagee that (a) this Agreement is in full force and effect, (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments and modifications, and (c) to the actual knowledge of City with no duty to investigate, Owner is not in default in the performance of its obligations under this Agreement or, if in default, to describe therein the nature and extent of any such default. Any such estoppel certificate shall be administratively issued by the City Manager or his/her representative or designee.

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 this 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. A failure to record the Agreement in a timely fashion shall not impact its effectiveness to the extent permitted by applicable law.

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, in the event the provision regarding the payment of Deferred DIFs set forth in Section 4.2.2 of this Agreement is determined to be invalid, void or unenforceable, the parties shall enter into a separate written agreement for the repayment of such Deferred DIFs consistent with Section 4.2.2.

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. 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.

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, except that the Owner Parties and City Parties are third party beneficiaries of the indemnities in Section 9. 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, insurrection, riots, civil unrest, acts of terrorism or similar hostilities, strikes, boycotts, lock-outs, and other labor difficulties beyond the party's control (including the party's employment force), inability to procure services, labor or materials not related to the price thereof, failure of electric power, governmental actions, governmental laws, regulations or restrictions, third party litigation or administrative proceedings, actual or

threatened public health emergency (including epidemic, pandemic, famine, disease, plague, quarantine, and other public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization (including any shelter-in-place orders, stay at home orders or any restrictions on travel related thereto that preclude Owner, its agents, contractors or its employees from accessing the Property, national or regional emergency), declaration of a state or national emergency, casualties, weather that could not have reasonably been anticipated, changes in the Laws which would prevent the Property from being developed or operated in accordance with this Agreement, or other reasons beyond the reasonable control of the party (individually a "Force Majeure Event" or collectively, "Force Majeure Events"). 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 shall be automatically extended for the period of time that such events prevented such performance, provided that the extensions of the term of this Agreement solely as a result of one or more Force Majeure Events shall not exceed a period of more than five (5) years in the aggregate.

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; Covenants Running with the Land. 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. In any event, no owner or tenant of an individual completed residential unit within the Project shall have any rights under this Agreement.

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. Owner for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) 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 reasonable costs incurred by City in connection with the issuance of estoppel certificates under this Section 11.20 prior to City's issuance of such certificates.

11.21 Authority to Execute. Each party represents and warrants that the person or persons executing this Agreement on behalf of such party has the authority to execute this

Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations hereunder.

11.22 Attorneys' Fees. In the event of any action between the City and Owner for enforcement or interpretation of any of the terms or conditions of this Agreement, the prevailing party in such action shall be entitled to recover its reasonable costs and expenses, including without limitation court costs and attorneys' fees actually and reasonably incurred, as awarded by a court of competent jurisdiction. This Section shall survive the termination of this Agreement.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

"Owner"

OTC Lot D Owner, LLC
a Delaware limited liability company

By: _____
Name:
Its: _____
Date: _____

"CITY"

City OF ONTARIO

By:_____
Scott Ochoa
City Manager

Date: _____

ATTEST:

_____
City Clerk, Ontario

APPROVED AS TO FORM:

_____
Kane, Ballmer & Berkman, City Special Counsel

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

APN NO. 0210-204-39

BEING A PORTION OF PARCEL 23, PARCEL MAP NO. 17550, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 216, PAGE(S) 7 THROUGH 20, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 23, AS SHOWN ON SAID PARCEL MAP;
THENCE NORTH 00°37'30" EAST, ALONG THE WEST LINE OF SAID PARCEL 23, 430.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 23;
THENCE SOUTH 89°22'30" EAST, ALONG THE NORTH LINE OF SAID PARCEL 23, 515.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 23;
THENCE, SOUTH 00°37'30" WEST, ALONG THE EAST LINE OF SAID PARCEL 23, 31.00 FEET TO A POINT ON A LINE THAT IS PARALLEL WITH AND 31.00 FEET SOUTH, MEASURED AT RIGHT ANGLES, TO THE NORTH LINE OF SAID PARCEL 23;
THENCE, ALONG SAID PARALLEL LINE NORTH 89°22'30" WEST 351.45 FEET;
THENCE SOUTH 00°37'22" WEST 116.97 FEET;
THENCE NORTH 89°59'51" EAST 29.41 FEET;
THENCE, SOUTH 00°00'06" EAST 282.37 FEET TO A POINT ON THE SOUTH LINE OF SAID PARCEL 23;
THENCE NORTH 89°22'30" WEST, ALONG SAID SOUTH LINE, 196.05 FEET TO THE POINT OF BEGINNING;

SAID LAND IS SHOWN AS PARCEL C OF LOT LINE ADJUSTMENT NO. LLA 17-008 RECORDED SEPTEMBER 7, 2017, AS INSTRUMENT NO. 2017-0370546, OFFICIAL RECORDS.

EXHIBIT "B" CONTINUED
TO DEVELOPMENT AGREEMENT

LEASE AREA DEPICTION (LOT D)

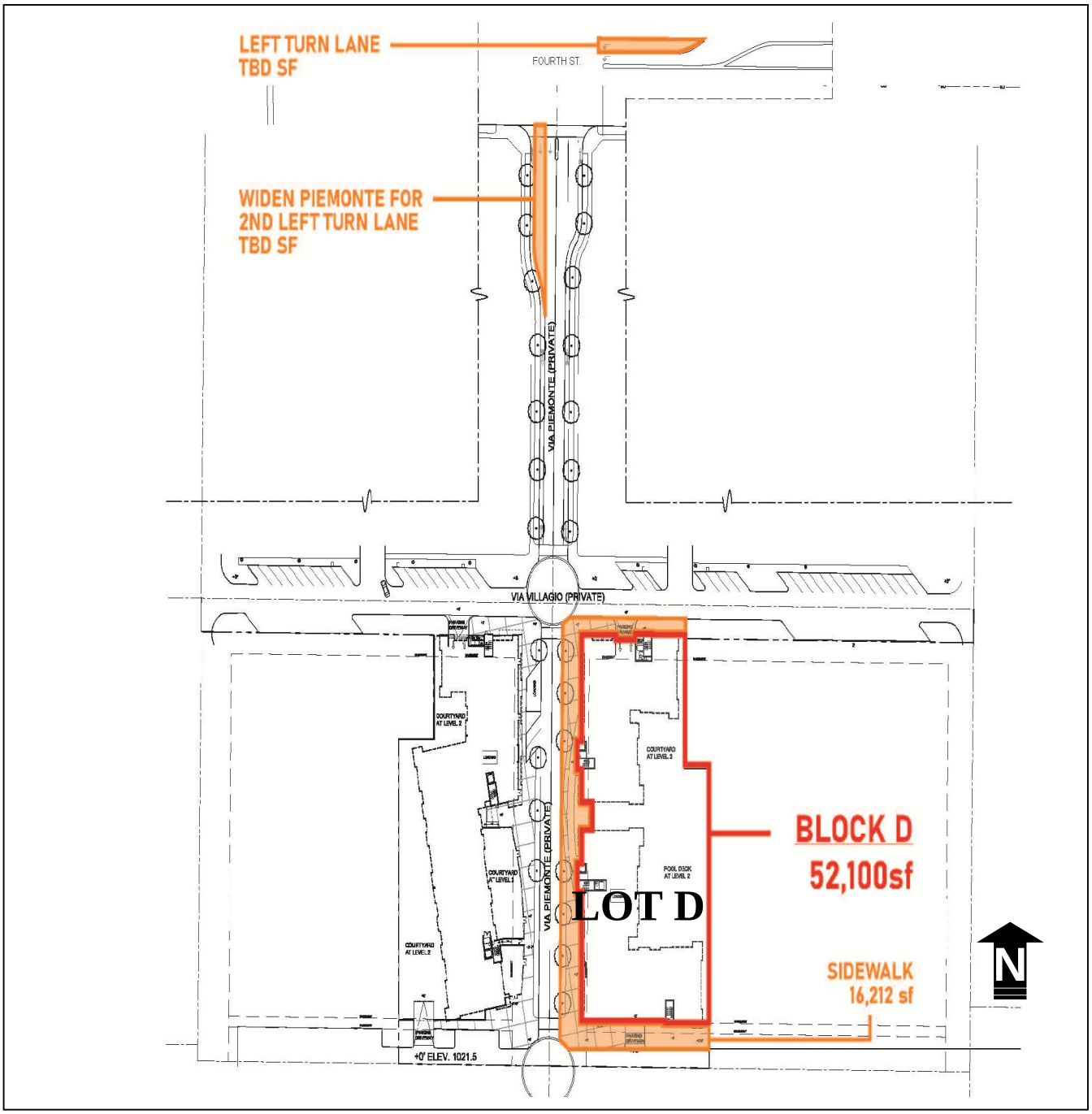
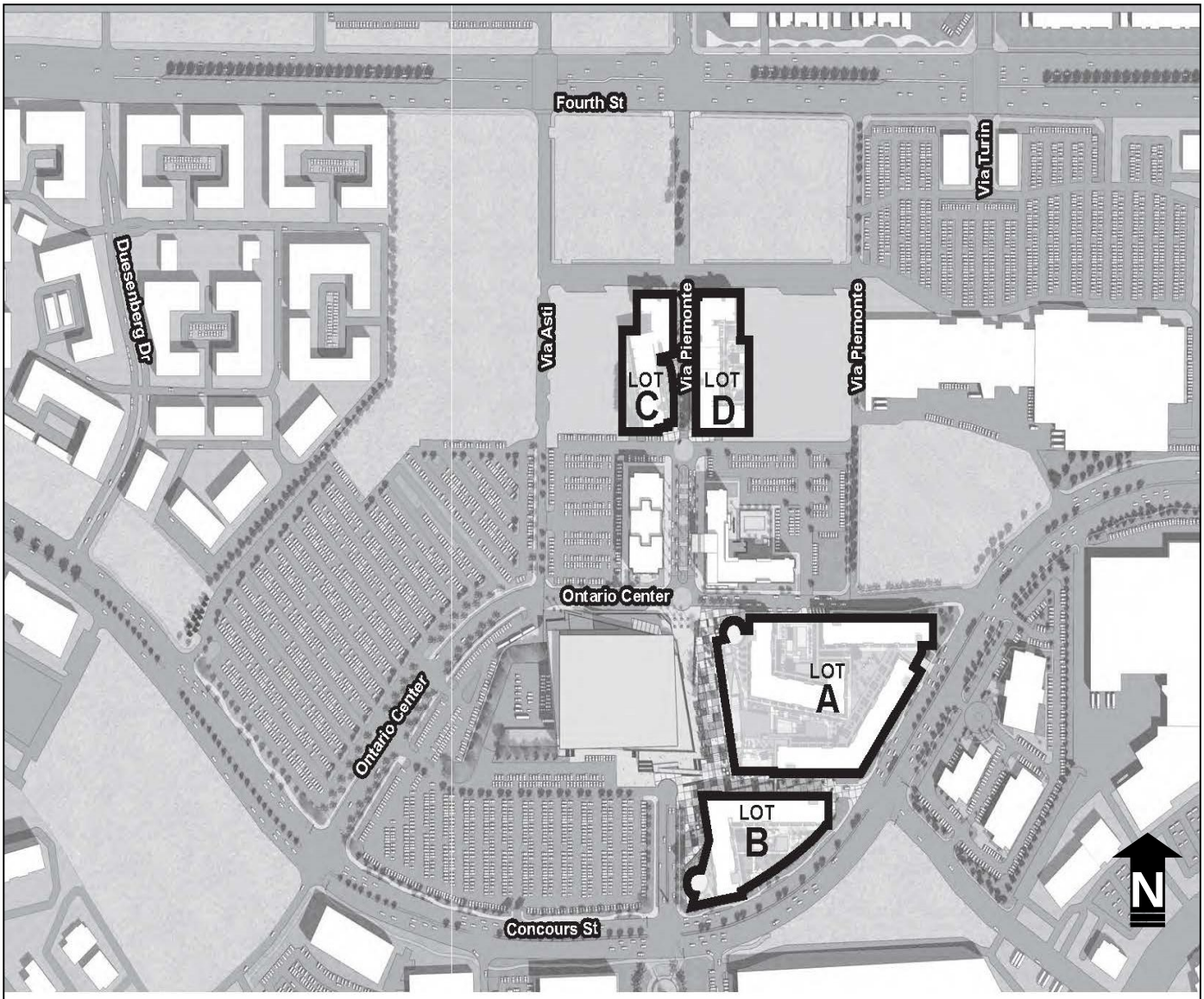


EXHIBIT "B"
TO DEVELOPMENT AGREEMENT

MAP SHOWING PROPERTY AND ITS LOCATION



Ontario Center Parkway, Ontario, CA 91764

EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

DEVELOPMENT IMPACT FEES AS OF THE APPROVAL DATE

(Development Impact Fees to follow this page)

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **PUBLIC HEARINGS**
Department: Investments & Revenue Resources Prepared By: Nicole Phillips Staff Member Presenting: Armen Harkalyan, Executive Director of Finance Reviewed By: Cecilia House, Armen Harkalyan Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 26

SUBJECT: ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICT NOS. 1 AND 2 FOR FISCAL YEAR 2022-23.

RECOMMENDATION: That the City Council conduct a combined public hearing for the districts and take the following actions pertaining to the levy of assessments within Street Lighting Maintenance Districts (SLMD) Nos. 1 and 2 and:

A. Adopt a Resolution approving the Engineer's Reports relating to the levy of assessments for each district;
B. Adopt a Resolution confirming the diagram and assessment and providing for the assessment levy within Street Lighting Maintenance District 1; and
C. Adopt a Resolution confirming the diagram and assessment and providing for the assessment levy within Street Lighting Maintenance District 2.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: As proposed, special assessment revenue will be generated in the amount of $315,643 from SLMD No. 1 and $95,480 from SLMD No. 2 during Fiscal Year 2022-23. A portion of the facilities within SLMD No. 1 provide general benefit to the public at large and cannot be funded with the assessment. The general benefit amount of $8,462 will be funded by the General Fund and is included in the City's Adopted Fiscal Year 2022-23 Operating Budget.

BACKGROUND & ANALYSIS: Street Lighting Maintenance District No. 1 was formed in 1984, and Street Lighting Maintenance District No. 2 was formed in 1999, pursuant to the Landscaping and Lighting Act of 1972 (the "1972 Act"), to help minimize the continually increasing cost for maintaining and operating the City's street lighting system. A special assessment is levied annually on benefiting properties for the cost of maintenance and operation of certain street lighting facilities within the districts. The locations of the districts are shown on the provided maps.

The City's Public Works Agency establishes the annual maintenance costs and maintains the street lighting system. Annually, an Engineer's Report for each district must be prepared by the City's consultant, Harris & Associates, apportioning the costs to each parcel within the districts. The districts are comprised of commercial, industrial and some multi-family residential properties. Due to varying characteristics, the districts are organized into benefit zones and/or maintenance areas. Each zone/maintenance area is assessed for only the operation and maintenance of the facilities from which it receives direct special benefit. The total assessment for each zone/maintenance area is then apportioned to its constituent parcels. Therefore, the assessments are unique and specific to each individual parcel of property.

The total assessment during tax year 2021-22 was $306,037 in SLMD No. 1, and $92,752 in SLMD No. 2. The City's proposed Fiscal Year 2022-23 levy for the two Street Light maintenance districts is based on the previous year's actual expenses. The proposed total assessments for tax year 2022-23 are $315,643 in SLMD No. 1, and $95,480 in SLMD No. 2. A portion of the facilities within SLMD No. 1 provide general benefit to the public at large and cannot be funded with the assessment. The general benefit amount of $8,462 will be funded by the General Fund and is included in the City's Adopted Fiscal Year 2022-23 Operating Budget. The assessed tax rates for Fiscal Year 2021-22, and the maximum and proposed tax rates for Fiscal Year 2022-23, are shown in Exhibit A.

On June 21, 2022, the City Council adopted Resolutions which ordered the preparation of Engineer's Reports for the annual levy of assessments within each district, preliminarily approved the Engineer's Reports, declared City Council's intention to levy and collect assessments within the districts for the referenced fiscal year, and set July 19, 2022 as the date for the public hearing for each district. Notices of the public hearings have been published, and proof of publication is on file in the Records Management Department.

The Engineer's Reports, which have been prepared for each district pursuant to the 1972 Act, are on file in the Records Management Department. Each district's report is on file in the Records Management Department. Each report includes plans and specifications for the improvements being operated and maintained, an estimate of costs, a diagram of the area proposed to be assessed, and an assessment of the costs to the various parcels within the districts.

EXHIBIT A

Street Lighting Maintenance Districts Proposed Levy Rates FY 22-23

		Prior Year 2021-22	Maximum 2022-23	Proposed 2022-23
SLMD No. 1, Zone 2000-1	per AU	$ 104.00	$ 173.00	$ 108.00
SLMD No. 1, Zone 2000-2	per AU	$ 60.00	$ 141.00	$ 63.00
SLMD No. 2, MA# 99-1		$ 4,235.00	$ 12,294.00	$ 4,358.00
SLMD No. 2, MA# 99-2		$ 2,264.00	$ 6,113.00	$ 2,333.00
SLMD No. 2, MA# 99-3		$ 4,529.00	$ 10,187.00	$ 4,666.00
SLMD No. 2, MA# 99-4		$ 1,509.00	$ 4,080.00	$ 1,554.00
SLMD No. 2, MA# 99-5		$ 1,246.00	$ 3,825.00	$ 1,282.00
SLMD No. 2, MA# 99-6		$ 12,198.00	$ 35,701.00	$ 12,565.00
SLMD No. 2, MA# 99-7		$ 410.00	$ 1,104.00	$ 422.00
SLMD No. 2, MA# 99-8		$ 3,019.00	$ 8,150.00	$ 3,111.00
SLMD No. 2, MA# 00-1		$ 2,756.00	$ 3,750.00	$ 2,839.00
SLMD No. 2, MA# 00-2		$ 1,509.00	$ 2,502.00	$ 1,555.00
SLMD No. 2, MA# 00-3		$ 8,304.00	$ 13,752.00	$ 8,552.00
SLMD No. 2, MA# 00-4		$ 50,765.00	$ 78,748.00	$ 52,240.00

CITY OF ONTARIO

Street Lighting Maintenance District No.1
VICINITY MAP



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May 19, 2022

0 4,000 8,000 Feet

N W E S

Legend
- ZONE 2000-1
- Zone 2000-2

Note:
Reference is hereby made to the Maps of The Assessor of the County of San Bernardino, California, for a detailed description of the lines and dimensions of the parcels shown hereon.

CITY OF ONTARIO

Street Lighting Maintenance District No.2
VICINITY MAP



U:\users\marica\AdminSvcs\AChang\SLMD_2_vicinity.mxd

May 19, 2022

0 4,000 8,000 Feet

N W E S

Legend
Street Light Maintenance District 2

Note:
Reference is hereby made to the Maps of The Assessor of the County of San Bernardino, California, for a detailed description of the lines and dimensions of the parcels shown hereon.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2022-23.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the levy of the annual assessment in a street lighting maintenance district created pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Lighting Act"), Article XIIID of the Constitution of the State of California ("Article XIIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the Lighting Act, Article XIIID and the Implementation Act may be referred to collectively herein as the "Assessment Law"), in a special maintenance district known and designated as

CITY OF ONTARIO
STREET LIGHTING MAINTENANCE DISTRICT NO. 1

(hereinafter referred to as the "District"); and

WHEREAS, the City Council has ordered the preparation of an Engineer's Report, and such report (the "Assessment Engineer's Report") has been prepared pursuant to the Assessment Law and filed with this City Council for its consideration, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above-referenced District, and further did proceed to give notice of the time and place for the Public Hearing on all matters relating to said annual levy of the proposed assessment; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That based upon the Assessment Engineer's Report and the testimony and other evidence presented at the public hearing, the City Council hereby makes the following determinations regarding the assessments proposed to be imposed for the referenced fiscal year:

A. The proportionate special benefit derived by each individual parcel assessed has been determined in relationship to the entirety of the cost of the operations and maintenance expenses.

B. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.

C. Only the special benefits have been assessed.

D. All parcels within the District that are owned or used either by a local government, the State of California or the United States and which specially benefit from the improvements to be maintained are being assessed.

E. The assessments do not exceed the maximum annual assessments previously authorized to be levied pursuant to the Assessment Law.

The estimate of costs, the assessment diagram, the assessments and all other matters, as set forth in the Assessment Engineer's Report pursuant to the Assessment Law as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Assessment Engineer's Report, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessment and diagram shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KREIGER 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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 2 FOR FISCAL YEAR 2022-23.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the levy of the annual assessment in a street lighting maintenance district created pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Lighting Act"), Article XIIID of the Constitution of the State of California ("Article XIIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the Lighting Act, Article XIIID and the Implementation Act may be referred to collectively herein as the "Assessment Law"), in a special maintenance district known and designated as

CITY OF ONTARIO
STREET LIGHTING MAINTENANCE DISTRICT NO. 2

(hereinafter referred to as the "District"); and

WHEREAS, the City Council has ordered the preparation of an Engineer's Report, and such report (the "Assessment Engineer's Report") has been prepared pursuant to the Assessment Law and filed with this City Council for its consideration, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above-referenced District, and further did proceed to give notice of the time and place for the Public Hearing on all matters relating to said annual levy of the proposed assessment; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That based upon the Assessment Engineer's Report and the testimony and other evidence presented at the public hearing, the City Council hereby makes the following determinations regarding the assessments proposed to be imposed for the referenced fiscal year:

A. The proportionate special benefit derived by each individual parcel assessed has been determined in relationship to the entirety of the cost of the operations and maintenance expenses.

B. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.

C. Only the special benefits have been assessed.

D. All parcels within the District that are owned or used either by a local government, the State of California or the United States and which specially benefit from the improvements to be maintained are being assessed.

E. The assessments do not exceed the maximum annual assessments previously authorized to be levied pursuant to the Assessment Law.

The estimate of costs, the assessment diagram, the assessments and all other matters, as set forth in the Assessment Engineer's Report pursuant to the Assessment Law as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Assessment Engineer's Report, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessment and diagram shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

_____
BEST BEST & KREIGER 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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **PUBLIC HEARINGS**
Department: Investments & Revenue Resources Prepared By: Nicole Phillips Staff Member Presenting: Armen Harkalyan, Executive Director of Finance Reviewed By: Cecilia House, Armen Harkalyan Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 27

SUBJECT: ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICT NOS. 1, 2, 3 AND 4 FOR FISCAL YEAR 2022-23

RECOMMENDATION: That the City Council conduct a combined public hearing for the districts and take the following actions pertaining to the levy of assessments within Ontario Parkway Maintenance Assessment Districts (OPMAD) Nos. 1, 2, 3 and 4 and:

A. Adopt a Resolution approving the Engineer's Reports relating to the levy of assessments for each district;
B. Adopt a Resolution confirming the diagrams and assessments and providing for the assessment levy within Ontario Parkway Maintenance Assessment Districts Nos. 1, 2, & 3; and
C. Adopt a Resolution confirming the diagram and assessment and providing for the assessment levy within Ontario Parkway Maintenance Assessment District No. 4.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: As proposed, special assessment revenue will be generated in the amount of $286,248 from OPMAD Nos. 1, 2 and 3, and $349,175 from OPMAD No. 4 during Fiscal Year 2022-23. The total cost of $647,251 for operation and maintenance within OPMAD Nos. 1, 2 and 3 will exceed the assessment revenues by $361,004. The difference of $361,004 will have $349,397 paid from the General Fund and $11,607 will be provided from OPMAD No. 3 reserve. The General Fund portion is included in the City's adopted budget for Fiscal Year 2022-23. The special assessment for OPMAD No. 4 is sufficient to pay all expenses within this service area.

BACKGROUND & ANALYSIS: The first of these districts was formed in 1976 pursuant to the Landscaping and Lighting Act of 1972 (the "1972 Act"). Additional territories are annexed to the districts from time to time as development proceeds. The districts were formed to help minimize the continually increasing cost of maintaining and operating the landscaping along public streets where the property owners do not have direct access to the landscaping. A special assessment is

levied annually on benefiting properties for the cost of operation and maintenance of certain parkway landscaping facilities within the districts. The City's Public Works Agency establishes the annual operation and maintenance costs and administers the maintenance of the landscaping. Annually, an Engineer's Report for each district must be prepared by the City's consultant, Harris & Associates, which apportions these costs to each parcel within the districts. The locations of the districts are shown on the maps attached to this report.

OPMAD Nos. 1, 2, and 3 are comprised of single-family residential developments. Due to varying characteristics, the districts are organized into benefit zones and/or maintenance areas. Each zone/maintenance area is assessed for only the operation and maintenance of the facilities from which it receives special direct benefit. The total assessment for each maintenance area is then apportioned to its constituent parcels.

Special assessment revenue will be generated in the combined amount of $286,248 from OPMAD Nos. 1, 2 and 3. The assessed tax rates for Fiscal Year 2021-2022 and the maximum and proposed tax rates for Fiscal Year 2022-23 are shown in the attached Exhibit A.

OPMAD No. 4 is comprised of single-family residential tracts and the Ontario Mills development area. The district is organized into 6 Maintenance Areas (MAs). Each maintenance area is assessed for only the operation and maintenance of the facilities from which it receives direct special benefit. The total assessment for each maintenance area is then apportioned to its constituent parcels.

The assessments for OPMAD No. 4 will generate a total of $349,175. OPMAD No. 4 will generate sufficient revenue to pay all expenses within the service area. The assessed tax rates for Fiscal Year 2021-22, and the maximum and proposed tax rates for Fiscal Year 2022-23, are shown in the attached Exhibit A.

On June 21, 2022, the City Council adopted Resolutions which ordered the preparation of Engineer's Reports for the annual levy of assessments within each district, preliminarily approved the Engineer's Reports, declared Council's intention to levy and collect assessments within the districts for the referenced fiscal year, and set July 19, 2022, as the date for the public hearing for each district. Notices of the public hearings have been published, and proof of publication is on file in the Records Management Department.

The Engineer's Reports, which have been prepared for each district pursuant to the 1972 Act, are on file in the Records Management Department. Each report includes plans and specifications for the improvements and maintenance, an estimate of costs, a diagram of the area proposed to be assessed, and an assessment of the costs to the various parcels within each District.

Exhibit A

Ontario Parkway Maintenance Assessment Districts 1, 2 & 3

Proposed Levy Rates FY 2022-23

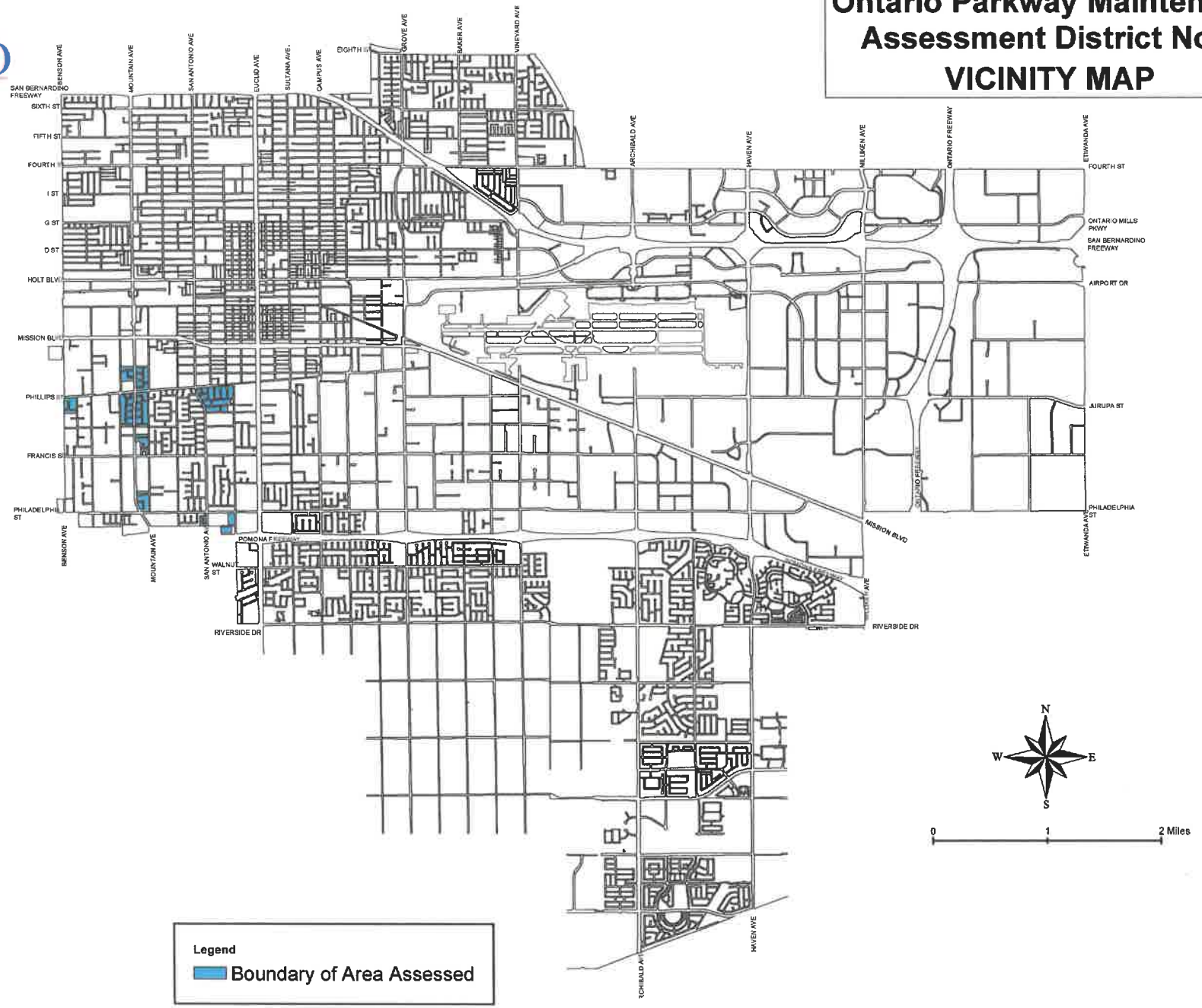
	Prior Year 2021-22	Maximum 2022-23	Proposed 2022-23
OPMAD No. 1	$ 66.32 per Lot	$ 66.32 per Lot	$ 66.32 per Lot
OPMAD No. 2	$ 34.04 per Lot	$ 34.04 per Lot	$ 34.04 per Lot
OPMAD No. 3, Zone 2000-1	$ 41.29 per Lot	$ 41.29 per Lot	$ 41.29 per Lot
OPMAD No. 3, Zone 2000-2	$ 186.38 per Lot	$ 266.68 per Lot	$ 191.97 per Lot

Ontario Parkway Maintenance Assessment District 4

Proposed Levy Rates FY 2022-23

	Prior Year 2021-22	Maximum 2022-23	Proposed 2022-23
MA#99-1	$ 55.65 per Lot	$ 64.89 per Lot	$ 57.32 per Lot
MA#99-2	$ 362.55 per Lot	$ 409.31 per Lot	$ 373.43 per Lot
MA#99-3	$ 1,126.58 per Acre	$1,469.75 per Acre	$1,160.38 per Acre
MA#00-1	$ 264.84 per Lot	$ 403.11 per Lot	$ 272.78 per Lot
MA#04-1	$ 1,065.26 per Lot	$ 2,567.75 per Lot	$ 1,097.25 per Lot
MA#05-1	$ 1,463.53 per Lot	$ 3,182.86 per Lot	$ 1,507.40 per Lot

Ontario Parkway Maintenance Assessment District No. 1
VICINITY MAP



Legend

Boundary of Area Assessed

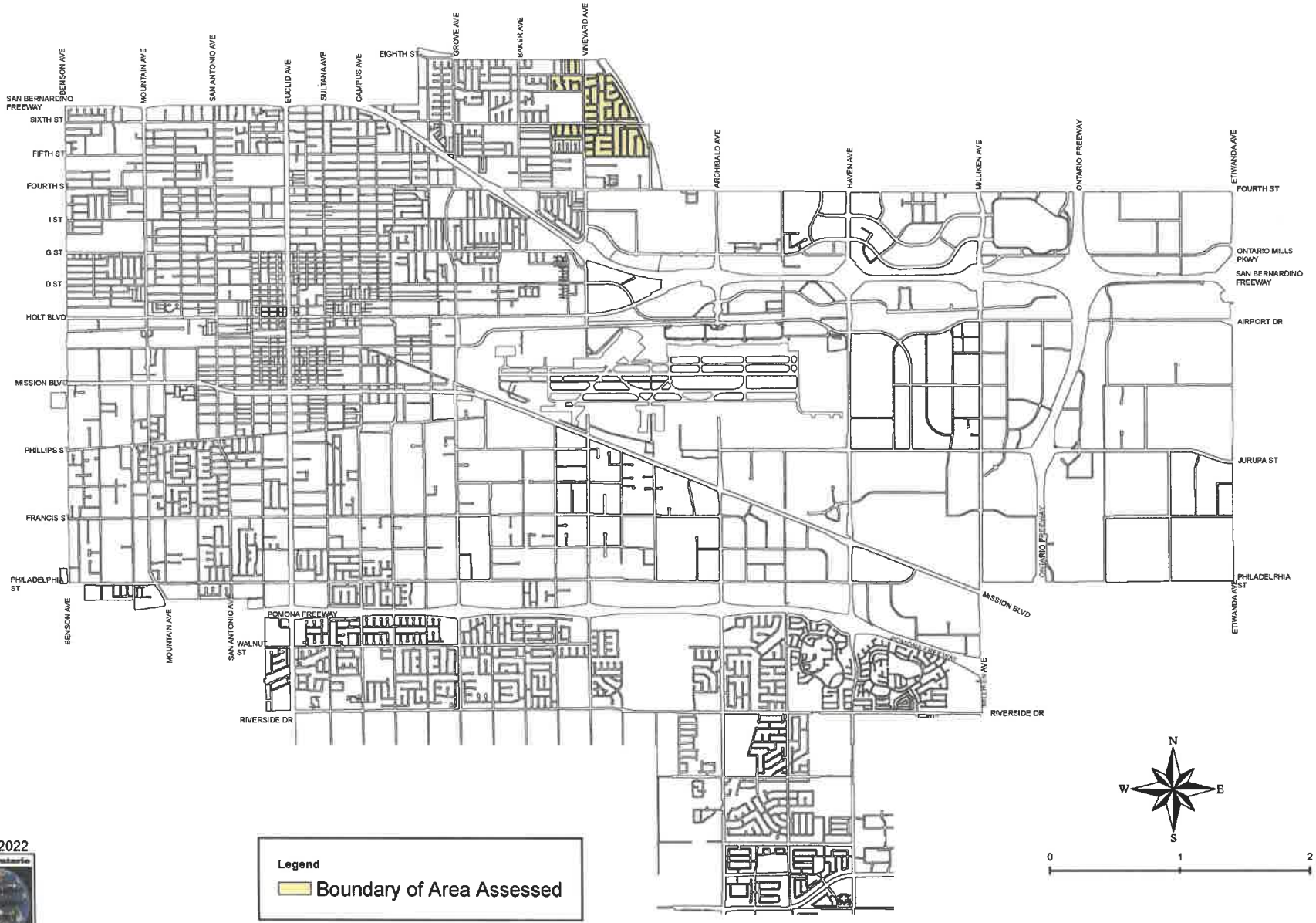
5/23/2022

City of Ontario

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CITY OF ONTARIO

Ontario Parkway Maintenance Assessment District No. 2
VICINITY MAP

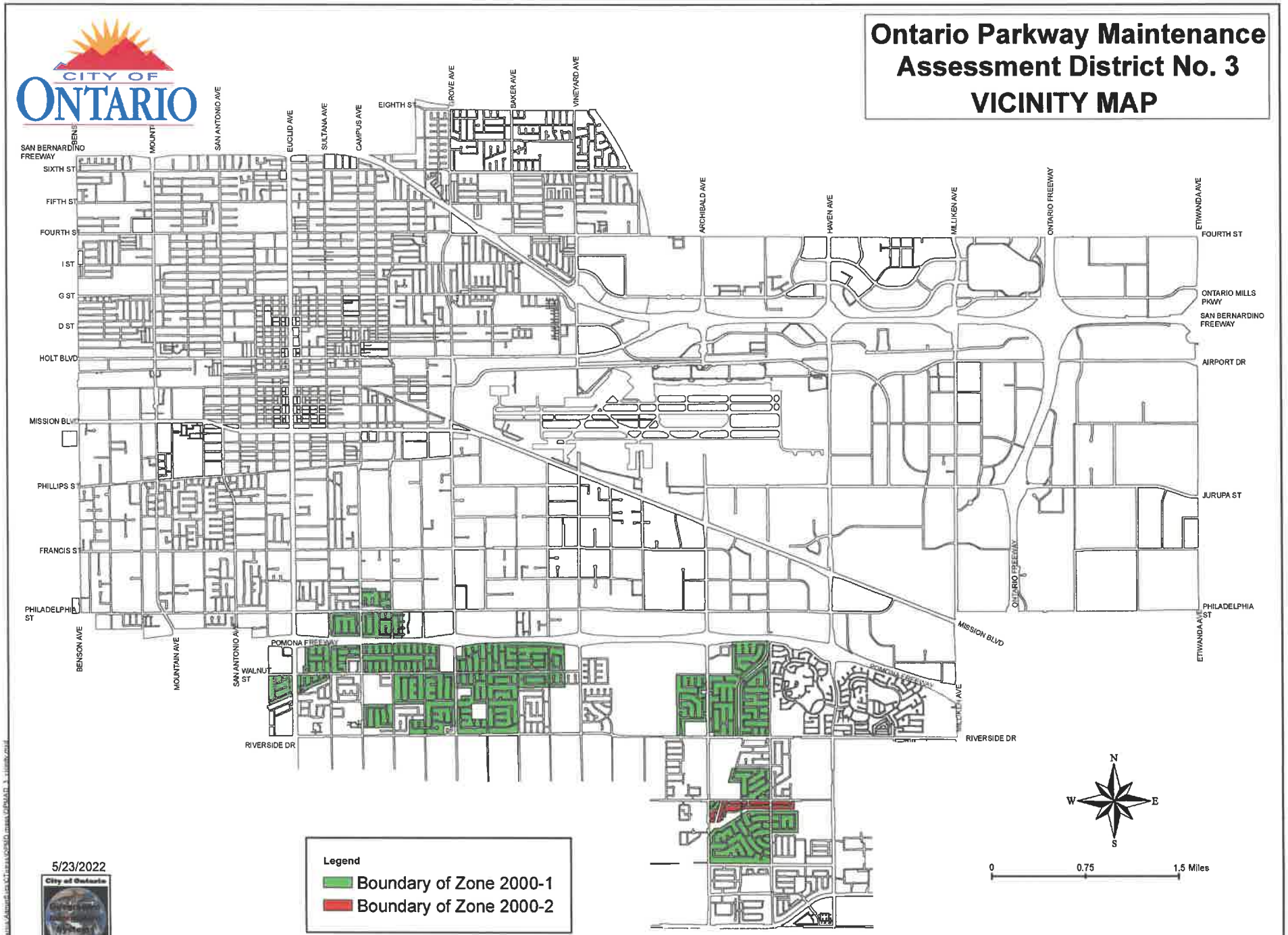


5/23/2022

Legend

Boundary of Area Assessed

Ontario Parkway Maintenance Assessment District No. 3
VICINITY MAP



CITY OF ONTARIO

Ontario Parkway Maintenance Assessment District No. 4
VICINITY MAP



Legend

Boundary of Area Assessed

5/23/2022

City of Ontario

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2, 3 AND 4 FOR FISCAL YEAR 2022-23.

WHEREAS, the City Council of the City of Ontario, California, pursuant to the provisions of the "Landscaping and Lighting Act of 1972," being Division 15, Part 2, of the Streets and Highways Code of the State of California, did, by previous Resolution, order the preparation of Engineer's Reports for the annual levy of assessments, consisting of plans and specifications, cost estimates, diagrams of the districts, and the assessment relating to what are now known and designated as

CITY OF ONTARIO
PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2, 3 and 4

(hereinafter referred to as the Districts); and

WHEREAS, there have now been presented to this City Council the Reports as required by said Division 15 of the Streets and Highways Code and as previously directed by Resolution; and

WHEREAS, this City Council has approved on a preliminary basis the Reports by a previous Resolution, and ordered the Reports to be filed in the Records Management Department to be open to public inspection; and

WHEREAS, this City Council has now examined and reviewed the Reports as presented, and is satisfied with each and all of the items and documents as set forth therein, and is satisfied that the assessments have been spread in accordance with the benefits received from the maintenance to be performed as set forth in said Reports.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That the Reports as presented, consisting of the following:

A. Plans and Specifications,
B. Estimates of cost,
C. Diagrams of the Districts, and
D. Assessment of the estimated cost

Are hereby approved and are ordered to be filed in the Records Management Department, as a permanent record and to remain open to public inspection.

SECTION 3. That the City Clerk shall certify the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Engineer's Reports.

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KREIGER 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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAMS AND ASSESSMENTS, AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3 FOR FISCAL YEAR 2022-23.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the annual levy of assessments in special maintenance districts pursuant to the terms and provisions of the "Landscaping and Lighting Act of 1972," being Division 15, Part 2, of the Streets and Highways Code of the State of California in what is known and designated as

CITY OF ONTARIO
PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3

(hereinafter referred to as the Districts); and

WHEREAS, the City Council has ordered the preparation of the Engineer's Reports, and the Engineer's Reports have been prepared and filed with this City Council pursuant to law for its consideration, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above referenced Districts, and further did proceed to give notice of the time and place for a Public Hearing on all matters relating to said annual levy of the proposed assessments; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That the estimates of costs, the assessment diagrams, the assessments and all other matters, as set forth in the Engineer's Reports pursuant to said "Landscaping and Lighting Act of 1972," as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Engineer's Reports, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the referenced fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessments and diagrams shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KREIGER 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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICT NO. 4 FOR FISCAL YEAR 2022-23.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the levy of the annual assessment in a special maintenance district created pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Landscaping Act"), Article XIIID of the Constitution of the State of California ("Article XIIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the Landscaping Act, Article XIIID and the Implementation Act may be referred to collectively herein as the "Assessment Law"), in a special maintenance district known and designated as

CITY OF ONTARIO
PARKWAY MAINTENANCE ASSESSMENT DISTRICT NO. 4

(hereinafter referred to as the "District"); and

WHEREAS, the City Council has ordered the preparation of an Engineer's Report, and such a report (the "Assessment Engineer's Report") has been prepared and filed with this City Council for its consideration pursuant to Assessment Law, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above-referenced District, and further did proceed to give notice of the time and place for the Public Hearing on all matters relating to said annual levy of the proposed assessment; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That based upon the Assessment Engineer's Report and the testimony and other evidence presented at the public hearing, the City Council hereby makes the following determinations regarding the assessments proposed to be imposed for the referenced Fiscal Year:

A. The proportionate special benefit derived by each individual parcel assessed has been determined in relationship to the entirety of the cost of the operations and maintenance expenses.

B. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.

C. Only the special benefits have been assessed.

D. There are no publicly owned parcels within the District.

E. The assessments do not exceed the maximum annual assessments previously authorized to be levied pursuant to the Assessment Law.

The estimates of costs, the assessment diagram, the assessments and all other matters, as set forth in the Assessment Engineer's Report pursuant to the Assessment Law as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Assessment Engineer's Report, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessment and diagram shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KREIGER 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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **PUBLIC HEARINGS**
Department: Records Management Prepared By: Claudia Y Isbell Staff Member Presenting: Ruben Duran, City Attorney Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 28

SUBJECT: **A PUBLIC HEARING TO REVIEW INITIAL DRAFT DISTRICTING MAPS FOR THE DISTRICT-BASED ELECTIONS UNDER THE CALIFORNIA VOTING RIGHTS ACT AND INTRODUCE AN ORDINANCE TO ADOPT A MAP**

RECOMMENDATION: That the City Council open a Public Hearing, review, consider, and provide direction regarding the initial draft maps and introduce an Ordinance to adopt a map.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Invest in the Growth and Evolution of the City's Economy

FISCAL IMPACT: There is no direct fiscal impact associated with this Public Hearing.

BACKGROUND & ANALYSIS: On April 19, 2022, the City Council conducted the first of five public hearings to receive community input regarding communities of interest. The second public hearing took place on May 10, 2022, at which time Staff introduced and provided a demonstration of the mapping tool that was subsequently released to the public. At that public hearing, the City Council also received input regarding communities of interest. Ten initial draft maps were made available on the City's district website on June 13, 2022, for public review. Six additional draft maps were posted on the City's district website on June 30, 2022.

On June 21, 2022, the City conducted the third Public Hearing where the City demographer presented and the City Council received input from the community. On July 5, 2022, the City conducted its fourth public hearing in the districting process. The City Attorney's Office evaluated publicly submitted comments and maps for compliance with the California Voting Rights Act and Federal Voting Rights Act, and initial draft maps were presented to Council for consideration at the fourth public hearing.

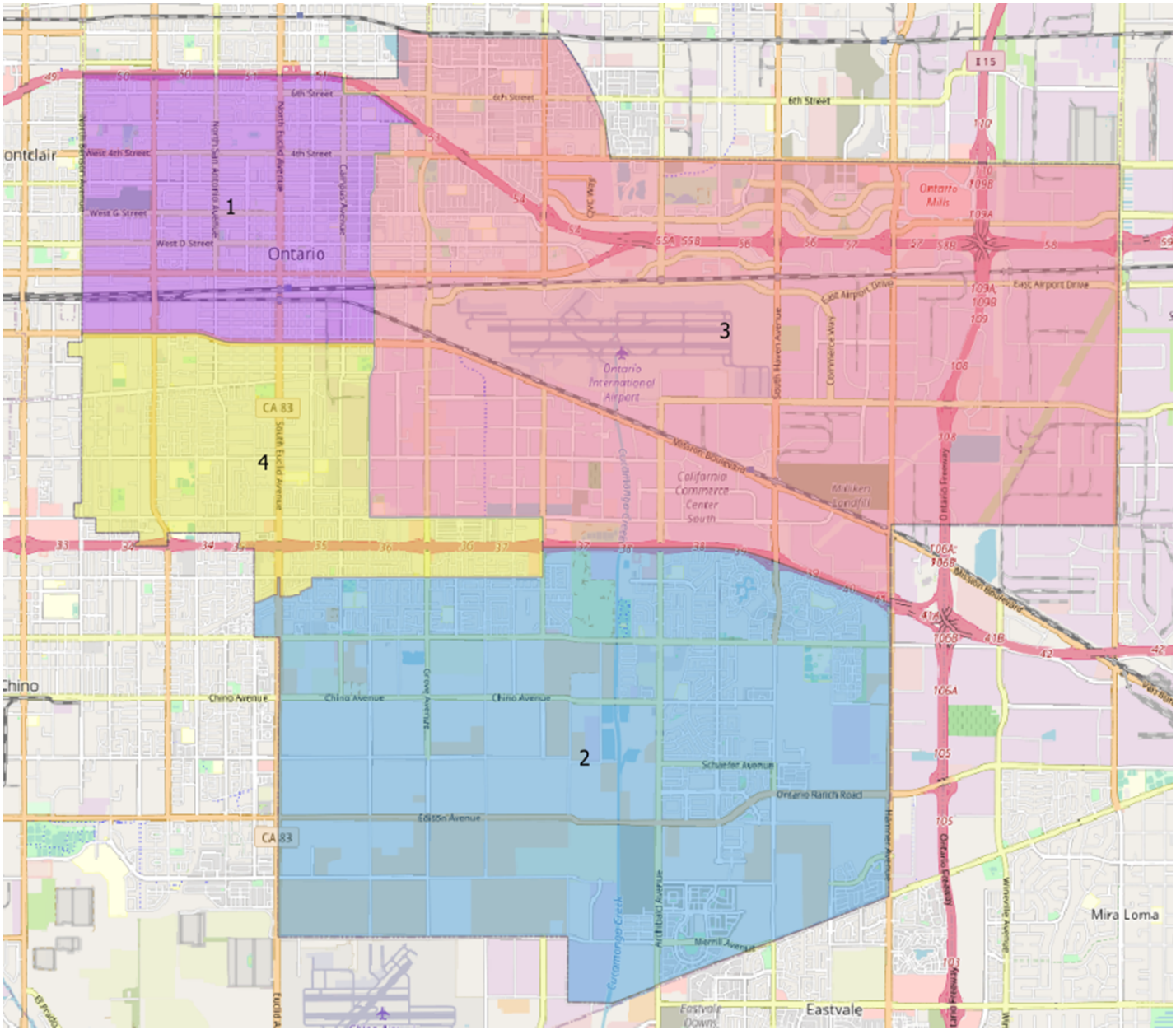
On July 19, 2022, the City is conducting the fifth public hearing. At the fifth public hearing, the City Council may select a draft map for approval, or, provide direction to the City's demographers for further consideration of draft maps.

The City continues to encourage public comments on the transition to districts process and the proposed district maps. In an effort to engage Ontario residents in the districting process, five community workshops were held in various areas of the City to provide background and specific directions on creating maps. These workshops were held in English and Spanish. There were four additional community workshops to specifically go over the mapping tool. The four additional community workshops were also held in English and Spanish. In addition, Staff distributed paper map kits at the Ontario Senior Center and during Concerts in the Park.

Information on the districting process, the community workshop presentations, and the paper map kits can be found on the City's district website at ontarioca.gov/districts. Information on the website is available in both English and Spanish.

In conclusion, Staff recommends that the City Council conduct the fifth public hearing, consider the draft maps submitted, and introduce an Ordinance to select a map.

City of Ontario – Transition to District Elections
Draft Map 1



Draft Proposed Election Sequence:

2024 – Districts 1 & 4

2026 – Districts 2 & 3

Total Deviation

.52%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3MZMiJP

Draft Map 1 – Demographic Data

District	Total_Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	44,032	73	0.17%	33,306	6,571	1,557	94	1,393	98	279	734
2	43,863	-96	-0.22%	23,328	7,560	3,312	89	8,064	116	252	1,142
3	44,086	127	0.29%	31,213	4,523	3,589	135	3,337	131	219	939
4	43,856	-103	-0.23%	32,408	5,436	2,016	92	2,902	71	192	739
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	0.52%								
Ideal = 1/4 of total population											

Voting Age Population			Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
			32,909	23,834	5,823	1,224	89	1,181	71	168	519
			33,689	16,982	6,350	2,673	68	6,597	90	197	732
			32,652	22,136	3,959	2,713	112	2,834	101	146	651
			33,216	23,546	4,772	1,657	70	2,474	53	123	521
		Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population			CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
			26,280	7,198	1,239	16,566	9,710	39	720	7	73
All Four Districts are			27,285	6,720	1,999	14,861	12,395	18	2,874	26	99
Majority/Minority Hispanic			25,162	4,452	2,113	16,082	9,120	125	1,875	74	26
Voting Districts			27,531	5,598	1,621	17,891	9,600	62	1,935	84	90
		Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

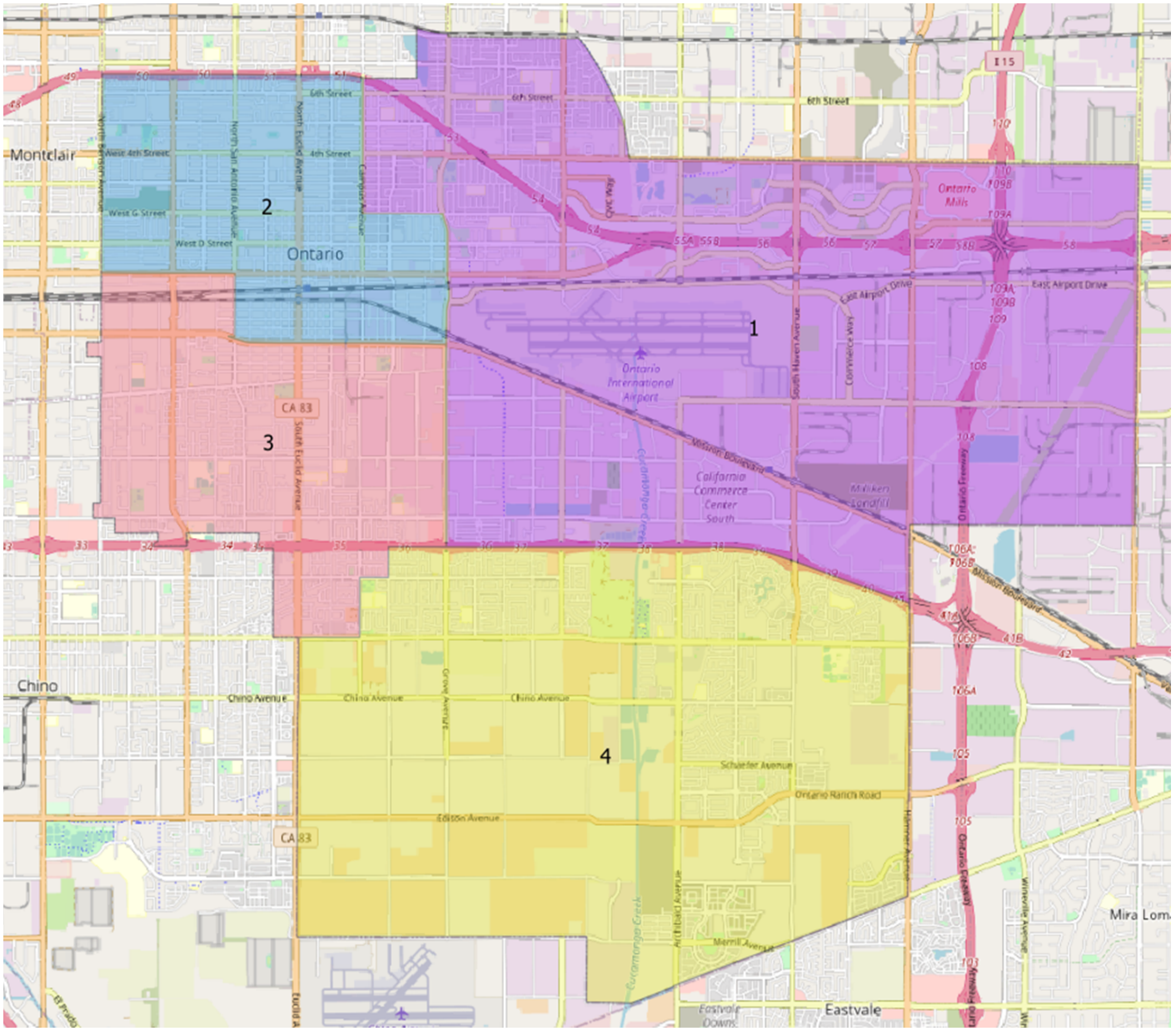
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 2 - Submitted by Plaintiff Chris Robles



Draft Proposed Election Sequence:

2024 – Districts 2 & 3

2026 – Districts 1 & 4

Total Deviation

.43%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3MZMiJP

Draft Map 2 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	43,904	-55	-0.13%	30,048	5,251	3,698	137	3,398	146	239	987
2	43,860	-99	-0.23%	33,681	6,174	1,506	96	1,360	81	261	701
3	44,024	65	0.15%	32,250	5,139	1,907	91	3,629	70	193	745
4	44,049	90	0.20%	24,276	7,526	3,363	86	7,309	119	249	1,121
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	0.43%								
Ideal = 1/4 total population											

Voting Age Population	Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
	33,227	21,746	4,661	2,827	118	2,893	123	169	690
All Four Districts are	32,268	23,713	5,457	1,175	87	1,150	47	147	492
Majority/Minority Hispanic	33,193	23,354	4,479	1,576	69	3,022	56	123	514
Voting Districts	33,778	17,685	6,307	2,689	65	6,021	89	195	727
Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population	CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
	26,501	5,260	2,088	16,582	9,902	132	1,899	80	48
	25,236	6,799	1,271	15,928	9,312	39	726	1	45
	27,367	5,114	1,627	17,906	9,475	63	2,123	84	95
	27,154	6,795	1,986	14,984	12,136	10	2,656	26	100
Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

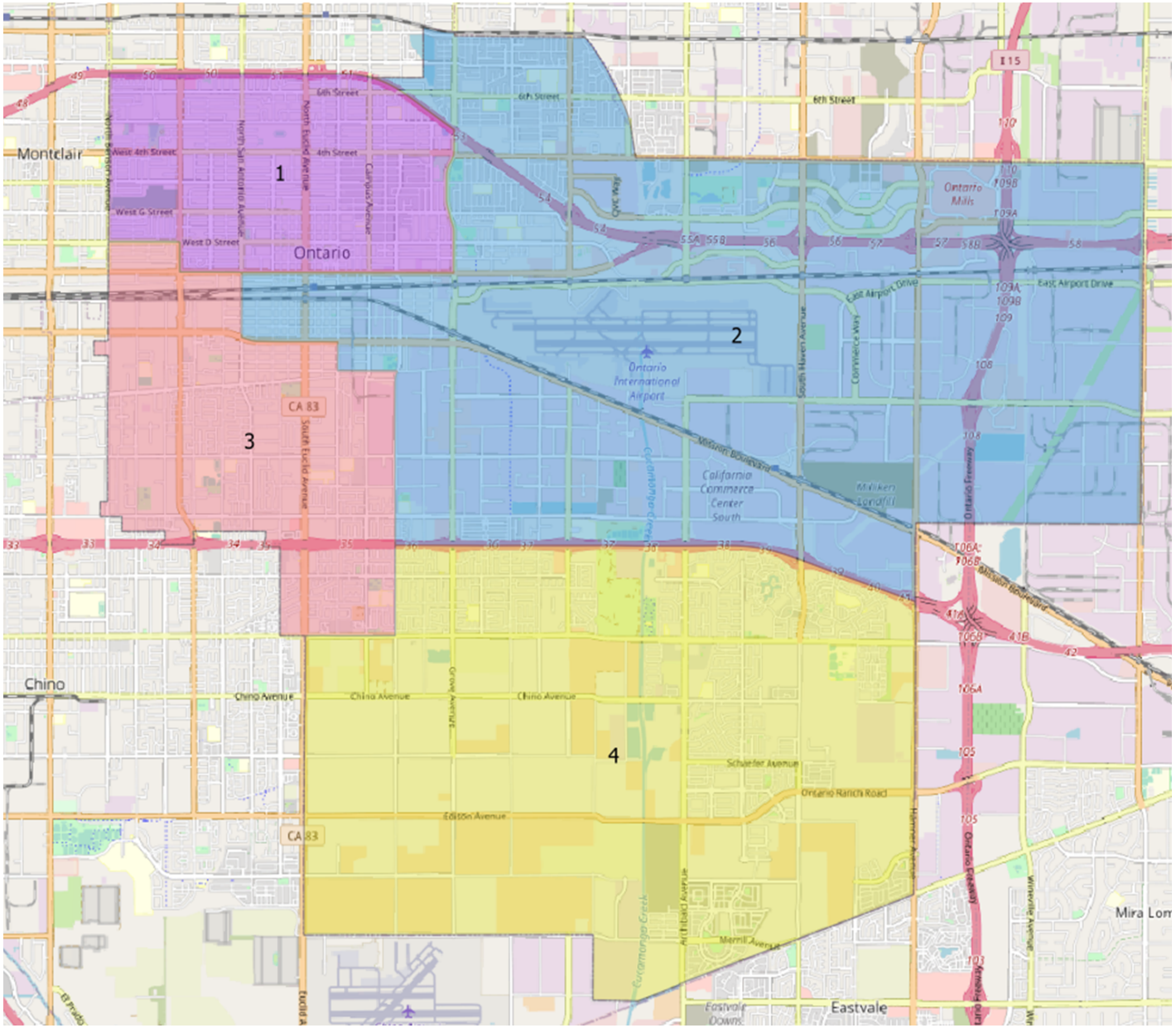
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 3 - Submitted by Plaintiff Chris Robles



Draft Proposed Election Sequence:

2024 – Districts 1 & 3

2026 – Districts 2 & 4

Total Deviation

2.72%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3MZMiJP

Draft Map 3 – Demographic Data

District	Total Populaton	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	43,637	-322	-0.73%	32,988	6,617	1,519	109	1,348	90	244	722
2	44,263	304	0.69%	30,487	4,946	3,796	125	3,514	128	257	1,010
3	44,566	607	1.38%	32,878	5,126	1,806	96	3,656	81	192	731
4	43,371	-588	-1.34%	23,902	7,401	3,353	80	7,178	117	249	1,091
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	2.72%								
Ideal = 1/4 of total population											

Voting Age Population	Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
	32,531	23,503	5,846	1,211	100	1,140	62	149	520
All Four Districts are	33,347	21,978	4,397	2,898	106	2,988	107	172	701
Majority/Minority Hispanic	33,364	23,618	4,461	1,479	74	3,056	58	118	500
Voting Districts	33,224	17,399	6,200	2,679	59	5,902	88	195	702
Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population	CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
	26,533	7,367	1,139	16,743	9,795	50	726	7	65
	25,884	4,754	2,141	16,321	9,581	129	2,056	74	28
	27,214	5,171	1,721	17,659	9,536	64	2,027	84	95
	26,627	6,676	1,971	14,677	11,913	1	2,595	26	100
Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

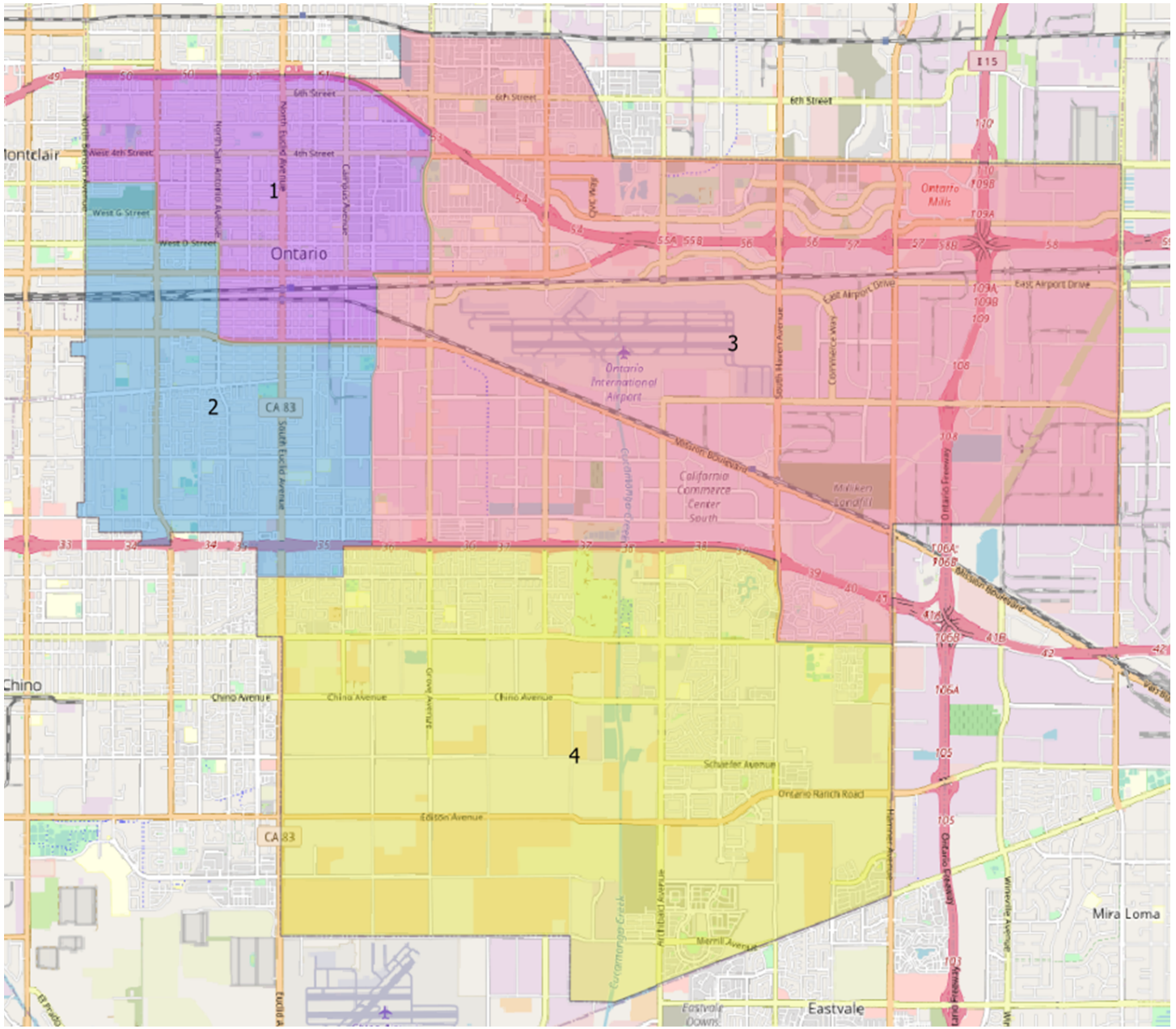
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections Draft
Map 4 - Submitted by Plaintiff Chris Robles



Draft Proposed Election Sequence:

2024 – Districts 1 & 2

2026 – Districts 3 & 4

Total Deviation

3.48%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3MZMiJP

Draft Map 4 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	43,175	-784	-1.78%	33,017	6,389	1,413	93	1,256	89	243	675
2	44,703	744	1.69%	34,400	4,810	1,765	104	2,653	80	219	672
3	43,366	-593	-1.35%	28,397	5,550	4,054	132	3,777	129	236	1,091
4	44,593	634	1.44%	24,441	7,341	3,242	81	8,010	118	244	1,116
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	3.48%								
Ideal = 1/4 of total population											

Voting Age Population			Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
			32,162	23,560	5,651	1,124	87	1,055	63	150	472
			33,237	24,627	4,197	1,434	79	2,252	55	119	474
			32,872	20,498	4,902	3,111	113	3,209	109	174	756
			34,195	17,813	6,154	2,598	60	6,570	88	191	721
		Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population			CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
			25,903	7,082	1,099	16,521	9,386	50	641	6	70
All Four Districts are			26,448	4,853	1,587	17,855	8,613	52	1,682	85	94
Majority/Minority Hispanic			26,244	5,313	2,237	15,819	10,420	124	2,187	74	23
Voting Districts			27,663	6,720	2,049	15,205	12,406	18	2,894	26	101
		Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

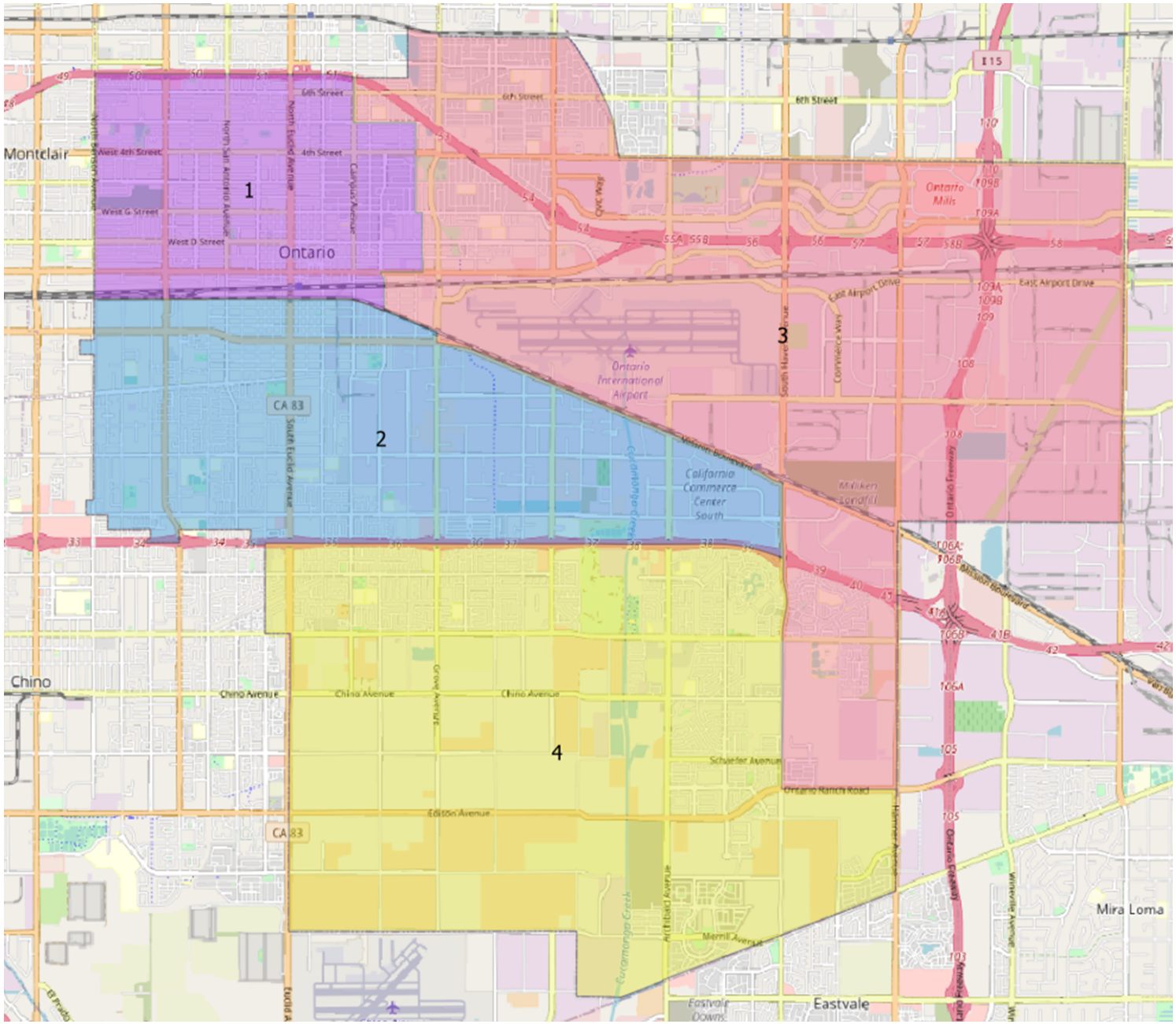
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 5



Draft Proposed Election Sequence:

2024 – Districts 1 & 2

2026 – Districts 3 & 4

Total Deviation

3.46%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3MZMiJP

Draft Map 5 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	43,841	-118	-0.27%	33,078	6,627	1,585	104	1,374	91	251	731
2	43,055	-904	-2.06%	32,901	4,791	1,718	91	2,608	71	218	657
3	44,367	408	0.93%	29,483	5,322	3,965	137	4,026	137	229	1,068
4	44,574	615	1.40%	24,793	7,350	3,206	78	7,688	117	244	1,098
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	3.46%								
Ideal = 1/4 of total population											

Voting Age Population			Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
			32,586	23,475	5,858	1,254	95	1,167	63	149	525
			32,346	23,769	4,233	1,421	69	2,211	57	128	458
			33,335	21,155	4,649	3,029	116	3,391	109	164	722
			34,199	18,099	6,164	2,563	59	6,317	86	193	718
		Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population			CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
			26,282	7,422	1,303	16,289	10,005	50	715	7	65
All Four Districts are			26,145	4,676	1,391	17,864	8,286	66	1,728	84	96
Majority/Minority Hispanic			25,929	5,032	2,254	15,830	10,077	110	2,089	74	33
Voting Districts			27,902	6,838	2,024	15,417	12,457	18	2,872	26	94
		Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

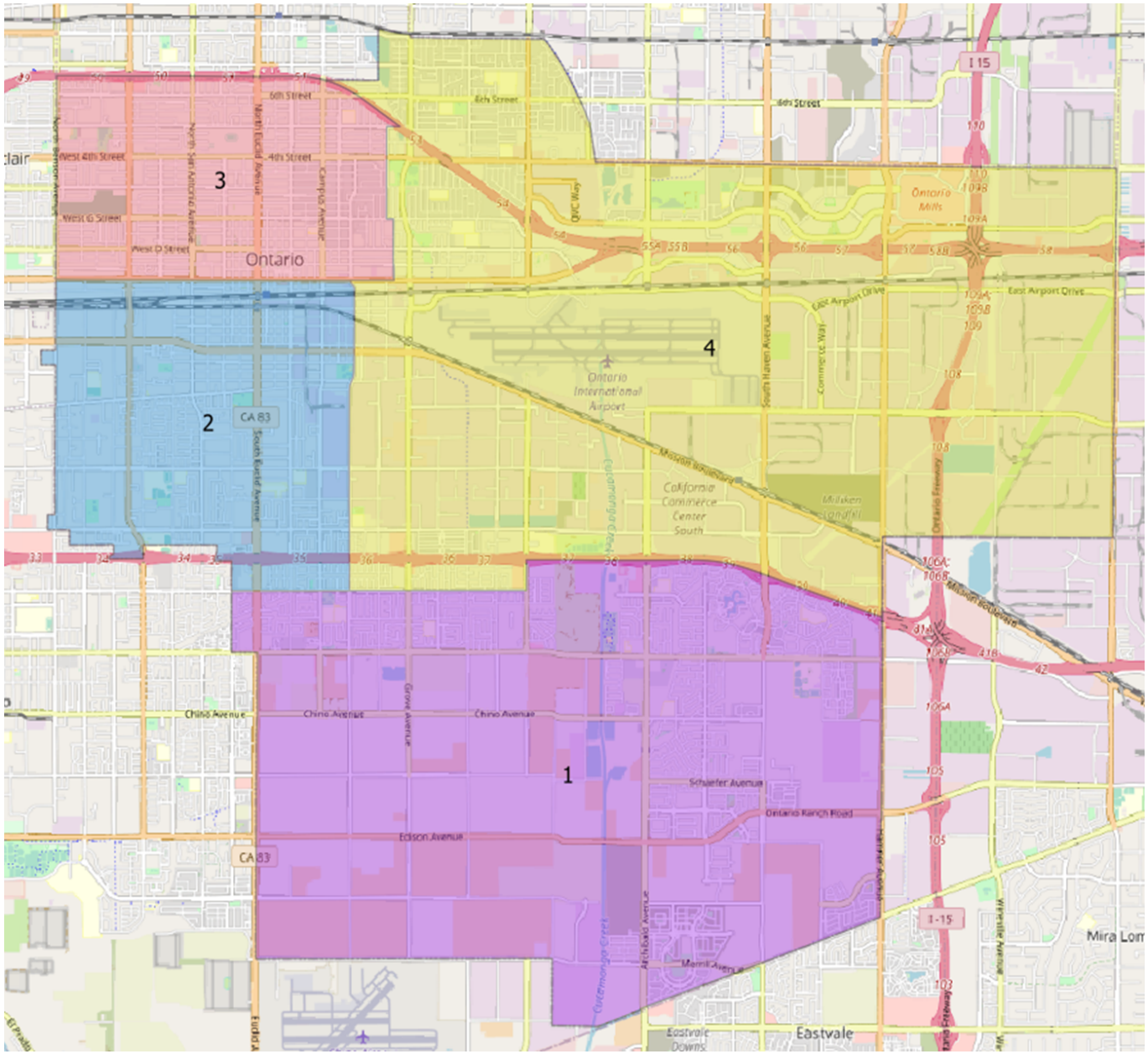
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 6



Draft Proposed Election Sequence:

2024 – Districts 2 & 3

2026 – Districts 1 & 4

Total Deviation

5.23%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3MZMiJP

Draft Map 6 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	44,562	603	1.37%	23,752	7,680	3,337	89	8,161	116	254	1,173
2	42,354	-1,605	-3.65%	32,812	4,502	1,574	86	2,506	62	203	609
3	44,270	311	0.71%	33,422	6,690	1,583	106	1,380	98	254	737
4	44,651	692	1.57%	30,269	5,218	3,980	129	3,649	140	231	1,035
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	5.23%								
Ideal = 1/4 Total Population											

Voting Age Population			Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
			34,226	17,304	6,443	2,690	68	6,685	90	198	748
			31,682	23,686	3,942	1,292	64	2,122	47	114	415
			32,906	23,722	5,907	1,252	97	1,176	69	153	530
			33,652	21,786	4,612	3,033	110	3,103	109	169	730
		Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population			CVAP19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
			27,718	6,837	2,016	15,130	12,561	18	2,912	26	99
All Four Districts are			25,182	4,449	1,401	17,268	7,921	52	1,613	84	99
Majority/Minority Hispanic			26,666	7,517	1,284	16,587	10,089	50	713	7	62
Voting Districts			26,692	5,165	2,271	16,415	10,254	124	2,166	74	28
		Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

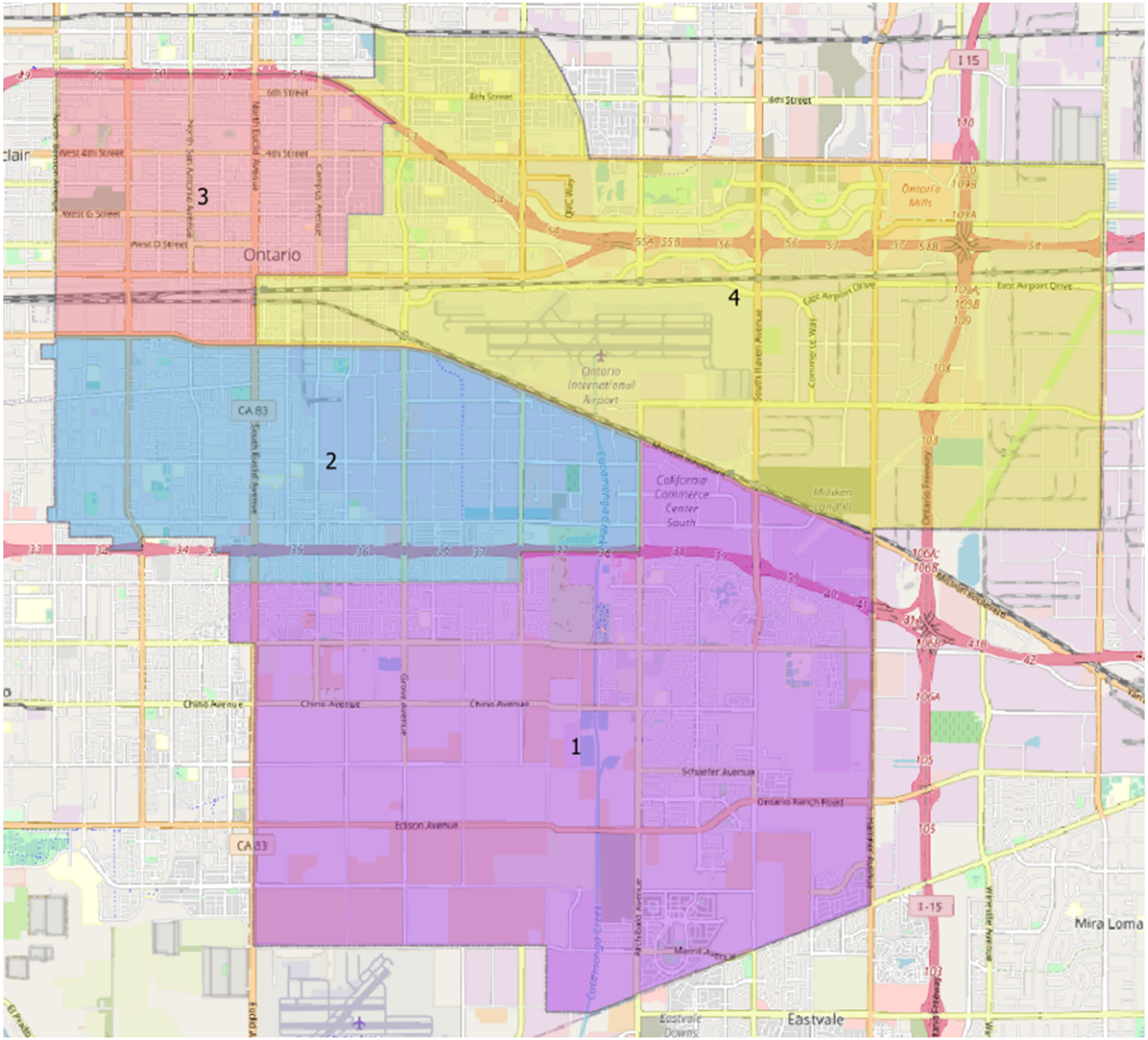
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 7



Draft Proposed Election Sequence:

2024 – Districts 2 & 3

2026 – Districts 1 & 4

Total Deviation

4.81%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3MZMiJP

Draft Map 7 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	44,570	611	1.39%	23,755	7,680	3,337	89	8,164	116	254	1,175
2	43,761	-198	-0.45%	32,520	5,344	2,001	94	2,813	77	197	715
3	44,810	851	1.94%	33,865	6,746	1,604	101	1,392	96	271	735
4	42,696	-1,263	-2.87%	30,115	4,320	3,532	126	3,327	127	220	929
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	4.81%								
Ideal = 1/4 total population											

Voting Age Population	Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
	34,234	17,307	6,443	2,690	68	6,688	90	198	750
All Four Districts are	33,108	23,601	4,698	1,644	72	2,394	59	128	512
Majority/Minority Hispanic	33,529	24,259	5,967	1,264	96	1,182	69	167	525
Voting Districts	31,595	21,331	3,796	2,669	103	2,822	97	141	636
Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population	CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
	27,725	6,837	2,016	15,133	12,566	18	2,914	26	99
	27,519	5,501	1,605	18,028	9,478	66	1,906	84	90
	27,029	7,408	1,258	17,053	9,962	39	721	7	72
	23,985	4,222	2,093	15,186	8,819	121	1,863	74	27
Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

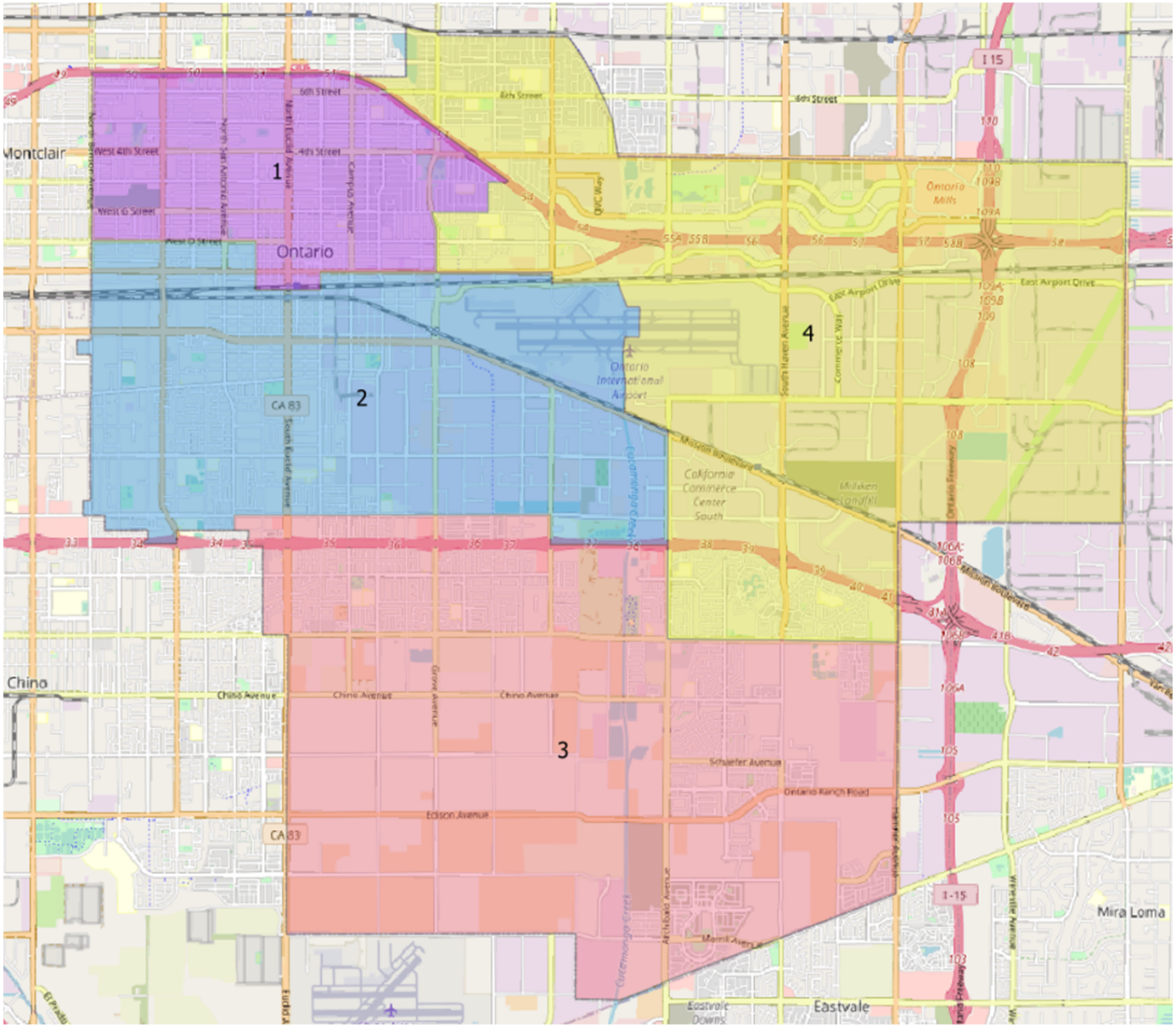
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 8



Draft Proposed Election Sequence:

2024 – Districts 1 & 2

2026 – Districts 3 & 4

Total Deviation

3.59%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3MZMiJP

Draft Map 8 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	43,178	-781	-1.78%	32,742	6,562	1,425	95	1,326	89	231	708
2	43,712	-247	-0.56%	34,252	4,412	1,650	103	2,357	77	233	628
3	44,757	798	1.81%	24,950	7,129	3,135	84	8,022	125	226	1,086
4	44,190	231	0.52%	28,311	5,987	4,264	128	3,991	125	252	1,132
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	3.59%								
Ideal = 1/4 total population											

Voting Age Population			Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
			32,374	23,506	5,827	1,143	85	1,107	63	141	502
			32,179	24,321	3,839	1,333	82	1,995	53	125	431
			34,597	18,352	6,056	2,533	67	6,593	96	178	722
			33,316	20,319	5,182	3,258	105	3,391	103	190	768
		Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population			CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
			26,407	7,263	1,139	16,786	9,621	50	667	6	65
All four districts			25,220	4,342	1,438	17,546	7,739	56	1,485	69	95
are drawn as majority/minority			27,657	6,698	1,867	15,332	12,257	28	3,017	42	105
Hispanic voting districts			26,974	5,665	2,528	15,736	11,208	110	2,235	74	23
		Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

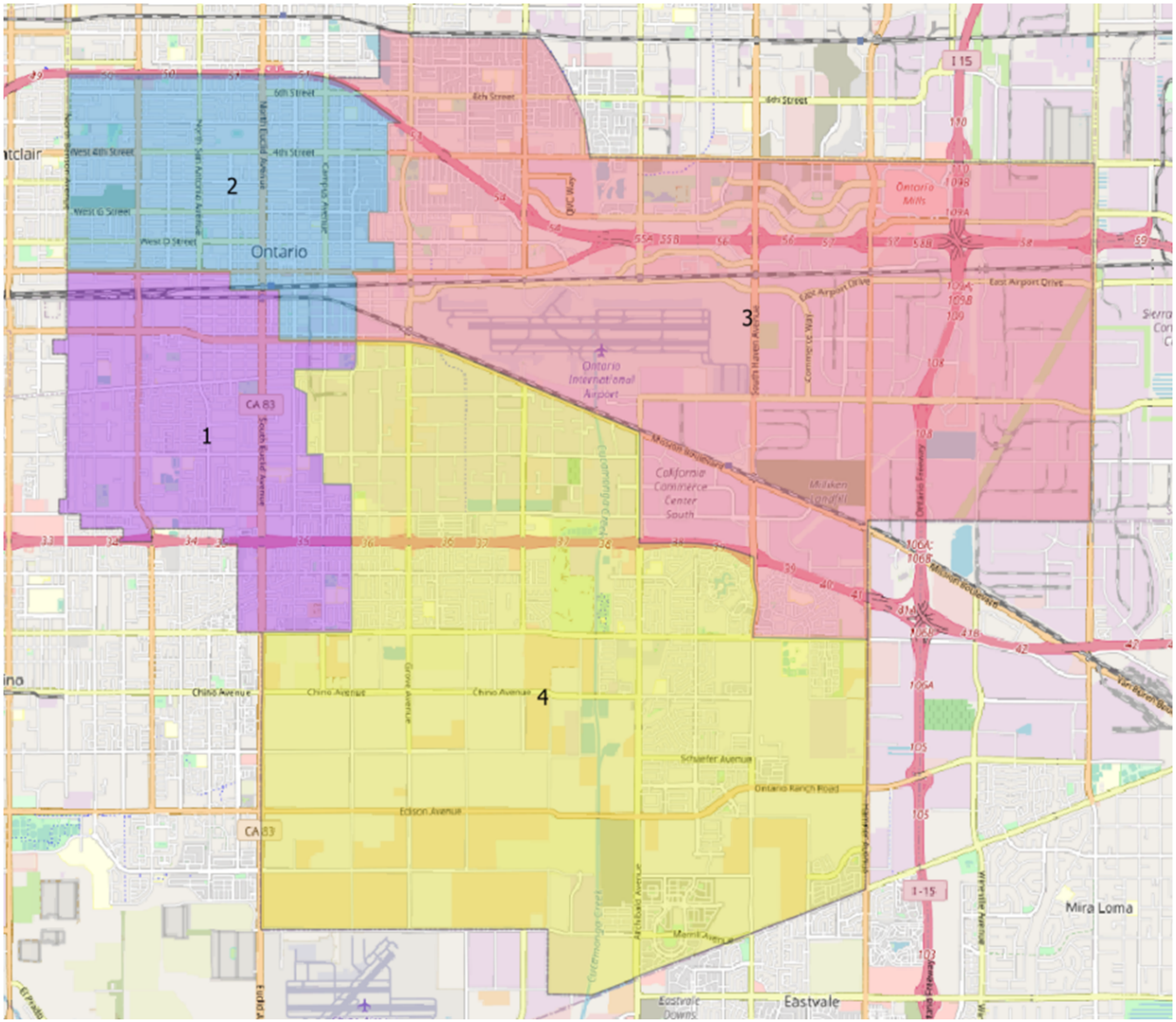
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 9



Draft Proposed Election Sequence:

2024 – Districts 1 & 2

2026 – Districts 3 & 4

Total Deviation

3.80%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3MZMiJP

Draft Map 9 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	43,907	-52	-0.12%	32,455	5,087	1,691	97	3,567	66	213	731
2	44,546	587	1.33%	33,693	6,664	1,591	103	1,395	97	260	743
3	42,877	-1,082	-2.46%	28,896	5,030	3,830	131	3,616	129	222	1,023
4	44,507	548	1.25%	25,211	7,309	3,362	79	7,118	124	247	1,057
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	3.80%								
Ideal = 1/4 total population											

Voting Age Population	Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
	33,039	23,481	4,430	1,391	75	2,989	50	126	497
	33,156	23,978	5,877	1,258	96	1,185	71	155	536
	32,090	20,648	4,408	2,911	110	3,061	99	159	694
	34,181	18,391	6,189	2,707	58	5,851	95	194	696
Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population	CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
	26,508	5,035	1,509	17,369	9,139	69	1,996	84	99
Draws four majority/minority	26,923	7,461	1,280	16,902	10,011	50	706	7	63
Hispanic Voting Districts	24,914	4,791	2,188	15,252	9,667	110	1,998	74	26
	27,913	6,681	1,995	15,877	12,008	15	2,704	26	100
Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

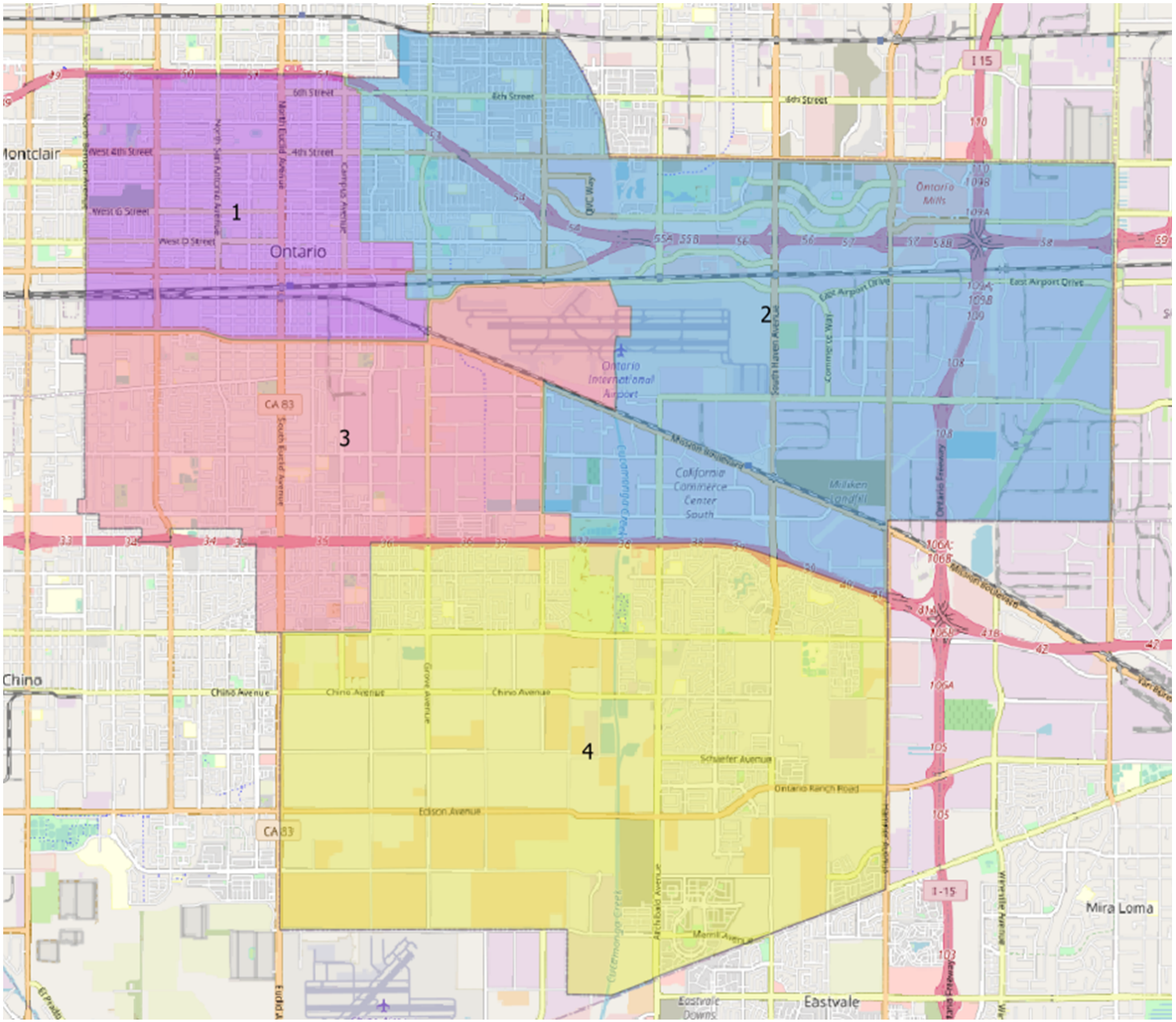
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 10



Draft Proposed Election Sequence:

2024 – Districts 1 & 3

2026 – Districts 2 & 4

Total Deviation

3.59%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3MZMiJP

Draft Map 10 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	43,629	-330	-0.75%	33,297	6,293	1,514	92	1,362	84	273	714
2	43,886	-73	-0.17%	30,687	4,773	3,622	135	3,360	139	218	952
3	44,951	992	2.26%	32,369	5,623	1,985	103	3,796	76	202	797
4	43,371	-588	-1.34%	23,902	7,401	3,353	80	7,178	117	249	1,091
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	3.59%								
Ideal = 1/4 total population											

Voting Age Population			Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
			32,321	23,602	5,568	1,189	87	1,156	59	160	500
			32,812	21,992	4,195	2,744	112	2,851	107	148	663
			34,109	23,505	4,941	1,655	81	3,177	61	131	558
			33,224	17,399	6,200	2,679	59	5,902	88	195	702
		Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population			CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
			25,469	6,848	1,271	16,072	9,399	50	721	3	67
Four Districts are drawn as			25,553	4,782	2,080	16,171	9,387	110	1,865	78	32
Majority/Minority Hispanic			28,609	5,662	1,650	18,480	10,126	83	2,223	84	89
Voting Districts			26,627	6,676	1,971	14,677	11,913	1	2,595	26	100
		Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

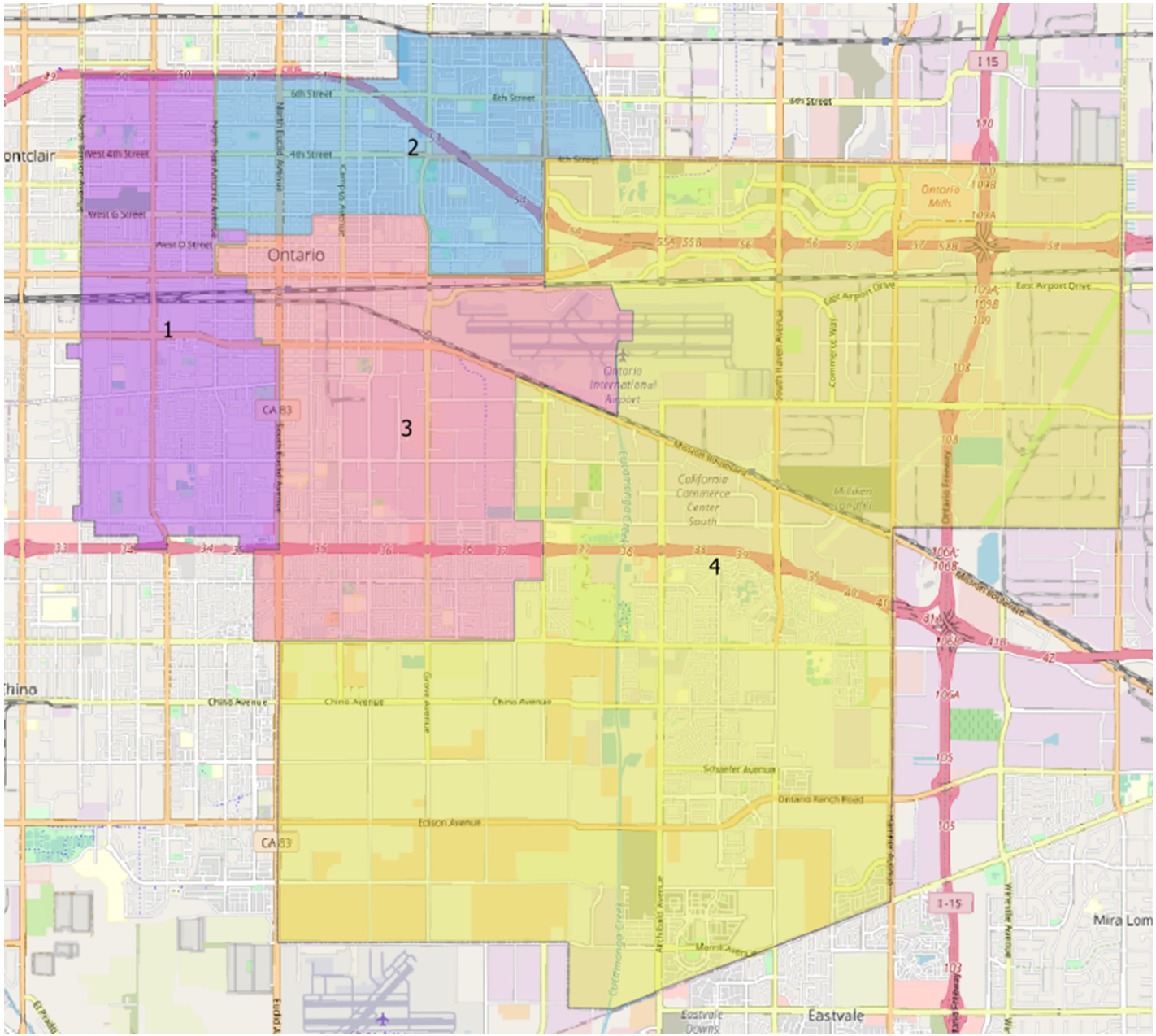
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP - Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 11



Draft Proposed Election Sequence:

2024 – Districts 1 & 2

2026 – Districts 3 & 4

Total Deviation

4.41%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3y2K9XD

Draft Map 11 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN*Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	44,050	91	0.21%	32,430	5,918	1,852	106	2,643	80	230	791
2	44,735	776	1.76%	32,591	6,162	2,299	127	2,428	113	213	802
3	44,254	295	0.67%	33,584	4,836	1,901	80	2,936	83	224	610
4	42,798	-1,161	-2.64%	21,650	7,174	4,422	97	7,689	140	275	1,351
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	4.41%								

Voting Age Population			Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
			32,927	23,195	5,216	1,466	86	2,225	54	134	551
			33,822	23,640	5,440	1,750	114	2,074	98	140	566
			32,952	24,045	4,202	1,551	66	2,433	57	151	447
			32,765	15,618	6,046	3,500	73	6,354	106	209	859
		Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population			CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
			26,774	5,931	1,686	16,772	10,010	38	1,671	69	116
Draws Four Majority/Minority			27,301	6,401	1,358	17,645	9,655	120	1,304	14	41
Hispanic Voting Districts			26,976	5,103	1,560	18,438	8,548	69	1,562	16	14
			25,207	6,533	2,368	12,545	12,612	17	2,867	92	117
		Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

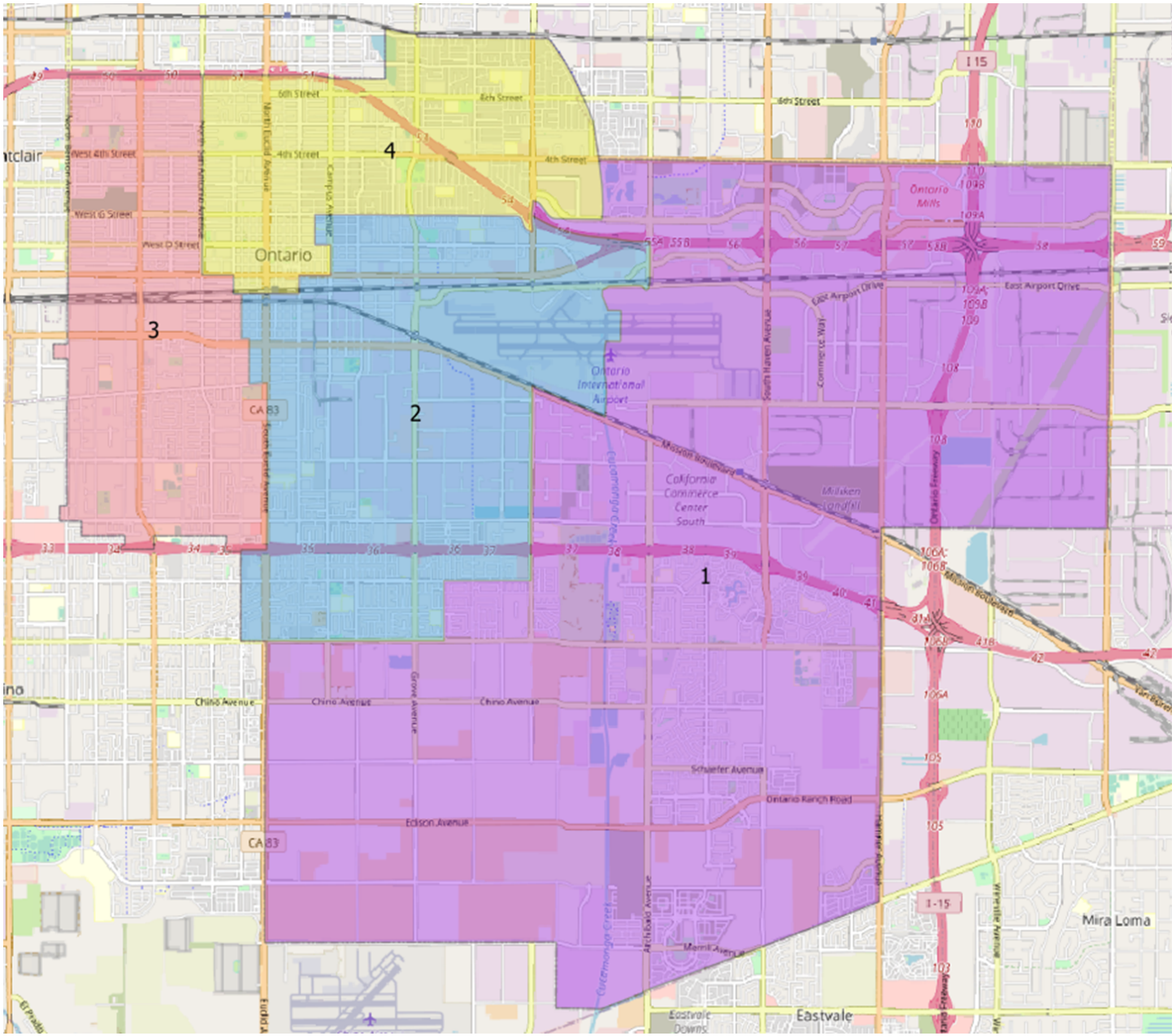
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 12



Draft Proposed Election Sequence:

2024 – Districts 3 & 4

2026 – Districts 1 & 2

Total Deviation

4.04%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3y2K9XD

Draft Map 12 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	44,892	933	2.12%	23,032	7,607	4,524	92	7,837	144	276	1,380
2	43,670	-289	-0.66%	33,034	4,378	2,022	88	3,226	73	217	632
3	43,118	-841	-1.91%	31,593	5,867	1,846	105	2,625	80	214	788
4	44,157	198	0.45%	32,596	6,238	2,082	125	2,008	119	235	754
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	4.04%								

Voting Age Population			Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
			34,443	16,678	6,428	3,583	69	6,485	110	208	882
			32,212	23,443	3,784	1,615	73	2,661	49	141	446
			32,300	22,634	5,169	1,465	85	2,212	54	131	550
			33,511	23,743	5,523	1,604	112	1,728	102	154	545
		Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population			CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
			27,324	6,953	2,625	13,885	13,407	13	2,987	92	117
Draws four majority/minority			25,641	4,504	1,510	17,428	8,207	56	1,840	16	14
Hispanic voting districts			26,458	5,903	1,685	16,509	9,963	38	1,662	69	116
			26,835	6,608	1,152	17,578	9,248	137	915	14	41
		Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

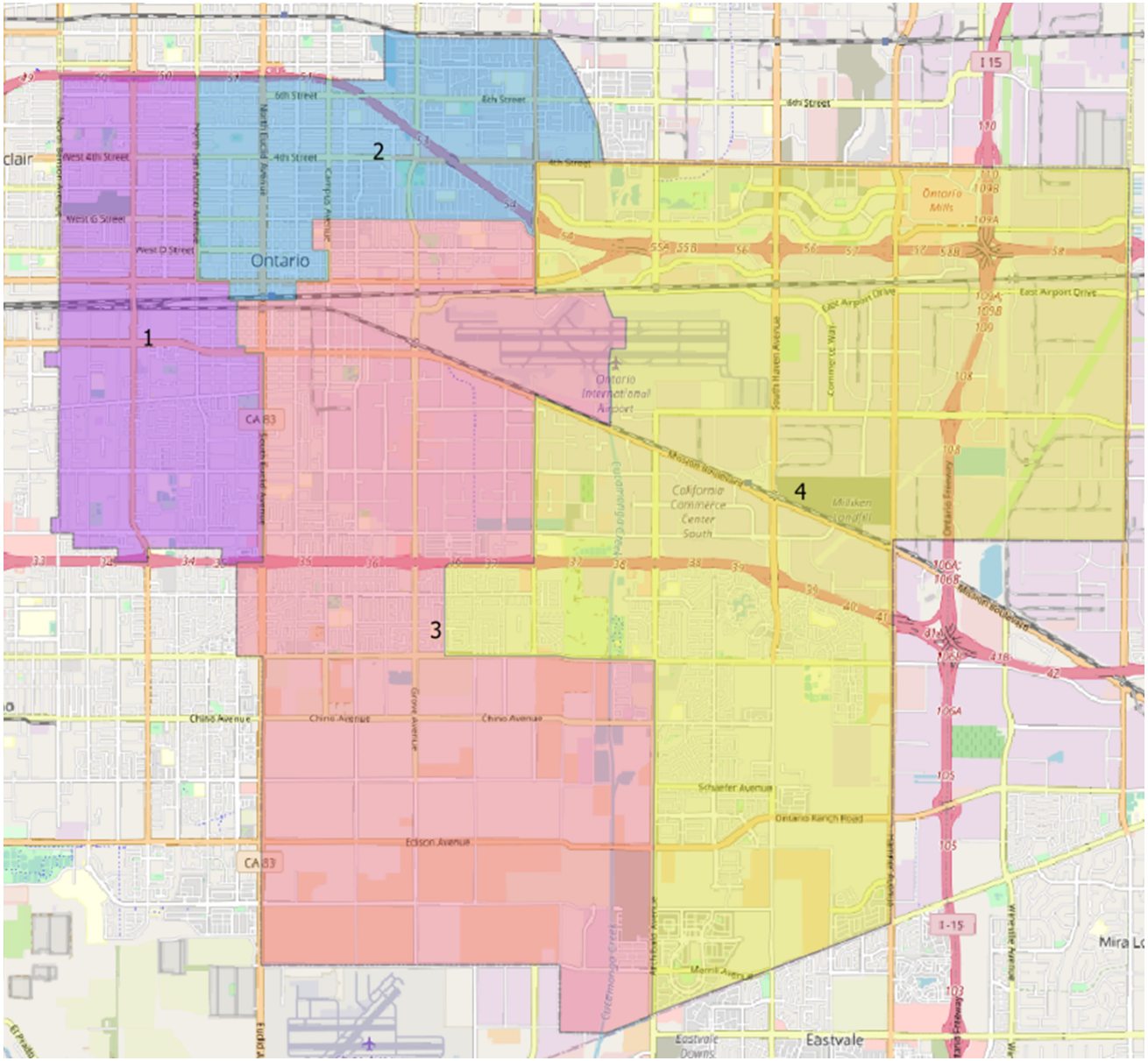
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 13



Draft Proposed Election Sequence:

2024 – Districts 1 & 2

2026 – Districts 3 & 4

Total Deviation

1.69%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3y2K9XD

Draft Map 13 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	43,603	-356	-0.81%	32,053	5,875	1,851	106	2,629	80	221	788
2	44,129	170	0.39%	32,584	6,233	2,082	125	2,007	119	230	749
3	43,757	-202	-0.46%	32,427	4,580	2,081	88	3,610	72	226	673
4	44,348	389	0.88%	23,191	7,402	4,460	91	7,450	145	265	1,344
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	1.69%								

Voting Age Population	Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
	32,600	22,921	5,175	1,465	86	2,216	54	133	550
	33,491	23,734	5,520	1,604	112	1,727	102	149	543
	32,351	23,057	3,932	1,650	72	2,985	46	141	468
	34,024	16,786	6,277	3,548	69	6,158	113	211	862
Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population	CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
	26,634	5,910	1,685	16,662	9,980	38	1,662	69	116
Draws four majority/minority	26,824	6,606	1,152	17,573	9,242	137	915	14	41
Hispanic Voting Districts	25,421	4,486	1,407	17,208	8,213	56	1,969	16	14
	27,379	6,966	2,728	13,957	13,390	13	2,858	92	117
Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

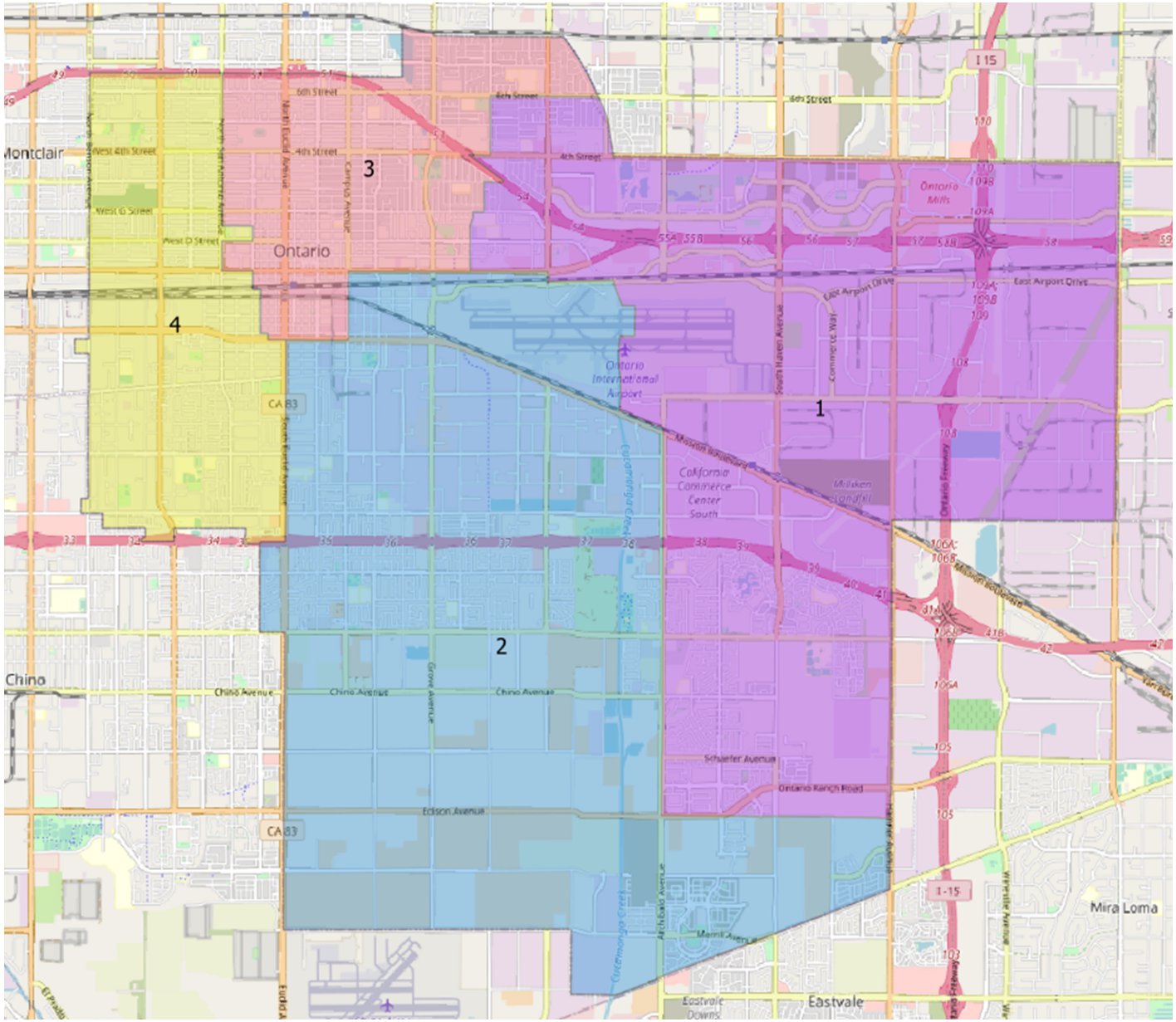
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 14



Draft Proposed Election Sequence:

2024 – Districts 3 & 4

2026 – Districts 1 & 2

Total Deviation

3.51%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3y2K9XD

Draft Map 14 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	43,421	-538	-1.22%	23,809	6,725	5,007	114	6,060	138	270	1,298
2	43,412	-547	-1.24%	28,865	5,717	2,246	64	5,417	92	214	797
3	44,954	995	2.26%	35,151	5,730	1,369	126	1,576	106	228	668
4	44,050	91	0.21%	32,430	5,918	1,852	106	2,643	80	230	791
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	3.51%								

Voting Age Population			Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
			33,013	17,068	5,739	3,889	92	5,047	114	209	855
			33,044	21,056	4,889	1,827	50	4,465	62	147	548
			33,482	25,179	5,060	1,085	111	1,349	85	144	469
			32,927	23,195	5,216	1,466	86	2,225	54	134	551
		Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population			CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
			25,830	6,185	2,898	13,302	12,558	73	2,472	66	115
Draws four majority/minority			27,063	5,642	1,540	17,064	9,994	45	2,408	42	11
Hispanic voting districts			26,591	6,210	848	18,262	8,263	88	853	14	46
			26,774	5,931	1,686	16,772	10,010	38	1,671	69	116
		Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

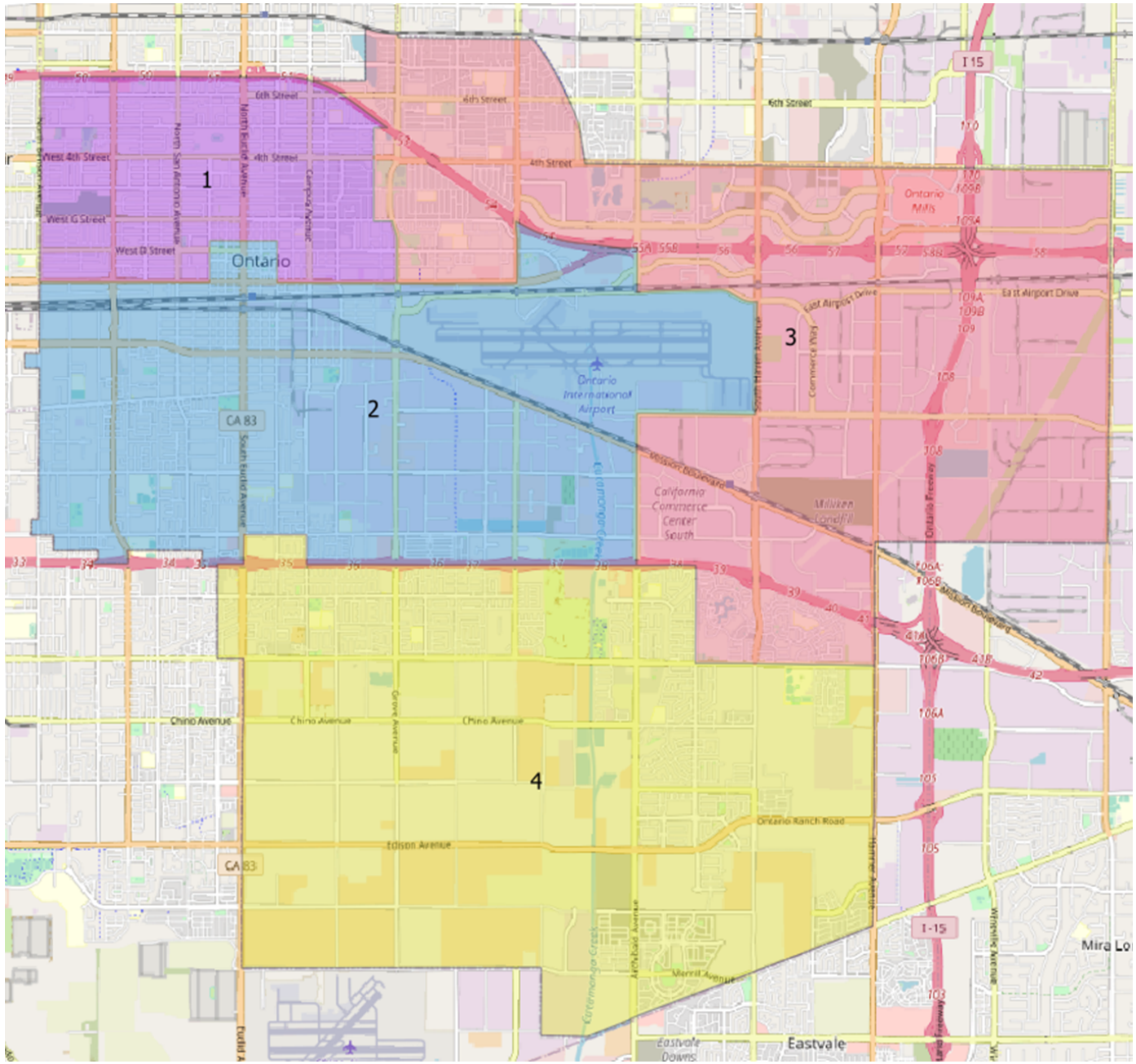
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 15



Draft Proposed Election Sequence:

2024 – Districts 1 & 2

2026 – Districts 3 & 4

Total Deviation

1.25%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3y2K9XD

Draft Map 15 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL White Alone	NL* Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	43,668	-291	-0.66%	33,263	6,542	1,390	100	1,330	94	243	706
2	43,885	-74	-0.17%	33,195	5,020	1,928	102	2,646	73	231	690
3	44,065	106	0.24%	28,842	5,521	4,160	126	3,943	128	235	1,110
4	44,219	260	0.59%	24,955	7,007	2,996	82	7,777	121	233	1,048
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	1.25%								

Voting Age Population	Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
	32,323	23,524	5,766	1,111	91	1,123	62	142	504
	33,014	23,972	4,456	1,582	80	2,241	56	140	487
	33,238	20,775	4,792	3,193	106	3,345	105	174	748
	33,891	18,227	5,890	2,381	62	6,377	92	178	684
Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population	CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
	26,115	7,268	1,127	16,459	9,651	33	706	7	65
Draws four majority/minority	26,670	4,934	1,557	17,947	8,723	83	1,742	68	95
Hispanic voting districts	26,515	5,378	2,365	15,792	10,733	110	2,211	74	23
	26,958	6,388	1,923	15,202	11,718	18	2,745	42	105
Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

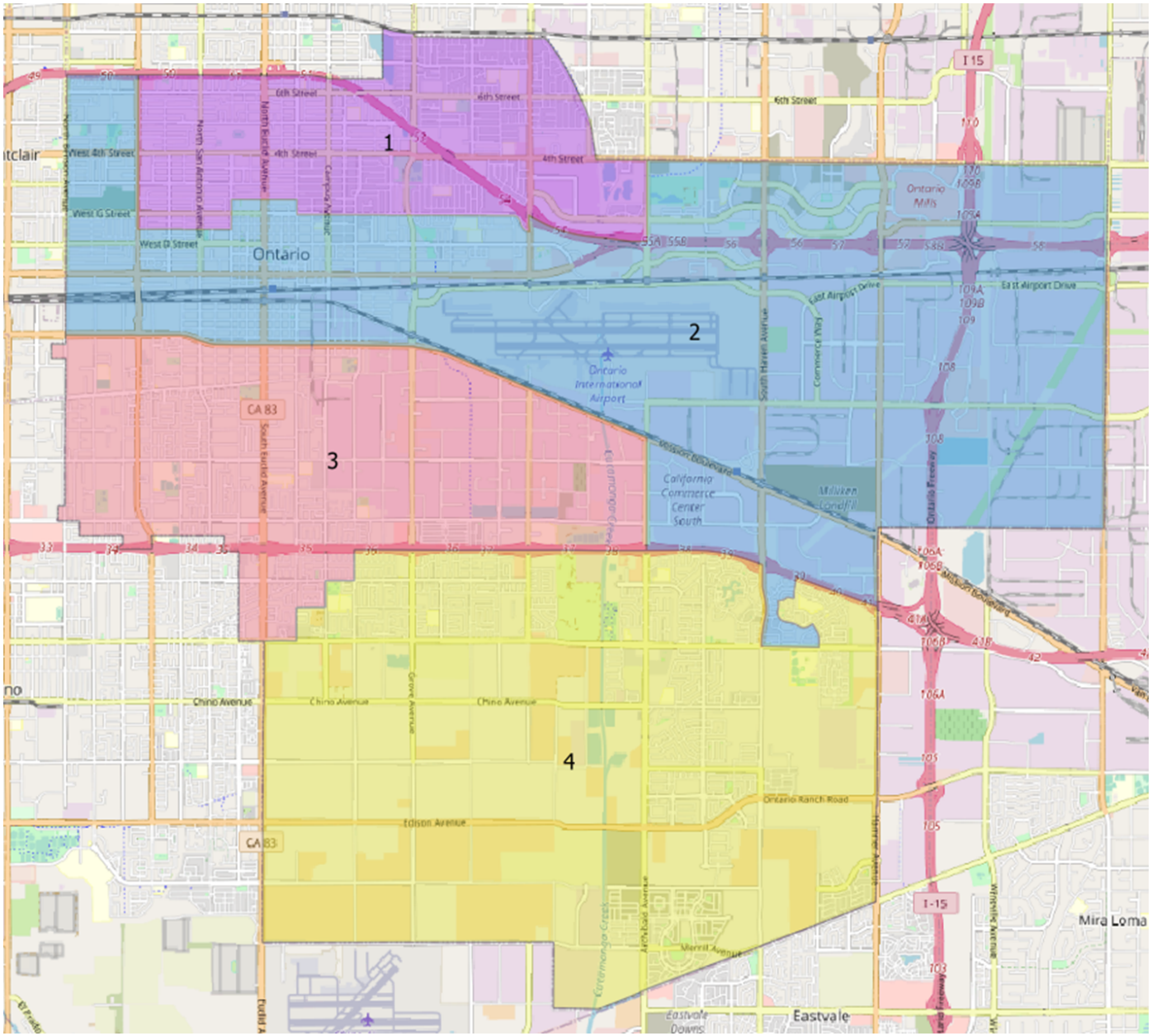
*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

City of Ontario – Transition to District Elections
Draft Map 16



Draft Proposed Election Sequence:

2024 – Districts 1 & 3

2026 – Districts 2 & 4

Total Deviation

3.29%
(under the acceptable norm of <10%)

Draws four (4) majority/minority Hispanic Voting Districts

Additional online viewing, with search and other geolocation features enabled, may be found at https://bit.ly/3y2K9XD

Draft Map 16 – Demographic Data

District	Total Population	Raw Population	% Population	Latino	NL* White Alone	NL Black Alone	NL AIAN* Alone	NL Asian Alone	NL Hawaiian Alone	NL Other Alone	NL 2+ Races
1	44,577	618	1.41%	32,022	6,892	2,168	115	2,193	113	243	831
2	44,663	704	1.60%	32,865	4,589	3,137	117	2,682	110	265	898
3	43,380	-579	-1.32%	31,533	5,333	1,914	97	3,473	74	199	757
4	43,217	-742	-1.69%	23,835	7,276	3,255	81	7,348	119	235	1,068
Total	175,837			120,255	24,090	10,474	410	15,696	416	942	3,554
Ideal	43,959	Deviation	3.29%								

Voting Age Population			Total VAP*	Latino VAP	NL White Alone VAP	NL Black Alone VAP	NL AIAN Alone VAP	NL Asian Alone VAP	NL Hawaiian Alone VAP	NL Other Race Alone VAP	NL 2+ Races VAP
			34,018	23,399	6,117	1,668	102	1,867	95	168	602
			32,496	22,874	4,005	2,413	102	2,273	71	154	604
			32,882	22,903	4,692	1,591	75	2,906	60	128	527
			33,070	17,322	6,090	2,595	60	6,040	89	184	690
		Total	132,466	86,498	20,904	8,267	339	13,086	315	634	2,423

Citizen Voting Age Population			CVAP*19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
			28,255	7,131	1,149	18,222	10,022	132	889	14	41
Draws four majority/minority			24,030	4,922	2,316	14,621	9,424	28	1,788	67	58
Hispanic voting districts			27,444	5,384	1,550	17,834	9,605	74	2,083	84	89
			26,529	6,531	1,957	14,723	11,774	10	2,644	26	100
		Total	106,258	23,968	6,972	65,400	40,825	244	7,404	191	288

*NL = Non Latino

*AIAN = American Indian Alaskan Native

*VAP = Voting Age Population

*CVAP = Citizen Voting Age Population

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING A NEW ARTICLE 3 TO TITLE 2 OF VOLUME 1 OF THE ONTARIO MUNICIPAL CODE TO CHANGE THE CITY'S ELECTORAL SYSTEM FROM AT-LARGE TO BY-DISTRICT ELECTIONS WITH RESPECT TO ELECTING CITY COUNCIL MEMBERS AND MAINTAINING AN ELECTIVE MAYOR, ESTABLISHING DISTRICT BOUNDARIES, SCHEDULING ELECTIONS WITHIN THE DISTRICTS, AND MAKING CERTAIN FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, the City of Ontario, California ("City") is a general law city, duly organized under the constitution and laws of the State of California; and

WHEREAS, the City and its legislative body, the City Council, supports the full participation of all eligible and registered voters in electing Members of the City Council; and

WHEREAS, four of the members of the Ontario City Council are currently elected in at-large elections, in which each City Councilmember is elected by all registered voters of the entire City, with the Mayor being separately elected by all registered voters of the entire City, pursuant to California Government Code sections 34871 and 34900 et seq.; and

WHEREAS, on September 28, 2016, Governor Edmund G. Brown, Jr. signed Assembly Bill 2220 ("AB 2220"), which became effective January 1, 2017, and amended California Government Code section 34886 to authorize the City Council of any city, regardless of population size, to adopt an ordinance change to a by-district system of electing City Councilmembers, including with an elective mayor, without the need to submit such an ordinance to voters for approval; and

WHEREAS, on September 28, 2016, Governor Edmund G. Brown, Jr. also signed Assembly Bill 350 ("AB 350"), which became effective January 1, 2017, which requires a City that changes to district-based elections to hold public hearings before and after drawing a preliminary map or maps of the proposed district boundaries, and to publish and make available for release at least one draft map and the potential sequencing of elections; and

WHEREAS, on or about March 5, 2020, the City received a complaint asserting that the City's current at-large electoral system violates the California Voting Rights Act of 2001 ("CVRA"); and

WHEREAS, the March 5, 2020 complaint does not contain sufficient evidence of a violation of the CVRA, but the cost of defending against a lawsuit under the CVRA is extremely high, even if the City is successful, and at this time such an expensive defense would severely burden the City's budget and curtail the City's ability to provide needed services to its residents; and

WHEREAS, in order to avoid spending taxpayer dollars in the defense of a potentially extremely expensive lawsuit, the City Council has determined that it is in the best interest of the City to move from its current at-large electoral system to a by-district election for members of the City Council, with an elective mayor pursuant to California Government Code section 34886 and in furtherance of the purposes of CVRA, and to that end, the City Council has undertaken an extensive public outreach effort, including multiple workshops and public hearings, at which time the public was invited to participate and provide input as to the proposed boundaries, content and composition of the districts and the potential sequencing of elections; and

WHEREAS, under the provisions of California Election Code section 10010, a City that changes from an at-large method of election to a district-based election must do all of the following before a public hearing at which the City Council votes to approve or defeat an ordinance establishing district-based elections:

- Before drawing a draft map or maps of the proposed boundaries of the districts, the City must hold at least two public hearings over a period of no more than 30 days, at which the public is invited to provide input regarding the composition of the districts.

- After all draft maps are drawn, the City must publish and make available for release at least one draft map and the potential sequence of the elections.

- The City must hold at least two additional hearings over a period of no more than 45 days, at which the public is invited to provide input regarding the content of the draft map(s) and the proposed sequence of elections. The first version of a draft map must be published at least seven days before consideration at a hearing; and

WHEREAS, on February 27, 2020, the City Council adopted a Resolution of Intention, outlining the City Council's intention to transition from at-large to district-based elections, specific steps the City Council will undertake to facilitate this transition, and an estimated time frame for doing so; and

WHEREAS, on February 27, 2020, the City Council also adopted criteria to guide the establishment of electoral districts consistent with legal requirements, including reasonable equal population and section 2 of the federal Voting Rights Act, as well as other concerns and considerations important to the City; and

WHEREAS, on April 5, 2022 and May 10, 2022, the City Council conducted two (2) public hearings for the purpose of soliciting public input and comments on the composition of the proposed election districts; and

WHEREAS, the City Council also conducted public workshops on April 4, 6, 11, 12, and 13, 2022, at which time the City provided information on the districting process and informed the public on ways to become involved; and

WHEREAS, on May 14, 2022 and June 4, 2022, the City conducted four (4) additional public workshops, to instruct the public in the use of the online and paper mapping tools; and

WHEREAS, ten (10) draft election district maps were placed on the City's public webpage for public review on June 13, 2022; and

WHEREAS, six (6) additional draft election district maps were placed on the City's public webpage for public review on June 30, 2022; and

WHEREAS, on June 21, July 5, and July 19, 2022, the City Council conducted three (3) additional public hearings, at which time all interested persons were afforded an opportunity to provide input regarding the content of the draft maps and the proposed sequence of elections, and at which time the City Council did hear and consider such public input regarding the content of the draft maps and the proposed sequence of elections; and

WHEREAS, the purpose of this ordinance is to enact, pursuant to California Government Code section 34886, an ordinance providing for election of the Members of the City Council of the City of Ontario by-district in four (4) single-member districts as reflected in Exhibit A to this ordinance, and providing for the election of an elective Mayor of the City of Ontario to be elected City-wide; and

WHEREAS, pursuant to California Government Code section 34886, it is declared the change in the method of electing members of the City Council of the City of Ontario made by this ordinance is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code) and to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution.

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

SECTION 1. A new Article 3 is hereby added to Title 2 of Volume 1 of the Ontario Municipal Code with the title "City Council Electoral System" to read as follows:

"Sec. 2-1-301 City Council Electoral System

(a) At-large election—Mayor. Pursuant to California Government Code section 34886, the mayor shall be voted on at-large.

(b) City Council districts established. Four City Council districts are hereby established in the City of Ontario. The boundaries and identifying number of each district shall be as described on the Council District Map attached hereto as Exhibit "A" and incorporated herein by this reference.

(c) Election of members of the City Council by district.

A. Following the effective date of the ordinance codified in this section and upon the commencement of “by district” elections in the order established in section (d) of this section 2-42, members of the City Council shall be elected “by district” as defined in California Government Code Section 34871 or any successor statute. Except for the Mayor, a person shall not be eligible to be elected to be a member of the City Council unless he or she is otherwise qualified as required by law and resided in the district, and both resided in the geographical area making up the district from which he or she is nominated to be elected and was a registered voter of the City of Ontario at the time nomination papers are issued to the candidate as provided for in Section 10227 of the California Elections Code. It is the intent of the City Council, in enacting this ordinance, that no term of any member of the City Council that commences on or prior to the effective date of the ordinance codified in this section shall be affected prior to its expiration date.

B. Registered voters signing nomination papers or voting for a member of the City Council shall be residents of the geographical area making up the district from which the member is to be elected.

C. The terms of the office of each member elected to the City Council, including the Mayor, shall remain four years.

(d) Commencement of district elections. It is the intent of the City Council, in enacting this ordinance, that this section shall not affect any term of office in existence or commencing on or before the effective date of the ordinance codified in this section. Commencing with the general municipal election in November of 2024 and thereafter, the voters in districts _____ and _____ shall elect members of the City Council by district shall be elected at large for full four-year terms. At the general municipal election in 2026 and thereafter, the voters in districts _____ and _____ shall elect members of the City Council and the Mayor by district for full four-year terms.

(e) Adjustment of boundaries.

A. Pursuant to Elections Code Section 21601, as it may be amended, the City Council shall, by ordinance or resolution, adjust the boundaries of any or all of the districts following each decennial federal census. Using the census as a basis, the City Council shall adjust the boundaries so that the districts shall be as nearly equal in population as practicable and in compliance with all applicable provisions of law. Any adjustment of district boundaries shall be made by ordinance or resolution, adopted by the City Council before the first day of November of the year following the year in which each decennial federal census is taken. Prior to the public hearing

approving the adjustment of the district boundaries, the City Council shall hold at least one public hearing on the proposed district boundaries as required by Election Code Section 21607.

B. At the time of any annexation of territory to the City, the City Council shall designate, by resolution adopted by a vote of at least a majority of the City Council, the contiguous district to which the annexed territory shall be a part and shall amend the district boundaries if necessary in accordance with Election Code Section 21603, as it may be amended.

C. Pursuant to Elections Code Section 21606, the term of office of any Council member who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected. At the first election for Council following adjustment of the boundaries of the districts, a person meeting the requirements of Government Code Section 34882 shall be elected to the City Council for each district under the readjusted district plan that has the same district number as a district whose incumbent's term on the Council is due to expire.

(f) Implementation. If necessary to facilitate the implementation of this Ordinance, the City Clerk is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Clerk shall consult with the City Manager and City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts."

SECTION 2. Effective Date. This Ordinance shall be become effective thirty (30) days after its adoption.

SECTION 3. Inconsistencies. To the extent the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation government the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof.

SECTION 4. Interpretation. In interpreting this Ordinance or resolving any ambiguity, this Ordinance shall be interpreted in a manner that effectively accomplishes its state purposes.

SECTION 5. CEQA. Pursuant to Section 15320 of the Guidelines for the Implementation of the California Environmental Quality Act ("CEQA"), further review under CEQA is not required because the City Council action in establishing district-based elections consists of a change in the organization or reorganization of a local governmental agency where the change does not change the geographical area in which previously existing powers are exercised. Therefore, the City Council finds that it can be

seen with certainty that there is no possibility that this action will result in any environmental effect. The City Clerk is hereby directed to file a Notice of Exemption with the County Clerk within three (3) days following the date of this Ordinance.

SECTION 7. Severability. If any section, subsection, subdivision, sentence, clause phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court or competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Ontario hereby declares it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

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

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2022.

_____
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 Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2022 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)

EXHIBIT “A”

ELECTION DISTRICT MAPS

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **PUBLIC HEARINGS**
Department: Investments & Revenue Resources Prepared By: Nicole Phillips Staff Member Presenting: Armen Harkalyan, Executive Director of Finance Reviewed By: Cecilia House, Armen Harkalyan Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 29

SUBJECT: **A PUBLIC HEARING TO CONSIDER THE PROPOSED CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF THE EXISTING SPECIAL TAX FOR COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES), AND A PUBLIC HEARING TO CONSIDER THE AMENDMENT OF RESOLUTION NO. 2017-124 TO INCREASE THE MAXIMUM AGGREGATE AMOUNT OF BONDED INDEBTEDNESS THAT COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES) IS AUTHORIZED TO INCUR**

RECOMMENDATION: That the City Council consider and:

A. Adopt a Resolution calling a special election for proposed changes to the Rate and Method of Apportionment (the "RMA") of the existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South-Facilities),
B. Adopt a Resolution declaring results of the special election, determining that changes to the Rate and Method of Apportionment of the existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South-Facilities) are lawfully authorized and directing recording of an amendment to Notice of Special Tax Lien,
C. Introduce and waive further reading of an Ordinance amending and restating Ordinance No. 3082 levying special taxes within City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South-Facilities).
D. Adopt a Resolution deeming it necessary to amend Resolution No. 2017-124 in order to increase the maximum aggregate amount of bonded indebtedness that Community Facilities District No. 35 (Countryside Phase 2 South-Facilities) is authorized to incur;
E. Adopt a Resolution calling a special election for Community Facilities District No. 35 (Countryside Phase 2 South-Facilities); and
F. Adopt a Resolution declaring the results of the special election.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Focus Resources in Ontario's Commercial and Residential Neighborhoods
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in

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

FISCAL IMPACT: The use of Mello-Roos financing for facilities in the residential development of the Countryside Phase 2 South-Facilities project is estimated to generate approximately $45 million in bond proceeds to be used to fund a portion of the public infrastructure improvements needed to serve the project. Mello-Roos bonds are not a direct obligation of the City and are paid from special taxes levied on each taxable parcel in the district; therefore, there is no fiscal impact to the General Fund from the issuance of Mello Roos bonds. City Council approval will be required in future years to process annual special tax levies.

BACKGROUND & ANALYSIS: The Mello-Roos Community Facilities Act of 1982 provides local government the authority to establish a community facilities district for the purpose of financing various kinds of public infrastructure facilities. In October, 2017, the City established Community Facilities District No. 35 (Countryside Phase 2 South-Facilities) to finance public improvements for the project. The Countryside Phase 2 South-Facilities project addresses the development of approximately 34.22 gross acres located generally east of the Cucamonga Creek Channel, west of Archibald Avenue, south of Chino Avenue, and north of Schaefer Avenue. At build out, the development is projected to include 235 single-family detached units.

The developer, Lennar Homes of California, LLC (Lennar), has provided a written petition to the City Council to commence change proceedings pursuant to the Act to change the Rate and Method of Apportionment (RMA) of the existing special tax levied within the Community Facilities District to reflect recent movements in the housing market which may affect the estimated home price of for-sale units within the Community Facilities District. In consideration of such petition, City staff requested a second price point study to be performed by Empire Economics, the City's Price Point Study and Market Absorption Consultant. The City's study was concluded in January 2022 and found that estimated home prices for market comparables had increased approximately 40.2% for the development, as compared to the initial price point study performed in July 2017.

At the City Council meeting on June 7, 2022, the City Council formally accepted the written petition from Lennar, and approved a Resolution of Consideration, Resolution No. 2022-017, setting the public hearing date to July 19, 2022.; Resolution No. 2022-017 considers the proposed changes to the Rate and Method of Apportionment of the Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South-Facilities). In accordance with the requirements of the Resolution of Consideration, the City Clerk has published a notice of the time and place of this hearing pursuant to Section 53322 of the California Government Code at least seven days before the hearing, and the City's special tax consultant has prepared the Amended and Restated Rate and Method of Apportionment; which reflects the overall estimated price point increase of 40.2%. Under the Amended and Restated RMA, certain special tax rates within Community Facilities District No. 35 (Countryside Phase 2 South-Facilities) would be increased.

Attached for consideration is the Amended and Restated RMA, the terms of which are consistent with the City Council's adopted Mello-Roos Local Goals and Policies (Resolution No. 2006-021) in all respects. Also attached are five Resolutions and an Ordinance for consideration. The first

Resolution calls for a special election on the proposition to change the RMA to be held on July 19, 2022. The second Resolution declares the results of the special election and includes a statement from the City Clerk as to the canvass of ballots, and directs the recording of an Amendment to the Notice of Special Tax Lien. The ordinance amends and restates Ordinance No. 3082 levying special taxes within the Community Facilities District and reflects the updates included in the Amended and Restated RMA. The third Resolution deems it necessary to amend Resolution No. 2017-124 in order to increase the maximum aggregate amount of bonded indebtedness that the district is authorized to incur from $27,000,000 to $45,000,000. The fourth Resolution calls for a special landowner election be held on July 19, 2022 to approve the proposed increase in the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur. The fifth Resolution declares the results of the special election, determining that the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur shall be increased from $27,000,000 to $45,000,000.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING A SPECIAL ELECTION FOR PROPOSED CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF THE EXISTING SPECIAL TAX OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH - FACILITIES).

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") has previously established City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"); and

WHEREAS, on June 7, 2022, the City Council adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Consideration to Change the Rate and Method of Apportionment of the Existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities)" (the "Resolution of Consideration") proposing changes to the rate and method of apportionment of the special tax (the "Special Tax") levied within the Community Facilities District so as to increase certain of the Special Tax rates thereunder and setting the date for a public hearing to be held on such proposed changes; and

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

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

WHEREAS, at the hearing, the testimony of all persons for or against the proposed changes to the rate and method of apportionment of the Special Tax was heard; and

WHEREAS, written protests against the proposed changes to the rate and method of apportionment of the Special Tax tax were not made or filed at or before said hearing by 50% or more of the registered voters, or six registered voters, whichever is more, residing within the Community Facilities District, or the owners of one-half or more of the area of land in the territory included in the Community Facilities District and not exempt from the Special Tax; and

WHEREAS, pursuant to the provisions of the Resolution of Consideration, the proposition to change the rate and method of apportionment of the Special Tax is to be submitted to the qualified electors of the Community Facilities District as required by the Act; and

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

WHEREAS, there has been filed with the City Clerk of the City a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory included in the Community Facilities District as of June 16, 2022, and, accordingly, that 12 or more persons have not been registered to vote within the territory included in the Community Facilities District for each of the 90 days preceding the close of said public hearing; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, consenting to the holding of said special election on July 19, 2022 and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on July 19, 2022.

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

SECTION 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

SECTION 2. The proposed changes to the rate and method of apportionment of the Special Tax are modifications that increase certain of the Special Tax rates thereunder. The proposed changes are reflected in the City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) Amended and Restated Rate and Method of Apportionment of Special Tax (the "Restated Rate and Method") attached hereto as Exhibit A, which is by this reference incorporated herein.

SECTION 3. The proposed changes to the rate and method of apportionment of the Special Tax have not been precluded by majority protest pursuant to Section 53338 of the Act.

SECTION 4. Pursuant to Section 53338 of the Act, the proposition to change the rate and method of apportionment of the Special Tax so as to increase certain of the Special Tax rates thereunder, as reflected in the Restated Rate and Method, shall be submitted to the qualified electors of the Community Facilities District at an election called therefor as provided herein.

SECTION 5. The City Clerk is hereby designated as the official to conduct said election.

SECTION 6. The City Council hereby finds and determines that no persons were registered to vote within the territory included in the Community Facilities District as of June 16, 2022, and that 12 or more persons have not been registered to vote within the territory included in the Community Facilities District for each of the 90 days preceding the close of the public hearing heretofore held by the City Council on the proposed changes to the rate and method of apportionment of the Special Tax. Accordingly, pursuant to Section 53326 of

the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the Special Tax.

SECTION 7. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, (b) to the holding of said election on July 19, 2022, and (c) to the waiver of any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council herby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on July 19, 2022.

SECTION 8. The City Council hereby calls a special election to submit to the qualified electors of the Community Facilities District the proposition to change the rate and method of apportionment of the Special Tax so as to increase certain of the Special Tax rates thereunder, as reflected in the Restated Rate and Method, which election shall be held at 303 East B Street, Ontario, California, on July 19, 2022. The City Council has caused to be provided to the City Clerk, as the official to conduct said election, the Resolution of Consideration, a certified map of sufficient scale and clarity to show the boundaries of the Community Facilities District, and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk not later than 7:30 p.m. on July 19, 2022; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 9. Pursuant to Section 53326 of the Act, the election shall be conducted by mail or hand-delivered ballots pursuant to Section 4000 *et. seq.* of the California Elections Code. Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election.

SECTION 10. The form of the ballot for said election is attached hereto as Exhibit B and by this reference incorporated herein, and such form of ballot is hereby approved. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective landowner to which it pertains.

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

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

SECTION 11. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, to and including 7:30 p.m. on July 19, 2022, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots that may be marked at said location on the election day by said qualified electors.

SECTION 12. All actions heretofore taken by the officers, employees and agents of the City with respect to the proposed changes to the rate and method of apportionment of the Special Tax, or in connection with or related to any of the documents referred to herein, are hereby approved, confirmed and ratified.

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

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

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH - FACILITIES) AMENDED AND RESTATED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT B
OFFICIAL BALLOT

CITY OF ONTARIO
July 19, 2022
SPECIAL ELECTION

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

INSTRUCTIONS TO VOTERS:

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

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 35
(COUNTRYSIDE PHASE 2 SOUTH - FACILITIES)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the rate and method of apportionment of the special tax levied within City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) (the "Community Facilities District") be changed so as to increase certain of the special tax rates thereunder, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling A Special Election for Proposed Changes to the Rate And Method of Apportionment of the Existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities)," adopted by the City Council of the City of Ontario on July 19, 2022?

Yes: □

No: □

EXHIBIT A

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 35
(COUNTRYSIDE PHASE 2 SOUTH – FACILITIES)
AMENDED AND RESTATED
RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South – Facilities) ("CFD No. 35") and collected each Fiscal Year, commencing in Fiscal Year 2018-19, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 35, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

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

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 35: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 35 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City or CFD No. 35 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 35 of complying with City, CFD No. 35, or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 35 related to the analysis and reduction, if any, of the Special Tax on Single Family Property in accordance with Section C.1 herein; the costs of the City or CFD No. 35 related to an appeal of the Special Tax; the costs associated with the release of funds from any escrow account; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead relating to CFD No. 35; and amounts estimated or advanced by the City or CFD No. 35 for any other

administrative purposes of the CFD, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Assessor's Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by Assessor's Parcel Number.

"Assessor's Parcel Number" means, with respect to an Assessor's Parcel, that number assigned to such Assessor's Parcel by the County for purposes of identification.

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

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

"Bonds" means any bonds or other debt (as defined in Section 53317(d) of the Act) issued by CFD No. 35 under the Act and payable from Special Taxes.

"Buildable Lot" means an individual lot, within a Final Subdivision Map or an area expected by CFD No. 35 to become Final Mapped Property, such as the area within a Tentative Tract Map, for which a building permit may be issued without further subdivision of such lot.

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

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

"CFD No. 35" means City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South – Facilities).

"City" means the City of Ontario, California.

"City Council" means the City Council of the City, acting as the legislative body of CFD No. 35.

"Contractual Impositions" means (a) a voluntary contractual assessment established and levied on an Assessor's Parcel pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.10 *et seq.*), as amended from time to time, (b) a special tax established and levied on an Assessor's Parcel pursuant to Section 53328.1 of the California Government Code and related provisions of the Act, as amended from time to time, and (c) any other fee, charge, tax, or assessment established and levied on an individual Assessor's Parcel pursuant to a

contractual agreement or other voluntary consent by the owner thereof (e.g., property owner association assessments).

"County" means the County of San Bernardino.

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

"Developed Property" means for each Fiscal Year, all Taxable Property, exclusive of Final Mapped Property, Taxable Property Owner Association Property, and Taxable Public Property, for which a building permit or other applicable permit for new construction was issued after January 1, 2017, and before May 1 of the prior Fiscal Year.

"Expected Residential Lot Count" means 235 Buildable Lots of Single Family Property or, as determined by the CFD Administrator, the number of Buildable Lots of Single Family Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

"Facilities" means the public facilities authorized to be financed, in whole or in part, by CFD No. 35.

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

"Final Subdivision Map" means a final tract map, parcel map, or lot line adjustment approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or a condominium plan recorded in accordance with California Civil Code Section 4285 that, in either case, creates individual lots for which building permits may be issued without further subdivision.

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

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

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

"Lower Income Household Welfare Exemption Property" means, for each Fiscal Year, an Assessor's Parcel within the boundaries of CFD No. 35 that is subject to a welfare exemption under subdivision (g) of Section 214 of the California Revenue and

Taxation Code (or any successor statute), as indicated in the most recent County assessor's roll finalized prior to such Fiscal Year.

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

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

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

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

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

"Price Point Consultant" means any consultant or firm of such consultants selected by CFD No. 35 that (a) has substantial experience in performing price point studies for residential units within community facilities districts established under the Act or otherwise estimating or confirming pricing for residential units in such community facilities districts, (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of residential units in such community facilities districts, (c) is in fact independent and not under the control of CFD No. 35 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 35, (ii) the City, (iii) any owner of real property in CFD No. 35, or (iv) any real property in CFD No. 35, and (e) is not connected with CFD No. 35 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 35 or the City.

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

"Property Owner Association Property" means, for each Fiscal Year, any property within the boundaries of CFD No. 35 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

"Proportionately" means (a) for Developed Property in the first step of Section D below, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Developed Property; however, for Developed Property in the fourth step of Section D below, Proportionately means that the amount of the increase above the Assigned Special Tax, if necessary, is equal for all Assessor's Parcels of Developed Property, except that if the Backup Special Tax limits the increase on any

Assessor's Parcel(s), then the amount of the increase shall be equal for the remaining Assessor's Parcels; (b) for Final Mapped Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Final Mapped Property; (c) for Undeveloped Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Undeveloped Property; (d) for Taxable Property Owner Association Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Taxable Property Owner Association Property; and (e) for Taxable Public Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Taxable Public Property.

"Public Property" means, for each Fiscal Year, property within the boundaries of CFD No. 35 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public or utility right-of-way that makes impractical its use for any purpose other than that set forth in such easement, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

"Rate and Method of Apportionment" means this Amended and Restated Rate and Method of Apportionment of Special Tax.

"Residential Floor Area" means all of the Square Footage of living area within the perimeter of a Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor's Parcel, or as set forth in other official records maintained by the City's Building Department or other appropriate means selected by CFD No. 35. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor's Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

"Services" means the services authorized to be financed, in whole or in part, by CFD No. 35.

"Single Family Attached Property" means all Assessor's Parcels of Developed Property for which a building permit or use permit was issued for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor's Parcel Numbers assigned to them (except for a duplex unit, which may share an Assessor's Parcel with another duplex unit), and may be purchased by individual homebuyers (which shall still be the case even if the Units are purchased and subsequently offered for rent by the owner of the Unit), including such residential structures that meet the statutory definition of a condominium contained in California Civil Code Section 4125.

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

"Single Family Property" means all Assessor's Parcels of Single Family Attached Property and Single Family Detached Property.

"Special Tax" means the special tax authorized by the qualified electors of CFD No. 35 to be levied within the boundaries of CFD No. 35.

"Special Tax Requirement" means for any Fiscal Year that amount required, after taking into account available amounts held in the funds and accounts established under the Indenture, for CFD No. 35 to: (i) pay debt service on all Outstanding Bonds which is due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax levy on Final Mapped Property or Undeveloped Property; (vi) provide an amount equal to Special Tax delinquencies based on the historical delinquency rate for the Special Tax as determined by the CFD Administrator.

"Square Footage" or **"Sq. Ft."** means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City's Building Department or other appropriate means selected by CFD No. 35, issued for construction of Single Family Property, Other Residential Property, or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

"State" means the State of California.

"Taxable Property" means, for each Fiscal Year, all of the Assessor's Parcels within the boundaries of CFD No. 35 that are not exempt from the Special Tax pursuant to law or Section E below.

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

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

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

"Total Tax Burden" means, for a Unit within a Land Use Class, for the Fiscal Year in which Total Tax Burden is being calculated, the sum of (a) the Assigned Special Tax for such Land Use Class for such Fiscal Year, plus (b) the CFD No. 19 special tax for such Land Use Class for such Fiscal Year, plus (c) the *ad valorem* property taxes, special assessments, special taxes for any other overlapping community facilities districts, and any other governmental fees, charges (other than fees or charges for services such as sewer and trash), taxes, and assessments (which do not include Contractual Impositions) collected by the County on *ad valorem* tax bills and that the CFD Administrator estimates would be levied or imposed on such Unit in such Fiscal Year if the residential dwelling unit thereon or therein had been completed and sold, and was subject to such fees, charges, taxes, and assessments in such Fiscal Year.

"Trustee" means the trustee or fiscal agent under the Indenture.

"TTM 17449" means Tentative Tract Map No. 17449, the area of which is located within CFD No. 35.

"TTM 17450" means Tentative Tract Map No. 17450, the area of which is located within CFD No. 35.

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

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

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2018-19, all Taxable Property within CFD No. 35 shall be classified as Developed Property, Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below. Assessor's Parcels of Single Family Property shall be assigned to Land Use Classes 1 through 7, as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor's Parcels. Other Residential Property shall be assigned to Land Use Class 8, and Non-Residential Property shall be assigned to Land Use Class 9.

C. MAXIMUM SPECIAL TAX

1. Special Tax

At least 30 days prior to the issuance of the first series of Bonds, the Assigned Special Tax on Developed Property (set forth in Table 1 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At

such time, CFD No. 35 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Single Family Property to be constructed within CFD No. 35 exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax shall be reduced to the extent necessary to cause the Total Tax Burden that shall apply to Units within such Land Use Class(es) not to exceed 1.95% of the Minimum Sale Price of such Units.

Each Assigned Special Tax reduction for a Land Use Class shall be calculated by the CFD Administrator separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Special Tax, the Backup Special Tax shall also be reduced by the CFD Administrator based on the percentage reduction in Maximum Special Tax revenues within the Tentative Tract Map area(s) where the Assigned Special Tax reductions occurred. Upon determining the reductions, if any, in the Assigned Special Tax and Backup Special Tax required pursuant to this Section C, the CFD Administrator shall complete the Certificate of Modification of Special Tax substantially in the form attached hereto as Exhibit A (the "Certificate of Modification"), shall execute such completed Certificate of Modification, and shall deliver such executed Certificate of Modification to CFD No. 35. Upon receipt thereof, if in satisfactory form, CFD No. 35 shall execute such Certificate of Modification. The reduced Assigned Special Tax and Backup Special Tax specified in such Certificate of Modification shall become effective upon the execution of such Certificate of Modification by CFD No. 35.

The Special Tax reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien, which CFD No. 35 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 35. The reductions in this section apply to Single Family Property, but not to Other Residential Property or Non-Residential Property.

a. Developed Property

1) *Maximum Special Tax*

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

2) *Assigned Special Tax*

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

TABLE 1
ASSIGNED SPECIAL TAX – DEVELOPED PROPERTY

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Property	< 1,501	$3,342 per Unit
2	Single Family Property	1,501 – 1,700	$3,454 per Unit
3	Single Family Property	1,701 – 1,900	$3,626 per Unit
4	Single Family Property	1,901 – 2,100	$3,849 per Unit
5	Single Family Property	2,101 – 2,300	$3,935 per Unit
6	Single Family Property	2,301 – 2,500	$4,073 per Unit
7	Single Family Property	> 2,500	$4,262 per Unit
8	Other Residential Property		$52,912 per Acre
9	Non-Residential Property		$52,912 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be $3,846 per Unit for Single Family Property. However, if the Expected Residential Lot Count does not equal 235 for Single Family Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated according to the following formula:

Backup Special Tax = $903,846 ÷ Expected Residential Lot Count for Single Family Property

If any portion of a Final Subdivision Map, or any area expected by CFD No. 35 to become Final Mapped Property, such as the area within TTM 17449, TTM 17450, or any other Tentative Tract Map, changes any time after the City has issued Bonds, causing an adjustment to the number of Designated Buildable Lots, then the Backup Special Tax for all Designated Buildable Lots of Single Family Property subject to the change shall be calculated according to the following steps:

Step 1: Determine the total Backup Special Taxes that could have been collected from Designated

Buildable Lots of Single Family Property prior to the Final Subdivision Map or expected Final Mapped Property change.

Step 2: Divide the amount determined in Step 1 by the number of Designated Buildable Lots of Single Family Property that exists after the Final Subdivision Map or expected Final Mapped Property change.

Step 3: Apply the amount determined in Step 2 as the Backup Special Tax per Unit for Single Family Property.

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

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

The Maximum Special Tax for Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property shall be $52,912 per Acre, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

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

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

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 2018-19, the CFD Administrator shall determine the Special Tax Requirement for such Fiscal Year. The Special Tax shall then be levied as follows:

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

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

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

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

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

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

Notwithstanding the above, under no circumstances shall the Special Tax levied in any Fiscal Year on any Assessor's Parcel of Single Family Property or Other Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 35 by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults.

E. EXEMPTIONS

No Special Tax shall be levied on up to 2.44 Acres of Public Property and up to 14.12 Acres of Property Owner Association Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property.

Property Owner Association Property or Public Property that is not exempt from the Special Tax under this section shall be subject to the levy of the Special Tax and shall be taxed Proportionately as part of the fifth or sixth step, respectively, in Section D above, up to 100% of the applicable Maximum Special Tax for Taxable Property Owner Association Property and Taxable Public Property. No Special Tax shall be levied in any Fiscal Year on Assessor's Parcels that have fully prepaid the Special Tax obligation pursuant to the formula set forth in Section H.

No Special Tax shall be levied on Lower Income Household Welfare Exemption Property; provided, however, that if, in any Fiscal Year, applicable law does not require that Lower Income Household Welfare Exemption Property be exempt from some portion, or all, of the Special Tax, such portion, or all, of the Special Tax shall be levied on such property in accordance with this Rate and Method of Apportionment based on the Land Use Class to which the Assessor's Parcel is assigned.

F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 35 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent decision shall be final and binding on all interested parties. If the decision of the CFD Administrator or subsequent decision by the City Council requires the Special Tax to be modified or changed in favor of the property owner, then the CFD Administrator shall determine if sufficient Special Tax revenue is available to make a cash refund. If a cash refund cannot be made, then an adjustment shall be made to credit future Special Tax levy(ies).

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

G. MANNER OF COLLECTION

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

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

"CFD Public Facilities" means $12,757,000 each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 35.

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

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

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

"Prepayment Period 1" means July 1, 2018, through June 30, 2052.

"Prepayment Period 2" means July 1, 2052, through June 30, 2085.

"Prepayment Period 3" means July 1, 2085, through June 30, 2119.

1. Prepayment in Full

The obligation of an Assessor's Parcel to pay the Special Tax may be prepaid as described herein, provided that a prepayment may be made only for Assessor's Parcels for which a building permit for new construction was issued after January 1, 2017, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge a fee for providing this service. Prepayment in any six month period must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

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

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

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

Paragraph No.

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel, and determine the Prepayment Period for the proposed prepayment.

2. Compute the Assigned Special Tax and Backup Special Tax for the Assessor's Parcel to be prepaid based on the Developed Property Special Tax which is, or could be, charged in the current Fiscal Year. For Assessor's Parcels of Final Mapped Property (for which a building permit has been issued but which is not yet classified as Developed Property) to be prepaid, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.

3. (a) Divide the Assigned Special Tax computed pursuant to Paragraph 2 by the total estimated Assigned Special Tax for CFD No. 35 based on the Developed Property Special Tax which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 35, excluding any Assessor's Parcels which have been prepaid, and

   (b) Divide the Backup Special Tax computed pursuant to Paragraph 2 by the estimated total Backup Special Tax at buildout of CFD No. 35, excluding any Assessor's Parcels which have been prepaid.

4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").

5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").

6. Compute the Future Facilities Costs for the applicable Prepayment Period.

7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").

8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.

9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.

10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".

11. Verify the administrative fees and expenses of CFD No. 35, including the costs to compute the prepayment, the costs to invest the prepayment proceeds, the costs to redeem Bonds, and the costs to record any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").

12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement on the prepayment date or the redemption date.

13. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to Paragraphs 4, 5, 7, 10, and 11, less the amount computed pursuant to Paragraph 12 (the "Prepayment Amount").

14. From the Prepayment Amount, the amounts computed pursuant to Paragraphs 4, 5, 10, and 12 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to Paragraph 7 shall be deposited into the Expenditures Fund. The amount computed pursuant to Paragraph 11 shall be retained by CFD No. 35.

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

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

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

to pay the Special Tax will resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the prepayment was made. Once the obligation of an Assessor's Parcel to pay the Special Tax resumes, the Special Tax for the then applicable Prepayment Period may be prepaid.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Special Tax that may be levied on Taxable Property within CFD No. 35 (after excluding 2.44 Acres of Public Property and 14.12 acres of Property Owner Association Property) both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

2. Prepayment in Part

The Special Tax on an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2017, may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1, except that a partial prepayment shall be calculated by the CFD Administrator according to the following formula:

$$PP = (PF - AE) \times \% + AE.$$

The terms above have the following meaning:

PP = the partial prepayment
PF = the Prepayment Amount (full prepayment) for the Special Tax calculated according to Section H.1
AE = the Administrative Fees and Expenses determined pursuant to paragraph 11 above
% = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax

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

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay the Special Tax and the percentage by which the Special Tax shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute the remitted prepayment funds according to Section H.1, and (ii) indicate in the records of CFD No. 35 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (100% - "%", as defined above) of the Maximum Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D during the Prepayment Period in which the partial prepayment is made.

For partial prepayments made during Prepayment Period 1 or Prepayment Period 2, the full amount of the Special Tax shall resume in the first Fiscal Year of the Prepayment

Period following the Prepayment Period in which the partial prepayment was made. Once the obligation of an Assessor's Parcel to pay the Special Tax resumes, the Special Tax for the then applicable Prepayment Period may be prepaid.

I. TERM OF SPECIAL TAX

The Fiscal Year after which no further Special Tax shall be levied or collected is Fiscal Year 2118-2119, except that the Special Tax that was lawfully levied in or before such Fiscal Year and that remains delinquent may be collected in subsequent years.

EXHIBIT A

CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 1 OF 2)

CITY OF ONTARIO AND CFD NO. 35 CERTIFICATE

1. Pursuant to Section C.1 of the Amended and Restated Rate and Method of Apportionment of Special Tax (the "Rate and Method") for City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South – Facilities) ("CFD No. 35"), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 35 has been modified.

    a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 35, as stated in Section C.1.a.2 of the Rate and Method of Apportionment, has been modified as follows:

TABLE 1
ASSIGNED SPECIAL TAX – DEVELOPED PROPERTY

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Property	< 1,501	$[ ] per Unit
2	Single Family Property	1,501 – 1,700	$[ ] per Unit
3	Single Family Property	1,701 – 1,900	$[ ] per Unit
4	Single Family Property	1,901 – 2,100	$[ ] per Unit
5	Single Family Property	2,101 – 2,300	$[ ] per Unit
6	Single Family Property	2,301 – 2,500	$[ ] per Unit
7	Single Family Property	> 2,500	$[ ] per Unit
8	Other Residential Property		$[ ] per Acre
9	Non-Residential Property		$[ ] per Acre

EXHIBIT A

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

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

The Backup Special Tax shall be $[____] per Unit for Single Family Property. However, if the Expected Residential Lot Count does not equal 235 for Single Family Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated according to the following formula:

Backup Special Tax = $[_____] ÷ Expected Residential Lot Count for Single Family Property

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 35 Bonds.

3. Upon execution of this Certificate by CFD No. 35, CFD No. 35 shall cause an amended notice of Special Tax lien for CFD No. 35 to be recorded reflecting the modifications set forth herein.

Capitalized undefined terms used herein have the meanings ascribed thereto in the Rate and Method. The modifications set forth in this Certificate have been calculated by the CFD Administrator in accordance with the Rate and Method.

GOODWIN CONSULTING GROUP, INC.
CFD ADMINISTRATOR

By:_____ Date:_____

The undersigned acknowledges receipt of this Certificate and of the modification of the Assigned Special Tax and the Backup Special Tax for Developed Property as set forth in this Certificate.

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 35
(COUNTRYSIDE PHASE 2 SOUTH – FACILITIES)

By:_____ Date:_____

RESOLUTION NO. _____

A RESOLUTION OF CHANGE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF A SPECIAL ELECTION, DETERMINING THAT CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF THE EXISTING SPECIAL TAX OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH - FACILITIES) ARE LAWFULLY AUTHORIZED AND DIRECTING RECORDING OF AN AMENDMENT TO NOTICE OF SPECIAL TAX LIEN.

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") previously established City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"); and

WHEREAS, on July 19, 2022, the City Council, pursuant to the Act, adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling a Special Election for Proposed Changes to the Rate and Method of Apportionment of the Existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities)" (the "Resolution Calling Election"), calling a special election of the qualified electors within the Community Facilities District and submitting to such qualified electors the proposition to change the rate and method of apportionment of the special tax (the "Special Tax") levied within the Community Facilities District so as to increase certain of the Special Tax rates thereunder; and

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on July 19, 2022; and

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

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

SECTION 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

SECTION 2. The City Council has received, reviewed and hereby accepts the Canvass.

SECTION 3. The City Council hereby finds and declares that the ballot proposition submitted to the qualified electors of the Community Facilities District pursuant to the Resolution Calling Election has been passed and approved by such electors in accordance with Section 53338 of the Act.

SECTION 4. The City Council hereby finds and determines that the changes to the rate and method of apportionment of the Special Tax so as to increase certain of the Special tax rates thereunder, as described in the Resolution Calling Election, are lawfully authorized.

SECTION 5. The City Clerk is hereby directed to execute and cause to be recorded in the office of the County Recorder of the County of San Bernardino an amendment to the notice of special tax lien for the Community Facilities District in accordance with Section 3117.5 of the California Streets and Highways Code.

SECTION 6. All actions heretofore taken by the officers, employees and agents of the City with respect to the changes to the rate and method of apportionment of the Special Tax, or in connection with or related to any of the documents referred to herein, are hereby approved, confirmed and ratified.

SECTION 7. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things that they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 8. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CANVASS AND STATEMENT OF RESULTS OF ELECTION

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 35
(COUNTRYSIDE PHASE 2 SOUTH - FACILITIES)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on July 19, 2022, I canvassed the returns of the special election held on July 19, 2022 for the City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities), that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the proposition are as follows and that the totals as shown for and against the proposition are true and correct:

	Qualified Landowner Votes	Votes Cast	YES	NO
City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) Special Election, July 19, 2022	35	___	___	___

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the rate and method of apportionment of the special tax levied within City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) (the "Community Facilities District") be changed so as to increase certain of the special tax rates thereunder, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling a Special Election for Proposed Changes to the Rate and Method of Apportionment of the Existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities)," adopted by the City Council of the City of Ontario on July 19, 2022?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 19th day of July 2022.

BY: _____
SHEILA MAUTZ, CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING AND RESTATING ORDINANCE NO. 3082 LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH - FACILITIES).

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") previously established City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"); and

WHEREAS, the qualified electors of the Community Facilities District authorized the levy of a special tax (the "Special Tax") within the Community Facilities District to pay, in whole or in part, the cost of providing certain facilities (the "Facilities") and certain services (the "Services") and incidental expenses pursuant to the Act referenced in the proposition submitted to such qualified electors; and

WHEREAS, pursuant to Section 53340 of the Act, the City Council, on November 7, 2017, adopted Ordinance No. 3082, entitled "An Ordinance of the City Council of the City of Ontario, California, Levying Special Taxes within the City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities)" (the "Levy Ordinance"), levying the Special Tax at the rate and in accordance with the method of apportionment referenced therein (the "Original Rate and Method"); and

WHEREAS, on June 7, 2022, the City Council adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Consideration to Change the Rate and Method of Apportionment of the Existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities)" proposing changes to the Original Rate and Method so as to increase certain of the Special Tax rates thereunder; and

WHEREAS, on July 19, 2022, the City Council, pursuant to the Act, adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling a Special Election for Proposed Changes to the Rate and Method of Apportionment of the Existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities)" (the "Resolution Calling Election") calling for a special election of the qualified electors within the Community Facilities District and submitting to such qualified electors the proposition to change the Original Rate and Method so as to increase certain of the Special Tax rates thereunder, as reflected in the City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) Amended and Restated Rate and Method of Apportionment of Special Tax (the "Restated Rate and Method") attached thereto and incorporated therein; and

WHEREAS, on July 19, 2022, the City Council adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Declaring Results of a Special Election, Determining That Changes to the Rate and Method of Apportionment of the Existing Special Tax of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) Are Lawfully Authorized and Directing Recording of an Amendment to Notice of Special Tax Lien," declaring that the ballot proposition submitted to the qualified electors of the Community Facilities District pursuant to the Resolution Calling Election has been passed and approved by such electors and finding and determining that that the changes to the Original Rate and Method, as reflected in the Restated Rate and Method, were lawfully authorized; and

WHEREAS, this Ordinance amends and restates the Levy Ordinance in order to reflect such changes.

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

SECTION 1. The Levy Ordinance is hereby amended and restated to read in full as set forth herein.

SECTION 2. The City Council hereby authorizes and levies the Special Tax within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in the Restated Rate and Method. The Special Tax is hereby levied in each fiscal year until the last fiscal year in which the Special Tax is authorized to be levied pursuant to the Restated Rate and Method.

SECTION 3. The City Council may, in accordance with subdivision (b) of Section 53340 of the Act, provide, by resolution, for the levy of the Special Tax in future tax years at the same rate or at a lower rate than the rate provided by this Ordinance. In no event shall the Special Tax be levied on any parcel within the Community Facilities District in excess of the maximum tax specified therefor in the Restated Rate and Method.

SECTION 4. The Special Tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Restated Rate and Method.

SECTION 5. The proceeds of the Special Tax shall only be used to pay, in whole or in part, the cost of providing the Facilities and Services and incidental expenses pursuant to the Act.

SECTION 6. The Special Tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes, unless another procedure is adopted by the City Council.

SECTION 7. If for any reason any portion of this Ordinance is found to be invalid, or if the Special Tax is found inapplicable to any particular parcel within the Community Facilities District, by a court of competent jurisdiction, the balance of this Ordinance and the application of the Special Tax to the remaining parcels within the Community Facilities District shall not be affected.

SECTION 8. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary hereof 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 California Government Code Section 36933.

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

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2022.

_____
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 Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held _____ and adopted at the regular meeting held _____, 2022 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)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO AMEND RESOLUTION NO. 2017-124 IN ORDER TO INCREASE THE MAXIMUM AGGREGATE AMOUNT OF BONDED INDEBTEDNESS THAT CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH - FACILITIES) IS AUTHORIZED TO INCUR.

WHEREAS, on October 17, 2017, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted Resolution No. 2017-123, entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District," Resolution No. 2017-124, entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities)" (the "Resolution Deeming it Necessary to Incur"), and Resolution No. 2017-125, entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities)," which resolutions established City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) (the "Community Facilities District"), authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of incurring indebtedness, levying a special tax and establishing an appropriations limit for the Community Facilities District, respectively, for the purpose of financing certain public facilities and services, as further provided in the Resolution of Formation; and

WHEREAS, on October 17, 2017, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act; and

WHEREAS, pursuant to the Resolution Deeming it Necessary to Incur and said election, the Community Facilities District is authorized to incur bonded indebtedness in a maximum aggregate amount of not to exceed $27,000,000; and

WHEREAS, on June 7, 2022, the City Council, pursuant to the Act, adopted a Resolution entitled "A Resolution of the City Council of the City Of Ontario, California, of Intention to Amend Resolution No. 2017-124 In Order to Increase the Maximum Aggregate Amount of Bonded Indebtedness that City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) is Authorized to Incur" (the "Resolution of Intention"), declaring the necessity to increase the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur from $27,000,000 to $45,000,000 and setting the date for a public hearing to be held on the proposed increase in the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur; and

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

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

WHEREAS, at said public hearing, any person interested, including persons owning property within the Community Facilities District and desiring to appear and present any matters material to the questions set forth in the Resolution of Intention appeared and presented such matters; and

WHEREAS, oral or written protests against the proposed increase in the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur were not made or filed at or before said public hearing by 50% or more of the registered voters, or six registered voters, whichever is more, residing within the territory of the Community Facilities District, or the owners of one-half or more of the area of land in the territory of the Community Facilities District and not exempt from the special tax; and

WHEREAS, there has been filed with the City Clerk of the City a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the Community Facilities District as of June 16, 2022, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of said public hearing.

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

SECTION 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

SECTION 2. The City Council deems it is necessary that the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur be increased from $27,000,000 to $45,000,000.

SECTION 3. In order to increase the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur from $27,000,000 to $45,000,000, Section 5 of the Resolution Deeming it Necessary to Incur shall be amended to read in full as follows:

> "Section 5. The maximum aggregate amount of debt to be incurred is $45,000,000."

SECTION 4. Pursuant to the provisions of the Act, the proposal to increase the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur from $27,000,000 to $45,000,000 by amending Section 5 of the Resolution Deeming it Necessary to Incur shall be subject to the approval of the

qualified electors of the Community Facilities District at a special election. The City Council hereby finds and determines that no persons were registered to vote within the territory of the Community Facilities District as of June 16, 2022, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing held by the City Council on the proposed increase in the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax. The voting procedure shall be by mailed or hand-delivered ballot.

SECTION 5. The date of the special community facilities district election at which time the proposition shall be submitted to the voters is July 19, 2022.

SECTION 6. The election is to be conducted by mail ballot. The mailed ballots are required to be received in the office of the City Clerk no later than 7:30 p.m. on July 19, 2022; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 7. All actions heretofore taken by the officers, employees and agents of the City with respect to the proposed increase in the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur, or in connection with or related to any of the documents referred to herein, are hereby approved, confirmed and ratified.

SECTION 8. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 9. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH - FACILITIES).

WHEREAS, on this date, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Amend Resolution No. 2017-124 In Order to Increase the Maximum Aggregate Amount of Bonded Indebtedness that City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) is Authorized to Incur" (the "Resolution Deeming it Necessary "), deeming it necessary that the maximum aggregate amount of bonded indebtedness that City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) (the "Community Facilities District") is authorized to incur be increased from $27,000,000 to $45,000,000; and

WHEREAS, pursuant to the provisions of said resolution, the proposition to increase the maximum aggregate amount of bonded indebtedness the Community Facilities District is authorized to incur is to be submitted to the qualified electors of the Community Facilities District as required by the Act; and

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

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the Community Facilities District as of June 16, 2022, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing on the proposed increase in the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on July 19, 2022 and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on July 19, 2022.

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. Pursuant to the Act, the proposition to increase the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur shall be submitted to the qualified electors of the Community Facilities District at an election called therefor as provided below.

SECTION 3. The City Clerk is hereby designated as the official to conduct said election.

SECTION 4. The City Council hereby finds and determines that no persons were registered to vote within the territory of the Community Facilities District as of June 16, 2022, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing heretofore held by the City Council on the proposed increase in the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 5. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), (b) to the holding of said election on July 19, 2022, and (c) to the waiver of any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council herby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on July 19, 2022.

SECTION 6. The City Council hereby calls a special election to increase the maximum aggregate amount of bonded indebtedness that the Community Facilities District is authorized to incur from $27,000,000 to $45,000,000, which election shall be held at 303 East B Street, Ontario, California, on July 19, 2022. The City Council has caused to be provided to the City Clerk, as the official to conduct said election, the Resolution of Deeming it Necessary, a certified map of sufficient scale and clarity to show the boundaries of the Community Facilities District, and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk not later than 7:30 p.m. on July 19, 2022; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

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

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

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

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

SECTION 9. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, to and including 7:30 p.m. on July 19, 2022, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots which may be marked at said location on the election day by said qualified electors.

SECTION 10. All actions heretofore taken by the officers, employees and agents of the City with respect to the special election called for herein, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

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

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

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____

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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO
July 19, 2022
SPECIAL ELECTION

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

INSTRUCTIONS TO VOTERS:

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

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 35
(COUNTRYSIDE PHASE 2 SOUTH - FACILITIES)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the maximum aggregate amount of bonded indebtedness that City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) (the "Community Facilities District") is authorized to incur be increase from $27,000,000 to $45,000,000, as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Amend Resolution No. 2017-124 In Order to Increase the Maximum Aggregate Amount of Bonded Indebtedness that City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) is Authorized to Incur," adopted by the City Council of the City of Ontario on July 19, 2022?

Yes: ☐

No: ☐

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION OF COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES).

WHEREAS, on July 19, 2022, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities)" (the "Resolution Calling Election"), calling for a special election of the qualified electors within City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) (the "Community Facilities District"); and

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on July 19, 2022; and

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

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The City Council has received, reviewed and hereby accepts the Canvass.

SECTION 3. The City Council hereby finds and declares that the ballot proposition submitted to the qualified electors of the Community Facilities District pursuant to the Resolution Calling Election has been passed and approved by such electors in accordance with Section 53355 of the Act.

SECTION 4. All actions heretofore taken by the officers, employees and agents of the City with respect to the special election, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 5. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 6. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 19th day of July 2022.

_____
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. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 19, 2022 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. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held July 19, 2022.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 35
(COUNTRYSIDE PHASE 2 SOUTH - FACILITIES)
CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on July 19, 2022, I canvassed the returns of the special election held on July 19, 2022, for the City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities), that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the proposition are as follows and that the totals as shown for and against the proposition are true and correct:

	Qualified Landowner Votes	Votes Cast	YES	NO
City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) Special Election, July 19, 2022	35	___	___	___

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the maximum aggregate amount of bonded indebtedness that City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) (the "Community Facilities District") is authorized to incur be increase from $27,000,000 to $45,000,000, as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Amend Resolution No. 2017-124 In Order to Increase the Maximum Aggregate Amount of Bonded Indebtedness that City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South - Facilities) is Authorized to Incur," adopted by the City Council of the City of Ontario on July 19, 2022?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 19th day of July 2022.

BY: _____
SHEILA MAUTZ, CITY CLERK

CITY OF ONTARIO *Agenda Report* **July 19, 2022**	**SECTION:** **PUBLIC HEARINGS**
Department: Planning Prepared By: Lorena Mejia Staff Member Presenting: Scott Murphy, Executive Director Community Development Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 30

SUBJECT: **A PUBLIC HEARING TO CONSIDER A DEVELOPMENT CODE AMENDMENT (FILE NO. PDCA22-004) PROPOSING CERTAIN CLARIFICATIONS AND REVISIONS TO THE CITY OF ONTARIO DEVELOPMENT CODE PERTAINING TO CHINO AIRPORT**

RECOMMENDATION: That the City Council introduce and waive further reading of the Ordinance approving File No. PDCA22-004, a Development Code Amendment proposing certain clarifications and revisions to the City of Ontario Development Code, establishing the Chino Airport Overlay zoning district and Reference L, Chino Airport Land Use Compatibility Plan.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

FISCAL IMPACT: There is no direct fiscal impact associated with this action.

BACKGROUND & ANALYSIS: The California State Aeronautics Act (Public Utilities Code, Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan ("ALUCP") be prepared for all public-use airports in the state to "protect the public health, safety, and welfare by ensuring orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible land uses."

State law requires local land use plans and individual development proposals to be consistent with policies set forth in Compatibility Plans. The statutes require that local jurisdictions preparing Compatibility Plans "rely upon" the compatibility guidance provided by the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation ("Caltrans"), Division of Aeronautics.

The responsibility for the preparation and adoption of compatibility plans falls to the Airport Land Use Commissions ("ALUC") within each county. However, State law also provides for what is generally referred to as an "Alternative Process" wherein a county does not have to form an ALUC

and the required compatibility planning responsibilities fall to local jurisdictions. San Bernardino County and its cities elected to follow the Alternative Process when this option became available as a result of the 1994 legislation (Assembly Bill 2831). Specific requirements for implementation of the Alternative Process are set forth in Public Utilities Code Section 21670.1(c)(2).

Use of the Alternative Process within San Bernardino County was established in 1995 by resolutions of the County Board of Supervisors and the city councils of cities affected by airports. The California Division of Aeronautics approved the San Bernardino County Alternative Process in 1996. The approval of the Alternative Process designated the City of Chino as the local jurisdiction responsible for leading the compatibility planning process for Chino Airport.

PROPOSED CHINO AIRPORT OVERLAY DISTRICT: The existing 1991 Chino Airport Land Use Compatibility Plan does not reflect the guidance set forth in the 2011 Caltrans Airport Land Use Planning Handbook ("Handbook"). Although, the City of Ontario does not have the formal responsibility under the "alternative process" to prepare a compatibility plan for Chino Airport, the City of Ontario has prepared an airport land compatibility plan for Chino Airport consistent with the 2011 Caltrans Airport Land Use Planning Handbook solely to address impacts within Ontario's boundaries.

The basic function of the proposed ALUCP for Chino Airport ("CNO") is to promote compatibility between CNO and land uses within the City of Ontario. The main objective of the ALUCP is to avoid future compatibility conflicts rather than to remedy existing incompatibilities. In addition, the ALUCP is aimed at addressing future land uses and development and compatibility with The Ontario Plan Policy Plan. The ALUCP does not place any restrictions on the present and future role, configuration, or use of the airport.

The ALUCP addresses three compatibility factors which include safety, airspace protection, and overflight impacts. The compatibility plan includes policies to evaluate land use plans and new development proposals for consistency with CNO. Each compatibility factor takes into consideration present and future aircraft operations or land uses that could negatively affect airport operations.

SAFETY: The intent of the safety compatibility policies is to minimize the risks associated with an off-airport aircraft accident or emergency landing. The policies focus on reducing the potential risks to people and property if such events where to occur. The safety zones place restrictions on new residential or sensitive land uses from being developed within the affected areas and limits the intensity of non-residential development (i.e., number of people allowed per acre of land) and total permissible floor area of any future building developed.

AIRSPACE PROTECTION: Airspace protection compatibility policies seek to prevent creation of land use features that can be hazards to aircraft in flight and have the potential for causing an aircraft accident to occur. Such hazards may be such things as a building being built too high or a land use that may cause visual or electronic hazards.

OVERFLIGHT: The purpose of overflight compatibility policies is to help notify people about the presence of overflights near airports so that they can make informed decisions regarding acquisition or lease of property in the affected areas.

ALUCP AND GENERAL PLAN LAND USE CONSISTENCY: State Law requires General Plans and Specific Plans be consistent with adopted airport compatibility plans. Government Code Section 65302.3 requires that General Plans and any applicable Specific Plans "shall be consistent with" the Compatibility Plan and is reiterated in local agencies' obligations under the Alternative Process (Public Utilities Code Section 21670.1(c)(2)(D)). General Plans do not need to be identical with the ALUCP in order to achieve consistency. Affected jurisdictions' General Plans must do the following: (1) address compatibility planning issues, either directly or through reference to a zoning ordinance or other policy document; and (2) must avoid direct conflicts with the (ALUCP) development policies and criteria.

The consistency requirement pertains only to future land use development. Nothing in state law or the ALUCP requires that already existing development be removed or modified to eliminate incompatibilities that may already exist. Furthermore, General Plans and Specific Plans can show such land uses as continuing even though they would be nonconforming with the ALUCP criteria. Conflicts of this type do not constitute inconsistencies between a General Plan or Specific Plan and the ALUCP.

DEVELOPMENT CODE AMENDMENT: The proposed Development Code Amendment consists of the following:

A. **Chapter 5:** Provisions to establish the Chino Airport Overlay zoning district within Chapter 5 Development Code Chapter 5, Division 5.01, Section 5.01.005.F.6 (see Attachment A of the Ordinance); and
B. **Reference:** Provisions to establish Reference L, the Chino Airport Land Use Compatibility Plan, within the Reference section of the Development Code (see Attachment B of the Ordinance).

PLANNING COMMISSION REVIEW AND ACTION: On June 28, 2022, the Planning Commission conducted a public hearing to consider the proposed Development Code Amendment. Upon conclusion of the public hearing, the Planning Commission voted unanimously (6-0-1) to approve Resolution No. PC22-032, recommending the City Council approve the proposed Development Code Amendment.

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 The Ontario Plan ("TOP"). Goals and policies of TOP that are furthered by the proposed Development Code Amendment and are addressed in the attached Planning Commission Backup material.

AIRPORT LAND USE COMPATIBILITY PLAN 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, 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 Chino Airport Land Use Compatibility Plan does not create any conflicting policies or inconsistencies with the Ontario International Airport Land use Compatibility Plan.

ENVIRONMENTAL REVIEW: The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act ("CEQA") and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the common sense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

CITY OF ONTARIO PLANNING DEPARTMENT

PLANNING COMMISSION STAFF REPORT

June 28, 2022

303 East B Street, Ontario, California 91764 Phone: 909.395.2036 / Fax: 909.395.2420

FILE NO: PDCA22-004

SUBJECT: A public hearing to consider certain revisions to the City of Ontario Development Code, establishing the Chino Airport Overlay zoning district and Reference L, Chino Airport Land Use Compatibility Plan; **City Initiated. City Council action is required.**

RECOMMENDED ACTION: That the Planning Commission consider and adopt the resolution recommending the City Council approve File No. PDCA22-004, pursuant to the facts and reasons contained in the staff report and attached resolution.

PROJECT SETTING: The Chino Airport is a general aviation airport located within the City of Chino, immediately adjacent to the southwestern boundary of the City of Ontario. Chino Airport is owned and operated by San Bernardino County and is used by a wide range of general aviation aircraft, including single and multi-engine aircraft, turboprop, business jet, and helicopters. The geographic scope of the Chino Airport Land Use Compatibility Plan ("ALUCP") is the Airport Influence Area ("AIA"), the area in which current or future airport-related noise, safety, airspace protection and/or overflight factors may affect land uses or impose restrictions on those uses. The portion of the AIA within the City of Ontario is generally bounded by Riverside Drive to the north, Merrill Avenue/southern boundary City limits to the south, Euclid Avenue to the west and Haven Avenue to the east. The Airport Influence Area for Chino Airport is depicted in Exhibit A: Chino Airport Influence Area and Policy Map L-1 of the Chino ALUCP.

PROJECT ANALYSIS:

(1) Background — The California State Aeronautics Act (Public Utilities Code, Section 21670 et seq.) requires that an ALUCP be prepared for all public-use airports in the state to "protect the public health, safety, and welfare by ensuring orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible land uses."

State law requires local land use plans and individual development proposals to be consistent with policies set forth in Compatibility Plans. The statutes require that local jurisdictions preparing Compatibility Plans "rely upon" the compatibility guidance provided by the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation ("Caltrans"), Division of Aeronautics.

Case Planner:	Lorena Mejia
Planning Director Approval:	
Submittal Date:	1/3/2022

Hearing Body	*Date*	*Decision*	*Action*
PC	6/28/2022	APPROVAL	Recommend
CC-1st Reading	7/19/2022		Introduction
CC-2nd Reading	8/16/2022		Final

The responsibility for the preparation and adoption of compatibility plans falls to the Airport Land Use Commissions ("ALUC") within each county. However, State law also provides for what is generally referred to as an "Alternative Process" wherein a county does not have to form an ALUC and the required compatibility planning responsibilities fall to local jurisdictions. San Bernardino County and its cities elected to follow the Alternative Process when this option became available as a result of the 1994 legislation (Assembly Bill 2831). Specific requirements for implementation of the Alternative Process are set forth in Public Utilities Code Section 21670.1(c)(2).

Use of the Alternative Process within San Bernardino County was established in 1995 by resolutions of the County Board of Supervisors and the city councils of cities affected by airports. The California Division of Aeronautics approved the San Bernardino County Alternative Process in 1996. The approval of the Alternative Process designated the City of Chino as the local jurisdiction responsible for leading the compatibility planning process for Chino Airport.

(2) Proposed Chino Airport Overlay District — The existing 1991 Chino Airport Land Use Compatibility Plan (ALUCP) does not reflect the guidance set forth in the 2011 Caltrans Airport Land Use Planning Handbook ("Handbook"). Although, the City of Ontario does not have the formal responsibility under the "alternative process" to prepare a compatibility plan for Chino Airport, the City of Ontario has prepared an airport land compatibility plan for Chino Airport consistent with the 2011 Caltrans Airport Land Use Planning Handbook solely to address impacts within Ontario's boundaries.

The basic function of the proposed ALUCP for Chino Airport ("CNO") is to promote compatibility between CNO and the land uses impacted within the City of Ontario. The main objective of the ALUCP is to avoid future compatibility conflicts rather than to remedy existing incompatibilities. In addition, the ALUCP is aimed at addressing future land uses and development and compatibility with The Ontario Plan Policy Plan. The ALUCP does not place any restrictions on the present and future role, configuration, or use of the airport.

The ALUCP addresses four compatibility factors which include safety, noise, airspace protection, and overflight impacts. The compatibility plan includes policies to evaluate, land use plans and new development proposals for consistency with CNO. Each compatibility factor takes into consideration present and future aircraft operations or land uses that could negatively affect airport operations.

(a) Safety Zones — The intent of the safety compatibility policies are to minimize the risks associated with an off-airport aircraft accident or emergency landing. The policies focus on reducing the potential risks to people and property if such events where to occur.

The ALUCP relies on the Handbook's generic safety zones for general aviation runways for delineating the CNO safety zone boundaries. Portions of Safety Zones 1, 2, 3, 4, and 6

are located within Ontario city limits and are depicted in Exhibit B—Chino Airport Safety Zones. Safety Zone 5 is located outside of the Ontario city limits and not included in the CNO ALUCP. The safety zones around CNO affect both the intensity of development (i.e., number of people allowed per acre of land), and total permissible floor area of any future building developed. The safety zones also place restrictions on new residential land uses from being developed within the affected areas along with special land uses, such as schools.

(b) Noise — The purpose of noise compatibility policies is to avoid the establishment of noise-sensitive land uses in the portions of the CNO AIA that are exposed to significant levels of aircraft noise. For compatibility planning purposes, the noise contours reflect the County's aircraft activity forecast of 209,400 annual operations for 2025 that is considered to be representative of the likely maximum number of aircraft operations that could be realized over the 20-year forecast period (2039) and are shown in Figure 1: Chino CNEL Contours (2025). For purposes of airport land use compatibility planning, Caltrans advises that 60 dB CNEL is suitable for new residential development and other noise sensitive land uses around most airports.

Figure 1 shows that only the 55 dB CNEL contour affects lands within the City of Ontario. Since the 60 dB CNEL does not extend into the City of Ontario no significant impacts are anticipated and therefore no noise policies and criteria are included within the CNO ALUCP.

(c) Airspace Protection — Airspace protection compatibility policies seek to prevent creation of land use features that can be hazards to aircraft in flight and have the potential for causing an aircraft accident to occur. Such hazards may be physical such as a building being built too high, or land uses on the ground that may cause visual or electronic hazards. The factors considered in setting airspace protection policies in include the Federal Aviation Regulations (FAR) Part 77. To determine the allowable heights of future objects surrounding CNO, the underlying ground elevation is compared

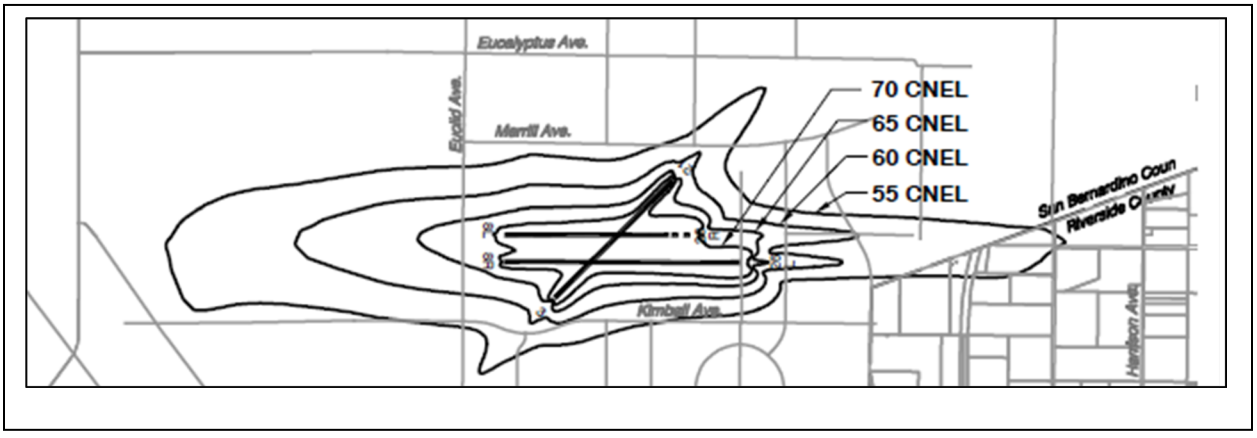


Figure 1: Chino CNEL Contours (2025)

with the elevation of the controlling portions of the FAR Part 77 and is depicted in Exhibit C—Chino Airport Airspace Protection Zones.

(d) Overflight — Noise from individual aircraft operations, can be intrusive and annoying in locations beyond the limits of the noise impacts zones. Sensitivity to aircraft overflights varies from one person to another. The purpose of overflight compatibility policies is to help notify people about the presence of overflights near airports so that they can make informed decisions regarding acquisition or lease of property in the affected areas. Overflight compatibility is particularly important with regard to residential land uses. The boundaries of the overflight notification zones around CNO are depicted in Exhibit D—Chino Airport Overflight Notification Zones.

(3) ALUCP and General Plan Land Use Consistency — State Law requires General Plans and Specific Plans must be made consistent with adopted airport compatibility plans. Government Code Section 65302.3 requires that General Plans and any applicable Specific Plans "shall be consistent with" the Compatibility Plan and is reiterated in local agencies' obligations under the Alternative Process (Public Utilities Code Section 21670.1(c)(2)(D)). General Plans do not need to be identical with the ALUCP in order to achieve consistency. Affected jurisdictions' General Plans must do the following: (1) address compatibility planning issues, either directly or through reference to a zoning ordinance or other policy document; and (2) must avoid direct conflicts with the (ALUCP) development policies and criteria.

The consistency requirement pertains only to future land use development. Nothing in state law or the ALUCP requires that already existing development be removed or modified to eliminate incompatibilities that may already exist. Furthermore, General Plans and Specific Plans can show such land uses as continuing even though they would be nonconforming with the ALUCP criteria. Conflicts of this type do not constitute inconsistencies between a General Plan or Specific Plan and the ALUCP.

(4) Development Code Amendment — The proposed Development Code Amendment consists of the following:

(a) Chapter 5 — Provisions to establish the Chino Airport Overlay zoning district within Chapter 5 Development Code Section 5.01.005.F.6 (see Attachment A of the Planning Commission Resolution); and

(b) Reference – Provisions to establish Reference L the Chino Airport Land Use Compatibility Plan within the Reference section of the Development Code (see Attachment B of the Planning Commission Resolution).

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 The Ontario Plan ("TOP"). More

specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

(1) City Council Goals.

- Maintain the Current High Level of Public Safety
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

(2) Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.

  - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

(3) Policy Plan (General Plan)

Land Use Element:

- Goal LU5: Integrated airport systems and facilities that minimize negative impacts to the community and maximize economic benefits.

  - LU5-3 Airport Impacts: We work with agencies to maximize resources to mitigate the impacts and hazards related to airport operations.

  - LU5-6 Alternative Process: We fulfill our responsibilities and comply with state law with regard to the Alternative Process for proper airport land use compatibility planning.

  - LU5-7 ALUCP Consistency with Land Use Regulations: We comply with state law that requires general plans, specific plans and all new development be consistent with the policies and criteria set forth within an Airport Land Use Compatibility Plan for any public use airport.

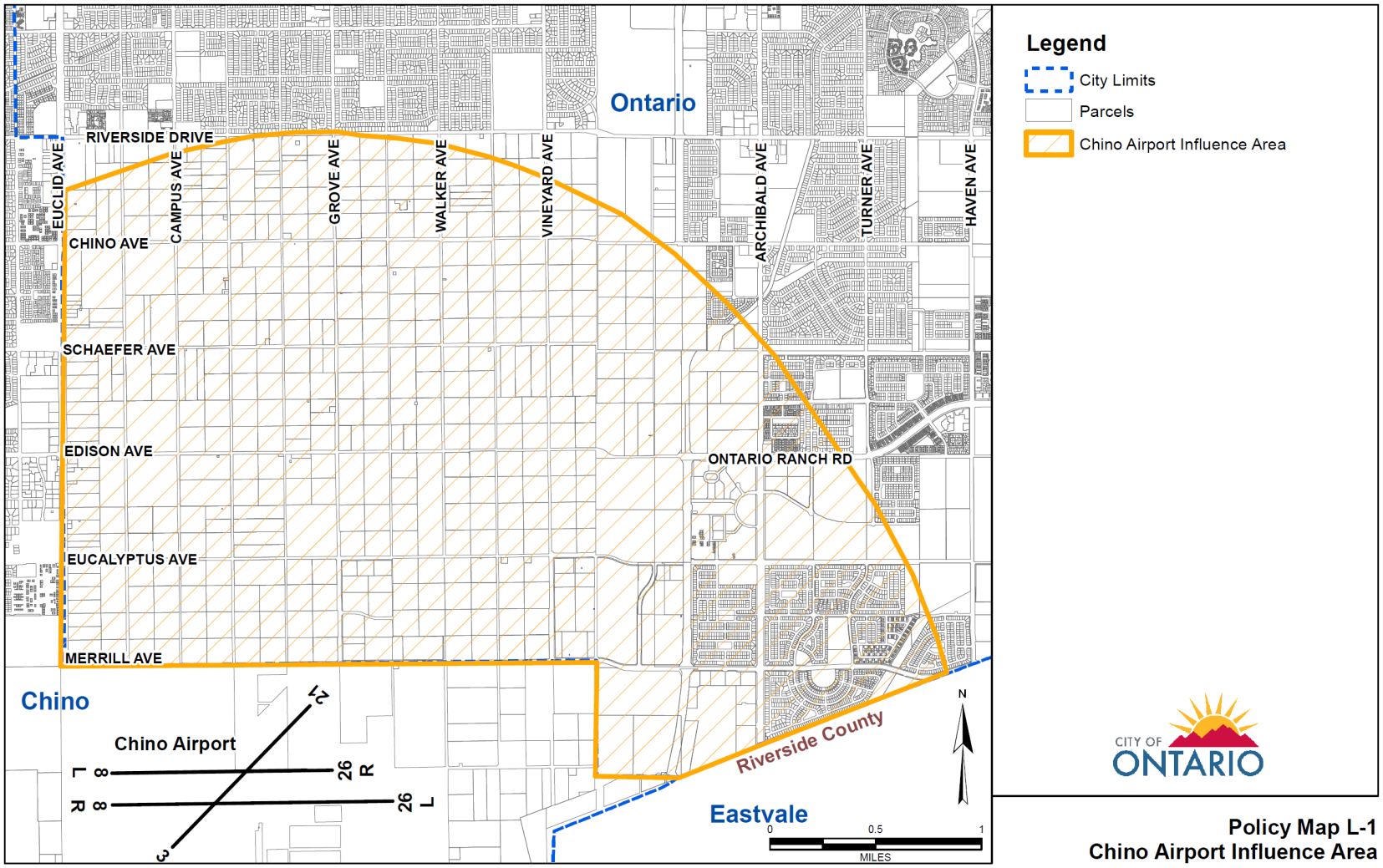
  - LU5-8 Chino Airport: We will support the creation and implementation of the Airport Land Use Compatibility Plan for Chino Airport.

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 Chino ALUCP does not create any conflicting policies or inconsistencies with the ONT ALUCP.

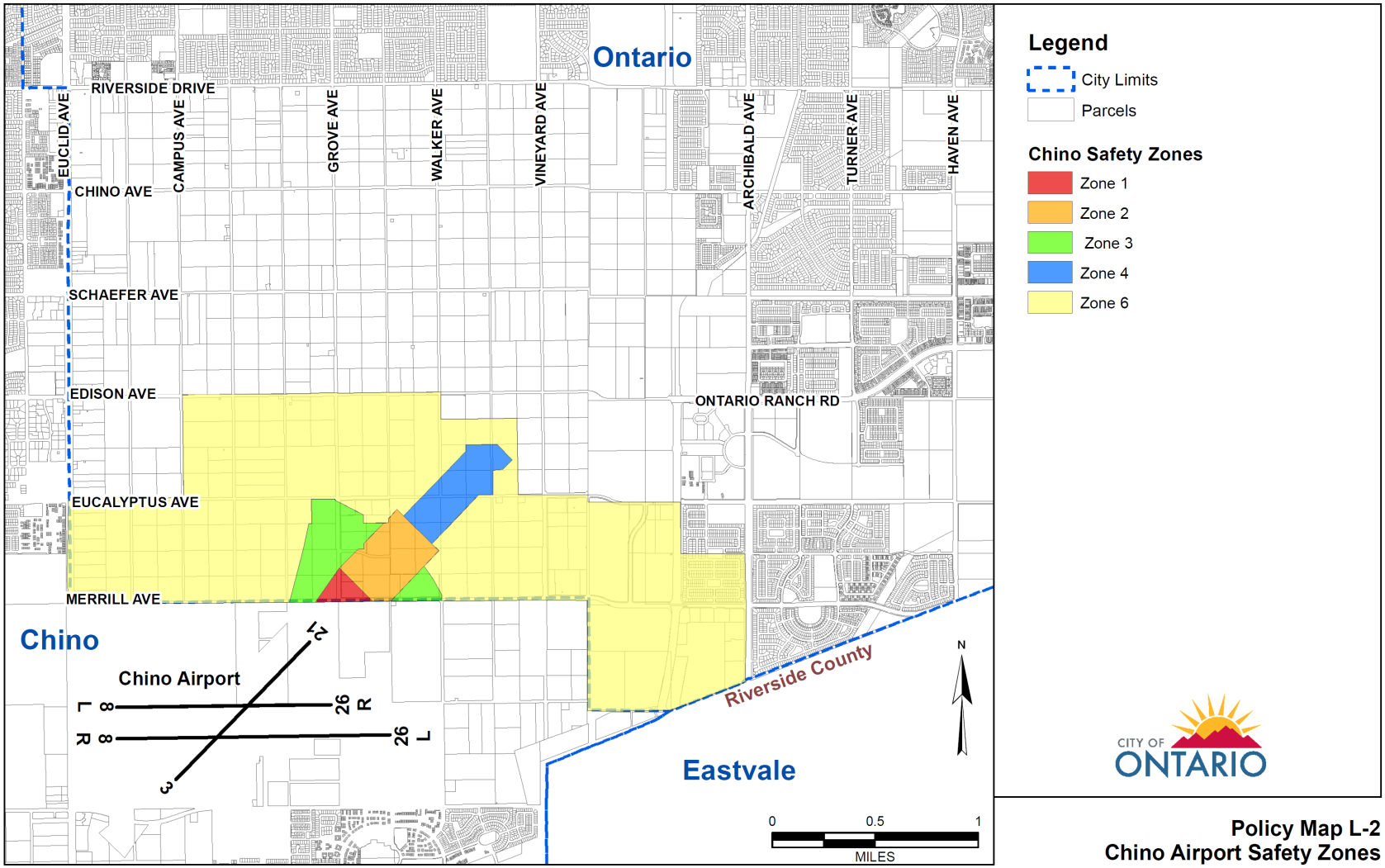
ENVIRONMENTAL REVIEW: The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act ("CEQA") and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the common sense exemption (general rule) that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

EXHIBIT A— CHINO AIRPORT INFLUENCE AREA



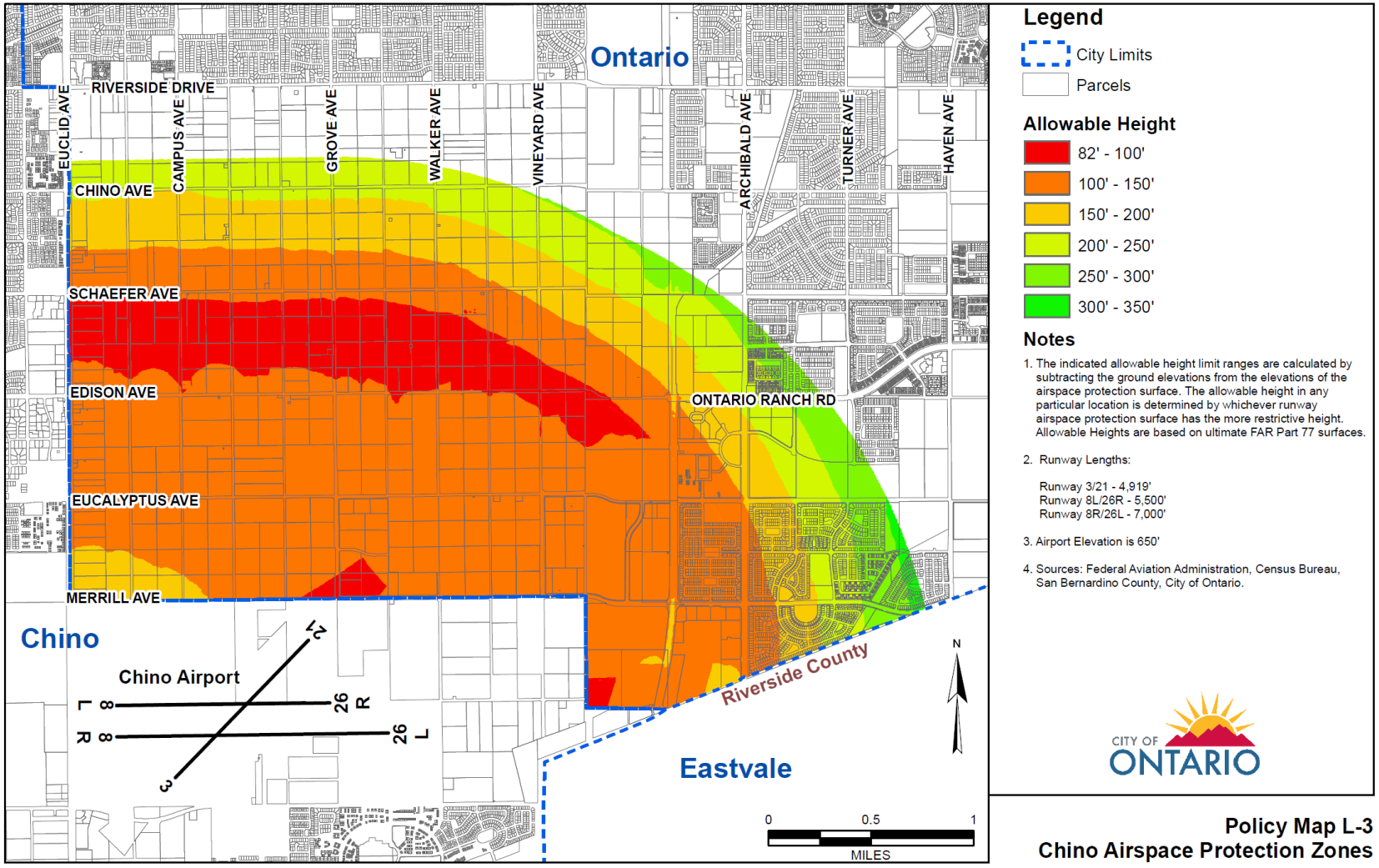
Policy Map L-1
Chino Airport Influence Area

EXHIBIT B— CHINO AIRPORT SAFETY ZONES



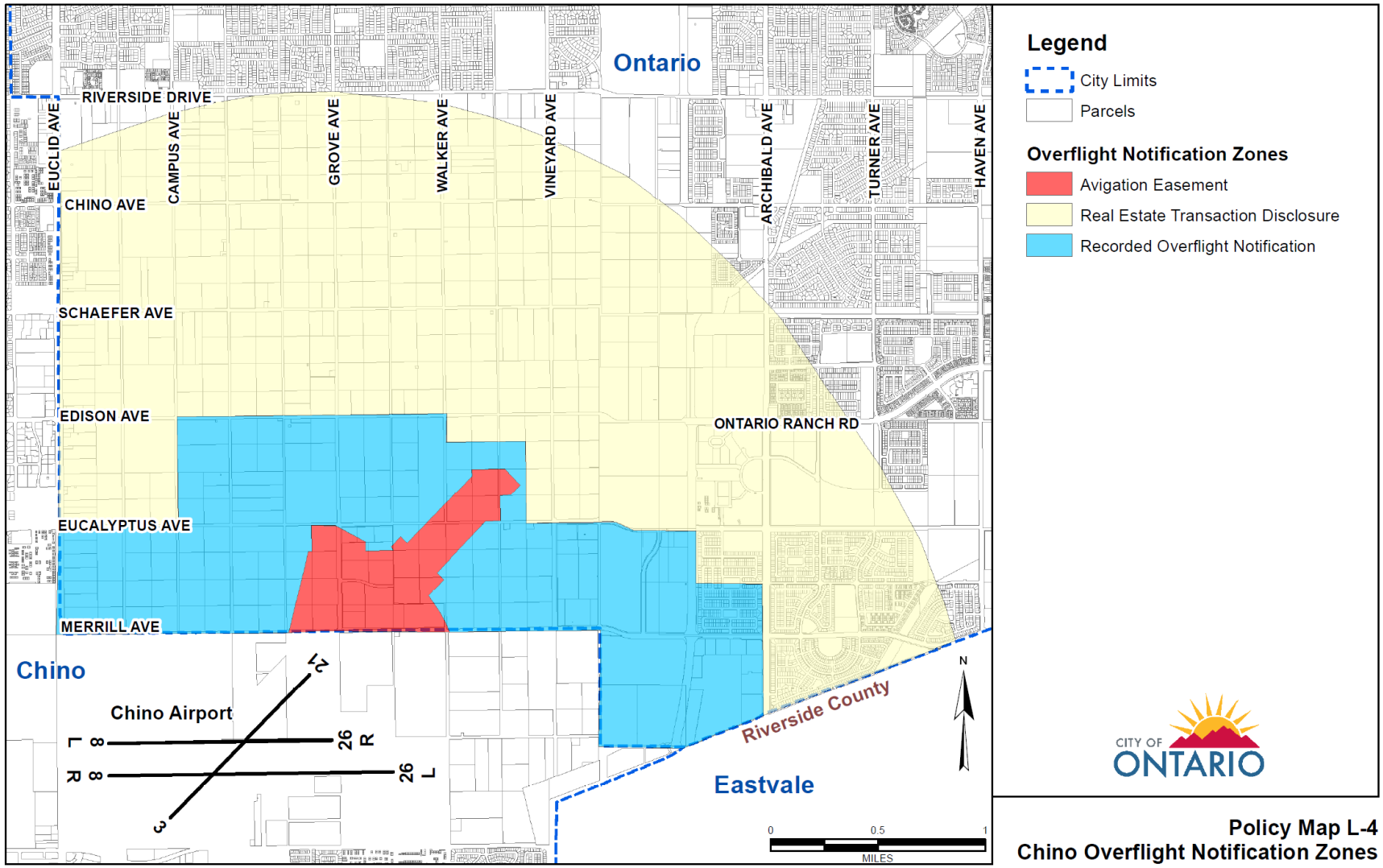
Policy Map L-2
Chino Airport Safety Zones

EXHIBIT C— CHINO AIRPORT AIRSPACE PROTECTION ZONES



Policy Map L-3
Chino Airspace Protection Zones

EXHIBIT D— CHINO AIRPORT OVERFLIGHT NOTIFICATION ZONES



Policy Map L-4
Chino Overflight Notification Zones

RESOLUTION NO. PC22-032

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE FILE NO. PDCA22-004, A DEVELOPMENT CODE AMENDMENT FOR CERTAIN REVISIONS TO THE CITY OF ONTARIO DEVELOPMENT CODE, ESTABLISHING THE CHINO AIRPORT OVERLAY ZONING DISTRICT AND REFERENCE L, CHINO AIRPORT LAND USE COMPATIBILITY PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, The City of Ontario ("Applicant") has initiated a Development Code Amendment, File No. PDCA22-004, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City of Ontario Development Code (Ontario Municipal Code Title 9) provides the legislative framework for the implementation of The Ontario Plan, which establishes long term principals, goals, and policies for guiding the growth and development of the City in a manner that achieves Ontario's vision, and promotes and protects the public health, safety, comfort, convenience, prosperity, and welfare of its citizens; and

WHEREAS, the Chino Airport is a general aviation airport located within the City of Chino, immediately adjacent to the southwestern boundary of the City of Ontario. The geographic scope of the Chino Airport Land Use Compatibility Plan (“ALUCP”) is the Airport Influence Area (“AIA”). The portion of the AIA within the City of Ontario is generally bounded by Riverside Drive to the north, Merrill Avenue/southern boundary City limits to the south, Euclid Avenue to the west and Haven Avenue to the east; and

WHEREAS, certain revisions to the City of Ontario Development Code are proposed, as follows:

(1) Provisions to establish the Chino Airport Overlay zoning district within Chapter 5 Development Code Section 5.01.005.F.6.

(2) Provisions to establish Reference L the Chino Airport Land Use Compatibility Plan within the Reference section of the Development Code; and

WHEREAS, the California State Aeronautics Act (Public Utilities Code, Section 21670 et seq.) requires that an ALUCP be prepared for all public-use airports in the state to “protect the public health, safety, and welfare by ensuring orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible land uses”; and

WHEREAS, State law requires that local jurisdictions preparing Compatibility Plans “rely upon” the compatibility guidance provided by the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation (“Caltrans”), Division of Aeronautics; and

WHEREAS, the responsibility for the preparation and adoption of compatibility plans falls to the county Airport Land Use Commission (“ALUC”). However, State law also provides for what is generally referred to as an “Alternative Process” wherein a county does not have to form an ALUC and the required compatibility planning responsibilities fall to local jurisdictions; and

WHEREAS, the use of the Alternative Process within San Bernardino County was established in 1995 by resolutions of the County Board of Supervisors and the city councils of cities affected by airports. The California Division of Aeronautics approved the San Bernardino County Alternative Process in 1996. The approval of the Alternative Process designated the City of Chino as the local jurisdiction responsible for leading the compatibility planning process for Chino Airport; and

WHEREAS, the current ALUCP does not reflect the guidance set forth in the 2011 Caltrans Airport Land Use Planning Handbook (“Handbook”). Although, the City of Ontario does not have the formal responsibility under the “alternative process” to prepare a compatibility plan for Chino Airport, the City of Ontario has prepared an airport land compatibility plan for Chino Airport consistent with the 2011 Caltrans Airport Land Use Planning Handbook solely to address impacts within Ontario’s boundaries; and

WHEREAS, the basic function of the ALUCP for Chino Airport (“CNO”) is to promote compatibility between CNO and the land uses that surround it. The main objective of the ALUCP is to avoid future compatibility conflicts rather than to remedy existing incompatibilities; and

WHEREAS, the ALUCP addresses four compatibility factors which include safety, noise, airspace protection, and overflight impacts. The compatibility plan includes policies to evaluate, land use plans and new development proposals for consistency with CNO. Each compatibility factor takes into consideration present and future aircraft operations or land uses that could negatively affect airport operations; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act, commencing with Public Resources Code Section 21000 (hereinafter referred to as "CEQA"); and

WHEREAS, the Project is exempt from CEQA pursuant to a categorical exemption (listed in CEQA Guidelines Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning Commission the responsibility and authority to review and make recommendation to the City Council 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 (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. The proposed Chino ALUCP does not create any conflicting policies or inconsistencies with the ONT ALUCP; 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 June 28, 2022, the Planning Commission 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 Planning Commission of the City of Ontario, as follows:

SECTION 1: ***Environmental Determination and Findings.*** As the recommending authority for the Project, the Planning Commission 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 Planning Commission, the Planning Commission finds as follows:

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

(2) The Project is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the "common sense exemption" (also known as the "general rule exemption") that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

(3) The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

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

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 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 PLANNING COMMISSION, therefore, finds and determines that the Project 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 Planning Commission during the above-referenced hearing, and upon the specific findings set forth in Sections 1 through 2, above, the Planning Commission hereby concludes as follows:

(1) The proposed Development Code Amendment 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 Development Code Amendment will support the creation and implementation of the Airport Land Use Compatibility Plan for Chino Airport as promoted by Land Use Element Policy LU5-8 Chino Airport.

(2) The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The Development Code Amendment incorporates safeguards intended to ensure that the purposes of the Development Code are preserved; the project will not be contrary to or damage the public health, safety, convenience, or general welfare; the project will not result in any significant environmental impacts; and the project will be in full conformity with the Vision, City Council Priorities, and Policy Plan components of The Ontario Plan.

SECTION 4: ***Planning Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 through 4, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVES the herein described Application, subject to each and every condition set forth in the Department reports attached hereto as "Attachment A" and "Attachment B," 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: ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

- - - - - - - - - - - - - -

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of June 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Jim Willoughby
Planning Commission Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-032, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on June 28, 2022, by the following roll call vote, to wit:

AYES: Anderson, DeDiemar, Gage, Lampkin, Ricci, Willoughby

NOES: None

ABSENT: Dean

ABSTAIN: None

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

Add Development Code Section 5.01.005.F.6 to read as follows:

"**6.** CNO (Chino Airport) Overlay Zoning District. The Chino Airport Overlay zoning district is hereby established to: **[i]** delineate the Airport Influence Area (AIA) for Chino Airport as the boundary of the CNO Overlay zoning district; **[ii]** adopt an airport land use compatibility plan for Chino Airport consistent with the 2011 Caltrans Airport Land Use Planning Handbook solely to address impacts within Ontario's boundaries; and **[iii]** promote compatibility between CNO and the land uses that surround it. Property in the CNO Overlay zoning district shall be subject to Reference L - Chino Airport Land Use Compatibility Plan, that includes maps, criteria, and policy language to guide development within the Chino AIA."

ATTACHMENT B:

Add Development Code Reference L to read as follows:

L.01.001: Introduction

The California State Aeronautics Act (Public Utilities Code, Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan (Compatibility Plan) be prepared for all public-use airports in the state to:

"protect the public health, safety, and welfare by ensuring orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible land uses."

State law also requires local land use plans and individual development proposals to be consistent with policies set forth in Compatibility Plans. The statutes also require that local jurisdictions preparing Compatibility Plans "rely upon" the compatibility guidance provided by the California *Airport Land Use Planning Handbook* published by the California Department of Transportation (Caltrans), Division of Aeronautics in January 2011.

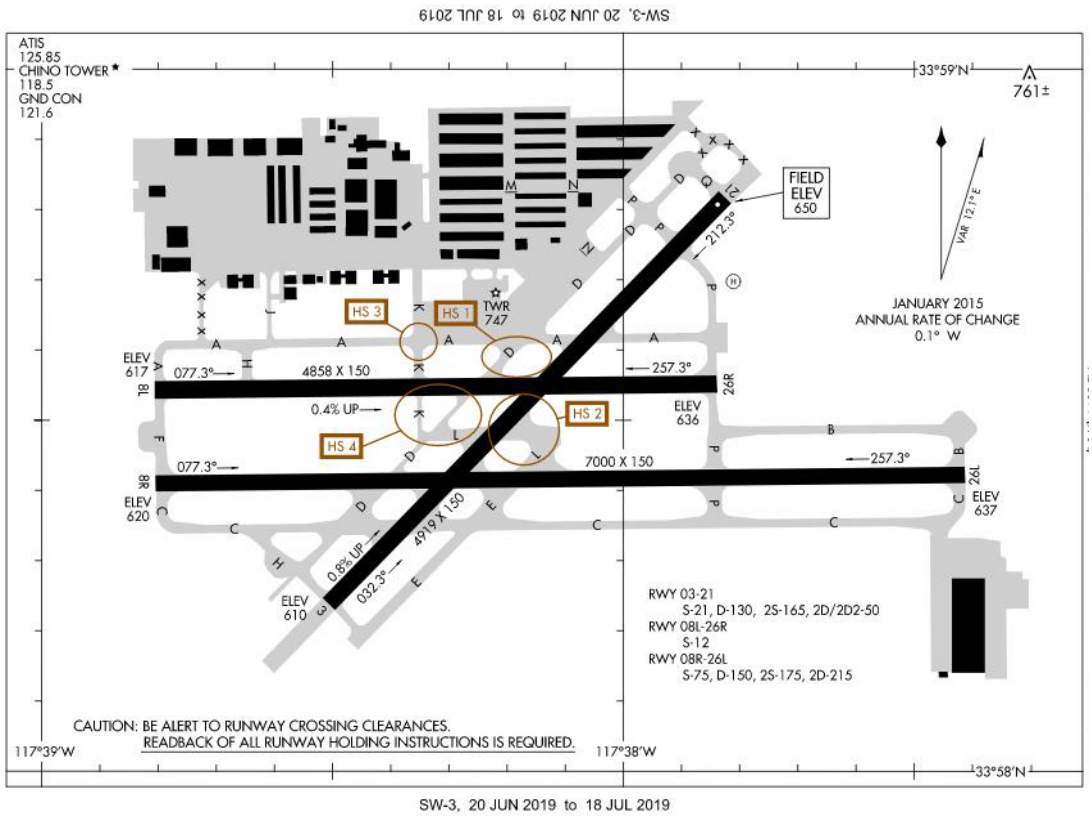
The responsibility for the preparation and adoption of compatibility plans falls to the county airport land use commission (ALUC). However, State law also provides for what is generally referred to as an "Alternative Process" wherein a county does not have to form an ALUC and the required compatibility planning responsibilities fall to local jurisdictions. San Bernardino County and its cities elected to follow the Alternative Process when this option became available as a result of the 1994 legislation (Assembly Bill 2831). Specific requirements for implementation of the Alternative Process are set forth in Public Utilities Code Section 21670.1(c)(2).

Use of the Alternative Process within San Bernardino County was established in 1995 by resolutions of the County Board of Supervisors and the city councils of cities affected by airports. The California Division of Aeronautics approved the San Bernardino County Alternative Process in 1996. The approval of the Alternative Process designated the City of Chino as the local jurisdiction responsible for leading the compatibility planning process for Chino Airport.

The current Chino Airport Land Use Compatibility Plan (ALUCP) does not reflect the guidance set forth in the 2011 Caltrans Airport Land Use Planning Handbook. Although, the City of Ontario does not have the formal responsibility under the "alternative process" to prepare a compatibility plan for Chino Airport, the City of Ontario has prepared an airport land compatibility plan for Chino Airport consistent with the 2011 Caltrans Airport Land Use Planning Handbook solely to address impacts within Ontario's boundaries.

Chino Airport is owned and operated by the County of San Bernardino and is situated within the boundaries of the City of Chino, immediately south of Ontario. Chino Airport (CNO) is the busiest non-commercial airport within a 20-mile radius of the City of Ontario, making it a leading general aviation airport of choice for independent pilots, students and trainers, and corporate users. CNO occupies 1,097 acres, has three runways and provides full precision instrument approach capabilities. The airport reported nearly 165,000 annual operations for the 12-month period ending in September 2019. Aircraft operations on Runway 3-21 (northeast/southwest crosswind runway) and Runway 8L-26R (northern east/west parallel runway) have the greatest effect on the City of Ontario. A brief summary of airport facilities is provided below and shown in **Figure L-1: Chino Airport Diagram**.

Figure L-1: Chino Airport Runway Diagram



Chino Airport Facilities

- **Runway 3-21**

  - Airport Reference Code: C-II
  - Existing Runway Dimensions: 4,919 feet x 150 feet
  - Runway is lighted for nighttime operations
  - Approach Visibility Minimums (lowest): Visual (>1-mile)
  - Title 14 Code of Federal Regulation (CFR), Part 77 category and approach slope: B(V), 20:1
  - Traffic Pattern: Runway 3 (right), Runway 21 (left)

- **Runway 8L-26R**

  - Airport Reference Code: C-III
  - Runway Dimensions:
  - Existing: 4,858 feet x 150 feet
  - Future: 5,500 feet x 150 feet
  - Existing Approach Visibility Minimums (lowest) and Part 77 category and approach slope:
  - Runway 8L: Visual (>1 mile); B(V), 20:1
  - Runway 26R: Precision (<3/4 mile); 50:1
  - Traffic Pattern: Runway 8L (right), Runway 26R (left)

- **Runway 8R-26L**

  - Airport Reference Code: D-III
  - Existing Runway Dimensions: 7,000 feet x 150 feet
  - Runway is lighted for nighttime operations
  - Approach Visibility Minimums (lowest):
    - Existing Runway 8R and 26L: Visual, >1-mile
    - Future Runway 26L: Precision (3/4 mile)
  - Part 77 category and approach slope:
    - Existing: B(V), 20:1
    - Future Runway 26L: Precision, 50:1
  - Traffic Pattern: Runway 8R (right), Runway 26L (left)

L.01.002: Purpose

The purpose of the “Airport Land Use Compatibility Plan” (ALUCP) for Chino Airport (CNO) is to promote compatibility between CNO and the land uses that surround it. The City’s general plan, specific plans, and zoning ordinances shall be made consistent with the CNO ALUCP through incorporation of the compatibility policies into their land use policy documents.

The main objective of the ALUCP is to avoid future compatibility conflicts rather than to remedy existing incompatibilities. Also, the ALUCP is aimed at addressing future land uses and development, not airport activity. The ALUCP does not place any restrictions on the present and future role, configuration, or use of the airport.

L.01.003: Definitions

A. Purpose. The purpose of this section is to establish definitions for terms and phrases used in this CNO ALUCP that are technical or specialized, or that may not reflect common usage.

B. Terms and Phrases. Definitions of Words Beginning with the Letter "A."

Above Ground Level (AGL): An elevation datum given in feet above ground level.

Accident Potential Zones (APZs): A set of safety-related zones defined by AICUZ studies for areas beyond the ends of military airport runways. Typically, three types of zones are established: a clear zone closest to the runway end, then APZ I and APZ II. The potential for aircraft accidents and the corresponding need for land use restrictions is greatest with the clear zone and diminishes with increased distance from the runway.

Air Carriers: The commercial system of air transportation, consisting of the certificated air carriers, air taxis (including commuters), supplemental air carriers, commercial operators of large aircraft, and air travel clubs.

Aircraft Accident: An occurrence incident to flight in which, as a result of the operation of an aircraft, a person (occupant or nonoccupant) receives fatal or serious injury or an aircraft receives substantial damage.

- Except as provided below, *substantial damage* means damage or structural failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and that would normally require major repair or replacement of the affected component.

- Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small puncture holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

Aircraft Incident: A mishap associated with the operation of an aircraft in which neither fatal or serious injuries nor substantial damage to the aircraft occur.

Aircraft Mishap: The collective term for an aircraft accident or an incident.

Aircraft Operation: The airborne movement of aircraft at an airport or about an en route fix or at other point where counts can be made. There are two types of operations: local and itinerant. An operation is counted for each landing and each departure, such that a touch-and-go flight is counted as two operations.

Airport: An area of land or water that is used or intended to be used for the landing and taking off of aircraft and includes its buildings and facilities if any.

Airport Elevation: The highest point of an airport's useable runways, measured in feet above mean sea level.

Airport Land Use Compatibility Plan (ALUCP): A planning document that contains policies for promoting safety and compatibility between public use airports and the communities that surround them. The ALUCP is the foundation of the airport land use compatibility planning process.

Airport Layout Plan (ALP): A scale drawing of existing and proposed airport facilities, their location on an airport, and the pertinent clearance and dimensional information required to demonstrate conformance with applicable standards.

Airport Master Plan (AMP): A long-range plan for development of an airport, including descriptions of the data and analyses on which the plan is based.

Airport Reference Code (ARC): A coding system used to relate airport design criteria to the operation and physical characteristics of the airplanes intended to operate at an airport.

Airports, Classes of: For the purposes of issuing a Site Approval Permit, The California Department of Transportation, Division of Aeronautics classifies airports into the following categories:

- Agricultural Airport or Heliport: An airport restricted to use only be agricultural aerial applicator aircraft (FAR Part 137 operators).

- Emergency Medical Services (EMS) Landing Site: A site used for the landing and taking off of EMS helicopters that is located at or as near as practical to a medical emergency or at or near an medical facility and: 1)has been designated an EMS landing site by an officer authorized by a public safety agency, as defined in PUC Section 21662.1, using criteria that the public safety agency has determined is reasonable and prudent for the safe operation of EMS helicopters; 2) is used, over any twelve month period, for no more than an average of six landings per month with a patient or patients on the helicopter, except to allow for adequate medical

response to a mass casualty event even if that response causes the site to be used beyond these limits; 3)is not marked as a permitted heliport as described in Section 3554 of these regulations; and 4)is used only for emergency medical purposes.

- Heliport on Offshore Oil Platform: A heliport located on a structure in the ocean, not connected to the shore by pier, bridge, wharf, dock or breakwater, used in the support of petroleum exploration or production.

- Personal-Use Airport: An airport limited to the non-commercial use of an individual owner or family and occasional invited guests.

- Public-Use Airport: An airport that is open for aircraft operations to the general public and is listed in the current edition of the Airport/Facility Directory that is published by the National Ocean Service of the U.S. Department of Commerce.

- Seaplane Landing Site: An area of water used, or intended for use, for landing and takeoff of seaplanes.

- Special-Use Airport or Heliport: An airport not open to the general public, access to which is controlled by the owner in support of commercial activities, public service operations, and/or personal use.

- Temporary Helicopter Landing Site: A site, other than an emergency medical service landing site at or near a medical facility, which is used for landing and taking off of helicopters and is used or intended to be used for less than one year, except for recurrent annual events and is not marked or lighted to be distinguishable as a heliport and is not used exclusively for helicopter operations.

Ambient Noise Level: The level of noise that is all encompassing within a given environment for which a single source cannot be determined. It is usually a composite of sounds from many and varied sources near to and far from the receiver.

Approach Protection Easement: A form of easement that both conveys all of the rights of an avigation easement and sets specified limitations on the type of land uses allowed to be developed on the property.

Approach Speed: The recommended speed contained in aircraft manuals used by pilots when making an approach to landing. This speed will vary for different segments of an approach as well as for aircraft weight and configuration.

Aviation-Related Use: Any facility or activity directly associated with the air transportation of persons or cargo or the operation, storage, or maintenance of aircraft at an airport or heliport. Such uses specifically include runways, taxiways, and their

associated protected areas defined by the Federal Aviation Administration, together with aircraft aprons, hangars, fixed base operations, terminal buildings, etc.

Avigation Easement: A type of easement that typically conveys the following rights:

- A right-of-way for free and unobstructed passage of aircraft through the airspace over the property at any altitude above a surface specified in the easement (usually set in accordance with FAR Part 77 criteria).

- A right to subject the property to noise, vibrations, fumes, dust, and fuel particle emissions associated with normal airport activity.

- A right to prohibit the erection or growth of any structure, tree, or other object that would enter the acquired airspace.

- A right-of-entry onto the property, with proper advance notice, for the purpose of removing, marking, or lighting any structure or other object that enters the acquired airspace.

- A right to prohibit electrical interference, glare, misleading lights, visual impairments, and other hazards to aircraft flight from being created on the property.

Based Aircraft: Aircraft stationed at an airport on a long-term basis.

Ceiling: Height above the earth's surface to the lowest layer of clouds or obscuring phenomena.

Circling Approach/Circle-to-Land Maneuver: A maneuver initiated by the pilot to align the aircraft with a runway for landing when a straight-in landing from an instrument approach is not possible or not desirable.

Commercial Activities: Airport-related activities that may offer a facility, service or commodity for sale, hire or profit. Examples of commodities for sale are: food, lodging, entertainment, real estate, petroleum products, parts and equipment. Examples of services are: flight training, charter flights, maintenance, aircraft storage, and tiedown.

Commercial Operator: A person who, for compensation or hire, engages in the carriage by aircraft in air commerce of persons or property, other than as an air carrier.

Community Noise Equivalent Level (CNEL): The noise metric adopted by the State of California for evaluating airport noise. It represents the average daytime noise level during a 24-hour day, adjusted to an equivalent level to account for the lower

tolerance of people to noise during evening and nighttime periods relative to the daytime period.

Compatibility Plan: As used herein, a plan, that sets forth policies for promoting compatibility between airports and the land uses that surround them.

Controlled Airspace: Any of several types of airspace within which some or all aircraft may be subject to air traffic control.

Day-Night Average Sound Level (DNL): The noise metric adopted by the U.S. Environmental Protection Agency for measurement of environmental noise. It represents the average daytime noise level during a 24-hour day, measured in decibels and adjusted to account for the lower tolerance of people to noise during nighttime periods. The mathematical symbol is L_{dn}.

Decibel (dB): A unit measuring the magnitude of a sound, equal to the logarithm of the ratio of the intensity of the sound to the intensity of an arbitrarily chosen standard sound, specifically a sound just barely audible to an unimpaired human ear. For environmental noise from aircraft and other transportation sources, an *A-weighted sound level* (abbreviated dBA) is normally used. The A-weighting scale adjusts the values of different sound frequencies to approximate the auditory sensitivity of the human ear.

Deed Notice: A formal statement added to the legal description of a deed to a property and on any subdivision map. As used in airport land use planning, a deed notice would state that the property is subject to aircraft overflights. Deed notices are used as a form of buyer notification as a means of ensuring that those who are particularly sensitive to aircraft overflights can avoid moving to the affected areas.

Displaced Threshold: A landing threshold that is located at a point on the runway other than the designated beginning of the runway (see *Threshold*).

Equivalent Sound Level (L_{eq}): The level of constant sound that, in the given situation and time period, has the same average sound energy as does a time-varying sound.

FAR Part 77: The part of the Federal Aviation Regulations that deals with objects affecting navigable airspace.

FAR Part 77 Surfaces: Imaginary airspace surfaces established with relation to each runway of an airport. There are five types of surfaces: (1) primary; (2) approach; (3) transitional; (4) horizontal; and (5) conical.

Federal Aviation Administration (FAA): The U.S. government agency that is responsible for ensuring the safe and efficient use of the nation's airports and airspace.

Federal Aviation Regulations (FAR): Regulations formally issued by the FAA to regulate air commerce.

Fixed Base Operator (FBO): A business that operates at an airport and provides aircraft services to the general public including, but not limited to, sale of fuel and oil; aircraft sales, rental, maintenance, and repair; parking and tiedown or storage of aircraft; flight training; air taxi/charter operations; and specialty services, such as instrument and avionics maintenance, painting, overhaul, aerial application, aerial photography, aerial hoists, or pipeline patrol.

Fleet Mix: The composition of aircraft that operate at a particular airport.

Flight Tracks: Routes aircraft routinely use when arriving and departing from an airport.

Forecasts: A projection of the amount and type of aircraft operations at an airport.

General Aviation: That portion of civil aviation that encompasses all facets of aviation except air carriers.

General Aviation Airport: Airports that do not receive scheduled commercial service, or do not meet the criteria for classification as a commercial service airport. General aviation airports have at least 10 locally based aircraft, are at least twenty miles from the nearest NPIAS airports.

Glide Slope: An electronic signal radiated by a component of an ILS to provide vertical guidance for aircraft during approach and landing.

Helipad: A small, designated area, usually with a prepared surface, on a heliport, airport, landing/takeoff area, apron/ramp, or movement area used for takeoff, landing, or parking of helicopters.

Heliport: A facility used for operating, basing, housing, and maintaining helicopters. (HAI)

Infill: Development that takes place on vacant property largely surrounded by existing development, especially development that is similar in character.

Inner Approach/Departure Zone: A rectangular area extending beyond the RPZ. If the RPZ widths approximately equal the runway widths, the Inner Approach/Departure Zoned extends along the sides of the RPZ from the end of the runway.

Inner Turning Zone: A triangular area over which aircraft are turning from the base to final approach legs of the standard traffic pattern. It also includes the area where departing aircraft normally complete the transition from takeoff to climb mode and begin to turn on their en route headings.

Instrument Approach Procedure: A series of predetermined maneuvers for the orderly transfer of an aircraft under instrument flight conditions from the beginning of the initial approach to a landing or to a point from which a landing may be made visually. It is prescribed and approved for a specific airport by competent authority (refer to Nonprecision Approach Procedure and Precision Approach Procedure).

Instrument Flight Rules (IFR): Rules governing the procedures for conducting instrument flight. Generally, IFR applies when meteorological conditions with a ceiling below 1,000 feet and visibility less than 3 miles prevail.

Instrument Landing System (ILS): A precision instrument approach system that normally consists of the following electronic components and visual aids: (1) Localizer; (2) Glide Slope; (3) Outer Marker; (4) Middle Marker; (5) Approach Lights.

Instrument Operation: An aircraft operation in accordance with an IFR flight plan or an operation where IFR separation between aircraft is provided by a terminal control facility.

Instrument Runway: A runway equipped with electronic and visual navigation aids for which a precision or nonprecision approach procedure having straight-in landing minimums has been approved.

Inverse Condemnation: An action brought by a property owner seeking just compensation for land taken for a public use against a government or private entity having the power of eminent domain. It is a remedy peculiar to the property owner and is exercisable by that party where it appears that the taker of the property does not intend to bring eminent domain proceedings.

Land Use Density: A measure of the concentration of land use development in an area. Mostly the term is used with respect to residential development and refers to the number of dwelling units per acre. Unless otherwise noted, policies in this compatibility plan refer to *gross* rather than *net* acreage.

Land Use Intensity: A measure of the concentration of nonresidential land use development in an area. For the purposes of airport land use planning, the term indicates the number of people per acre attracted by the land use. Unless otherwise noted, policies in this compatibility plan refer to gross rather than net acreage.

Large Airplane: An airplane of more than 12,500 pounds maximum certificated takeoff weight.

Localizer (LOC): The component of an ILS that provides course guidance to the runway.

Mean Sea Level (MSL): An elevation datum given in feet from mean sea level.

Minimum Descent Altitude (MDA): The lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure where no electronic glide slope is provided.

Missed Approach: A maneuver conducted by a pilot when an instrument approach cannot be completed to a landing.

National Transportation Safety Board (NTSB): The U.S. government agency responsible for investigating transportation accidents and incidents.

Navigational Aid (Navaid): Any visual or electronic device airborne or on the surface that provides point-to-point guidance information or position data to aircraft in flight.

Noise Contours: Continuous lines of equal noise level usually drawn around a noise source, such as an airport or highway. The lines are generally drawn in 5-decibel increments so that they resemble elevation contours in topographic maps.

Noise Level Reduction (NLR): A measure used to describe the reduction in sound level from environmental noise sources occurring between the outside and the inside of a structure.

Nonconforming Use: An existing land use that does not conform to subsequently adopted or amended zoning or other land use development standards.

Nonprecision Approach Procedure: A standard instrument approach procedure in which no electronic glide slope is provided.

Nonprecision Instrument Runway: A runway with an approved or planned straight-in instrument approach procedure that has no existing or planned precision instrument approach procedure.

Obstruction: Any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used therein, the height of

which exceeds the standards established in Subpart C of Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace.

One-Engine Inoperative (OEI) Obstacle Identification Surface: For airports with runways that support air carrier operations, this surface begins at the same elevation of the end of the departure runway and slopes upward at 1 foot vertically to 62.5 feet horizontally. The inner width of the OEI surface is 600 feet while the outer width is 12,000 feet. The surface extends for a distance of 50,000 feet along the runway centerline.

Outer Approach/Departure Zone: A rectangular area located along the extended centerline beyond the Inner Approach/Departure Zone.

Overflight: Any distinctly visible and/or audible passage of an aircraft in flight, not necessarily directly overhead.

Overflight Easement: An easement that describes the right to overfly the property above a specified surface and includes the right to subject the property to noise, vibrations, fumes, and emissions. An overflight easement is used primarily as a form of buyer notification.

Overflight Zone: The area(s) where aircraft maneuver to enter or leave the traffic pattern, typically defined by the FAR Part 77 horizontal surface.

Precision Approach Procedure: A standard instrument approach procedure where an electronic glide slope is provided.

Precision Instrument Runway: A runway with an existing or planned precision instrument approach procedure.

Qualified Airport Wildlife Biologist: A biologist who has received specific training to identify hazards to aircraft operations pursuant to FAA criteria set forth at Advisory Circular 150/5200-36A, Qualifications for Wildlife Biologist Conducting Wildlife Hazard Assessments and Training Curriculums for Airport Personnel Involved in Controlling Wildlife Hazards on Airports.

Referral Area: The area around an airport defined by the planning area boundary adopted by an airport land use commission within which certain land use proposals are to be referred to the commission for review.

Runway Protection Zone (RPZ): An area (formerly called a *clear zone*) off the end of a runway used to enhance the protection of people and property on the ground.

Safety Zone: For the purpose of airport land use planning, an area near an airport in which land use restrictions are established to protect the safety of the public from potential aircraft accidents.

Sideline Zone: A rectangular area in close proximity and parallel to the runway.

Single-Event Noise: As used in herein, the noise from an individual aircraft operation or overflight.

Single Event Noise Exposure Level (SENEL): A measure, in decibels, of the noise exposure level of a single event, such as an aircraft flyby, measured over the time interval between the initial and final times for which the noise level of the event exceeds a threshold noise level and normalized to a reference duration of one second. SENEL is a noise metric established for use in California by the state Airport Noise Standards and is essentially identical to *Sound Exposure Level (SEL)*.

Site Approval Permit: A written approval issued by the California Department of Transportation authorizing construction of an airport in accordance with approved plans, specifications, and conditions. Both public-use and special-use airports require a site approval permit. (CCR)

Small Airplane: An airplane of 12,500 pounds or less maximum certificated takeoff weight. (Airport Design AC)

Sound Exposure Level (SEL): A time-integrated metric (i.e., continuously summed over a time period) that quantifies the total energy in the A-weighted sound level measured during a transient noise event. The time period for this measurement is generally taken to be that between the moments when the A-weighted sound level is 10 dB below the maximum.

Straight-In Instrument Approach: An instrument approach wherein a final approach is begun without first having executed a procedure turn; it is not necessarily completed with a straight-in landing or made to straight-in landing weather minimums. (AIM)

Taking: Government appropriation of private land for which compensation must be paid as required by the Fifth Amendment of the U.S. Constitution. It is not essential that there be physical seizure or appropriation for a *taking* to occur, only that the government action directly interferes with or substantially disturbs the owner's right to use and enjoyment of the property.

Terminal Instrument Procedures (TERPS): Procedures for instrument approach and departure of aircraft to and from civil and military airports. There are four types of

terminal instrument procedures: precision approach, nonprecision approach, circling, and departure.

Threshold: The beginning of that portion of the runway usable for landing (also see Displaced Threshold).

Touch-and-Go: An operation by an aircraft that lands and departs on a runway without stopping or exiting the runway.

Traffic Pattern: The traffic flow that is prescribed for aircraft landing at, taxiing on, or taking off from an airport. The components of a typical traffic pattern are upwind leg, crosswind leg, downwind leg, base leg, and final approach.

Traffic Pattern Zone: An elliptical area that includes the majority of other portions of regular air traffic patterns and pattern entry routes, and generally extends to the farthest point of 6,000 foot radius arcs from the centers of each of the primary surfaces and connecting lines tangent to those arcs.

Visual Approach: An approach where the pilot must use visual reference to the runway for landing under VFR conditions.

Visual Flight Rules (VFR): Rules that govern the procedures for conducting flight under visual conditions. VFR applies when meteorological conditions are equal to or greater than the specified minimum-generally, a 1,000-foot ceiling and 3-mile visibility.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan.

L.01.004: Compatibility Factors

In accordance with guidance set forth the by 2011 Airport Land Use Planning Handbook (Handbook) published by the California Department of Transportation (Caltrans), Division of Aeronautics, the CNO Airport Influence Area (AIA) encompasses all lands that could be negatively impacted by CNO's present, or future aircraft operations or land uses that could negatively affect airport operations. The AIA is depicted in **Policy Map L-1 (Chino Airport Influence Area)** and encompasses the geographic extent of four types of compatibility impacts, referred to as compatibility factors, listed below:

- Safety: Areas where the risk of an aircraft accident poses heightened safety concerns for people and property on the ground.

- Noise: Locations exposed to potentially disruptive levels of aircraft noise.

- Airspace Protection: Places where height and certain other land use characteristics, particularly uses that attract birds, need to be restricted in order to protect the airspace required for operation of aircraft to and from the airport.

- Overflight: Locations where aircraft overflights can be intrusive and annoying to many people.

The potential impact of each compatibility factor on land within the City of Ontario were evaluated and maps, criteria, and policy language have been created to guide development within the Chino AIA. The compatibility policies and criteria to evaluate future development proposals are consistent with the 2011 Caltrans Airport Land Use Planning Handbook.

A. Safety. The intent of the safety compatibility policies is to minimize the risks associated with an off-airport aircraft accident or emergency landing. The policies focus on reducing the potential consequences of such events when they occur. The potential risks to people and property within the CNO AIA and to people on board the aircraft are considered.

The Handbook provides sets of generic zones for different types of general aviation runways and the shapes and sizes of the zones were established based upon mathematical analyses of the accident location data and flight parameters. The Handbook safety zones and criteria serve as the basis for this CNO ALUCP and are described below:

- The generic Handbook safety zones for a Medium General Aviation Runway Group were applied for the approach end of Runway 21 (northeast) and Runway 26R (east).

- The generic Handbook safety zones for a Long General Aviation Runway Group were applied for the approach end of Runway 26L (east).

For implementation purposes, the generic Handbook Safety Zone boundaries were adjusted to follow parcel lines, roads, and other geographic features. The reconfiguration of the safety zones did not result in a substantial net acreage reduction of the safety zones. For consistency, the CNO Safety Zones maintain the same numbering system used in the Handbook. Portions of Safety Zones 1, 2, 3, 4 and 6 are located within Ontario city limits and are depicted in **Policy Map L-2 (Chino Airport Safety Zones)**. Safety Zone 5 is located outside of the Ontario city limits and not included in the CNO ALUCP.

1. Safety Zone 1. Zone 1 reflects the airport's established Runway Protection Zone (RPZ). Portions of the RPZ are located off airport within the City of Ontario and shall be maintained as undeveloped land, clear of objects in accordance with FAA standards. Below is a summary of risk and basic compatibility policies listed in the Handbook.

Nature of Risk	*Basic Compatibility Policies*
Normal Maneuvers: ▪ Aircraft on very close final approach or departure – very high risk	Normally Allowed Uses: ▪ None
Altitude: ▪ Less than 200 feet above runway	Uses to Avoid: ▪ Nonresidential uses except if very low intensity in character and confined to the outer sides such as parking lots, streets, roads
Common Accident Types: ▪ Arrival: Downdrafts and wind gusts. Low glide paths ▪ Departure: Runway overruns, aborted takeoffs, and engine failures	Prohibit: ▪ All new structures and residential land uses
Risk Level: ▪ Very high ▪ Percentage of near-runway accidents in this zone: 20% - 21%	Other Factors: ▪ Airport ownership of property encouraged

2. Safety Zone 2. Zone 2 reflects the Inner Approach/Departure Zone. Below is a summary of risk and basic compatibility policies listed in the Handbook.

Nature of Risk	*Basic Compatibility Policies*
Normal Maneuvers: ▪ Aircraft overflying at low altitudes on final approach and straight-out departures	Normally Allowed Uses: ▪ Agriculture; non-group recreational uses ▪ Low-hazard materials storage, warehouses ▪ Low-intensity light industrial uses; auto, aircraft, marine repair services
Altitude: ▪ Between 200 and 400 feet above runway	Uses to Limit: ▪ All residential uses except as infill in developed areas ▪ Multi-story uses; uses with high density or intensity Shopping centers, most eating establishments
Common Accident Types: ▪ Arrival: Similar to Zone 1, aircraft under-shooting approaches, forced short landings ▪ Departure: Similar to Zone 1, emergency landing on straight-out departure	Uses to Avoid: ▪ All residential uses except as infill in developed areas ▪ Multi-story uses; uses with high density or intensity ▪ Shopping centers, most eating establishments
Risk Level: ▪ High ▪ Percentage of near-runway accidents in this zone: 8% to 22% Aircraft on very close final approach or departure – very high risk	Uses Prohibit: ▪ Theaters, meeting halls and other assembly uses ▪ Office buildings greater than 3 stories ▪ Labor-intensive industrial use Nonresidential uses except if very low intensity in character and confined to the outer sides Parking lots, streets, roads

3. Safety Zone 3. Zone 3 reflects the Inner Turning Zone. Below is a summary of risk and basic compatibility policies listed in the Handbook.

Nature of Risk	*Basic Compatibility Policies*
Normal Maneuvers: ▪ Aircraft—especially smaller, piston-powered aircraft— turning base to final on landing approach or initiating turn to en route direction on departure	Normally Allowed Uses: ▪ Uses allowed in Zone 2 ▪ Greenhouses, low-hazard materials storage, mini-storage, warehouses ▪ Light industrial, vehicle repair services
Altitude: ▪ Less than 500 feet above runway, particularly on landing	Uses to Limit: ▪ Residential uses to very low densities ▪ Office and other commercial uses to low intensities
Common Accident Types: ▪ Arrival: Pilot overshoots turn to final and inappropriately cross controls the airplane rudder and ailerons while attempting to return to the runway alignment causing stall, spin, and uncontrolled crash ▪ Departure: Mechanical failure on takeoff; low altitude gives pilot few options on emergency landing site; or, pilot attempts to return to airport and loses control during tight turn	Uses to Avoid: ▪ Commercial and other nonresidential uses having higher usage intensities ▪ Building with more than 3 aboveground habitable floors ▪ Hazardous uses (e.g., aboveground bulk fuel storage)
Risk Level: ▪ Moderate to high ▪ Percentage of near-runway accidents in this zone: 4% to 8%	Uses to Prohibit: ▪ Major shopping centers, theaters, meeting halls and other assembly facilities ▪ Children's schools, large daycare centers, hospitals, nursing homes ▪ Stadiums, group recreational uses

4. Safety Zone 4. Zone 4 reflects the Outer Approach/Departure Zone. Below is a summary of risk and basic compatibility policies listed in the Handbook.

Nature of Risk	*Basic Compatibility Policies*
Normal Maneuvers: ▪ Approaching aircraft usually at less than traffic pattern altitude	Normally Allowed Uses: ▪ Uses allowed in Zone 3 ▪ Restaurants, retail, industrial
Altitude: ▪ Less than 1,000 feet above runway	Uses to Limit: ▪ Residential uses to low density
Common Accident Types: ▪ Arrival: Pilot undershoots runway during an instrument approach, aircraft loses engine on approach, forced landing ▪ Departure: Mechanical failure on takeoff	Uses to Avoid: ▪ High-intensity retail or office buildings
Risk Level: ▪ Moderate ▪ Percentage of near-runway accidents in this zone: 2% to 6%	Uses to Prohibit: ▪ Children's schools, large daycare centers, hospitals, nursing homes ▪ Stadiums, group recreational uses

5. Safety Zone 6. Zone 6 reflects the Traffic Pattern Zone. Below is a summary of risk and basic compatibility policies listed in the Handbook.

Nature of Risk	*Basic Compatibility Policies*
Normal Maneuvers: ▪ Aircraft within a regular traffic pattern and pattern entry routes	Normally Allowed Uses: ▪ Residential uses
Altitude: ▪ Less than 1,000 to 1,500 feet above runway	Uses to Limit: ▪ Children's schools, large day care centers, hospitals, and nursing homes ▪ Processing and storage of bulk quantities of highly hazardous
Common Accident Types: ▪ Arrival: Pattern accidents in proximity of airport ▪ Departure: Emergency landings	Uses to Avoid: ▪ Outdoor stadiums and similar uses with very high intensities
Risk Level: ▪ Low ▪ Percentage of near-runway accidents in this zone: 18% to 29% (percentage is high because of large area encompassed)	

6. Factors in establishing Safety Zone Policies. To minimize risks to people and property on the ground, the safety compatibility criteria in **Table L-2: Safety Zones Compatibility Criteria** set limits on:

a. *Residential Uses.* The density of residential development is measured by the number of dwelling units per acre. Consistent with the California Airport Land Use Planning Handbook (2011) guidelines, a greater degree of protection is warranted for residential uses.

b. *Nonresidential Uses.* The intensity of nonresidential development is measured by the number of people per acre concentrated in areas most susceptible to aircraft accidents.

7. Safety Zone Standards for New Development. To minimize risk-sensitive development in high-risk areas around CNO, the safety compatibility of new development shall be evaluated in accordance with the safety policies set forth in this section, including the criteria listed in **Table L-1: CNO ALUCP Compatibility Criteria Matrix, Table L-2: Safety Zones Compatibility Criteria** and the safety zones depicted on **Policy Map L-2: Chino Airport Safety Zones.**

8. Safety Zone Policies.

Policy No.	*Safety Zone Policies*
S1	**Residential Development:** New residential development is incompatible within all Safety Zones (1 through 4). Policies S1a and S1b are exceptions to this policy, if applicable.
S1a	**Single-Family Home:** The construction of a single-family home on a legal lot of record is allowed in Safety Zones 2, 3, and 4 if the use is permitted by the City of Ontario's land use regulations. See Policy SP2 with regard to development by right.
S1b	**Second-Unit:** A second-unit as defined by state law is allowed within Safety Zones 2, 3 and 4 if the use is permitted by the City of Ontario's land use regulations.
S1c	**Family Day Care:** In accordance with state law, a family day care home serving 14 or fewer children may be established in any dwelling by the policies of this ALUCP.
S1d	**Residential Mixed-Use Developments:** New mixed-use developments will locate the residential component outside of all safety zones.

Policy No.	Safety Zone Policies
S2	**Occupancy Limits For Nonresidential Development: Table L-2: Safety Zones Compatibility Criteria** indicates the usage intensity (number of people per acre) limit for each safety zone. The usage intensity limits represent the safety criteria for new nonresidential development. The usage intensity limits measure intensity in two forms: 1. **Sitewide average intensity** which sets intensity limits for the entire project site; and 2. **Single-acre intensity** which sets intensity limits on any single acre within the project site **(see Figure L2: Land Use Intensity Calculation example)**. As a condition of approval, all new nonresidential development within the Safety Zones shall comply with both forms of intensity limits as described further below.
S2a	**Sitewide Average Intensity** is calculated by determining the total number of people expected to be on the site at any given time under normal operating conditions and dividing by the total number of acres of the project site.
S2b	**Single-acre Intensity** of a proposed development is calculated by determining the total number of people expected to be within any one-acre portion of the site, typically the most intensively used building or part of a building. The 1.0-acre area calculations represent building footprints that are generally rectangular and not elongated in shape or, for buildings larger than 1.0 acre, represent a portion of the building.

Figure L2: Land Use Intensity Calculation Example

In this example, both the sitewide and single-acre intensity of a proposed Research & Development (R&D) / warehouse facility is calculated using the common occupancy load factors [number of square feet per person] information in **Table L-2** together with project-specific data. The results are then compared with the maximum sitewide and single-acre intensity limits to determine consistency of the project with the safety criteria.

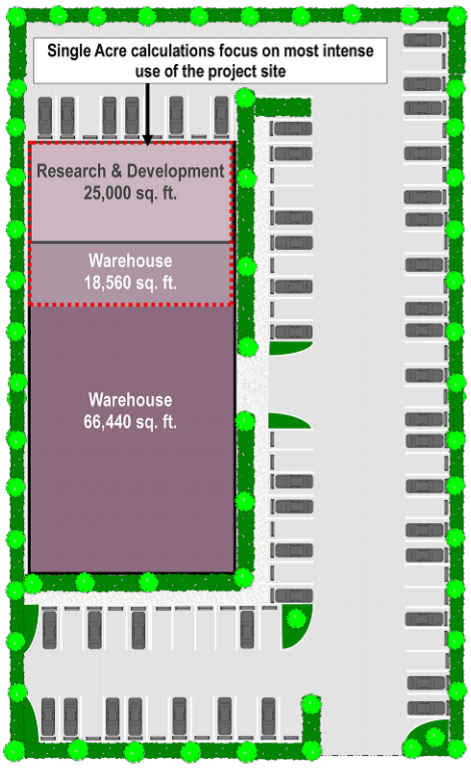


Table 1: Safety Criteria

Safety Zone 3 Intensity Limitations
Max. Sitewide Average intensity: 100 people/acre
Max. Single-Acre intensity: 250 people/acre

Common Occupancy Load Factors
Warehouse: 1,000 sq. ft./per person
Research & Development: 300 sq. ft./per person

Project Information
Land Use = Warehouse 85,000 sq. ft.
Research & Development 25,000 sq. ft.
Total Bldg. sq. ft. = 110,000 sq. ft.
Site Acreage = 3 acres
Safety Zone = 3

Calculations
Warehouse = 18,560 sq. ft. / 1,000 sq. ft. per person = 19 people

Warehouse = 66,440 sq. ft. / 1,000 sq. ft. per person = 65 people

Research & Development = 25,000 sq. ft. / 300 sq. ft. per person = 83 people

Site Wide Average
Total # of people / site acreage = 167 / 3 ac = 56 people per acre — Below the maximum Average Intensity

Single Acre Average
Total # of people / Single acre = 102 / 1 ac = 102 people per acre — Below the maximum Single-Acre Intensity

Policy No.	Safety Zone Policies
S2c	**Usage Intensity calculations** includes all people (e.g., employees, customers/visitors) who may be on the property at any single point in time during normal operating conditions, whether indoors or outdoors. **Table L-2: Safety Zones Compatibility Criteria** indicates the normal occupancy load factor (number of square feet per person) and Floor Area Ratio (FAR) for many nonresidential uses. These numbers are interrelated with the intensity limits (number of people per acre) and can be used to calculate the usage intensity of a proposed project **(see Figure L-3: Intensity Limits)**. Note that the safety criteria are the sitewide and single-acre intensity limits (number of people per acre). The occupancy load factors and FARs are provided as methods for calculating the intensity of a proposed project. 1. **Occupancy Load Factors:** The occupancy load factors (minimum number of square feet per person) provided in **Table L-2: Safety Zones Compatibility Criteria** vary from one land use to another. As shown in **Figure L-4**, the sitewide average usage intensity of a project having multiple uses can be calculated by: ▪ Dividing the number of square feet of each component use by the number of square feet per person (occupancy load) for that use as indicated in **Table L-2**; ▪ Adding together the number of people for each component use; and ▪ Dividing the total number of people by the total number of acres of the project site to get the sitewide average intensity. ▪ Where occupancy load factors are not indicated in the table or if the assumed occupancy load factor for a particular proposal or component thereof is not applicable to the project, then the number of occupants is estimated in another manner – for example, the number of seats and employees at a restaurant or the number of parking places times the vehicle occupancy for an industrial plant. **Figure L-3: Intensity Limits** The interrelationship between Intensity limit, normal occupancy load factor and Floor Area Ratio (FAR) is indicated in the two examples below. The examples reflect Zone 3 criteria: intensity limit of 100 people per acre, occupancy load factor of 200 square feet per person, and 0.46 FAR. ***Example 1*** 200 square feet per person (occupancy load factor) x 100 people per acre (intensity limit) 20,000 square foot building ÷ 43,560 square feet per acre 0.46 FAR ***Example 2*** 43,560 square feet per acre x 0.46 FAR 20,000 square foot building ÷ 200 square feet per person (occupancy load factor) 100 people per acre (intensity limit)

Policy No.	Safety Zone Policies
S2C	2. **Floor Area Ratios (FARs):** The allowable FAR is indicated in **Table L-2: Safety Zones Compatibility Criteria** for a particular safety zone and vary from one land use to another. Each component use is calculated as occupying a share of the total project site equal to its percentage of the total floor area in the project. Mathematically, this means that the FAR for each component use will be the same as the FAR for the entire building. 3. **Alternative Intensity Calculations:** An alternative method for measuring compliance with the usage intensity limits is acceptable. For example, a method based upon the City's parking space requirements may be used together with an assumed number of people per vehicle as a means of determining the number of occupants for uses that are vehicle oriented (this method would not be suitable for land uses where many users arrive by transit, bicycle, or other means of transportation). 4. **Mixed-Use Development:** Each component use within a nonresidential mixed-use development shall comply with **Table L-2: Safety Zones Compatibility Criteria** unless the use is ancillary (less than 10% of total building floor area). 5. **Ancillary Uses:** Up to 10% of the total floor area of a building may be devoted to an ancillary use of another type, including a use with a higher occupancy load factor that is shown as incompatible in **Table L-2: Safety Zones Compatibility Criteria**. Ancillary uses may be excluded from the single-acre intensity calculations (but not the sitewide average intensity limits) provided that the ancillary use is neither: ▪ An assembly room having more than 750 square feet of floor area (this criterion is intended to parallel Building Code standards) and a capacity of more than 50 people; nor ▪ A children's school (grades K–12), day care center or other risk-sensitive use that is "incompatible" within the safety zone where the primary use is to be located. 6. **Uncommon Land Use Considerations:** If a particular development proposal is uncommon—that is, there would be more floor area per person and lower usage intensity—the local agency may consider that information in determining the safety compatibility of the proposal. In considering any such exceptions, the local agency shall also take into account the potential for the use of a building to change over time. A building could have planned low-intensity use initially, but later be converted to a higher-intensity use. Local agency permit language or other mechanisms to ensure continued compliance with the usage intensity criteria must be put in place. 7. **Parcels within Multiple Safety Zones:** For the purposes of evaluating consistency with the usage intensity criteria set forth in **Table L-2: Safety Zones Compatibility Criteria**, any parcel that is split by safety zone boundaries shall be considered as if it were multiple parcels divided at the safety zone boundary line. However, the intensity of nonresidential development allowed within the more restricted portion of the parcel can (and is encouraged to) be transferred to the less restricted portion. This full or partial reallocation of intensity is permitted even if the resulting intensity in the less restricted area would then exceed the limits which would otherwise apply within that safety zone **(see Figure L-4)**. **Figure L-4: Transferring Usage Intensity** An example of transferring usage intensity to the less restrictive safety zone is provided below. ***Zone 3 intensity limit***: 100 people per acre ***Zone 4 intensity limit***: 160 people per acre ***Proposed intensity in Zone 3***: 80 people per acre ***Proposed intensity in Zone 4***: 100 people per acre * The proposed intensity for Zone 3 (80 people per acre) is encouraged to be transferred to Zone 4 for a total of 180 people per acre, even if it exceeds the Zone 4 intensity limit of 160 people per acre.

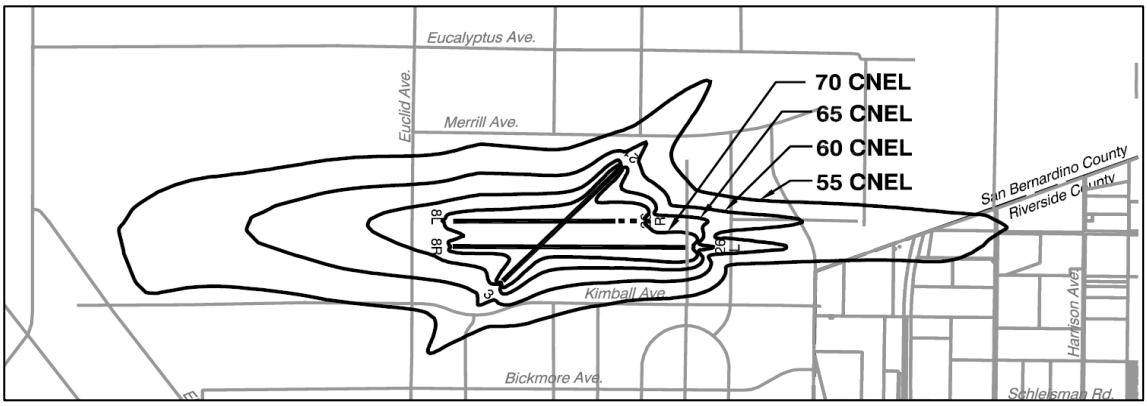
Policy No.	*Safety Zone Policies*
S3	**Land Use Event Exceptions:** The City of Ontario may make exceptions for "conditional" or "incompatible" land uses associated with rare special events (e.g., an air show at the airport) for which a facility is not designed and normally not used and for which extra safety precautions can be taken as appropriate.
S4	**Land Uses of Special Concern:** Certain types of land uses represent special safety concerns irrespective of the number of people associated with those uses. **Table L-2: Safety Zones Compatibility Criteria** indicates the criteria applicable to these uses. In some cases, these uses are not allowed in portions of the safety zones regardless of the number of occupants associated with the use. In other instances, these uses should be avoided—i.e., allowed only if an alternate site outside of the safety zone would not work. When allowed, special measures should be taken to minimize hazards to the facility and occupants if the facility were to be struck by an aircraft. Land uses of particular concern and the nature of the concern are listed policies S4a through S4c.
S4a	**Land Uses Having Vulnerable Occupants:** These land uses are ones in which the majority of occupants are children, elderly, and/or disabled—people who have reduced effective mobility or may be unable to respond to emergency situations. These uses include: ▪ Children's schools (grades K–12). ▪ Day care centers (facilities with 15 or more children, as defined in the California Health and Safety Code). ▪ Hospitals, health care centers, and similar facilities, especially where patients remain overnight, nursing homes and inmate facilities.
S4b	**Hazardous Materials Storage:** Materials that are flammable, explosive, corrosive, or toxic constitute special safety compatibility concerns to the extent that an aircraft accident could cause release of the materials and thereby pose dangers to people and property in the vicinity. Facilities in this category include: ▪ Facilities such as oil refineries and chemical plants that manufacture, process, and/or store bulk quantities (tank capacities greater than 6,000 gallons) of hazardous materials generally for shipment elsewhere. ▪ Facilities associated with otherwise compatible land uses where hazardous materials are stored in smaller quantities primarily for on-site use (tank capacities greater than 6,000 gallons).
S4c	**Critical Community Infrastructure:** The damage or destruction of public infrastructure facilities which would cause significant adverse effects to public health and welfare well beyond the immediate vicinity of the facility. Among these facilities are: ▪ Emergency services facilities such as police and fire stations. ▪ Emergency communications facilities, power plants, and other utilities
S5	**Avigation Easements:** The City of Ontario shall require dedication of an avigation easement as a condition for approval of all proposed development situated off-airport within Safety Zones 1 through 4 in accordance with Policy SP1. The Safety Zones and this policy affect only the City of Ontario.

Policy No.	Safety Zone Policies
S6	**Safety Zone 1 (Runway Protection Zone):** 1. The developer and airport owner must coordinate with the FAA for development proposals within the RPZ (either new or reconfigured). Land uses requiring airport/FAA coordination include: ▪ Buildings and structures ▪ Recreational uses (e.g., golf courses, sports fields, amusement parks, other places of public assembly) ▪ Transportation facilities (e.g., rail, public roads/highways, vehicular parking) ▪ Fuel storage facilities (above and below ground) ▪ Hazardous material storage (above and below ground) ▪ Wastewater treatment facilities ▪ Above ground utility infrastructure (e.g., electrical substations), including any type of solar panel installations 2. The following uses shall be prohibited within Safety Zone 1(RPZ): ▪ All structures except ones with location set by aeronautical function ▪ All assemblages of people (more than one) ▪ Hazards to flight such as: o Objects exceeding 14 CFR Part 77 height limits o Visual hazards including but not limited to lights, sources of glare, and sources of dust, steam or smoke o Electronic hazards including but not limited to ones that may cause interference with aircraft communications or navigation o Land uses and features that attract hazardous wildlife (i.e., Birds) including but not limited to aboveground stormwater facilities, open ponds, and landscaping that provides a food source, shelter or roosting
S7	**Open Land:** In the event that a light aircraft is forced to land away from an airport, the risks to the people on board and on the ground can be best minimized by providing as much open land area as possible within the airport vicinity. This concept is based upon the fact that the majority of light aircraft accidents that occur away from an airport runway are controlled emergency landings in which the pilot has reasonable opportunity to guide the aircraft and select the landing site. Open land provides opportunities for a controlled landing in the event of an emergency. A percentage of Open land is required for all Safety Zones and are outlined in **Table L-1: CNO ALUCP Compatibility Criteria Matrix**.
S7a	**Open Land Required Dimensions:** Open land shall have minimum dimension of at least 75 feet wide by 300 feet long (approximately 0.5-acre in size).

Policy No.	Safety Zone Policies
S7b	**Open Land Criteria:** 1. Open land shall be free of most structures and other major obstacles such as walls, large trees, (greater than 4 inches in diameter, measured 4 feet above the ground), poles, and overhead wires. Landscaping plans for open space areas should preclude large trees that would exceed the 4-inch diameter criterion at maturity. However, landscaping plans could allow for trees and shrubs that exceed 4 inches in diameter at a height of 4 feet at maturity for areas along the edge of open space areas where the vegetation abuts a wall or other similar feature, provided that the vegetation is planted within 4 feet of the wall. 2. Roads and automobile parking lots are acceptable as open land areas if the criteria for Policies S7a and S7b are met. **Policy Map L-2a: Chino Airport Open Land Streets** identifies three streets that will be designed to satisfy the Open Land criteria. The streets will be 75 to 84 feet wide with no medians. Light poles and trees will be designed to maintain a clear width of about 75 feet. The light poles will be spaced 250 feet and staggered on the opposite side of the street; therefore, satisfying the 75-foot by 300-foot dimensional requirements for Open Land. A detailed review of proposed landscaping and lighting plans along Merrill Avenue within CNO Safety Zone 1 (RPZ) will be required to ensure that Zone 1 remains clear of permanent aboveground objects. 3. Open land requirements for each Safety Zone shall be applied with respect to the entire zone. Individual parcels may be too small to accommodate the minimum size open area requirement. Consequently, the identification of open land areas shall be initially accomplished at the general plan or specific plan level or as part of large (10 acres or more) development projects. 4. Clustering of development and providing contiguous landscaped (e.g., low-growing ground cover) and parking areas is encouraged as a means of increasing the size of open land areas. Clustering of development should be located a maximum distance from the extended runway centerline.

B. Noise. The purpose of noise compatibility policies is to avoid the establishment of noise-sensitive land uses in the portions of the CNO AIA that are exposed to significant levels of aircraft noise. For compatibility planning purposes, the noise contours reflect the County's aircraft activity forecast of 209,400 annual operations for 2025 is considered to be representative of the likely maximum number of aircraft operations that could be realized over the 20-year forecast period (2039) and are shown in **Figure L-5: Chino CNEL Contours (2025)**.

Figure L-5: Chino CNEL Contours (2025)



For purposes of airport land use compatibility planning, Caltrans advises that 60 dB CNEL is suitable for new residential development and other noise sensitive land uses around most airports.

Figure L-5: Chino CNEL Contours (2025) shows that only the 55 dB CNEL contour affects lands within the City of Ontario. Since the 60 dB CNEL does not extend into the City of Ontario no significant impacts are anticipated and therefore no noise policies and criteria are included within the CNO ALUCP.

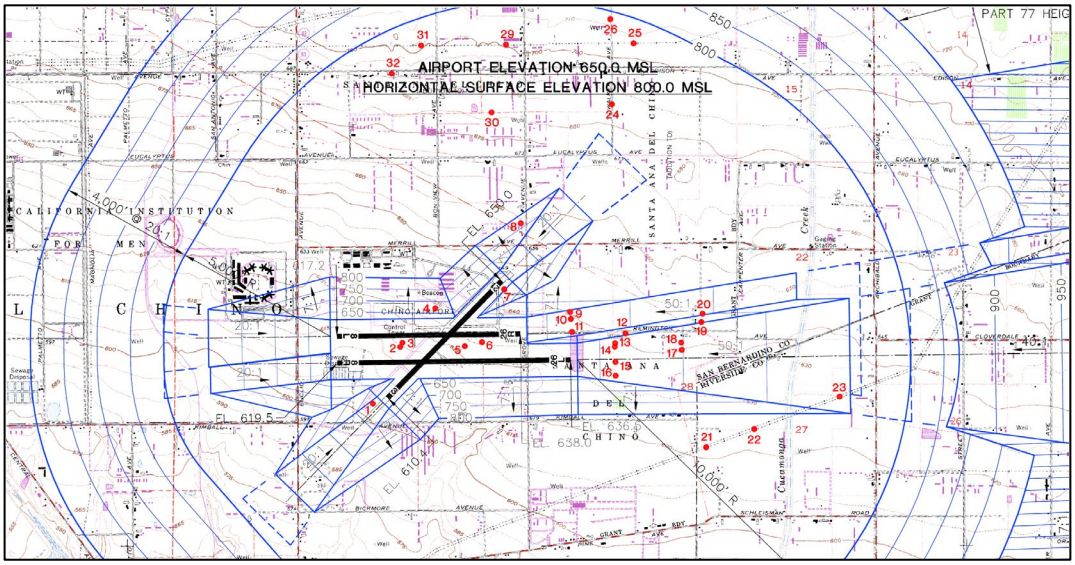
C. Airspace Protection. Airspace protection compatibility policies seek to prevent creation of land use features that can be hazards to aircraft in flight and have the potential for causing an aircraft accident to occur. Such hazards may be physical, visual, or electronic.

1. Factors in establishing Airspace Protection Zones. The principal factors considered in setting the airspace protection zones are:

a. *Federal Regulations.* Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace, set the requirements for notice to the Federal Aviation Administration (FAA) of certain proposed construction or alteration projects (Subpart B, Notice of Construction or Alteration) and establish standards for determining obstructions to navigable airspace (Subpart C, Obstruction Standards).

b. *CNO Part 77.* The 14 CFR Part 77 airspace surfaces included in the 2003 Chino Airport Layout Plan was utilized to establish the allowable heights of future uses within the vicinity of Chino airport **(see, Figure L-6: Chino Part 77 Airspace Surfaces (2003))**.

Figure L-6: Chino Part 77 Airspace Surfaces (2003)



2. Factors in establishing Airspace Protection Policies. The factors considered in setting the airspace protection policies in this section are described below.

a. *Federal and State Regulations.* The airspace protection policies outlined in this section are based upon and intended to help implement the regulations enacted by the FAA and the State of California. State airspace protection standards mostly mirror those of the FAA. A key difference is that state law gives the California Department of Transportation, Division of Aeronautics and local agencies the authority to enforce the standards.

b. *Flight Hazards.* The FAA has well-defined standards by which potential hazards to flight, especially airspace obstructions, can be assessed. However, the FAA has no authority to prevent creation of such hazards. That authority rests with state and local governments. There are three categories of flight hazards: physical, visual, and electronic.

(1) Structure Heights — Height of structures and other objects situated near the airport are a primary determinant of physical hazards to the airport airspace.

(2) Land Use — Land use features that have the potential to attract birds and certain other wildlife to the airport area also need to be evaluated as a form of physical hazard.

(3) Visual Hazards — Visual hazards of concern include certain types of lights, sources of glare, and sources of dust, steam, thermal plumes, or smoke.

(4) Electrical Hazards — Electronic hazards are ones that may cause interference with aircraft communications or navigation

c. *Airspace Obstructions.* The criteria for determining the acceptability of a project with respect to height are based upon the standards set forth in: Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace, Subpart C, Obstruction Standards; the United States Standard for Terminal Instrument Procedures (TERPS); the One-Engine Inoperative (OEI) obstacle identification surface and other applicable airport design standards published by the FAA.

d. *Local Topography.* The topography underlying the airport's airspace surfaces is a significant factor in determining the allowable height of a structure. The terrain north of CNO slopes upwards towards the San Gabriel Mountains, thereby reducing the allowable heights of objects in those areas.

3. Airspace Protection Zones for CNO. The airspace protection zones depicted in **Policy Map L-3: Chino Airspace Protection Zones** were prepared for CNO in accordance with Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace.

a. *FAA Height Notification Surface.* Established in accordance with FAR Part 77, Subpart B, this airspace surface extends outward and upward at a slope of 100 to 1 for a horizontal distance of 20,000 feet from the airport runways.

b. *Airspace Obstruction Surfaces.* Includes the controlling portions of the FAR Part 77, Subpart C, extending out to a point where these surfaces terminate at the outer limits of the FAA Height Notification Surface. Objects which penetrate these surfaces are subject to airspace evaluation by the FAA. Objects which penetrate the Approach/Departure Surfaces which extend beyond the FAA Height Notification Surface require evaluation by the FAA.

c. *Allowable Heights.* To determine the allowable heights of future objects, the underlying ground elevation is compared with the elevation of the controlling portions of the FAR Part 77, TERPS, and OEI surfaces. These are depicted as color bands in **Policy Map L-3: Chino Airspace Protection Zones**, each color band represents a range of distance, measured in vertical feet, between the ground and overlying surface.

4. Airspace Protection Standards for New Development. The airspace protection compatibility of proposed land uses within the AIA of CNO shall be evaluated in accordance with the policies in this section, including the existing airspace protection surfaces depicted in **Policy Map L-3: Chino Airspace Protection Zones**.

5. Airspace Protection Policies.

Policy No.	***Airspace Protection Policies***
A1	**FAA Height Notification Surface:** Except as provided in Policy A2b, if a project contains proposed structures or other objects that would penetrate the FAA Height Notification Surface for CNO, the project proponent should submit notification of the proposal to the FAA, as required by the provisions of FAR Part 77, Subpart B, and by the California Public Utilities Code, Sections 21658 and 21659. The FAA will conduct an "aeronautical study" of the object(s) and determine whether the object(s) would be of a height that would constitute a hazard to air navigation. A copy of the completed FAR Part 77 notification form submitted to the FAA and the resulting FAA aeronautical study findings should be supplied to the City by the project proponent. The results of the FAA aeronautical study shall be utilized when conducting compatibility reviews of the proposed project. The FAA notification requirements apply to the following:
A1a	**Penetrations to the FAA Height Notification Surface:** With limited exceptions, the FAA requires notification for all objects which penetrate the FAA Height Notification Surface, including structures, antennas, trees, mobile objects, and temporary objects such as construction cranes.

Policy No.	Airspace Protection Policies
A1b	**Structures in Excess of 200 feet:** The FAA requires that it be notified about any proposal to construct or alter a structure that would be taller than 200 feet above the ground level regardless of the structure's proximity to CNO or any other airport.
A1c	**FAR Part 77 Notification:** FAA requires project proponents to submit notification of the proposal where required by the provisions of FAR Part 77, and by the California Public Utilities Code, Sections 21658 and 21659. Refer to the FAA notification requirements and online submittal process of Form 7460-1, Notice of Proposed Construction or Alteration.
A2	**Airspace Obstruction Surfaces:** Except as provided in Policy A2a, no object should have a height that would result in a penetration of the Airspace Obstruction Surface depicted for CNO. Any object that penetrates the Airspace Obstruction Surface shall satisfy the conditions set forth in Policy A2a. These requirements apply to all objects including structures, antennas, trees, mobile objects, and temporary objects such as construction cranes.
A2a	**Airspace Obstacle Criteria and Review Process:** Except as indicated in Policy A2b, a proposed object having a height that penetrates CNO's airspace obstruction surfaces should be allowed only if all of the following apply: 1. The FAA conducts an aeronautical study of the proposed object and determines that the object would not be a hazard to air navigation. 2. FAA or other expert analysis conducted under the auspices of the airport owner, concludes that, despite being an airspace obstruction, the object would not cause any of the following: ▪ An increase in the ceiling or visibility minimums of the airport for an existing or planned instrument procedure (a planned procedure is one that is formally on file with the FAA); ▪ A reduction of the established operational efficiency and capacity of the airport, such as by causing the usable length of the runway to be reduced; or ▪ A conflict with the visual flight rules (VFR) airspace used for the airport traffic pattern or en route navigation to and from the airport. 3. Marking and lighting of the object will be installed as directed by the FAA aeronautical study or the California Division of Aeronautics and in a manner consistent with FAA standards in effect at the time the construction is proposed (Advisory Circular 70/7460-1J, Obstruction Marking and Lighting, or any later guidance). 4. An avigation easement is dedicated to the owner of the airport. 5. The proposed project complies with all policies of the CNO ALUCP.

Policy No.	Airspace Protection Policies
A3	**Flight Hazards:** Land uses that may cause visual, electronic, or wildlife hazards, particularly bird strike hazards, to aircraft in flight or taking off or landing at the airport should be prohibited within the AIA consistent with FAA rules and regulations. To resolve any uncertainties with regard to the significance of flight hazards, local agencies should consult with the FAA, California Division of Aeronautics, and/or CNO officials. Specific characteristics to be avoided include: 1. Sources of glare (such as from mirrored or other highly reflective buildings or building features) or bright lights (including search lights and laser light displays). 2. Distracting lights that could be mistaken for airport lights. 3. Sources of dust, steam, or smoke that may impair pilots' vision. 4. Sources of steam or other emissions that cause thermal plumes or other forms of unstable air. 5. Sources of electrical interference with aircraft communications or navigation. 6. Any proposed use that creates an increased attraction for wildlife and that is inconsistent with FAA rules and regulations including, but not limited to FAA Advisory Circulars 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports and 150/5200-34A, Construction or Establishment of Landfills near Public Airports. Of particular concern are landfills and certain recreational or agricultural uses that attract large flocks of birds which pose bird strike hazards to aircraft in flight.
A4	**Avigation Easements:** An avigation easement shall be required as a condition of approval for proposed development that penetrates the Airspace Obstruction Surfaces (see Policy A2a).
A5	**Hazardous Wildlife Attractants on or Near Airports:** Wildlife can pose hazards to aircraft operations; collisions or "strikes" with wildlife can cause damage to or destroy aircraft and result in injuries or fatalities to air travelers and those on the ground. FAA strike records indicate that most wildlife strikes occur in the immediate airport vicinity during aircraft approach or departure at altitudes of less than 3,500 feet above ground level (AGL).
A5a	**Caltrans Guidance:** Caltrans completed a Wildlife Hazard Assessment at CNO in 2014. Wildlife attractants identified in the airport vicinity included open water basins, golf courses, and agricultural operations Hazardous wildlife identified on and near the airport included: raptors, ground squirrels (because they attract raptors), gulls, blackbirds and starlings, coyotes, crows, doves and pigeons, waterfowl, and shorebirds. To prevent the creation of new habitat within on or near CNO, new development shall be subject to the following: 1. A Qualified Airport Wildlife Biologist (QAWB) shall review landscaping plans to ensure that the proposed materials will not provide food, nesting opportunities, shelter, or roosting opportunities for potentially hazardous wildlife. 2. A QAWB shall review proposed construction plans for their potential to create temporary or permanent wildlife attractants.

Policy No.	Airspace Protection Policies
A5b	**Federal Guidance:** Consistent with state and federal guidance, any proposed land use that creates an increased attraction for wildlife and that is inconsistent with FAA rules and regulations, including but not limited to FAA AC 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports, and 150/5200-34A, Construction or Establishment of Landfills near Public Airports, should be avoided within the "critical zones". For CNO, the critical zone extends 10,000 feet beyond aircraft movement areas and 5 miles from the approach/departure surfaces. The following is list of land uses known to attract potentially hazardous wildlife within critical zones and should be avoided: ▪ Landfills and waste management facilities (see also AC 150/5200-34A, Construction or Establishment of Landfills near Public Airports) ▪ Stormwater management facilities that create open water ▪ Wastewater treatment facilities ▪ Wetlands and wetland mitigation sites ▪ Agricultural/aquacultural operations ▪ Parks and golf courses ▪ Resource mitigation sites If land uses that are known to attract potentially hazardous wildlife are allowed within the airport influence area by right, the land use and its features should be modified to reduce wildlife hazards or mitigate known hazards. Sample mitigation/design measures include those associated with stormwater management facilities and landscape design.
A5c	**Stormwater Management Facilities:** The FAA identifies stormwater management facilities as one of the greatest attractants to hazardous wildlife. Many species are attracted to open water features and associated vegetation that offers water, food, and shelter. New stormwater management facilities located within the AIA should be designed to avoid the creation of open water and habitat and incorporate the following criteria: 1. New detention basins should be designed to drain completely within a maximum 48-hour period following design storm event and remain totally dry between storm events. 2. Exposed surface water features should include one of the recommended design measures: ▪ Floating covers, bird balls, netting, or overhead wires should be installed to deter wildlife. The deterrent should be selected based on pond size and the type of species to be discouraged; ▪ Steep-sided, rip-rap lined, narrow, linearly shaped water detention basin (i.e., 1:1 slopes) should be provided; and ▪ Vegetation should not be provided because it can provide food or cover for hazardous wildlife. 3. Stormwater management plans located within the CNO AIA shall be reviewed by an FAA-qualified Airport Wildlife Biologist. 4. Landscape designs for proposed projects located in the CNO AIA should be reviewed by an FAA-qualified Airport Wildlife Biologist.

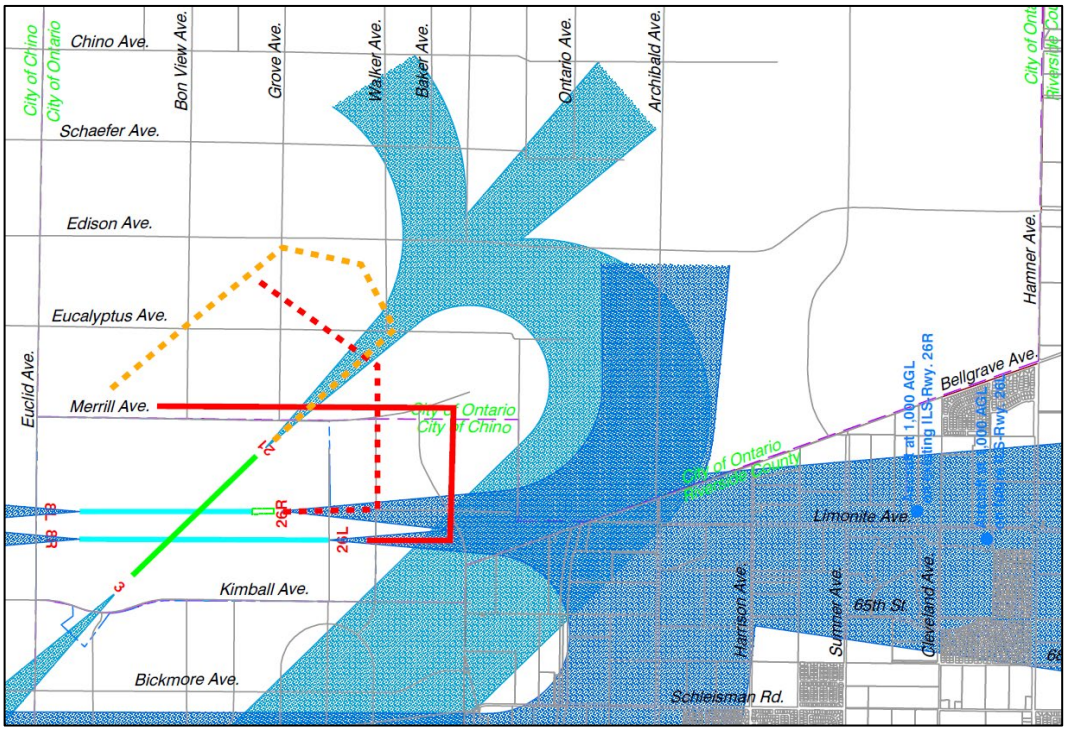
D. Overflight. Noise from individual aircraft operations, especially by comparatively loud aircraft, can be intrusive and annoying in locations beyond the limits of the noise impacts. Sensitivity to aircraft overflights varies from one person to another. The purpose of overflight compatibility policies is to help notify people about the presence of overflights near airports so that they can make more informed decisions regarding acquisition or lease of property in the affected areas.

1. Factors Considered in Establishing Overflight Zones.

a. *State Law.* State statutes (BPC Section 11010 and CC Sections 1102.6, 1103.4, and 1353) define an AIA as "the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission."

b. *Measures of Overflight Exposure.* The loudness of individual aircraft noise events is a key determinant of where airport proximity and aircraft overflight notification are warranted. The FAA has determined that overflight exposure is not significant where aircraft are flying at an altitude of 3,000 feet or more above ground level. **Figure L-7** presents the primary aircraft traffic patterns in blue, based on published airport information. The red and orange lines represent flight patterns captured by radar data from November 2015. On this particular day, aircraft were practicing touch-and-goes (closed loop patterns) from Runway 26R, 26L and Runway 21. Safety Zone 4 encompasses areas where aircraft make a turn from base to final when landing on Runway 21. Also, Safety Zone 6 is routinely overflown by aircraft.

Figure L-7: Radar Flight Track Sample (2015)



2. Factors Considered in Setting Overflight Compatibility Criteria.

a. *Limitations of Local Agency Authority over Existing Uses.* To be most effective, overflight policies should apply to transactions involving existing land uses, not just future development. However, local agencies have little authority to set requirements for existing development. The intent of this policy is to define, on an advisory basis, the boundaries within which required real estate transfer disclosure under state law is appropriate. Implementing the real estate transaction disclosure requirement is the responsibility of the property owner and real estate agent. The local agency is responsible only for providing a map to a property owner or real estate agent that defines the areas within which the real estate disclosure requirement should be applied.

b. *Limitations of California Real Estate Transaction Disclosure Law.* State law applies to existing development, but not to all transactions. Specifically, California state statutes (BPC Section11010 and CC Sections 1102.6, 1103.4, and 1353) require that, as part of many residential real estate transactions, information be disclosed regarding whether the property is situated within an AIA. The Business and Professions Code applies the disclosure requirement to the sale or lease of newly subdivided lands and condominium conversions and to the sale of certain existing residential property. The Civil Code applies the disclosure requirement to existing residential property transfers only when certain natural conditions (earthquake, fire, or flood hazards) warrant disclosure.

c. *Need for Continuity of Notification to Future Property Owners and Tenants.* To the extent that this Compatibility Plan sets notification requirements for new development, the policy should ensure that the notification runs with the land and is provided to prospective future owners and tenants.

d. *Inappropriateness of Avigation Easement Dedication Solely for Buyer Awareness Purposes.* Avigation easements involve conveyance of property rights from the property owner to the party owning the easement and are thus best suited to locations where land use restrictions for safety or airspace protection purposes are necessary.

3. Overflight Notification Zones for CNO. The boundaries of the overflight notification zones around CNO are shown on **Policy Map L-4: Chino Overflight Notification Zones** and include:

a. *Avigation Easement Dedication.* The boundary identifies the high-risk, and critical airspace protection areas of CNO. Although not strictly an overflight notification boundary, the Avigation Easement Dedication boundary is established in accordance with Policy SP1 and reflected on **Policy Map L-4**.

b. *Recorded Overflight Notification.* The boundary identifies the primary

overflight area for the airport. The policy boundary matches Safety Zone 6 depicted on Policy Map L-4.

c. *Real Estate Transaction Disclosure.* The boundary reflects the CNO AIA and matches the outer boundary of the FAR Part 77 conical surface of the airport.

4. Overflight Policies. Unlike the function of safety and airspace protection compatibility policies, the overflight compatibility policies set forth in this section do not restrict the manner in which land can be developed or used. The policies in this section serve only to establish the language and recommended geographic coverage for notification about airport proximity and aircraft overflights for new development and with certain real estate transactions involving existing development.

Policy No.	*Airspace Protection Policies*
O1	**Recorded Overflight Notification:** The City of Ontario shall require the recording of an overflight notification running with the land as a condition for approval of new residential development that falls within Safety Zone 6, as depicted in Policy Map L-4. Other conditions include:
O1a	**Notification Language:** The overflight notification should contain language dictated by state law with regard to real estate transaction disclosure (see Policy O2a).
O1b	**Property Deed Recording:** The overflight notification should be evident to future purchasers of the property by appearing on the property deed.
O1c	**Avigation Easement Exception:** A separate recorded overflight notification is not required where an avigation easement is provided in accordance with Policy SP1.
O1d	**Nonresidential Exception:** Recording of an overflight notification is not required for nonresidential development unless the project is a mixed-use development containing residential uses on the same property.
O2	**Real Estate Transaction Disclosure:** Airport proximity disclosure information should be provided in accordance with state law (Business and Professions Code Section 11010 and Civil Code Sections 1102.6, 1103.4, and 1353. See Section 6.4.4 (b) and Appendix A for information on these laws.
O2a	**Disclosure Language:** State Law provides the following disclosure language: **NOTICE OF AIRPORT IN VICINITY:** This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.
O2b	**Airport Influence Area:** The airport proximity disclosure is required within AIA as identified on Policy Map L-4.

E. Special Compatibility Policies. These policies are intended to address unique land use concerns.

Policy No.	*Special Compatibility Policies*
SP1	**Avigation Easement Dedication:** An avigation easement should be dedicated to the owner/operator of CNO for new development as specified in Policies SP1a and SP1b.
SP1a	**Avigation Easement Dedication Requirements:** Within portions of the AIA inside the City of Ontario, avigation easement dedication shall be required for new development requiring discretionary as described below. Policy Map L-4 depicts the locations where an avigation easement dedication would be appropriate. 1. **Safety Zones:** All new development within Safety Zones 1, through 4 as depicted on Policy Map L-2.
SP1b	**Avigation Easement Purpose:** The avigation easement should do the following: 1. **Right of Flight:** Provide the right of flight in the airspace above the property. 2. **Noise Impacts:** Allow the generation of noise and other impacts associated with aircraft overflight. 3. **Physical Hazards:** Restrict the height of structures, trees and other objects in accordance with the policies in Section L.01.003.C and the airspace protection surfaces depicted on Policy Map L-2. 4. **Obstruction Marking:** Permit access to the property, with appropriate advance notice, for the removal or aeronautical marking of objects exceeding the established height limit. 5. **Other Airspace Hazards:** Prohibit electrical interference, glare, and other potential hazards to flight from being created on the property.
SP2	**Nonconforming Uses:** The policies within the CNO ALUCP do not apply to existing land uses even if those uses are not in conformance with the compatibility criteria set forth in this Compatibility Plan. However, proposed changes to existing uses that would change or result in increased nonconformity with the compatibility criteria are subject to the provisions of the ALUCP. Specifically, proposed changes to existing nonconforming uses (including a parcel or building) are limited as follows:
SP2a	**Residential uses:** A nonconforming residential land use may be continued, sold, leased, or rented without restriction or review.
SP2b	**Nonconforming Single-family:** A nonconforming single-family dwelling may be maintained, remodeled, reconstructed or expanded in size. The lot line of an existing single-family residential parcel may be adjusted. Also, a new single-family residence may be constructed on an existing lot. The above noted property improvements may occur if improvements do not increase the number of units and lot line adjustments do not result in allowing for additional dwelling units. Examples include: 1. Any remodeling, reconstruction, or expansion must not increase the number of dwelling units. For example, a bedroom could be added to an existing residence, but an additional dwelling unit could not be built on the parcel unless that unit is a secondary dwelling unit as defined by state and local laws. 2. A single-family residential parcel may not be divided for the purpose of allowing additional dwellings to be constructed.
SP2c	**Nonconforming Multi-family (> 8 du/ac):** Nonconforming multi-family residential dwelling units may be maintained, remodeled, or reconstructed. The size of individual dwelling units may be increased, but additional dwelling units may not be added.

Policy No.	Special Compatibility Policies
SP2d	**Nonresidential uses:** A nonconforming, nonresidential use may be continued, sold, leased, or rented without restriction or review. Nonconforming, nonresidential facilities may be maintained, altered, or, if required by state law, reconstructed. However, any such work: 1. Should not result in expansion of either the portion of the site devoted to the nonconforming use or the floor area of the buildings; and 2. Should not result in an increase in the usage intensity (the number of people per acre) above the levels existing at the time of approval of the CNO ALUCP.
SP2e	**Schools:** Children's schools (including grades K-12, day care centers with more than 14 children, and school libraries) may be continued, reconstructed (see Policy SP5), expanded with the following restrictions per State Law: 1. Land acquisition for new schools or expansion of existing schools is not permitted in any safety zone. 2. Replacement or expansion of buildings at existing schools is also not allowed in any safety zone. This limitation does not preclude work required for normal maintenance or repair.
SP3	**Reconstruction of Nonconforming Uses:** An existing nonconforming building, structure, or use that has been partially or completely destroyed as the result of a fire, flood or natural disaster may be rebuilt under the conditions listed in Policies SP3a through SP3c so long as it does not violate local ordinances. The requirements listed in this policy do not restrict normal maintenance and repairs.
SP3a	**Residential:** Nonconforming residential uses may be rebuilt provided that the reconstruction does not result in more dwelling units than existed on the parcel at the time of the damage. Addition of a secondary dwelling unit to a single-family residence is permitted if in accordance with state law and local zoning regulations.
SP3b	**Nonresidential:** A nonconforming nonresidential development may be rebuilt provided that the reconstruction does not increase the floor area of the previous structure or result in an increased intensity of use (i.e., more people per acre).
SP3c	**Reconstruction Requirements:** The reconstruction of nonconforming uses listed in Policies SP3a and SP3b should comply with the following requirements: 1. A permit to rebuild the structure should be obtained by the local agency within twenty-four (24) months of the date the damage occurred. 2. The property should be required to dedicate an avigation easement to the airport owner, if required under Policy SP1. 3. The new structure should comply with FAR Part 77, TERPS, and applicable airport obstruction clearance standards published by the FAA.

L.01.005: Evaluating Land Use Consistency

A. Evaluating Compatibility of Proposed Development. The compatibility of proposed projects within the CNO AIA shall be evaluated in accordance with the specific safety, airspace protection, overflight policies, and special compatibility policies set forth in Section L.01.003 including the criteria listed in **Table L-1: CNO ALUCP Compatibility Criteria Matrix** and T**able L-2: Safety Zones Compatibility Criteria**, and **Policy Maps L-1 through L-4**.

B. Evaluation Tools.

1. Safety Zone Criteria Table. **Table L-2** list general land use categories and indicate each use as being either "normally compatible," "conditionally compatible," or "incompatible" depending upon the safety zone in which it is located. When evaluating a proposed development, each land use component of a project shall be evaluated as separate developments and must meet the criteria for the respective land use category.

2. Evaluation Considerations.

a. Land uses not specifically listed in **Table L-2** shall be evaluated using the criteria for similar listed uses.

b. Multiple land use categories and the compatibility criteria associated with them may apply to a single project (e.g., mixed-use developments). Each land use component shall individually satisfy the criteria for the respective land use category in Table L-2.

3. Land Use Compatibility Determinations.

a. *Normally Compatible.* Normally Compatible means that common examples of the use are compatible with the airport; uncommon examples of the use may require review to ensure compliance with compatibility criteria.

b. *Conditionally Compatible.* Conditionally Compatible means that the use is compatible if the listed conditions are met.

c. *Incompatible.* Incompatible means that the use should not be permitted under any circumstances.

L.01.006: Criteria Tables and Policy Maps

A. Criteria Tables. The compatibility tables at the end of this chapter provide the following information:

1. Table L-1: CNO ALUCP Compatibility Criteria Matrix. The Compatibility Criteria table provides a comprehensive list of open land percentages, people per acre limits and other relevant criteria summarized for each safety zone.

2. Table L-2: Safety Zones Compatibility Criteria. The safety criteria table provides a list of land use categories and identifies the acceptability of specific land uses within each of the five safety zones. Intensity limits for nonresidential uses (i.e., maximum number of people per acre) and other safety considerations within each safety zone are also noted.

B. Policy Map L-1 (Chino Airport Influence Area). The AIA boundary encompasses the geographic extents of all the compatibility factors: safety, noise, airspace protection, and overflight.

C. Policy Map L-2 (Chino Airport Safety Zones). This policy map displays a single set of safety zones reflecting the existing runway configurations. The safety zones for are based upon the generic safety zones provided in the California Airport Land Use Planning Handbook.

D. Policy Map L-2a (Chino Airport Open Land Streets). This policy map identifies three streets that will be designed to satisfy the Open Land criteria.

E. Policy Map L-3 (Chino Airspace Protection Zones). The airspace protection zones are prepared in accordance with Federal Aviation Regulation Part 77, the United States Standard for Terminal Instrument Procedures (TERPS), and applicable obstruction clearance standards published by the Federal Aviation Administration. The airspace surfaces reflect the existing runway configurations.

F. Policy Map L-4 (Chino Overflight Notification Zones). This policy map identifies the overflight notification zones. The overflight notification zones also encompass the areas underlying the airport's critical airspace surfaces.

Table L-1: CNO ALUCP Compatibility Criteria Matrix					
Safety Zones	***Residential Density Limits***	***Non-Residential Intensity Limits (People per acre)***	***Open Land Requirement for Entire Zone***	***Other Criteria***	***Boundary Determinations***
Zone 1 Runway Protection Zone	0	0	All Remaining	Avigation Easement and Airspace Review Required	RPZ
Zone 2 Inner Approach/ Departure Zone	0	60 (avg.) 120 (single acre)	25%; preserve open land nearest runway end	Avigation Easement and Airspace Review Required	Safety Zone 2
Zone 3 Inner Turning Zone	1 dwelling unit per 2-acre lot	100 (avg.) 300 (single acre)	15%; preserve open land along extended runway centerline	Avigation Easement and Airspace Review Required	Safety Zone 3
Zone 4 Outer Approach/ Departure Zone	2 dwelling units per 2-acre lot	150 (avg.) 450 (single acre)	15%; preserve open land along extended runway centerline	Avigation Easement and Airspace Review Required	Safety Zone 4
Zone 6 Traffic Pattern Zone	No Limit	300 (avg.) 1,200 (single acre)	10%; preserve open land every 1/4 to 1/2 mile	Deed Notice and Airspace Review Required	Safety Zone 6

Table L-2: Safety Zones Compatibility Criteria

Legend: Land Use Compatibility
(A detailed explanation of each land use acceptability category is provided at the end of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use

- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development. Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
Outdoor Uses (limited or no activities in buildings)						
Natural Land Areas: desert, brush lands [3]						1: Avoid new features that attract birds; vegetation must be clear of airspace surfaces
Water: flood plains, stormwater facilities, wetlands, lakes, reservoirs [3]						1-6: Avoid new features that attract birds
Agriculture (except residences and livestock): crops, orchards, vineyards, pasture, range land [3]						1-6: Avoid new features that attract birds
Livestock Uses: feed lots, stockyards, breeding, fish hatcheries, horse stables [3]						2-6: Avoid new features that attract birds
Outdoor Major/Large Assembly Facilities: [4] spectator-oriented outdoor stadiums, amphitheaters, fairgrounds, race tracks, water parks, zoos						6: Allowed if intensity criteria met
Outdoor Group Recreation (limited spectator stands): athletic fields, water recreation facilities, picnic areas						4, 6: Allowed only if site outside zone would not serve intended function
Outdoor Small/Non-Group Recreation: golf courses, tennis courts, shooting ranges [3]						3-6: Allowed if intensity criteria met
Local Parks: children-oriented neighborhood parks, playgrounds						6: Allowed if intensity criteria met
Camping: campgrounds, recreational vehicle/ motor home parks						3-6: Allowed only if intensity criteria met
Cemeteries (except chapels)						

Table L-2: Safety Zones Compatibility Criteria

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(A detailed explanation of each land use acceptability category is provided at the end of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use

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Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
Residential and Lodging Uses						
Residential: individual dwellings, townhouses, mobile homes, apartments, condominiums, bed & breakfast inns [5]						3, 4: 1 du/2-acre lots (avg. density); 4 du/single- acre; locate dwelling max. distance from extended runway centerline where feasible
Long-Term Lodging (>30 nights): extended-stay hotels, dormitories						
Short-Term Lodging (≤ 30 nights): hotels, motels, other transient lodging (except conference/assembly facilities) [approx. 200 s.f./person]				0.69		4: FAR limits as indicated
Congregate Care: retirement homes, assisted living, nursing homes, intermediate care facilities						6: Allowed only if site outside zone would not serve intended function
Educational and Institutional Uses						
Family day care homes (≤14 children) [5]						
Children's Schools: K-12, day care centers (>14 children); school libraries						6: Subject to approval by Caltrans Division of Aeronautics
Adult Education classroom space: adult schools, colleges, universities [approx. 40 s.f./person]			0.09	0.14	0.28	3-6: FAR limits as indicated; also see individual components of campus facilities (e.g., assembly facilities, offices, gymnasiums)
Community Libraries [approx. 100 s.f./person]			0.23	0.34	0.69	3-6: FAR limits as indicated
Major Indoor Assembly Facilities [4]: auditoriums, conference centers, concert halls, arenas						

Table L-2: Safety Zones Compatibility Criteria

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(A detailed explanation of each land use acceptability category is provided at the end of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use

- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development. Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
Large Indoor Assembly Facilities [4]: movie theaters, places of worship, cemetery chapels, mortuaries [approx. 15 s.f./person]			0.03	0.05	0.10	3-6: FAR limits as indicated
Indoor Recreation: gymnasiums, club houses, athletic clubs, dance studios [approx. 60 s.f./person]			0.14	0.21	0.41	3-6: FAR limits as indicated
In-Patient Medical: hospitals, mental hospitals						6: Allowed only if site outside zone would not serve intended function
Out-Patient Medical: health care centers, clinics [approx. 240 s.f./person]			0.55	0.83		3, 4: FAR limits as indicated
Penal Institutions: prisons, reformatories						6: Allowed only if site outside zone would not serve intended function
Public Safety Facilities: police, fire stations						3, 4: Allowed only if site outside zone would not serve intended public function
Commercial, Office, and Service Uses						
Major Retail: regional shopping centers, 'big box' retail [approx. 110 s.f./person]			0.25	0.38	0.76	3-6: FAR limits as indicated; evaluate eating/ drinking areas separately if >10% of total floor area
Local Retail: community/neighborhood shopping centers, grocery stores [approx. 170 s.f./person]			0.39	0.59		3, 4: FAR limits as indicated; evaluate eating/ drinking areas separately if >10% of total floor area
Eating/Drinking Establishments: restaurants, fast-food dining, bars [approx. 60 s.f./person]			0.14	0.21	0.41	3-5: FAR limits as indicated
Limited Retail/Wholesale: furniture, automobiles, heavy equipment, lumber yards, nurseries [approx. 250 s.f./person]		0.34	0.57			2, 3: FAR limits as indicated; design site to place parking inside and buildings outside of zone if possible

Table L-2: Safety Zones Compatibility Criteria

Legend: Land Use Compatibility
(A detailed explanation of each land use acceptability category is provided at the end of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use

- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development. Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
Offices: professional services, doctors, finance, civic; radio, television & recording studios, office space associated with other listed uses [approx. 215 s.f./person]		0.30	0.49	0.74		2-4: FAR limits as indicated
Personal & Miscellaneous Services: barbers, car washes, print shops [approx. 200 s.f./person]		0.28	0.46	0.69		2-4: FAR limits as indicated
Vehicle Fueling: gas stations, trucking & transportation terminals						
Industrial, Manufacturing, and Storage Uses						
Hazardous Materials Production: oil refineries, chemical plants (≥ 6,000 gallons)						
Heavy Industrial						4: Avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft
Light Industrial, High Intensity: food products preparation, electronic equipment [approx. 200 s.f./person]		0.28	0.46	0.69		2-4: FAR limits as indicated; avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft
Light Industrial, Low Intensity: machine shops, wood products, auto repair [approx. 350 s.f./person]		0.48	0.80	1.21		2-4: FAR limits as indicated; avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft

Table L-2: Safety Zones Compatibility Criteria

Legend: Land Use Compatibility
(A detailed explanation of each land use acceptability category is provided at the end of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use

- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development. Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
Research & Development [approx. 300 s.f./person]			0.69	1.03		3-4: FAR limits as indicated; avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft
Indoor Storage: wholesale sales, warehouses, mini/other indoor storage, barns, greenhouses [approx. 1,000 s.f./person]						2: Single story only; max. 10% in mezzanine
Outdoor Storage: public works yards, automobile dismantling						
Mining & Extraction [6]						
Transportation, Communication, and Utilities						
Airport Terminals: airline, general aviation						
Rail & Bus Stations						2: Allowed only if site outside zone would not serve intended public function
Transportation Routes: road & rail rights-of-way, bus stops [3]						1: Avoid new features that create airspace obstructions
Auto Parking: surface lots, structures [3]						1: Avoid new features that create airspace obstructions
Communications Facilities: emergency communications, broadcast & cell towers [7]						4, 6: Allowed only if site outside zone would not serve intended public function; not allowed within ½ mile of runway
Power Plants [7]						4, 6: Primary plants not allowed; peaker plants only

Table L-2: Safety Zones Compatibility Criteria

Legend: Land Use Compatibility
(A detailed explanation of each land use acceptability category is provided at the end of this table)

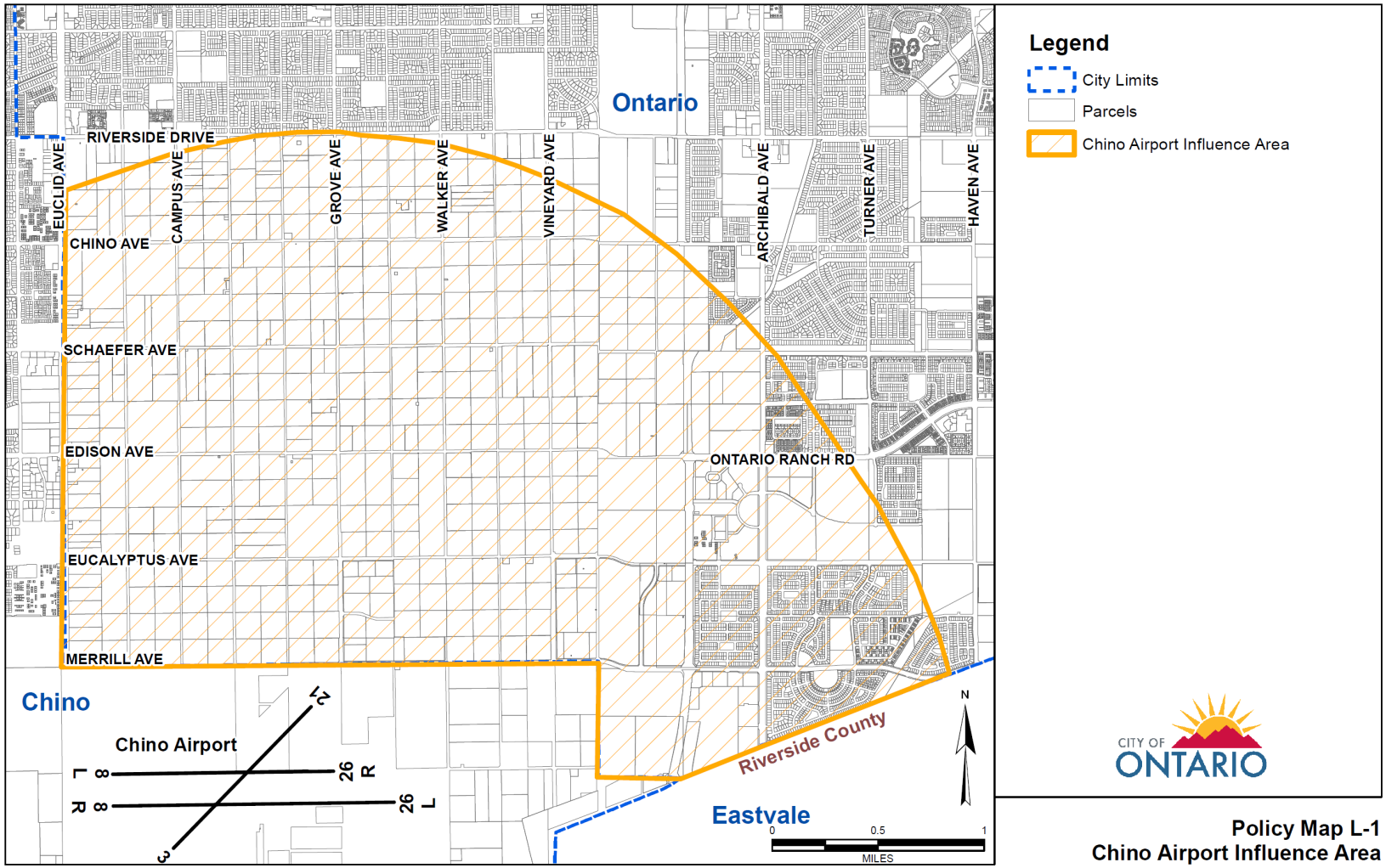
Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use

- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development. Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
Electrical Substations [7]						4, 6: Allowed only if site outside zone would not serve intended public function; avoid features that create flight hazards
Wastewater Facilities: treatment, disposal [3]						6: Allowed only if site outside zone would not serve intended public function; avoid new features that attract birds
Solid Waste Disposal Facilities: landfill, incineration [3]						6: Allowed only if site outside zone would not serve intended public function; avoid new features that attract birds
Solid Waste Transfer Facilities, Recycle Centers [3]						6: Allowed only if site outside zone would not serve intended public function; avoid new features that attract birds

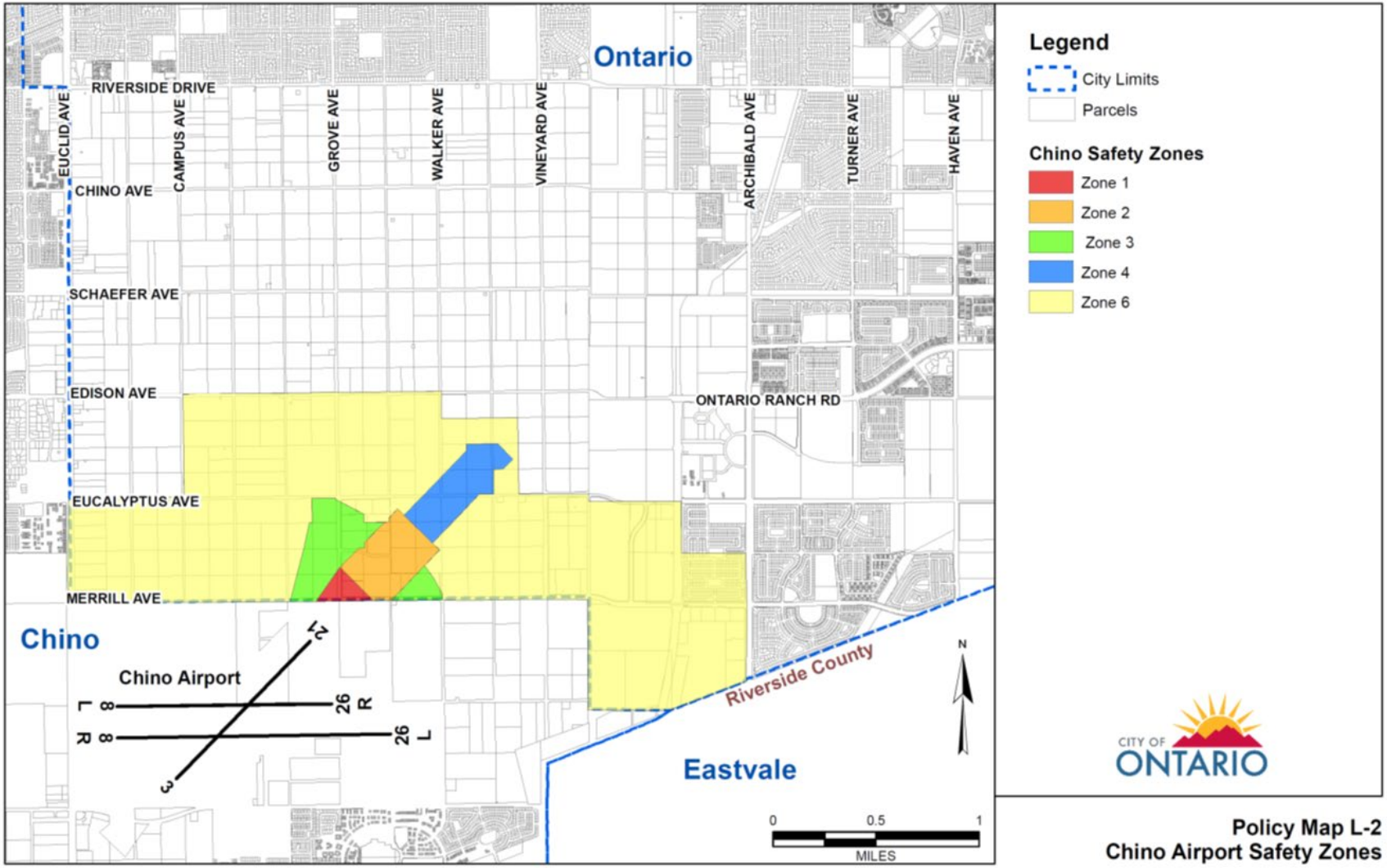
1. Land uses not specifically listed shall be evaluated using the criteria for similar uses.
2. Sample safety zones from the 2011 California Airport Land Use Planning Handbook (Handbook), as applied to Chino Airport, extend into the limits of the City of Ontario, except for Safety Zone 5. For numerical consistency, the Compatibility Zones for Chino Airport maintain the same numbering system used in the Handbook despite omission of Safety Zone 5. Avigation easement dedication required as condition of approval for all properties within Compatibility Zones 1-4.
3. Although these uses may satisfy the Safety criteria, they may be inconsistent with the Airspace Protection criteria as these uses may attract birds or other wildlife that could pose hazards to flight (see **Airspace Protection Policies**) or create obstructions to navigable airspace.
4. A *Major Assembly Facility* is defined as having a capacity of ≥1,000 people, while a *Large Assembly Facility* has a capacity of 300 to 999 people. Source: International Building Code.
5. Construction of a single-family home, including a second dwelling unit as defined by state law, allowed on a legal lot of record if such use is permitted by local land use regulations. A family day care home (serving ≤14 children) may be established in any dwelling.
6. These uses may generate dust or other hazards to flight.
7. Power lines or other tall objects associated with these uses may be hazards to flight.

Policy Map L-1 (Chino Airport Influence Area)

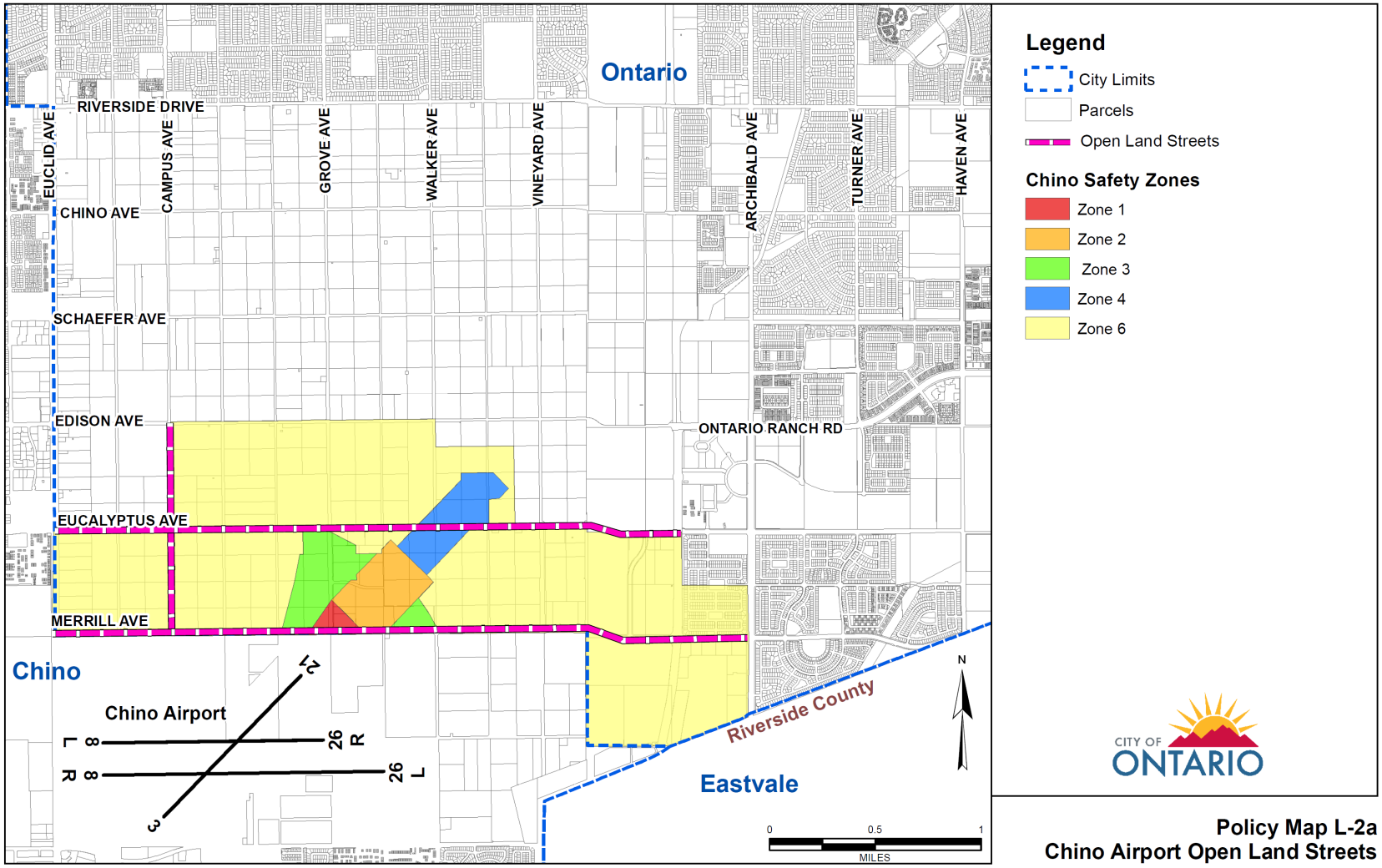


Policy Map L-1
Chino Airport Influence Area

Policy Map L-2 (Chino Airport Safety Zones)

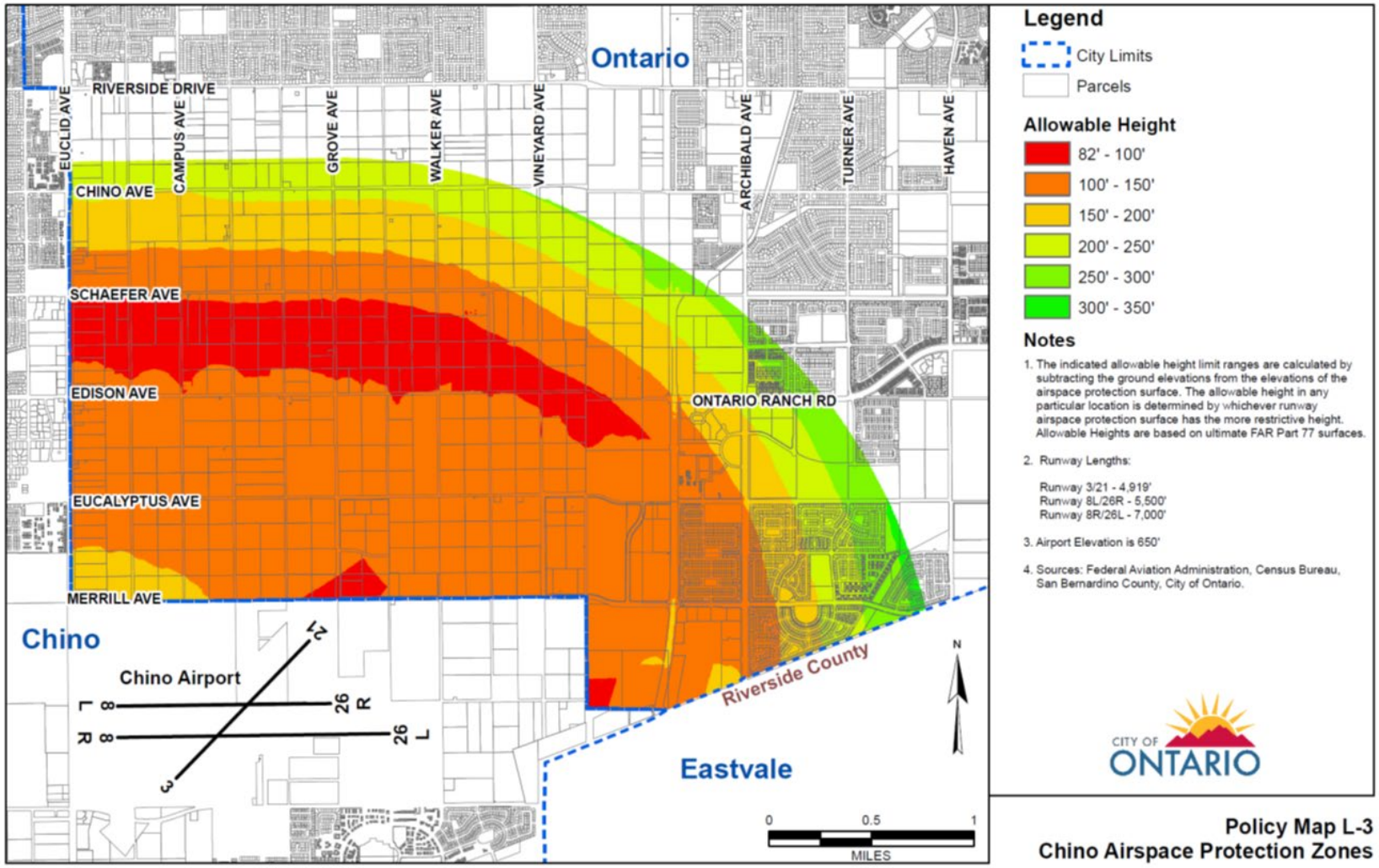


Policy Map L-2a: Chino Airport Open Land Streets

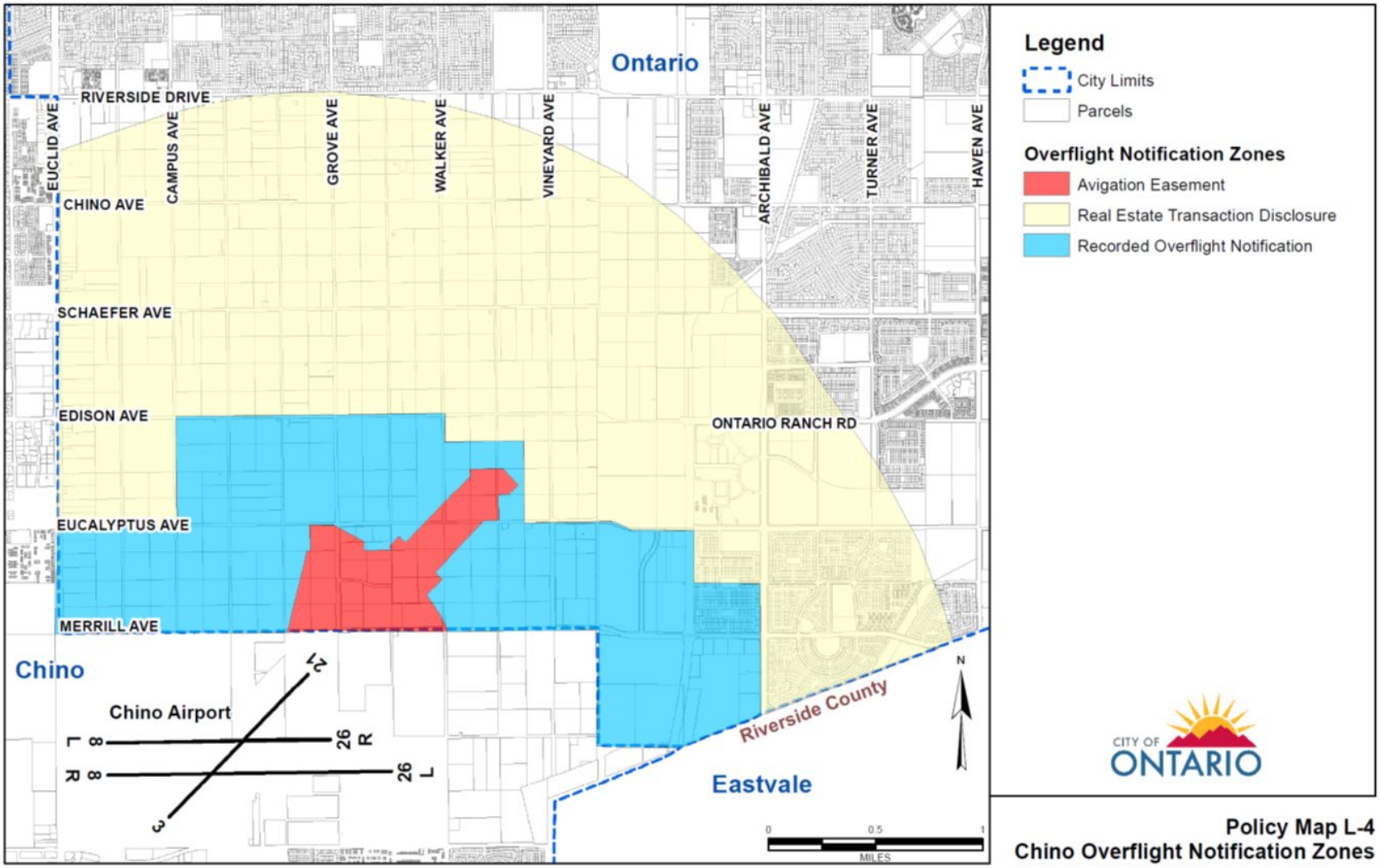


Policy Map L-2a
Chino Airport Open Land Streets

Policy Map L-3: Chino Airspace Protection Zones



Policy Map L-4: Chino Overflight Notification Zones



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA22-004, A DEVELOPMENT CODE AMENDMENT FOR CERTAIN REVISIONS TO THE CITY OF ONTARIO DEVELOPMENT CODE, ESTABLISHING THE CHINO AIRPORT OVERLAY ZONING DISTRICT AND REFERENCE L, CHINO AIRPORT LAND USE COMPATIBILITY PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, the City of Ontario ("Applicant") has initiated a Development Code Amendment, File No. PDCA22-004, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City of Ontario Development Code (Ontario Municipal Code Title 9) provides the legislative framework for the implementation of The Ontario Plan, which establishes long term principals, goals, and policies for guiding the growth and development of the City in a manner that achieves Ontario's vision, and promotes and protects the public health, safety, comfort, convenience, prosperity, and welfare of its citizens; and

WHEREAS, the Chino Airport is a general aviation airport located within the City of Chino, immediately adjacent to the southwestern boundary of the City of Ontario. The geographic scope of the Chino Airport Land Use Compatibility Plan (“ALUCP”) is the Airport Influence Area (“AIA”). The portion of the AIA within the City of Ontario is generally bounded by Riverside Drive to the north, Merrill Avenue/southern boundary City limits to the south, Euclid Avenue to the west and Haven Avenue to the east; and

WHEREAS, certain revisions to the City of Ontario Development Code are proposed, as follows:

(1) Provisions to establish the Chino Airport Overlay zoning district within Chapter 5 Development Code Section 5.01.005.F.6; and

(2) Provisions to establish Reference L, the Chino Airport Land Use Compatibility Plan within the Reference section of the Development Code; and

WHEREAS, the California State Aeronautics Act (Public Utilities Code, Section 21670 et seq.) requires that an ALUCP be prepared for all public-use airports in the state to “protect the public health, safety, and welfare by ensuring orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible land uses”; and

WHEREAS, State law requires that local jurisdictions preparing Compatibility Plans “rely upon” the compatibility guidance provided by the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation (“Caltrans”), Division of Aeronautics; and

WHEREAS, the responsibility for the preparation and adoption of compatibility plans falls to the county Airport Land Use Commission ("ALUC"). However, State law also provides for what is generally referred to as an "Alternative Process" wherein a county does not have to form an ALUC and the required compatibility planning responsibilities fall to local jurisdictions; and

WHEREAS, the use of the Alternative Process within San Bernardino County was established in 1995 by resolutions of the County Board of Supervisors and the city councils of cities affected by airports. The California Division of Aeronautics approved the San Bernardino County Alternative Process in 1996. The approval of the Alternative Process designated the City of Chino as the local jurisdiction responsible for leading the compatibility planning process for Chino Airport; and

WHEREAS, the current ALUCP does not reflect the guidance set forth in the 2011 Caltrans Airport Land Use Planning Handbook ("Handbook"). Although, the City of Ontario does not have the formal responsibility under the "alternative process" to prepare a compatibility plan for Chino Airport, the City of Ontario has prepared an airport land compatibility plan for Chino Airport consistent with the 2011 Caltrans Airport Land Use Planning Handbook solely to address impacts within Ontario's boundaries; and

WHEREAS, the basic function of the ALUCP for Chino Airport ("CNO") is to promote compatibility between CNO and the land uses that surround it. The main objective of the ALUCP is to avoid future compatibility conflicts rather than to remedy existing incompatibilities; and

WHEREAS, the ALUCP addresses four compatibility factors which include safety, noise, airspace protection, and overflight impacts. The compatibility plan includes policies to evaluate, land use plans and new development proposals for consistency with CNO. Each compatibility factor takes into consideration present and future aircraft operations or land uses that could negatively affect airport operations; and

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

WHEREAS, the Project is exempt from CEQA pursuant to a categorical exemption (listed in CEQA Guidelines Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; 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 ("ONT"), 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. The proposed Chino ALUCP does not create any conflicting policies or inconsistencies with the ONT ALUCP; 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 June 28, 2022, as the first action on the Application, the Planning Commission of the City of Ontario conducted a public hearing to consider the Project and concluded said hearing on that date, voting (6-0) to issue Resolution No. PC22-032, recommending the City Council approve the proposed Development Code Amendment; and

WHEREAS, on July 19, 2022, the City Council of the City of Ontario conducted a public hearing to consider the introduction of this Ordinance, 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 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 administrative record have been completed in compliance with CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines; and

(2) The Project is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the "common sense exemption" (also known as the "general rule exemption") that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

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

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 Section 1 through 2, above, the City Council hereby concludes as follows:

(1) The proposed Development Code Amendment 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 Development Code Amendment will support the creation and implementation of the Airport Land Use Compatibility Plan for Chino Airport as promoted by Land Use Element Policy LU5-8 Chino Airport.

(2) The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The Development Code Amendment incorporates safeguards intended to ensure that the purposes of the Development Code are preserved; the project will not be contrary to or damage the public health, safety, convenience, or general welfare; the project will not result in any significant environmental impacts; and the project will be in full conformity with the Vision, City Council Priorities, and Policy Plan components of The Ontario Plan.

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 Development Code Amendment, File No. PDCA22-004, amending the City of Ontario Development Code as stipulated in "Attachment A and B", incorporated herein by this reference.

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

SECTION 6. *Severability.* If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

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

SECTION 8. ***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 _____ 2022.

_____
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 Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held July 19, 2022 and adopted at the regular meeting held _____, 2022 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:

Add Development Code Section 5.01.005.F.6 to read as follows:

"**6.** CNO (Chino Airport) Overlay Zoning District. The Chino Airport Overlay zoning district is hereby established to: **[i]** delineate the Airport Influence Area (AIA) for Chino Airport as the boundary of the CNO Overlay zoning district; **[ii]** adopt an airport land use compatibility plan for Chino Airport consistent with the 2011 Caltrans Airport Land Use Planning Handbook solely to address impacts within Ontario's boundaries; and **[iii]** promote compatibility between CNO and the land uses that surround it. Property in the CNO Overlay zoning district shall be subject to Reference L - Chino Airport Land Use Compatibility Plan, that includes maps, criteria, and policy language to guide development within the Chino AIA."

ATTACHMENT B:

Add Development Code Reference L to read as follows:

L.01.001: Introduction

The California State Aeronautics Act (Public Utilities Code, Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan (Compatibility Plan) be prepared for all public-use airports in the state to:

"protect the public health, safety, and welfare by ensuring orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible land uses."

State law also requires local land use plans and individual development proposals to be consistent with policies set forth in Compatibility Plans. The statutes also require that local jurisdictions preparing Compatibility Plans "rely upon" the compatibility guidance provided by the California *Airport Land Use Planning Handbook* published by the California Department of Transportation (Caltrans), Division of Aeronautics in January 2011.

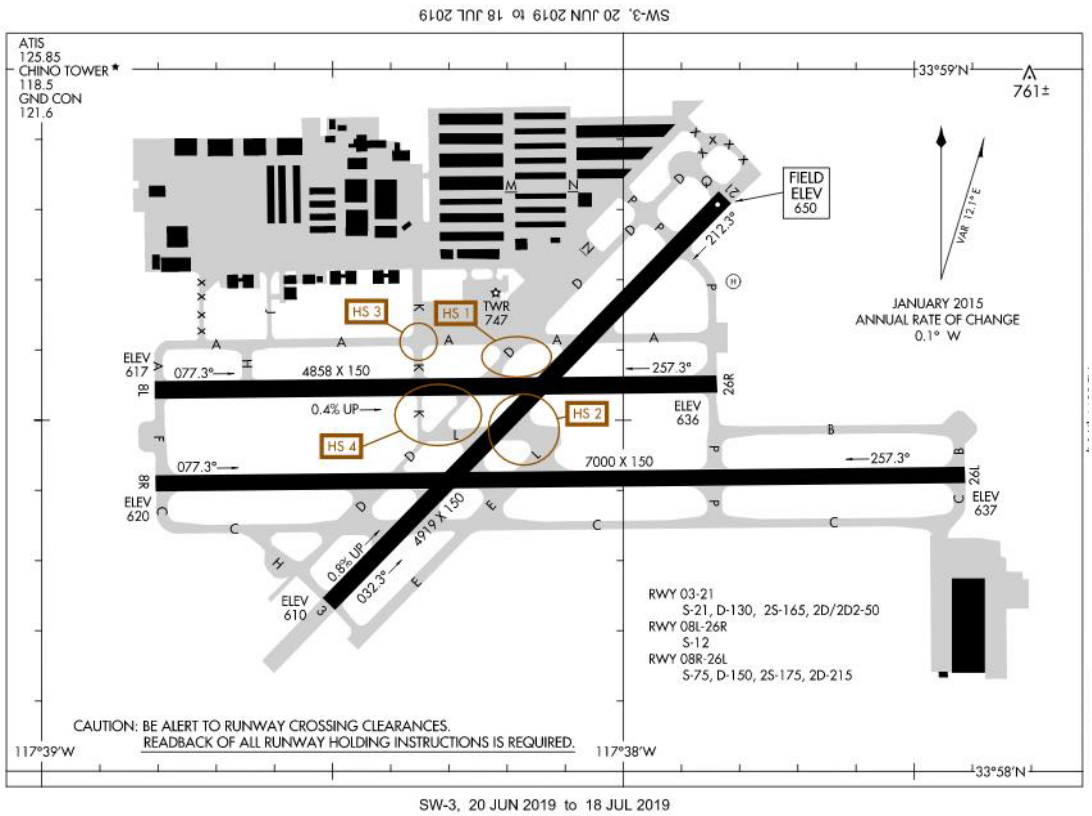
The responsibility for the preparation and adoption of compatibility plans falls to the county airport land use commission (ALUC). However, State law also provides for what is generally referred to as an "Alternative Process" wherein a county does not have to form an ALUC and the required compatibility planning responsibilities fall to local jurisdictions. San Bernardino County and its cities elected to follow the Alternative Process when this option became available as a result of the 1994 legislation (Assembly Bill 2831). Specific requirements for implementation of the Alternative Process are set forth in Public Utilities Code Section 21670.1(c)(2).

Use of the Alternative Process within San Bernardino County was established in 1995 by resolutions of the County Board of Supervisors and the city councils of cities affected by airports. The California Division of Aeronautics approved the San Bernardino County Alternative Process in 1996. The approval of the Alternative Process designated the City of Chino as the local jurisdiction responsible for leading the compatibility planning process for Chino Airport.

The current Chino Airport Land Use Compatibility Plan (ALUCP) does not reflect the guidance set forth in the 2011 Caltrans Airport Land Use Planning Handbook. Although, the City of Ontario does not have the formal responsibility under the "alternative process" to prepare a compatibility plan for Chino Airport, the City of Ontario has prepared an airport land compatibility plan for Chino Airport consistent with the 2011 Caltrans Airport Land Use Planning Handbook solely to address impacts within Ontario's boundaries.

Chino Airport is owned and operated by the County of San Bernardino and is situated within the boundaries of the City of Chino, immediately south of Ontario. Chino Airport (CNO) is the busiest non-commercial airport within a 20-mile radius of the City of Ontario, making it a leading general aviation airport of choice for independent pilots, students and trainers, and corporate users. CNO occupies 1,097 acres, has three runways and provides full precision instrument approach capabilities. The airport reported nearly 165,000 annual operations for the 12-month period ending in September 2019. Aircraft operations on Runway 3-21 (northeast/southwest crosswind runway) and Runway 8L-26R (northern east/west parallel runway) have the greatest effect on the City of Ontario. A brief summary of airport facilities is provided below and shown in **Figure L-1: Chino Airport Diagram**.

Figure L-1: Chino Airport Runway Diagram



Chino Airport Facilities

- **Runway 3-21**

  - Airport Reference Code: C-II
  - Existing Runway Dimensions: 4,919 feet x 150 feet
  - Runway is lighted for nighttime operations
  - Approach Visibility Minimums (lowest): Visual (>1-mile)
  - Title 14 Code of Federal Regulation (CFR), Part 77 category and approach slope: B(V), 20:1
  - Traffic Pattern: Runway 3 (right), Runway 21 (left)

- **Runway 8L-26R**

  - Airport Reference Code: C-III
  - Runway Dimensions:
  - Existing: 4,858 feet x 150 feet
  - Future: 5,500 feet x 150 feet
  - Existing Approach Visibility Minimums (lowest) and Part 77 category and approach slope:
  - Runway 8L: Visual (>1 mile); B(V), 20:1
  - Runway 26R: Precision (<3/4 mile); 50:1
  - Traffic Pattern: Runway 8L (right), Runway 26R (left)

- **Runway 8R-26L**

  - Airport Reference Code: D-III
  - Existing Runway Dimensions: 7,000 feet x 150 feet
  - Runway is lighted for nighttime operations
  - Approach Visibility Minimums (lowest):
    - Existing Runway 8R and 26L: Visual, >1-mile
    - Future Runway 26L: Precision (3/4 mile)
  - Part 77 category and approach slope:
    - Existing: B(V), 20:1
    - Future Runway 26L: Precision, 50:1
  - Traffic Pattern: Runway 8R (right), Runway 26L (left)

L.01.002: Purpose

The purpose of the “Airport Land Use Compatibility Plan” (ALUCP) for Chino Airport (CNO) is to promote compatibility between CNO and the land uses that surround it. The City’s general plan, specific plans, and zoning ordinances shall be made consistent with the CNO ALUCP through incorporation of the compatibility policies into their land use policy documents.

The main objective of the ALUCP is to avoid future compatibility conflicts rather than to remedy existing incompatibilities. Also, the ALUCP is aimed at addressing future land uses and development, not airport activity. The ALUCP does not place any restrictions on the present and future role, configuration, or use of the airport.

L.01.003: Definitions

A. Purpose. The purpose of this section is to establish definitions for terms and phrases used in this CNO ALUCP that are technical or specialized, or that may not reflect common usage.

B. Terms and Phrases. Definitions of Words Beginning with the Letter "A."

Above Ground Level (AGL): An elevation datum given in feet above ground level.

Accident Potential Zones (APZs): A set of safety-related zones defined by AICUZ studies for areas beyond the ends of military airport runways. Typically, three types of zones are established: a clear zone closest to the runway end, then APZ I and APZ II. The potential for aircraft accidents and the corresponding need for land use restrictions is greatest with the clear zone and diminishes with increased distance from the runway.

Air Carriers: The commercial system of air transportation, consisting of the certificated air carriers, air taxis (including commuters), supplemental air carriers, commercial operators of large aircraft, and air travel clubs.

Aircraft Accident: An occurrence incident to flight in which, as a result of the operation of an aircraft, a person (occupant or nonoccupant) receives fatal or serious injury or an aircraft receives substantial damage.

- Except as provided below, *substantial damage* means damage or structural failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and that would normally require major repair or replacement of the affected component.

- Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small puncture holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

Aircraft Incident: A mishap associated with the operation of an aircraft in which neither fatal or serious injuries nor substantial damage to the aircraft occur.

Aircraft Mishap: The collective term for an aircraft accident or an incident.

Aircraft Operation: The airborne movement of aircraft at an airport or about an en route fix or at other point where counts can be made. There are two types of operations: local and itinerant. An operation is counted for each landing and each departure, such that a touch-and-go flight is counted as two operations.

Airport: An area of land or water that is used or intended to be used for the landing and taking off of aircraft and includes its buildings and facilities if any.

Airport Elevation: The highest point of an airport's useable runways, measured in feet above mean sea level.

Airport Land Use Compatibility Plan (ALUCP): A planning document that contains policies for promoting safety and compatibility between public use airports and the communities that surround them. The ALUCP is the foundation of the airport land use compatibility planning process.

Airport Layout Plan (ALP): A scale drawing of existing and proposed airport facilities, their location on an airport, and the pertinent clearance and dimensional information required to demonstrate conformance with applicable standards.

Airport Master Plan (AMP): A long-range plan for development of an airport, including descriptions of the data and analyses on which the plan is based.

Airport Reference Code (ARC): A coding system used to relate airport design criteria to the operation and physical characteristics of the airplanes intended to operate at an airport.

Airports, Classes of: For the purposes of issuing a Site Approval Permit, The California Department of Transportation, Division of Aeronautics classifies airports into the following categories:

- Agricultural Airport or Heliport: An airport restricted to use only be agricultural aerial applicator aircraft (FAR Part 137 operators).

- Emergency Medical Services (EMS) Landing Site: A site used for the landing and taking off of EMS helicopters that is located at or as near as practical to a medical emergency or at or near an medical facility and: 1)has been designated an EMS landing site by an officer authorized by a public safety agency, as defined in PUC Section 21662.1, using criteria that the public safety agency has determined is reasonable and prudent for the safe operation of EMS helicopters; 2) is used, over any twelve month period, for no more than an average of six landings per month with a patient or patients on the helicopter, except to allow for adequate medical response to a mass casualty event even if that response causes the site to be used beyond these limits; 3)is not marked as a permitted heliport as described in Section 3554 of these regulations; and 4)is used only for emergency medical purposes.

- Heliport on Offshore Oil Platform: A heliport located on a structure in the ocean, not connected to the shore by pier, bridge, wharf, dock or breakwater, used in the support of petroleum exploration or production.

- Personal-Use Airport: An airport limited to the non-commercial use of an individual owner or family and occasional invited guests.

- Public-Use Airport: An airport that is open for aircraft operations to the general public and is listed in the current edition of the Airport/Facility Directory that is published by the National Ocean Service of the U.S. Department of Commerce.

- Seaplane Landing Site: An area of water used, or intended for use, for landing and takeoff of seaplanes.

- Special-Use Airport or Heliport: An airport not open to the general public, access to which is controlled by the owner in support of commercial activities, public service operations, and/or personal use.

- Temporary Helicopter Landing Site: A site, other than an emergency medical service landing site at or near a medical facility, which is used for landing and taking off of helicopters and is used or intended to be used for less than one year, except for recurrent annual events and is not marked or lighted to be distinguishable as a heliport and is not used exclusively for helicopter operations.

Ambient Noise Level: The level of noise that is all encompassing within a given environment for which a single source cannot be determined. It is usually a composite of sounds from many and varied sources near to and far from the receiver.

Approach Protection Easement: A form of easement that both conveys all of the rights of an avigation easement and sets specified limitations on the type of land uses allowed to be developed on the property.

Approach Speed: The recommended speed contained in aircraft manuals used by pilots when making an approach to landing. This speed will vary for different segments of an approach as well as for aircraft weight and configuration.

Aviation-Related Use: Any facility or activity directly associated with the air transportation of persons or cargo or the operation, storage, or maintenance of aircraft at an airport or heliport. Such uses specifically include runways, taxiways, and their associated protected areas defined by the Federal Aviation Administration, together with aircraft aprons, hangars, fixed base operations, terminal buildings, etc.

Avigation Easement: A type of easement that typically conveys the following rights:

- A right-of-way for free and unobstructed passage of aircraft through the airspace over the property at any altitude above a surface specified in the easement (usually set in accordance with FAR Part 77 criteria).

- A right to subject the property to noise, vibrations, fumes, dust, and fuel particle emissions associated with normal airport activity.

- A right to prohibit the erection or growth of any structure, tree, or other object that would enter the acquired airspace.

- A right-of-entry onto the property, with proper advance notice, for the purpose of removing, marking, or lighting any structure or other object that enters the acquired airspace.

- A right to prohibit electrical interference, glare, misleading lights, visual impairments, and other hazards to aircraft flight from being created on the property.

Based Aircraft: Aircraft stationed at an airport on a long-term basis.

Ceiling: Height above the earth's surface to the lowest layer of clouds or obscuring phenomena.

Circling Approach/Circle-to-Land Maneuver: A maneuver initiated by the pilot to align the aircraft with a runway for landing when a straight-in landing from an instrument approach is not possible or not desirable.

Commercial Activities: Airport-related activities that may offer a facility, service or commodity for sale, hire or profit. Examples of commodities for sale are: food, lodging, entertainment, real estate, petroleum products, parts and equipment. Examples of services are: flight training, charter flights, maintenance, aircraft storage, and tiedown.

Commercial Operator: A person who, for compensation or hire, engages in the carriage by aircraft in air commerce of persons or property, other than as an air carrier.

Community Noise Equivalent Level (CNEL): The noise metric adopted by the State of California for evaluating airport noise. It represents the average daytime noise level during a 24-hour day, adjusted to an equivalent level to account for the lower tolerance of people to noise during evening and nighttime periods relative to the daytime period.

Compatibility Plan: As used herein, a plan, that sets forth policies for promoting compatibility between airports and the land uses that surround them.

Controlled Airspace: Any of several types of airspace within which some or all aircraft may be subject to air traffic control.

Day-Night Average Sound Level (DNL): The noise metric adopted by the U.S. Environmental Protection Agency for measurement of environmental noise. It represents the average daytime noise level during a 24-hour day, measured in decibels and adjusted to account for the lower tolerance of people to noise during nighttime periods. The mathematical symbol is L_{dn}.

Decibel (dB): A unit measuring the magnitude of a sound, equal to the logarithm of the ratio of the intensity of the sound to the intensity of an arbitrarily chosen standard sound, specifically a sound just barely audible to an unimpaired human ear. For environmental noise from aircraft and other transportation sources, an *A-weighted sound*

level (abbreviated dBA) is normally used. The A-weighting scale adjusts the values of different sound frequencies to approximate the auditory sensitivity of the human ear.

Deed Notice: A formal statement added to the legal description of a deed to a property and on any subdivision map. As used in airport land use planning, a deed notice would state that the property is subject to aircraft overflights. Deed notices are used as a form of buyer notification as a means of ensuring that those who are particularly sensitive to aircraft overflights can avoid moving to the affected areas.

Displaced Threshold: A landing threshold that is located at a point on the runway other than the designated beginning of the runway (see *Threshold*).

Equivalent Sound Level (L_{eq}): The level of constant sound that, in the given situation and time period, has the same average sound energy as does a time-varying sound.

FAR Part 77: The part of the Federal Aviation Regulations that deals with objects affecting navigable airspace.

FAR Part 77 Surfaces: Imaginary airspace surfaces established with relation to each runway of an airport. There are five types of surfaces: (1) primary; (2) approach; (3) transitional; (4) horizontal; and (5) conical.

Federal Aviation Administration (FAA): The U.S. government agency that is responsible for ensuring the safe and efficient use of the nation's airports and airspace.

Federal Aviation Regulations (FAR): Regulations formally issued by the FAA to regulate air commerce.

Fixed Base Operator (FBO): A business that operates at an airport and provides aircraft services to the general public including, but not limited to, sale of fuel and oil; aircraft sales, rental, maintenance, and repair; parking and tiedown or storage of aircraft; flight training; air taxi/charter operations; and specialty services, such as instrument and avionics maintenance, painting, overhaul, aerial application, aerial photography, aerial hoists, or pipeline patrol.

Fleet Mix: The composition of aircraft that operate at a particular airport.

Flight Tracks: Routes aircraft routinely use when arriving and departing from an airport.

Forecasts: A projection of the amount and type of aircraft operations at an airport.

General Aviation: That portion of civil aviation that encompasses all facets of aviation except air carriers.

General Aviation Airport: Airports that do not receive scheduled commercial service, or do not meet the criteria for classification as a commercial service airport.

General aviation airports have at least 10 locally based aircraft, are at least twenty miles from the nearest NPIAS airports.

Glide Slope: An electronic signal radiated by a component of an ILS to provide vertical guidance for aircraft during approach and landing.

Helipad: A small, designated area, usually with a prepared surface, on a heliport, airport, landing/takeoff area, apron/ramp, or movement area used for takeoff, landing, or parking of helicopters.

Heliport: A facility used for operating, basing, housing, and maintaining helicopters. (HAI)

Infill: Development that takes place on vacant property largely surrounded by existing development, especially development that is similar in character.

Inner Approach/Departure Zone: A rectangular area extending beyond the RPZ. If the RPZ widths approximately equal the runway widths, the Inner Approach/Departure Zoned extends along the sides of the RPZ from the end of the runway.

Inner Turning Zone: A triangular area over which aircraft are turning from the base to final approach legs of the standard traffic pattern. It also includes the area where departing aircraft normally complete the transition from takeoff to climb mode and begin to turn on their en route headings.

Instrument Approach Procedure: A series of predetermined maneuvers for the orderly transfer of an aircraft under instrument flight conditions from the beginning of the initial approach to a landing or to a point from which a landing may be made visually. It is prescribed and approved for a specific airport by competent authority (refer to Nonprecision Approach Procedure and Precision Approach Procedure).

Instrument Flight Rules (IFR): Rules governing the procedures for conducting instrument flight. Generally, IFR applies when meteorological conditions with a ceiling below 1,000 feet and visibility less than 3 miles prevail.

Instrument Landing System (ILS): A precision instrument approach system that normally consists of the following electronic components and visual aids: (1) Localizer; (2) Glide Slope; (3) Outer Marker; (4) Middle Marker; (5) Approach Lights.

Instrument Operation: An aircraft operation in accordance with an IFR flight plan or an operation where IFR separation between aircraft is provided by a terminal control facility.

Instrument Runway: A runway equipped with electronic and visual navigation aids for which a precision or nonprecision approach procedure having straight-in landing minimums has been approved.

Inverse Condemnation: An action brought by a property owner seeking just compensation for land taken for a public use against a government or private entity having the power of eminent domain. It is a remedy peculiar to the property owner and is exercisable by that party where it appears that the taker of the property does not intend to bring eminent domain proceedings.

Land Use Density: A measure of the concentration of land use development in an area. Mostly the term is used with respect to residential development and refers to the number of dwelling units per acre. Unless otherwise noted, policies in this compatibility plan refer to *gross* rather than *net* acreage.

Land Use Intensity: A measure of the concentration of nonresidential land use development in an area. For the purposes of airport land use planning, the term indicates the number of people per acre attracted by the land use. Unless otherwise noted, policies in this compatibility plan refer to gross rather than net acreage.

Large Airplane: An airplane of more than 12,500 pounds maximum certificated takeoff weight.

Localizer (LOC): The component of an ILS that provides course guidance to the runway.

Mean Sea Level (MSL): An elevation datum given in feet from mean sea level.

Minimum Descent Altitude (MDA): The lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure where no electronic glide slope is provided.

Missed Approach: A maneuver conducted by a pilot when an instrument approach cannot be completed to a landing.

National Transportation Safety Board (NTSB): The U.S. government agency responsible for investigating transportation accidents and incidents.

Navigational Aid (Navaid): Any visual or electronic device airborne or on the surface that provides point-to-point guidance information or position data to aircraft in flight.

Noise Contours: Continuous lines of equal noise level usually drawn around a noise source, such as an airport or highway. The lines are generally drawn in 5-decibel increments so that they resemble elevation contours in topographic maps.

Noise Level Reduction (NLR): A measure used to describe the reduction in sound level from environmental noise sources occurring between the outside and the inside of a structure.

Nonconforming Use: An existing land use that does not conform to subsequently adopted or amended zoning or other land use development standards.

Nonprecision Approach Procedure: A standard instrument approach procedure in which no electronic glide slope is provided.

Nonprecision Instrument Runway: A runway with an approved or planned straight-in instrument approach procedure that has no existing or planned precision instrument approach procedure.

Obstruction: Any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used therein, the height of which exceeds the standards established in Subpart C of Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace.

One-Engine Inoperative (OEI) Obstacle Identification Surface: For airports with runways that support air carrier operations, this surface begins at the same elevation of the end of the departure runway and slopes upward at 1 foot vertically to 62.5 feet horizontally. The inner width of the OEI surface is 600 feet while the outer width is 12,000 feet. The surface extends for a distance of 50,000 feet along the runway centerline.

Outer Approach/Departure Zone: A rectangular area located along the extended centerline beyond the Inner Approach/Departure Zone.

Overflight: Any distinctly visible and/or audible passage of an aircraft in flight, not necessarily directly overhead.

Overflight Easement: An easement that describes the right to overfly the property above a specified surface and includes the right to subject the property to noise, vibrations, fumes, and emissions. An overflight easement is used primarily as a form of buyer notification.

Overflight Zone: The area(s) where aircraft maneuver to enter or leave the traffic pattern, typically defined by the FAR Part 77 horizontal surface.

Precision Approach Procedure: A standard instrument approach procedure where an electronic glide slope is provided.

Precision Instrument Runway: A runway with an existing or planned precision instrument approach procedure.

Qualified Airport Wildlife Biologist: A biologist who has received specific training to identify hazards to aircraft operations pursuant to FAA criteria set forth at Advisory Circular 150/5200-36A, Qualifications for Wildlife Biologist Conducting Wildlife Hazard Assessments and Training Curriculums for Airport Personnel Involved in Controlling Wildlife Hazards on Airports.

Referral Area: The area around an airport defined by the planning area boundary adopted by an airport land use commission within which certain land use proposals are to be referred to the commission for review.

Runway Protection Zone (RPZ): An area (formerly called a *clear zone*) off the end of a runway used to enhance the protection of people and property on the ground.

Safety Zone: For the purpose of airport land use planning, an area near an airport in which land use restrictions are established to protect the safety of the public from potential aircraft accidents.

Sideline Zone: A rectangular area in close proximity and parallel to the runway.

Single-Event Noise: As used in herein, the noise from an individual aircraft operation or overflight.

Single Event Noise Exposure Level (SENEL): A measure, in decibels, of the noise exposure level of a single event, such as an aircraft flyby, measured over the time interval between the initial and final times for which the noise level of the event exceeds a threshold noise level and normalized to a reference duration of one second. SENEL is a noise metric established for use in California by the state Airport Noise Standards and is essentially identical to *Sound Exposure Level (SEL)*.

Site Approval Permit: A written approval issued by the California Department of Transportation authorizing construction of an airport in accordance with approved plans, specifications, and conditions. Both public-use and special-use airports require a site approval permit. (CCR)

Small Airplane: An airplane of 12,500 pounds or less maximum certificated takeoff weight. (Airport Design AC)

Sound Exposure Level (SEL): A time-integrated metric (i.e., continuously summed over a time period) that quantifies the total energy in the A-weighted sound level measured during a transient noise event. The time period for this measurement is generally taken to be that between the moments when the A-weighted sound level is 10 dB below the maximum.

Straight-In Instrument Approach: An instrument approach wherein a final approach is begun without first having executed a procedure turn; it is not necessarily completed with a straight-in landing or made to straight-in landing weather minimums. (AIM)

Taking: Government appropriation of private land for which compensation must be paid as required by the Fifth Amendment of the U.S. Constitution. It is not essential that there be physical seizure or appropriation for a *taking* to occur, only that the government action directly interferes with or substantially disturbs the owner's right to use and enjoyment of the property.

Terminal Instrument Procedures (TERPS): Procedures for instrument approach and departure of aircraft to and from civil and military airports. There are four types of terminal instrument procedures: precision approach, nonprecision approach, circling, and departure.

Threshold: The beginning of that portion of the runway usable for landing (also see Displaced Threshold).

Touch-and-Go: An operation by an aircraft that lands and departs on a runway without stopping or exiting the runway.

Traffic Pattern: The traffic flow that is prescribed for aircraft landing at, taxiing on, or taking off from an airport. The components of a typical traffic pattern are upwind leg, crosswind leg, downwind leg, base leg, and final approach.

Traffic Pattern Zone: An elliptical area that includes the majority of other portions of regular air traffic patterns and pattern entry routes, and generally extends to the farthest point of 6,000 foot radius arcs from the centers of each of the primary surfaces and connecting lines tangent to those arcs.

Visual Approach: An approach where the pilot must use visual reference to the runway for landing under VFR conditions.

Visual Flight Rules (VFR): Rules that govern the procedures for conducting flight under visual conditions. VFR applies when meteorological conditions are equal to or greater than the specified minimum-generally, a 1,000-foot ceiling and 3-mile visibility.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan.

L.01.004: Compatibility Factors

In accordance with guidance set forth the by 2011 Airport Land Use Planning Handbook (Handbook) published by the California Department of Transportation (Caltrans), Division of Aeronautics, the CNO Airport Influence Area (AIA) encompasses all lands that could be negatively impacted by CNO's present, or future aircraft operations or land uses that could negatively affect airport operations. The AIA is depicted in **Policy Map L-1 (Chino Airport Influence Area)** and encompasses the geographic extent of four types of compatibility impacts, referred to as compatibility factors, listed below:

- Safety: Areas where the risk of an aircraft accident poses heightened safety concerns for people and property on the ground.

- Noise: Locations exposed to potentially disruptive levels of aircraft noise.

- Airspace Protection: Places where height and certain other land use characteristics, particularly uses that attract birds, need to be restricted in order to protect the airspace required for operation of aircraft to and from the airport.

- Overflight: Locations where aircraft overflights can be intrusive and annoying to many people.

The potential impact of each compatibility factor on land within the City of Ontario were evaluated and maps, criteria, and policy language have been created to guide development within the Chino AIA. The compatibility policies and criteria to evaluate future development proposals are consistent with the 2011 Caltrans Airport Land Use Planning Handbook.

A. Safety. The intent of the safety compatibility policies is to minimize the risks associated with an off-airport aircraft accident or emergency landing. The policies focus on reducing the potential consequences of such events when they occur. The potential risks to people and property within the CNO AIA and to people on board the aircraft are considered.

The Handbook provides sets of generic zones for different types of general aviation runways and the shapes and sizes of the zones were established based upon mathematical analyses of the accident location data and flight parameters. The Handbook safety zones and criteria serve as the basis for this CNO ALUCP and are described below:

- The generic Handbook safety zones for a Medium General Aviation Runway Group were applied for the approach end of Runway 21 (northeast) and Runway 26R (east).

- The generic Handbook safety zones for a Long General Aviation Runway Group were applied for the approach end of Runway 26L (east).

For implementation purposes, the generic Handbook Safety Zone boundaries were adjusted to follow parcel lines, roads, and other geographic features. The reconfiguration of the safety zones did not result in a substantial net acreage reduction of the safety zones. For consistency, the CNO Safety Zones maintain the same numbering system used in the Handbook. Portions of Safety Zones 1, 2, 3, 4 and 6 are located within Ontario city limits and are depicted in **Policy Map L-2 (Chino Airport Safety Zones)**. Safety Zone 5 is located outside of the Ontario city limits and not included in the CNO ALUCP.

1. Safety Zone 1. Zone 1 reflects the airport's established Runway Protection Zone (RPZ). Portions of the RPZ are located off airport within the City of Ontario and shall be maintained as undeveloped land, clear of objects in accordance with FAA standards. Below is a summary of risk and basic compatibility policies listed in the Handbook.

Nature of Risk	*Basic Compatibility Policies*
Normal Maneuvers: ▪ Aircraft on very close final approach or departure – very high risk	Normally Allowed Uses: ▪ None

Nature of Risk	*Basic Compatibility Policies*
Altitude: ▪ Less than 200 feet above runway	Uses to Avoid: ▪ Nonresidential uses except if very low intensity in character and confined to the outer sides such as parking lots, streets, roads
Common Accident Types: ▪ Arrival: Downdrafts and wind gusts. Low glide paths ▪ Departure: Runway overruns, aborted takeoffs, and engine failures	Prohibit: ▪ All new structures and residential land uses
Risk Level: ▪ Very high ▪ Percentage of near-runway accidents in this zone: 20% - 21%	Other Factors: ▪ Airport ownership of property encouraged

2. Safety Zone 2. Zone 2 reflects the Inner Approach/Departure Zone. Below is a summary of risk and basic compatibility policies listed in the Handbook.

Nature of Risk	*Basic Compatibility Policies*
Normal Maneuvers: ▪ Aircraft overflying at low altitudes on final approach and straight-out departures	Normally Allowed Uses: ▪ Agriculture; non-group recreational uses ▪ Low-hazard materials storage, warehouses ▪ Low-intensity light industrial uses; auto, aircraft, marine repair services
Altitude: ▪ Between 200 and 400 feet above runway	Uses to Limit: ▪ All residential uses except as infill in developed areas ▪ Multi-story uses; uses with high density or intensity Shopping centers, most eating establishments
Common Accident Types: ▪ Arrival: Similar to Zone 1, aircraft under-shooting approaches, forced short landings ▪ Departure: Similar to Zone 1, emergency landing on straight-out departure	Uses to Avoid: ▪ All residential uses except as infill in developed areas ▪ Multi-story uses; uses with high density or intensity ▪ Shopping centers, most eating establishments
Risk Level: ▪ High ▪ Percentage of near-runway accidents in this zone: 8% to 22% Aircraft on very close final approach or departure – very high risk	Uses Prohibit: ▪ Theaters, meeting halls and other assembly uses ▪ Office buildings greater than 3 stories ▪ Labor-intensive industrial use Nonresidential uses except if very low intensity in character and confined to the outer sides Parking lots, streets, roads

3. Safety Zone 3. Zone 3 reflects the Inner Turning Zone. Below is a summary of risk and basic compatibility policies listed in the Handbook.

Nature of Risk	*Basic Compatibility Policies*
Normal Maneuvers: ▪ Aircraft—especially smaller, piston-powered aircraft— turning base to final on landing approach or initiating turn to en route direction on departure	Normally Allowed Uses: ▪ Uses allowed in Zone 2 ▪ Greenhouses, low-hazard materials storage, mini-storage, warehouses ▪ Light industrial, vehicle repair services
Altitude: ▪ Less than 500 feet above runway, particularly on landing	Uses to Limit: ▪ Residential uses to very low densities ▪ Office and other commercial uses to low intensities

Nature of Risk	*Basic Compatibility Policies*
Common Accident Types: ▪ Arrival: Pilot overshoots turn to final and inappropriately cross controls the airplane rudder and ailerons while attempting to return to the runway alignment causing stall, spin, and uncontrolled crash ▪ Departure: Mechanical failure on takeoff; low altitude gives pilot few options on emergency landing site; or, pilot attempts to return to airport and loses control during tight turn	Uses to Avoid: ▪ Commercial and other nonresidential uses having higher usage intensities ▪ Building with more than 3 aboveground habitable floors ▪ Hazardous uses (e.g., aboveground bulk fuel storage)
Risk Level: ▪ Moderate to high ▪ Percentage of near-runway accidents in this zone: 4% to 8%	Uses to Prohibit: ▪ Major shopping centers, theaters, meeting halls and other assembly facilities ▪ Children's schools, large daycare centers, hospitals, nursing homes ▪ Stadiums, group recreational uses

4. Safety Zone 4. Zone 4 reflects the Outer Approach/Departure Zone. Below is a summary of risk and basic compatibility policies listed in the Handbook.

Nature of Risk	*Basic Compatibility Policies*
Normal Maneuvers: ▪ Approaching aircraft usually at less than traffic pattern altitude	Normally Allowed Uses: ▪ Uses allowed in Zone 3 ▪ Restaurants, retail, industrial
Altitude: ▪ Less than 1,000 feet above runway	Uses to Limit: ▪ Residential uses to low density
Common Accident Types: ▪ Arrival: Pilot undershoots runway during an instrument approach, aircraft loses engine on approach, forced landing ▪ Departure: Mechanical failure on takeoff	Uses to Avoid: ▪ High-intensity retail or office buildings
Risk Level: ▪ Moderate ▪ Percentage of near-runway accidents in this zone: 2% to 6%	Uses to Prohibit: ▪ Children's schools, large daycare centers, hospitals, nursing homes ▪ Stadiums, group recreational uses

5. Safety Zone 6. Zone 6 reflects the Traffic Pattern Zone. Below is a summary of risk and basic compatibility policies listed in the Handbook.

Nature of Risk	*Basic Compatibility Policies*
Normal Maneuvers: ▪ Aircraft within a regular traffic pattern and pattern entry routes	Normally Allowed Uses: ▪ Residential uses
Altitude: ▪ Less than 1,000 to 1,500 feet above runway	Uses to Limit: ▪ Children's schools, large day care centers, hospitals, and nursing homes ▪ Processing and storage of bulk quantities of highly hazardous
Common Accident Types: ▪ Arrival: Pattern accidents in proximity of airport ▪ Departure: Emergency landings	Uses to Avoid: ▪ Outdoor stadiums and similar uses with very high intensities

Nature of Risk	*Basic Compatibility Policies*
Risk Level: ▪ Low ▪ Percentage of near-runway accidents in this zone: 18% to 29% (percentage is high because of large area encompassed)	

6. Factors in establishing Safety Zone Policies. To minimize risks to people and property on the ground, the safety compatibility criteria in **Table L-2: Safety Zones Compatibility Criteria** set limits on:

a. *Residential Uses.* The density of residential development is measured by the number of dwelling units per acre. Consistent with the California Airport Land Use Planning Handbook (2011) guidelines, a greater degree of protection is warranted for residential uses.

b. *Nonresidential Uses.* The intensity of nonresidential development is measured by the number of people per acre concentrated in areas most susceptible to aircraft accidents.

7. Safety Zone Standards for New Development. To minimize risk-sensitive development in high-risk areas around CNO, the safety compatibility of new development shall be evaluated in accordance with the safety policies set forth in this section, including the criteria listed in **Table L-1: CNO ALUCP Compatibility Criteria Matrix, Table L-2: Safety Zones Compatibility Criteria** and the safety zones depicted on **Policy Map L-2: Chino Airport Safety Zones.**

8. Safety Zone Policies.

Policy No.	*Safety Zone Policies*
S1	**Residential Development:** New residential development is incompatible within all Safety Zones (1 through 4). Policies S1a and S1b are exceptions to this policy, if applicable.
S1a	**Single-Family Home:** The construction of a single-family home on a legal lot of record is allowed in Safety Zones 2, 3, and 4 if the use is permitted by the City of Ontario's land use regulations. See Policy SP2 with regard to development by right.
S1b	**Second-Unit:** A second-unit as defined by state law is allowed within Safety Zones 2, 3 and 4 if the use is permitted by the City of Ontario's land use regulations.
S1c	**Family Day Care:** In accordance with state law, a family day care home serving 14 or fewer children may be established in any dwelling by the policies of this ALUCP.
S1d	**Residential Mixed-Use Developments:** New mixed-use developments will locate the residential component outside of all safety zones.

Policy No.	Safety Zone Policies
S2	**Occupancy Limits For Nonresidential Development: Table L-2: Safety Zones Compatibility Criteria** indicates the usage intensity (number of people per acre) limit for each safety zone. The usage intensity limits represent the safety criteria for new nonresidential development. The usage intensity limits measure intensity in two forms: 1. **Sitewide average intensity** which sets intensity limits for the entire project site; and 2. **Single-acre intensity** which sets intensity limits on any single acre within the project site **(see Figure L2: Land Use Intensity Calculation example)**. As a condition of approval, all new nonresidential development within the Safety Zones shall comply with both forms of intensity limits as described further below.
S2a	**Sitewide Average Intensity** is calculated by determining the total number of people expected to be on the site at any given time under normal operating conditions and dividing by the total number of acres of the project site.
S2b	**Single-acre Intensity** of a proposed development is calculated by determining the total number of people expected to be within any one-acre portion of the site, typically the most intensively used building or part of a building. The 1.0-acre area calculations represent building footprints that are generally rectangular and not elongated in shape or, for buildings larger than 1.0 acre, represent a portion of the building.

Figure L2: Land Use Intensity Calculation Example

In this example, both the sitewide and single-acre intensity of a proposed Research & Development (R&D) / warehouse facility is calculated using the common occupancy load factors [number of square feet per person] information in **Table L-2** together with project-specific data. The results are then compared with the maximum sitewide and single-acre intensity limits to determine consistency of the project with the safety criteria.

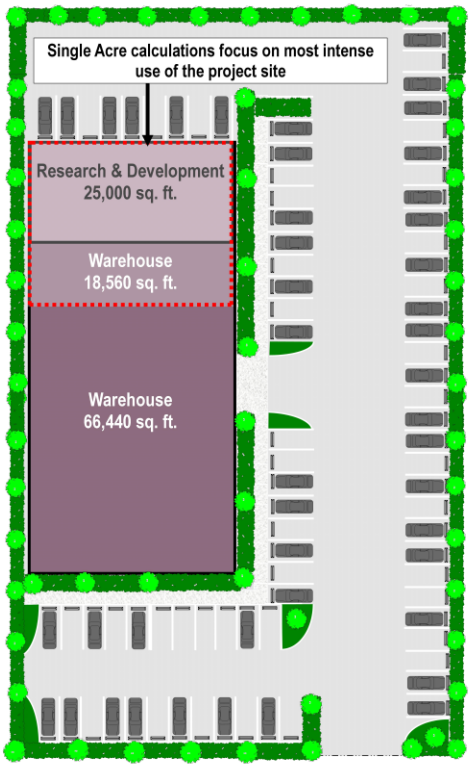


Table 1: Safety Criteria

Safety Zone 3 Intensity Limitations
Max. Sitewide Average intensity: 100 people/acre
Max. Single-Acre intensity: 250 people/acre

Common Occupancy Load Factors
Warehouse: 1,000 sq. ft./per person
Research & Development: 300 sq. ft./per person

Project Information
Land Use = Warehouse 85,000 sq. ft.
Research & Development 25,000 sq. ft.
Total Bldg. sq. ft. = 110,000 sq. ft.
Site Acreage = 3 acres
Safety Zone = 3

Calculations

Warehouse = 18,560 sq. ft. / 1,000 sq. ft. per person = 19 people

Warehouse = 66,440 sq. ft. / 1,000 sq. ft. per person = 65 people

Research & Development = 25,000 sq. ft. / 300 sq. ft. per person = 83 people

Site Wide Average

Total # of people / site acreage = 167 / 3 ac = 56 people per acre — Below the maximum Average Intensity

Single Acre Average

Total # of people / Single acre = 102 / 1 ac = 102 people per acre — Below the maximum Single-Acre Intensity

Policy No.	Safety Zone Policies
S2c	**Usage Intensity calculations** includes all people (e.g., employees, customers/visitors) who may be on the property at any single point in time during normal operating conditions, whether indoors or outdoors. **Table L-2: Safety Zones Compatibility Criteria** indicates the normal occupancy load factor (number of square feet per person) and Floor Area Ratio (FAR) for many nonresidential uses. These numbers are interrelated with the intensity limits (number of people per acre) and can be used to calculate the usage intensity of a proposed project **(see Figure L-3: Intensity Limits)**. Note that the safety criteria are the sitewide and single-acre intensity limits (number of people per acre). The occupancy load factors and FARs are provided as methods for calculating the intensity of a proposed project. 1. **Occupancy Load Factors:** The occupancy load factors (minimum number of square feet per person) provided in **Table L-2: Safety Zones Compatibility Criteria** vary from one land use to another. As shown in **Figure L-4**, the sitewide average usage intensity of a project having multiple uses can be calculated by: ▪ Dividing the number of square feet of each component use by the number of square feet per person (occupancy load) for that use as indicated in **Table L-2**; ▪ Adding together the number of people for each component use; and ▪ Dividing the total number of people by the total number of acres of the project site to get the sitewide average intensity. ▪ Where occupancy load factors are not indicated in the table or if the assumed occupancy load factor for a particular proposal or component thereof is not applicable to the project, then the number of occupants is estimated in another manner – for example, the number of seats and employees at a restaurant or the number of parking places times the vehicle occupancy for an industrial plant. **Figure L-3: Intensity Limits** The interrelationship between Intensity limit, normal occupancy load factor and Floor Area Ratio (FAR) is indicated in the two examples below. The examples reflect Zone 3 criteria: intensity limit of 100 people per acre, occupancy load factor of 200 square feet per person, and 0.46 FAR. ***Example 1*** 200 square feet per person (occupancy load factor) x 100 people per acre (intensity limit) 20,000 square foot building ÷ 43,560 square feet per acre 0.46 FAR ***Example 2*** 43,560 square feet per acre x 0.46 FAR 20,000 square foot building ÷ 200 square feet per person (occupancy load factor) 100 people per acre (intensity limit)

Policy No.	Safety Zone Policies
S2C	2. **Floor Area Ratios (FARs):** The allowable FAR is indicated in **Table L-2: Safety Zones Compatibility Criteria** for a particular safety zone and vary from one land use to another. Each component use is calculated as occupying a share of the total project site equal to its percentage of the total floor area in the project. Mathematically, this means that the FAR for each component use will be the same as the FAR for the entire building. 3. **Alternative Intensity Calculations:** An alternative method for measuring compliance with the usage intensity limits is acceptable. For example, a method based upon the City's parking space requirements may be used together with an assumed number of people per vehicle as a means of determining the number of occupants for uses that are vehicle oriented (this method would not be suitable for land uses where many users arrive by transit, bicycle, or other means of transportation). 4. **Mixed-Use Development:** Each component use within a nonresidential mixed-use development shall comply with **Table L-2: Safety Zones Compatibility Criteria** unless the use is ancillary (less than 10% of total building floor area). 5. **Ancillary Uses:** Up to 10% of the total floor area of a building may be devoted to an ancillary use of another type, including a use with a higher occupancy load factor that is shown as incompatible in **Table L-2: Safety Zones Compatibility Criteria**. Ancillary uses may be excluded from the single-acre intensity calculations (but not the sitewide average intensity limits) provided that the ancillary use is neither: ▪ An assembly room having more than 750 square feet of floor area (this criterion is intended to parallel Building Code standards) and a capacity of more than 50 people; nor ▪ A children's school (grades K–12), day care center or other risk-sensitive use that is "incompatible" within the safety zone where the primary use is to be located. 6. **Uncommon Land Use Considerations:** If a particular development proposal is uncommon—that is, there would be more floor area per person and lower usage intensity—the local agency may consider that information in determining the safety compatibility of the proposal. In considering any such exceptions, the local agency shall also take into account the potential for the use of a building to change over time. A building could have planned low-intensity use initially, but later be converted to a higher-intensity use. Local agency permit language or other mechanisms to ensure continued compliance with the usage intensity criteria must be put in place. 7. **Parcels within Multiple Safety Zones:** For the purposes of evaluating consistency with the usage intensity criteria set forth in **Table L-2: Safety Zones Compatibility Criteria**, any parcel that is split by safety zone boundaries shall be considered as if it were multiple parcels divided at the safety zone boundary line. However, the intensity of nonresidential development allowed within the more restricted portion of the parcel can (and is encouraged to) be transferred to the less restricted portion. This full or partial reallocation of intensity is permitted even if the resulting intensity in the less restricted area would then exceed the limits which would otherwise apply within that safety zone **(see Figure L-4)**. **Figure L-4: Transferring Usage Intensity** An example of transferring usage intensity to the less restrictive safety zone is provided below. ***Zone 3 intensity limit***: 100 people per acre ***Zone 4 intensity limit***: 160 people per acre ***Proposed intensity in Zone 3***: 80 people per acre ***Proposed intensity in Zone 4***: 100 people per acre * The proposed intensity for Zone 3 (80 people per acre) is encouraged to be transferred to Zone 4 for a total of 180 people per acre, even if it exceeds the Zone 4 intensity limit of 160 people per acre.
S3	**Land Use Event Exceptions:** The City of Ontario may make exceptions for "conditional" or "incompatible" land uses associated with rare special events (e.g., an air show at the airport) for which a facility is not designed and normally not used and for which extra safety precautions can be taken as appropriate.

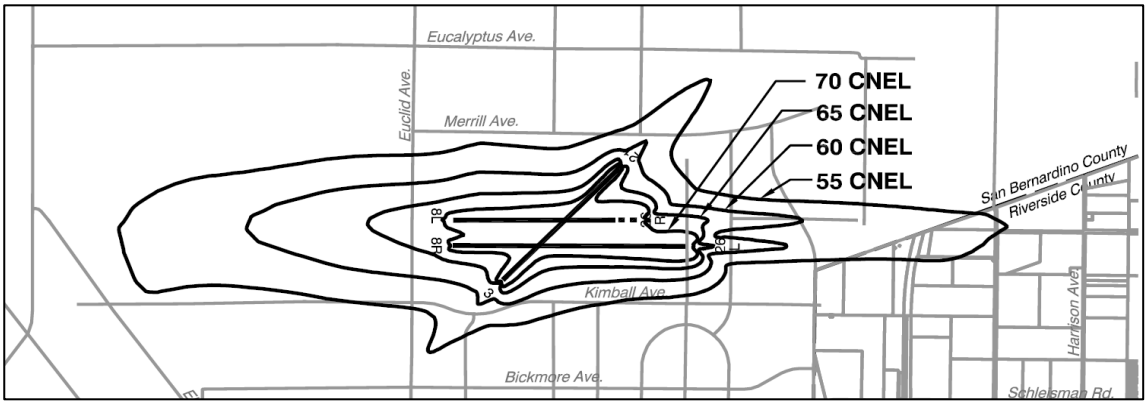
Policy No.	*Safety Zone Policies*
S4	**Land Uses of Special Concern:** Certain types of land uses represent special safety concerns irrespective of the number of people associated with those uses. **Table L-2: Safety Zones Compatibility Criteria** indicates the criteria applicable to these uses. In some cases, these uses are not allowed in portions of the safety zones regardless of the number of occupants associated with the use. In other instances, these uses should be avoided—i.e., allowed only if an alternate site outside of the safety zone would not work. When allowed, special measures should be taken to minimize hazards to the facility and occupants if the facility were to be struck by an aircraft. Land uses of particular concern and the nature of the concern are listed policies S4a through S4c.
S4a	**Land Uses Having Vulnerable Occupants:** These land uses are ones in which the majority of occupants are children, elderly, and/or disabled—people who have reduced effective mobility or may be unable to respond to emergency situations. These uses include: ▪ Children's schools (grades K–12). ▪ Day care centers (facilities with 15 or more children, as defined in the California Health and Safety Code). ▪ Hospitals, health care centers, and similar facilities, especially where patients remain overnight, nursing homes and inmate facilities.
S4b	**Hazardous Materials Storage:** Materials that are flammable, explosive, corrosive, or toxic constitute special safety compatibility concerns to the extent that an aircraft accident could cause release of the materials and thereby pose dangers to people and property in the vicinity. Facilities in this category include: ▪ Facilities such as oil refineries and chemical plants that manufacture, process, and/or store bulk quantities (tank capacities greater than 6,000 gallons) of hazardous materials generally for shipment elsewhere. ▪ Facilities associated with otherwise compatible land uses where hazardous materials are stored in smaller quantities primarily for on-site use (tank capacities greater than 6,000 gallons).
S4c	**Critical Community Infrastructure:** The damage or destruction of public infrastructure facilities which would cause significant adverse effects to public health and welfare well beyond the immediate vicinity of the facility. Among these facilities are: ▪ Emergency services facilities such as police and fire stations. ▪ Emergency communications facilities, power plants, and other utilities
S5	**Avigation Easements:** The City of Ontario shall require dedication of an avigation easement as a condition for approval of all proposed development situated off-airport within Safety Zones 1 through 4 in accordance with Policy SP1. The Safety Zones and this policy affect only the City of Ontario.

Policy No.	Safety Zone Policies
S6	**Safety Zone 1 (Runway Protection Zone):** 1. The developer and airport owner must coordinate with the FAA for development proposals within the RPZ (either new or reconfigured). Land uses requiring airport/FAA coordination include: ▪ Buildings and structures ▪ Recreational uses (e.g., golf courses, sports fields, amusement parks, other places of public assembly) ▪ Transportation facilities (e.g., rail, public roads/highways, vehicular parking) ▪ Fuel storage facilities (above and below ground) ▪ Hazardous material storage (above and below ground) ▪ Wastewater treatment facilities ▪ Above ground utility infrastructure (e.g., electrical substations), including any type of solar panel installations 2. The following uses shall be prohibited within Safety Zone 1(RPZ): ▪ All structures except ones with location set by aeronautical function ▪ All assemblages of people (more than one) ▪ Hazards to flight such as: o Objects exceeding 14 CFR Part 77 height limits o Visual hazards including but not limited to lights, sources of glare, and sources of dust, steam or smoke o Electronic hazards including but not limited to ones that may cause interference with aircraft communications or navigation o Land uses and features that attract hazardous wildlife (i.e., Birds) including but not limited to aboveground stormwater facilities, open ponds, and landscaping that provides a food source, shelter or roosting
S7	**Open Land:** In the event that a light aircraft is forced to land away from an airport, the risks to the people on board and on the ground can be best minimized by providing as much open land area as possible within the airport vicinity. This concept is based upon the fact that the majority of light aircraft accidents that occur away from an airport runway are controlled emergency landings in which the pilot has reasonable opportunity to guide the aircraft and select the landing site. Open land provides opportunities for a controlled landing in the event of an emergency. A percentage of Open land is required for all Safety Zones and are outlined in **Table L-1: CNO ALUCP Compatibility Criteria Matrix**.
S7a	**Open Land Required Dimensions:** Open land shall have minimum dimension of at least 75 feet wide by 300 feet long (approximately 0.5-acre in size).

Policy No.	Safety Zone Policies
S7b	**Open Land Criteria:** 1. Open land shall be free of most structures and other major obstacles such as walls, large trees, (greater than 4 inches in diameter, measured 4 feet above the ground), poles, and overhead wires. Landscaping plans for open space areas should preclude large trees that would exceed the 4-inch diameter criterion at maturity. However, landscaping plans could allow for trees and shrubs that exceed 4 inches in diameter at a height of 4 feet at maturity for areas along the edge of open space areas where the vegetation abuts a wall or other similar feature, provided that the vegetation is planted within 4 feet of the wall. 2. Roads and automobile parking lots are acceptable as open land areas if the criteria for Policies S7a and S7b are met. **Policy Map L-2a: Chino Airport Open Land Streets** identifies three streets that will be designed to satisfy the Open Land criteria. The streets will be 75 to 84 feet wide with no medians. Light poles and trees will be designed to maintain a clear width of about 75 feet. The light poles will be spaced 250 feet and staggered on the opposite side of the street; therefore, satisfying the 75-foot by 300-foot dimensional requirements for Open Land. A detailed review of proposed landscaping and lighting plans along Merrill Avenue within CNO Safety Zone 1 (RPZ) will be required to ensure that Zone 1 remains clear of permanent aboveground objects. 3. Open land requirements for each Safety Zone shall be applied with respect to the entire zone. Individual parcels may be too small to accommodate the minimum size open area requirement. Consequently, the identification of open land areas shall be initially accomplished at the general plan or specific plan level or as part of large (10 acres or more) development projects. 4. Clustering of development and providing contiguous landscaped (e.g., low-growing ground cover) and parking areas is encouraged as a means of increasing the size of open land areas. Clustering of development should be located a maximum distance from the extended runway centerline.

B. Noise. The purpose of noise compatibility policies is to avoid the establishment of noise-sensitive land uses in the portions of the CNO AIA that are exposed to significant levels of aircraft noise. For compatibility planning purposes, the noise contours reflect the County's aircraft activity forecast of 209,400 annual operations for 2025 is considered to be representative of the likely maximum number of aircraft operations that could be realized over the 20-year forecast period (2039) and are shown in **Figure L-5: Chino CNEL Contours (2025)**.

Figure L-5: Chino CNEL Contours (2025)



For purposes of airport land use compatibility planning, Caltrans advises that 60 dB CNEL is suitable for new residential development and other noise sensitive land uses around most airports.

Figure L-5: Chino CNEL Contours (2025) shows that only the 55 dB CNEL contour affects lands within the City of Ontario. Since the 60 dB CNEL does not extend into the City of Ontario no significant impacts are anticipated and therefore no noise policies and criteria are included within the CNO ALUCP.

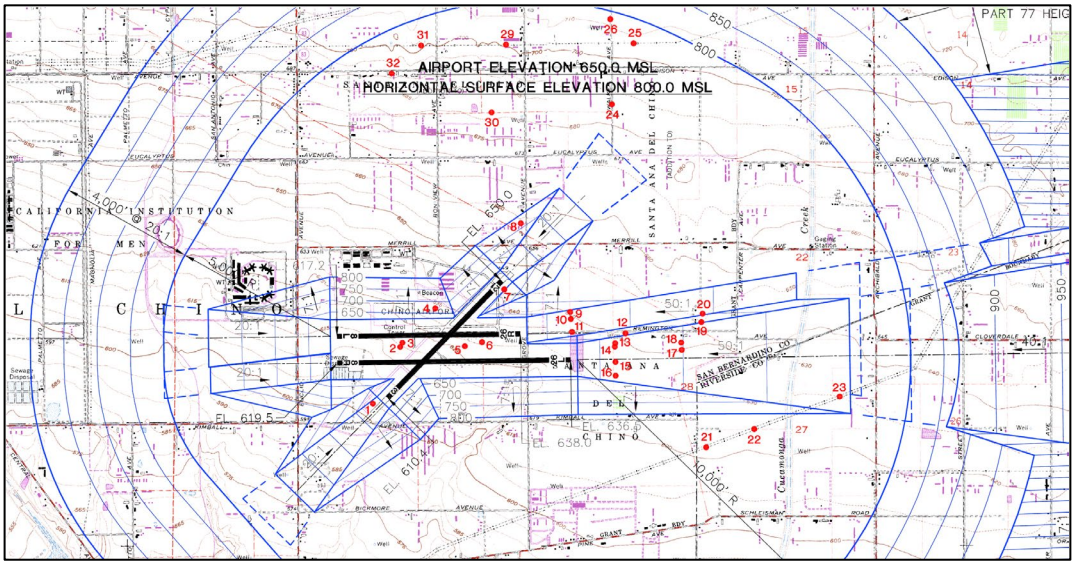
C. Airspace Protection. Airspace protection compatibility policies seek to prevent creation of land use features that can be hazards to aircraft in flight and have the potential for causing an aircraft accident to occur. Such hazards may be physical, visual, or electronic.

1. Factors in establishing Airspace Protection Zones. The principal factors considered in setting the airspace protection zones are:

a. *Federal Regulations.* Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace, set the requirements for notice to the Federal Aviation Administration (FAA) of certain proposed construction or alteration projects (Subpart B, Notice of Construction or Alteration) and establish standards for determining obstructions to navigable airspace (Subpart C, Obstruction Standards).

b. *CNO Part 77.* The 14 CFR Part 77 airspace surfaces included in the 2003 Chino Airport Layout Plan was utilized to establish the allowable heights of future uses within the vicinity of Chino airport **(see, Figure L-6: Chino Part 77 Airspace Surfaces (2003))**.

Figure L-6: Chino Part 77 Airspace Surfaces (2003)



2. Factors in establishing Airspace Protection Policies. The factors considered in setting the airspace protection policies in this section are described below.

a. *Federal and State Regulations.* The airspace protection policies outlined in this section are based upon and intended to help implement the regulations enacted by the FAA and the State of California. State airspace protection standards mostly mirror those of the FAA. A key difference is that state law gives the California Department of Transportation, Division of Aeronautics and local agencies the authority to enforce the standards.

b. *Flight Hazards.* The FAA has well-defined standards by which potential hazards to flight, especially airspace obstructions, can be assessed. However, the FAA has no authority to prevent creation of such hazards. That authority rests with state and local governments. There are three categories of flight hazards: physical, visual, and electronic.

(1) Structure Heights — Height of structures and other objects situated near the airport are a primary determinant of physical hazards to the airport airspace.

(2) Land Use — Land use features that have the potential to attract birds and certain other wildlife to the airport area also need to be evaluated as a form of physical hazard.

(3) Visual Hazards — Visual hazards of concern include certain types of lights, sources of glare, and sources of dust, steam, thermal plumes, or smoke.

(4) Electrical Hazards — Electronic hazards are ones that may cause interference with aircraft communications or navigation

c. *Airspace Obstructions.* The criteria for determining the acceptability of a project with respect to height are based upon the standards set forth in: Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace, Subpart C, Obstruction Standards; the United States Standard for Terminal Instrument Procedures (TERPS); the One-Engine Inoperative (OEI) obstacle identification surface and other applicable airport design standards published by the FAA.

d. *Local Topography.* The topography underlying the airport's airspace surfaces is a significant factor in determining the allowable height of a structure. The terrain north of CNO slopes upwards towards the San Gabriel Mountains, thereby reducing the allowable heights of objects in those areas.

3. Airspace Protection Zones for CNO. The airspace protection zones depicted in **Policy Map L-3: Chino Airspace Protection Zones** were prepared for CNO in accordance with Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace.

a. *FAA Height Notification Surface.* Established in accordance with FAR Part 77, Subpart B, this airspace surface extends outward and upward at a slope of

100 to 1 for a horizontal distance of 20,000 feet from the airport runways.

b. *Airspace Obstruction Surfaces.* Includes the controlling portions of the FAR Part 77, Subpart C, extending out to a point where these surfaces terminate at the outer limits of the FAA Height Notification Surface. Objects which penetrate these surfaces are subject to airspace evaluation by the FAA. Objects which penetrate the Approach/Departure Surfaces which extend beyond the FAA Height Notification Surface require evaluation by the FAA.

c. *Allowable Heights.* To determine the allowable heights of future objects, the underlying ground elevation is compared with the elevation of the controlling portions of the FAR Part 77, TERPS, and OEI surfaces. These are depicted as color bands in **Policy Map L-3: Chino Airspace Protection Zones**, each color band represents a range of distance, measured in vertical feet, between the ground and overlying surface.

4. Airspace Protection Standards for New Development. The airspace protection compatibility of proposed land uses within the AIA of CNO shall be evaluated in accordance with the policies in this section, including the existing airspace protection surfaces depicted in **Policy Map L-3: Chino Airspace Protection Zones**.

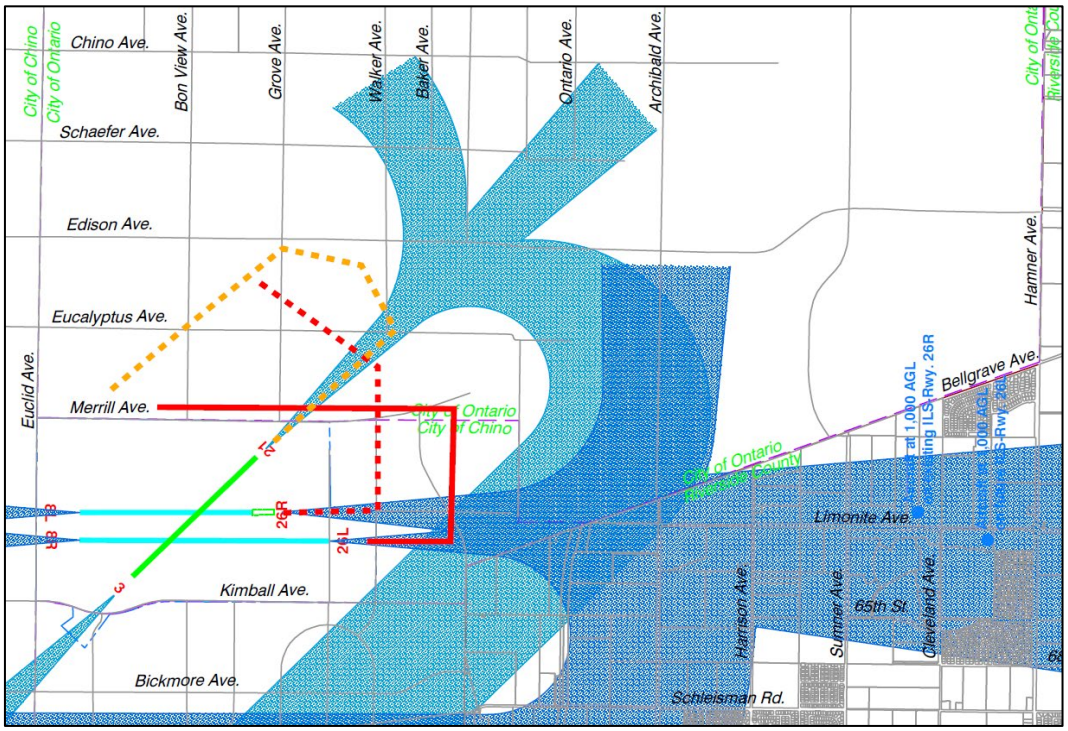
5. Airspace Protection Policies.

Policy No.	*Airspace Protection Policies*
A1	**FAA Height Notification Surface:** Except as provided in Policy A2b, if a project contains proposed structures or other objects that would penetrate the FAA Height Notification Surface for CNO, the project proponent should submit notification of the proposal to the FAA, as required by the provisions of FAR Part 77, Subpart B, and by the California Public Utilities Code, Sections 21658 and 21659. The FAA will conduct an "aeronautical study" of the object(s) and determine whether the object(s) would be of a height that would constitute a hazard to air navigation. A copy of the completed FAR Part 77 notification form submitted to the FAA and the resulting FAA aeronautical study findings should be supplied to the City by the project proponent. The results of the FAA aeronautical study shall be utilized when conducting compatibility reviews of the proposed project. The FAA notification requirements apply to the following:
A1a	**Penetrations to the FAA Height Notification Surface:** With limited exceptions, the FAA requires notification for all objects which penetrate the FAA Height Notification Surface, including structures, antennas, trees, mobile objects, and temporary objects such as construction cranes.
A1b	**Structures in Excess of 200 feet:** The FAA requires that it be notified about any proposal to construct or alter a structure that would be taller than 200 feet above the ground level regardless of the structure's proximity to CNO or any other airport.
A1c	**FAR Part 77 Notification:** FAA requires project proponents to submit notification of the proposal where required by the provisions of FAR Part 77, and by the California Public Utilities Code, Sections 21658 and 21659. Refer to the FAA notification requirements and online submittal process of Form 7460-1, Notice of Proposed Construction or Alteration.
A2	**Airspace Obstruction Surfaces:** Except as provided in Policy A2a, no object should have a height that would result in a penetration of the Airspace Obstruction Surface depicted for CNO. Any object that penetrates the Airspace Obstruction Surface shall satisfy the conditions set forth in Policy A2a. These requirements apply to all objects including structures, antennas, trees, mobile objects, and temporary objects such as construction cranes.

Policy No.	Airspace Protection Policies
A2a	**Airspace Obstacle Criteria and Review Process:** Except as indicated in Policy A2b, a proposed object having a height that penetrates CNO's airspace obstruction surfaces should be allowed only if all of the following apply: 1. The FAA conducts an aeronautical study of the proposed object and determines that the object would not be a hazard to air navigation. 2. FAA or other expert analysis conducted under the auspices of the airport owner, concludes that, despite being an airspace obstruction, the object would not cause any of the following: ▪ An increase in the ceiling or visibility minimums of the airport for an existing or planned instrument procedure (a planned procedure is one that is formally on file with the FAA); ▪ A reduction of the established operational efficiency and capacity of the airport, such as by causing the usable length of the runway to be reduced; or ▪ A conflict with the visual flight rules (VFR) airspace used for the airport traffic pattern or en route navigation to and from the airport. 3. Marking and lighting of the object will be installed as directed by the FAA aeronautical study or the California Division of Aeronautics and in a manner consistent with FAA standards in effect at the time the construction is proposed (Advisory Circular 70/7460-1J, Obstruction Marking and Lighting, or any later guidance). 4. An avigation easement is dedicated to the owner of the airport. 5. The proposed project complies with all policies of the CNO ALUCP.
A3	**Flight Hazards:** Land uses that may cause visual, electronic, or wildlife hazards, particularly bird strike hazards, to aircraft in flight or taking off or landing at the airport should be prohibited within the AIA consistent with FAA rules and regulations. To resolve any uncertainties with regard to the significance of flight hazards, local agencies should consult with the FAA, California Division of Aeronautics, and/or CNO officials. Specific characteristics to be avoided include: 1. Sources of glare (such as from mirrored or other highly reflective buildings or building features) or bright lights (including search lights and laser light displays). 2. Distracting lights that could be mistaken for airport lights. 3. Sources of dust, steam, or smoke that may impair pilots' vision. 4. Sources of steam or other emissions that cause thermal plumes or other forms of unstable air. 5. Sources of electrical interference with aircraft communications or navigation. 6. Any proposed use that creates an increased attraction for wildlife and that is inconsistent with FAA rules and regulations including, but not limited to FAA Advisory Circulars 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports and 150/5200-34A, Construction or Establishment of Landfills near Public Airports. Of particular concern are landfills and certain recreational or agricultural uses that attract large flocks of birds which pose bird strike hazards to aircraft in flight.
A4	**Avigation Easements:** An avigation easement shall be required as a condition of approval for proposed development that penetrates the Airspace Obstruction Surfaces (see Policy A2a).
A5	**Hazardous Wildlife Attractants on or Near Airports:** Wildlife can pose hazards to aircraft operations; collisions or "strikes" with wildlife can cause damage to or destroy aircraft and result in injuries or fatalities to air travelers and those on the ground. FAA strike records indicate that most wildlife strikes occur in the immediate airport vicinity during aircraft approach or departure at altitudes of less than 3,500 feet above ground level (AGL).

Policy No.	Airspace Protection Policies
A5a	**Caltrans Guidance:** Caltrans completed a Wildlife Hazard Assessment at CNO in 2014. Wildlife attractants identified in the airport vicinity included open water basins, golf courses, and agricultural operations Hazardous wildlife identified on and near the airport included: raptors, ground squirrels (because they attract raptors), gulls, blackbirds and starlings, coyotes, crows, doves and pigeons, waterfowl, and shorebirds. To prevent the creation of new habitat within on or near CNO, new development shall be subject to the following: 1. A Qualified Airport Wildlife Biologist (QAWB) shall review landscaping plans to ensure that the proposed materials will not provide food, nesting opportunities, shelter, or roosting opportunities for potentially hazardous wildlife. 2. A QAWB shall review proposed construction plans for their potential to create temporary or permanent wildlife attractants.
A5b	**Federal Guidance:** Consistent with state and federal guidance, any proposed land use that creates an increased attraction for wildlife and that is inconsistent with FAA rules and regulations, including but not limited to FAA AC 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports, and 150/5200-34A, Construction or Establishment of Landfills near Public Airports, should be avoided within the "critical zones". For CNO, the critical zone extends 10,000 feet beyond aircraft movement areas and 5 miles from the approach/departure surfaces. The following is list of land uses known to attract potentially hazardous wildlife within critical zones and should be avoided: ▪ Landfills and waste management facilities (see also AC 150/5200-34A, Construction or Establishment of Landfills near Public Airports) ▪ Stormwater management facilities that create open water ▪ Wastewater treatment facilities ▪ Wetlands and wetland mitigation sites ▪ Agricultural/aquacultural operations ▪ Parks and golf courses ▪ Resource mitigation sites If land uses that are known to attract potentially hazardous wildlife are allowed within the airport influence area by right, the land use and its features should be modified to reduce wildlife hazards or mitigate known hazards. Sample mitigation/design measures include those associated with stormwater management facilities and landscape design.
A5c	**Stormwater Management Facilities:** The FAA identifies stormwater management facilities as one of the greatest attractants to hazardous wildlife. Many species are attracted to open water features and associated vegetation that offers water, food, and shelter. New stormwater management facilities located within the AIA should be designed to avoid the creation of open water and habitat and incorporate the following criteria: 1. New detention basins should be designed to drain completely within a maximum 48-hour period following design storm event and remain totally dry between storm events. 2. Exposed surface water features should include one of the recommended design measures: ▪ Floating covers, bird balls, netting, or overhead wires should be installed to deter wildlife. The deterrent should be selected based on pond size and the type of species to be discouraged; ▪ Steep-sided, rip-rap lined, narrow, linearly shaped water detention basin (i.e., 1:1 slopes) should be provided; and ▪ Vegetation should not be provided because it can provide food or cover for hazardous wildlife. 3. Stormwater management plans located within the CNO AIA shall be reviewed by an FAA-qualified Airport Wildlife Biologist. 4. Landscape designs for proposed projects located in the CNO AIA should be reviewed by an FAA-qualified Airport Wildlife Biologist.

Figure L-7: Radar Flight Track Sample (2015)



D. Overflight. Noise from individual aircraft operations, especially by comparatively loud aircraft, can be intrusive and annoying in locations beyond the limits of the noise impacts. Sensitivity to aircraft overflights varies from one person to another. The purpose of overflight compatibility policies is to help notify people about the presence of overflights near airports so that they can make more informed decisions regarding acquisition or lease of property in the affected areas.

1. Factors Considered in Establishing Overflight Zones.

a. *State Law.* State statutes (BPC Section 11010 and CC Sections 1102.6, 1103.4, and 1353) define an AIA as "the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission."

b. *Measures of Overflight Exposure.* The loudness of individual aircraft noise events is a key determinant of where airport proximity and aircraft overflight notification are warranted. The FAA has determined that overflight exposure is not significant where aircraft are flying at an altitude of 3,000 feet or more above ground level. **Figure L-7** presents the primary aircraft traffic patterns in blue, based on published airport information. The red and orange lines represent flight patterns captured by radar data from November 2015. On this particular day, aircraft were practicing touch-and-goes (closed loop patterns) from Runway 26R, 26L and Runway 21. Safety Zone 4 encompasses areas where aircraft make a turn from base to final when landing on Runway 21. Also, Safety Zone 6 is routinely overflown by aircraft.

2. Factors Considered in Setting Overflight Compatibility Criteria.

a. *Limitations of Local Agency Authority over Existing Uses.* To be most effective, overflight policies should apply to transactions involving existing land uses, not just future development. However, local agencies have little authority to set requirements for existing development. The intent of this policy is to define, on an advisory basis, the boundaries within which required real estate transfer disclosure under state law is appropriate. Implementing the real estate transaction disclosure requirement is the responsibility of the property owner and real estate agent. The local agency is responsible only for providing a map to a property owner or real estate agent that defines the areas within which the real estate disclosure requirement should be applied.

b. *Limitations of California Real Estate Transaction Disclosure Law.* State law applies to existing development, but not to all transactions. Specifically, California state statutes (BPC Section11010 and CC Sections 1102.6, 1103.4, and 1353) require that, as part of many residential real estate transactions, information be disclosed regarding whether the property is situated within an AIA. The Business and Professions Code applies the disclosure requirement to the sale or lease of newly subdivided lands and condominium conversions and to the sale of certain existing residential property. The Civil Code applies the disclosure requirement to existing residential property transfers only when certain natural conditions (earthquake, fire, or flood hazards) warrant disclosure.

c. *Need for Continuity of Notification to Future Property Owners and Tenants.* To the extent that this Compatibility Plan sets notification requirements for new development, the policy should ensure that the notification runs with the land and is provided to prospective future owners and tenants.

d. *Inappropriateness of Avigation Easement Dedication Solely for Buyer Awareness Purposes.* Avigation easements involve conveyance of property rights from the property owner to the party owning the easement and are thus best suited to locations where land use restrictions for safety or airspace protection purposes are necessary.

3. Overflight Notification Zones for CNO. The boundaries of the overflight notification zones around CNO are shown on **Policy Map L-4: Chino Overflight Notification Zones** and include:

a. *Avigation Easement Dedication.* The boundary identifies the high-risk, and critical airspace protection areas of CNO. Although not strictly an overflight notification boundary, the Avigation Easement Dedication boundary is established in accordance with Policy SP1 and reflected on **Policy Map L-4**.

b. *Recorded Overflight Notification.* The boundary identifies the primary overflight area for the airport. The policy boundary matches Safety Zone 6 depicted on Policy Map L-4.

c. *Real Estate Transaction Disclosure.* The boundary reflects the CNO

AIA and matches the outer boundary of the FAR Part 77 conical surface of the airport.

4. Overflight Policies. Unlike the function of safety and airspace protection compatibility policies, the overflight compatibility policies set forth in this section do not restrict the manner in which land can be developed or used. The policies in this section serve only to establish the language and recommended geographic coverage for notification about airport proximity and aircraft overflights for new development and with certain real estate transactions involving existing development.

Policy No.	*Airspace Protection Policies*
O1	**Recorded Overflight Notification:** The City of Ontario shall require the recording of an overflight notification running with the land as a condition for approval of new residential development that falls within Safety Zone 6, as depicted in Policy Map L-4. Other conditions include:
O1a	**Notification Language:** The overflight notification should contain language dictated by state law with regard to real estate transaction disclosure (see Policy O2a).
O1b	**Property Deed Recording:** The overflight notification should be evident to future purchasers of the property by appearing on the property deed.
O1c	**Avigation Easement Exception:** A separate recorded overflight notification is not required where an avigation easement is provided in accordance with Policy SP1.
O1d	**Nonresidential Exception:** Recording of an overflight notification is not required for nonresidential development unless the project is a mixed-use development containing residential uses on the same property.
O2	**Real Estate Transaction Disclosure:** Airport proximity disclosure information should be provided in accordance with state law (Business and Professions Code Section 11010 and Civil Code Sections 1102.6, 1103.4, and 1353. See Section 6.4.4 (b) and Appendix A for information on these laws.
O2a	**Disclosure Language:** State Law provides the following disclosure language: **NOTICE OF AIRPORT IN VICINITY:** This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.
O2b	**Airport Influence Area:** The airport proximity disclosure is required within AIA as identified on Policy Map L-4.

E. Special Compatibility Policies. These policies are intended to address unique land use concerns.

Policy No.	*Special Compatibility Policies*
SP1	**Avigation Easement Dedication:** An avigation easement should be dedicated to the owner/operator of CNO for new development as specified in Policies SP1a and SP1b.

Policy No.	Special Compatibility Policies
SP1a	**Avigation Easement Dedication Requirements:** Within portions of the AIA inside the City of Ontario, avigation easement dedication shall be required for new development requiring discretionary as described below. Policy Map L-4 depicts the locations where an avigation easement dedication would be appropriate. 1. **Safety Zones:** All new development within Safety Zones 1, through 4 as depicted on Policy Map L-2.
SP1b	**Avigation Easement Purpose:** The avigation easement should do the following: 1. **Right of Flight:** Provide the right of flight in the airspace above the property. 2. **Noise Impacts:** Allow the generation of noise and other impacts associated with aircraft overflight. 3. **Physical Hazards:** Restrict the height of structures, trees and other objects in accordance with the policies in Section L.01.003.C and the airspace protection surfaces depicted on Policy Map L-2. 4. **Obstruction Marking:** Permit access to the property, with appropriate advance notice, for the removal or aeronautical marking of objects exceeding the established height limit. 5. **Other Airspace Hazards:** Prohibit electrical interference, glare, and other potential hazards to flight from being created on the property.
SP2	**Nonconforming Uses:** The policies within the CNO ALUCP do not apply to existing land uses even if those uses are not in conformance with the compatibility criteria set forth in this Compatibility Plan. However, proposed changes to existing uses that would change or result in increased nonconformity with the compatibility criteria are subject to the provisions of the ALUCP. Specifically, proposed changes to existing nonconforming uses (including a parcel or building) are limited as follows:
SP2a	**Residential uses:** A nonconforming residential land use may be continued, sold, leased, or rented without restriction or review.
SP2b	**Nonconforming Single-family:** A nonconforming single-family dwelling may be maintained, remodeled, reconstructed or expanded in size. The lot line of an existing single-family residential parcel may be adjusted. Also, a new single-family residence may be constructed on an existing lot. The above noted property improvements may occur if improvements do not increase the number of units and lot line adjustments do not result in allowing for additional dwelling units. Examples include: 1. Any remodeling, reconstruction, or expansion must not increase the number of dwelling units. For example, a bedroom could be added to an existing residence, but an additional dwelling unit could not be built on the parcel unless that unit is a secondary dwelling unit as defined by state and local laws. 2. A single-family residential parcel may not be divided for the purpose of allowing additional dwellings to be constructed.
SP2c	**Nonconforming Multi-family (> 8 du/ac):** Nonconforming multi-family residential dwelling units may be maintained, remodeled, or reconstructed. The size of individual dwelling units may be increased, but additional dwelling units may not be added.
SP2d	**Nonresidential uses:** A nonconforming, nonresidential use may be continued, sold, leased, or rented without restriction or review. Nonconforming, nonresidential facilities may be maintained, altered, or, if required by state law, reconstructed. However, any such work: 1. Should not result in expansion of either the portion of the site devoted to the nonconforming use or the floor area of the buildings; and 2. Should not result in an increase in the usage intensity (the number of people per acre) above the levels existing at the time of approval of the CNO ALUCP.

Policy No.	Special Compatibility Policies
SP2e	**Schools:** Children's schools (including grades K-12, day care centers with more than 14 children, and school libraries) may be continued, reconstructed (see Policy SP5), expanded with the following restrictions per State Law: 1. Land acquisition for new schools or expansion of existing schools is not permitted in any safety zone. 2. Replacement or expansion of buildings at existing schools is also not allowed in any safety zone. This limitation does not preclude work required for normal maintenance or repair.
SP3	**Reconstruction of Nonconforming Uses:** An existing nonconforming building, structure, or use that has been partially or completely destroyed as the result of a fire, flood or natural disaster may be rebuilt under the conditions listed in Policies SP3a through SP3c so long as it does not violate local ordinances. The requirements listed in this policy do not restrict normal maintenance and repairs.
SP3a	**Residential:** Nonconforming residential uses may be rebuilt provided that the reconstruction does not result in more dwelling units than existed on the parcel at the time of the damage. Addition of a secondary dwelling unit to a single-family residence is permitted if in accordance with state law and local zoning regulations.
SP3b	**Nonresidential:** A nonconforming nonresidential development may be rebuilt provided that the reconstruction does not increase the floor area of the previous structure or result in an increased intensity of use (i.e., more people per acre).
SP3c	**Reconstruction Requirements:** The reconstruction of nonconforming uses listed in Policies SP3a and SP3b should comply with the following requirements: 1. A permit to rebuild the structure should be obtained by the local agency within twenty-four (24) months of the date the damage occurred. 2. The property should be required to dedicate an avigation easement to the airport owner, if required under Policy SP1. 3. The new structure should comply with FAR Part 77, TERPS, and applicable airport obstruction clearance standards published by the FAA.

L.01.005: Evaluating Land Use Consistency

A. Evaluating Compatibility of Proposed Development. The compatibility of proposed projects within the CNO AIA shall be evaluated in accordance with the specific safety, airspace protection, overflight policies, and special compatibility policies set forth in Section L.01.003 including the criteria listed in **Table L-1: CNO ALUCP Compatibility Criteria Matrix** and T**able L-2: Safety Zones Compatibility Criteria**, and **Policy Maps L-1 through L-4**.

B. Evaluation Tools.

1. Safety Zone Criteria Table. **Table L-2** list general land use categories and indicate each use as being either "normally compatible," "conditionally compatible," or "incompatible" depending upon the safety zone in which it is located. When evaluating a proposed development, each land use component of a project shall be evaluated as separate developments and must meet the criteria for the respective land use category.

2. Evaluation Considerations.

a. Land uses not specifically listed in **Table L-2** shall be evaluated using the criteria for similar listed uses.

b. Multiple land use categories and the compatibility criteria associated with them may apply to a single project (e.g., mixed-use developments). Each land use component shall individually satisfy the criteria for the respective land use category in Table L-2.

3. Land Use Compatibility Determinations.

a. *Normally Compatible.* Normally Compatible means that common examples of the use are compatible with the airport; uncommon examples of the use may require review to ensure compliance with compatibility criteria.

b. *Conditionally Compatible.* Conditionally Compatible means that the use is compatible if the listed conditions are met.

c. *Incompatible.* Incompatible means that the use should not be permitted under any circumstances.

L.01.006: Criteria Tables and Policy Maps

A. Criteria Tables. The compatibility tables at the end of this chapter provide the following information:

1. Table L-1: CNO ALUCP Compatibility Criteria Matrix. The Compatibility Criteria table provides a comprehensive list of open land percentages, people per acre limits and other relevant criteria summarized for each safety zone.

2. Table L-2: Safety Zones Compatibility Criteria. The safety criteria table provides a list of land use categories and identifies the acceptability of specific land uses within each of the five safety zones. Intensity limits for nonresidential uses (i.e., maximum number of people per acre) and other safety considerations within each safety zone are also noted.

B. Policy Map L-1 (Chino Airport Influence Area). The AIA boundary encompasses the geographic extents of all the compatibility factors: safety, noise, airspace protection, and overflight.

C. Policy Map L-2 (Chino Airport Safety Zones). This policy map displays a single set of safety zones reflecting the existing runway configurations. The safety zones for are based upon the generic safety zones provided in the California Airport Land Use Planning Handbook.

D. Policy Map L-2a (Chino Airport Open Land Streets). This policy map identifies three streets that will be designed to satisfy the Open Land criteria.

E. Policy Map L-3 (Chino Airspace Protection Zones). The airspace protection zones are prepared in accordance with Federal Aviation Regulation Part 77, the United States Standard for Terminal Instrument Procedures (TERPS), and applicable obstruction clearance standards published by the Federal Aviation Administration. The airspace surfaces reflect the existing runway configurations.

F. Policy Map L-4 (Chino Overflight Notification Zones). This policy map identifies the overflight notification zones. The overflight notification zones also encompass the areas underlying the airport's critical airspace surfaces.

Table L-1: CNO ALUCP Compatibility Criteria Matrix

Safety Zones	*Residential Density Limits*	*Non-Residential Intensity Limits (People per acre)*	*Open Land Requirement for Entire Zone*	*Other Criteria*	*Boundary Determinations*
Zone 1 Runway Protection Zone	0	0	All Remaining	Avigation Easement and Airspace Review Required	RPZ
Zone 2 Inner Approach/ Departure Zone	0	60 (avg.) 120 (single acre)	25%; preserve open land nearest runway end	Avigation Easement and Airspace Review Required	Safety Zone 2
Zone 3 Inner Turning Zone	1 dwelling unit per 2-acre lot	100 (avg.) 300 (single acre)	15%; preserve open land along extended runway centerline	Avigation Easement and Airspace Review Required	Safety Zone 3
Zone 4 Outer Approach/ Departure Zone	2 dwelling units per 2-acre lot	150 (avg.) 450 (single acre)	15%; preserve open land along extended runway centerline	Avigation Easement and Airspace Review Required	Safety Zone 4
Zone 6 Traffic Pattern Zone	No Limit	300 (avg.) 1,200 (single acre)	10%; preserve open land every 1/4 to 1/2 mile	Deed Notice and Airspace Review Required	Safety Zone 6

Table L-2: Safety Zones Compatibility Criteria

Legend: Land Use Compatibility
(A detailed explanation of each land use acceptability category is provided at the end of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use

- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development. Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
Outdoor Uses (limited or no activities in buildings)						
Natural Land Areas: desert, brush lands [3]						1: Avoid new features that attract birds; vegetation must be clear of airspace surfaces
Water: flood plains, stormwater facilities, wetlands, lakes, reservoirs [3]						1-6: Avoid new features that attract birds
Agriculture (except residences and livestock): crops, orchards, vineyards, pasture, range land [3]						1-6: Avoid new features that attract birds
Livestock Uses: feed lots, stockyards, breeding, fish hatcheries, horse stables [3]						2-6: Avoid new features that attract birds
Outdoor Major/Large Assembly Facilities: [4] spectator-oriented outdoor stadiums, amphitheaters, fairgrounds, race tracks, water parks, zoos						6: Allowed if intensity criteria met
Outdoor Group Recreation (limited spectator stands): athletic fields, water recreation facilities, picnic areas						4, 6: Allowed only if site outside zone would not serve intended function
Outdoor Small/Non-Group Recreation: golf courses, tennis courts, shooting ranges [3]						3-6: Allowed if intensity criteria met
Local Parks: children-oriented neighborhood parks, playgrounds						6: Allowed if intensity criteria met
Camping: campgrounds, recreational vehicle/ motor home parks						3-6: Allowed only if intensity criteria met
Cemeteries (except chapels)						

Table L-2: Safety Zones Compatibility Criteria

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Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
Residential and Lodging Uses						
Residential: individual dwellings, townhouses, mobile homes, apartments, condominiums, bed & breakfast inns [5]						3, 4: 1 du/2-acre lots (avg. density); 4 du/single- acre; locate dwelling max. distance from extended runway centerline where feasible
Long-Term Lodging (>30 nights): extended-stay hotels, dormitories						
Short-Term Lodging (≤ 30 nights): hotels, motels, other transient lodging (except conference/assembly facilities) [approx. 200 s.f./person]				0.69		4: FAR limits as indicated
Congregate Care: retirement homes, assisted living, nursing homes, intermediate care facilities						6: Allowed only if site outside zone would not serve intended function
Educational and Institutional Uses						
Family day care homes (≤14 children) [5]						
Children's Schools: K-12, day care centers (>14 children); school libraries						6: Subject to approval by Caltrans Division of Aeronautics
Adult Education classroom space: adult schools, colleges, universities [approx. 40 s.f./person]			0.09	0.14	0.28	3-6: FAR limits as indicated; also see individual components of campus facilities (e.g., assembly facilities, offices, gymnasiums)
Community Libraries [approx. 100 s.f./person]			0.23	0.34	0.69	3-6: FAR limits as indicated
Major Indoor Assembly Facilities [4]: auditoriums, conference centers, concert halls, arenas						
Large Indoor Assembly Facilities [4]: movie theaters, places of worship, cemetery chapels, mortuaries [approx. 15 s.f./person]			0.03	0.05	0.10	3-6: FAR limits as indicated
Indoor Recreation: gymnasiums, club houses, athletic clubs, dance studios [approx. 60 s.f./person]			0.14	0.21	0.41	3-6: FAR limits as indicated

Table L-2: Safety Zones Compatibility Criteria

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Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use

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- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development. Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
In-Patient Medical: hospitals, mental hospitals						6: Allowed only if site outside zone would not serve intended function
Out-Patient Medical: health care centers, clinics [approx. 240 s.f./person]			0.55	0.83		3, 4: FAR limits as indicated
Penal Institutions: prisons, reformatories						6: Allowed only if site outside zone would not serve intended function
Public Safety Facilities: police, fire stations						3, 4: Allowed only if site outside zone would not serve intended public function
Commercial, Office, and Service Uses						
Major Retail: regional shopping centers, 'big box' retail [approx. 110 s.f./person]			0.25	0.38	0.76	3-6: FAR limits as indicated; evaluate eating/ drinking areas separately if >10% of total floor area
Local Retail: community/neighborhood shopping centers, grocery stores [approx. 170 s.f./person]			0.39	0.59		3, 4: FAR limits as indicated; evaluate eating/ drinking areas separately if >10% of total floor area
Eating/Drinking Establishments: restaurants, fast-food dining, bars [approx. 60 s.f./person]			0.14	0.21	0.41	3-5: FAR limits as indicated
Limited Retail/Wholesale: furniture, automobiles, heavy equipment, lumber yards, nurseries [approx. 250 s.f./person]		0.34	0.57			2, 3: FAR limits as indicated; design site to place parking inside and buildings outside of zone if possible
Offices: professional services, doctors, finance, civic; radio, television & recording studios, office space associated with other listed uses [approx. 215 s.f./person]		0.30	0.49	0.74		2-4: FAR limits as indicated
Personal & Miscellaneous Services: barbers, car washes, print shops [approx. 200 s.f./person]		0.28	0.46	0.69		2-4: FAR limits as indicated
Vehicle Fueling: gas stations, trucking & transportation terminals						

Table L-2: Safety Zones Compatibility Criteria

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(A detailed explanation of each land use acceptability category is provided at the end of this table)

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- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development. Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
Industrial, Manufacturing, and Storage Uses						
Hazardous Materials Production: oil refineries, chemical plants (≥ 6,000 gallons)						
Heavy Industrial						4: Avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft
Light Industrial, High Intensity: food products preparation, electronic equipment [approx. 200 s.f./person]		0.28	0.46	0.69		2-4: FAR limits as indicated; avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft
Light Industrial, Low Intensity: machine shops, wood products, auto repair [approx. 350 s.f./person]		0.48	0.80	1.21		2-4: FAR limits as indicated; avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft
Research & Development [approx. 300 s.f./person]			0.69	1.03		3-4: FAR limits as indicated; avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft
Indoor Storage: wholesale sales, warehouses, mini/other indoor storage, barns, greenhouses [approx. 1,000 s.f./person]						2: Single story only; max. 10% in mezzanine
Outdoor Storage: public works yards, automobile dismantling						
Mining & Extraction [6]						

Table L-2: Safety Zones Compatibility Criteria

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(A detailed explanation of each land use acceptability category is provided at the end of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use

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- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development. Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2]					**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
	1	**2**	**3**	**4**	**6**	
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	
Transportation, Communication, and Utilities						
Airport Terminals: airline, general aviation						
Rail & Bus Stations						2: Allowed only if site outside zone would not serve intended public function
Transportation Routes: road & rail rights-of-way, bus stops [3]						1: Avoid new features that create airspace obstructions
Auto Parking: surface lots, structures [3]						1: Avoid new features that create airspace obstructions
Communications Facilities: emergency communications, broadcast & cell towers [7]						4, 6: Allowed only if site outside zone would not serve intended public function; not allowed within ½ mile of runway
Power Plants [7]						4, 6: Primary plants not allowed; peaker plants only
Electrical Substations [7]						4, 6: Allowed only if site outside zone would not serve intended public function; avoid features that create flight hazards
Wastewater Facilities: treatment, disposal [3]						6: Allowed only if site outside zone would not serve intended public function; avoid new features that attract birds
Solid Waste Disposal Facilities: landfill, incineration [3]						6: Allowed only if site outside zone would not serve intended public function; avoid new features that attract birds
Solid Waste Transfer Facilities, Recycle Centers [3]						6: Allowed only if site outside zone would not serve intended public function; avoid new features that attract birds

Table L-2: Safety Zones Compatibility Criteria

Legend: Land Use Compatibility
(A detailed explanation of each land use acceptability category is provided at the end of this table)

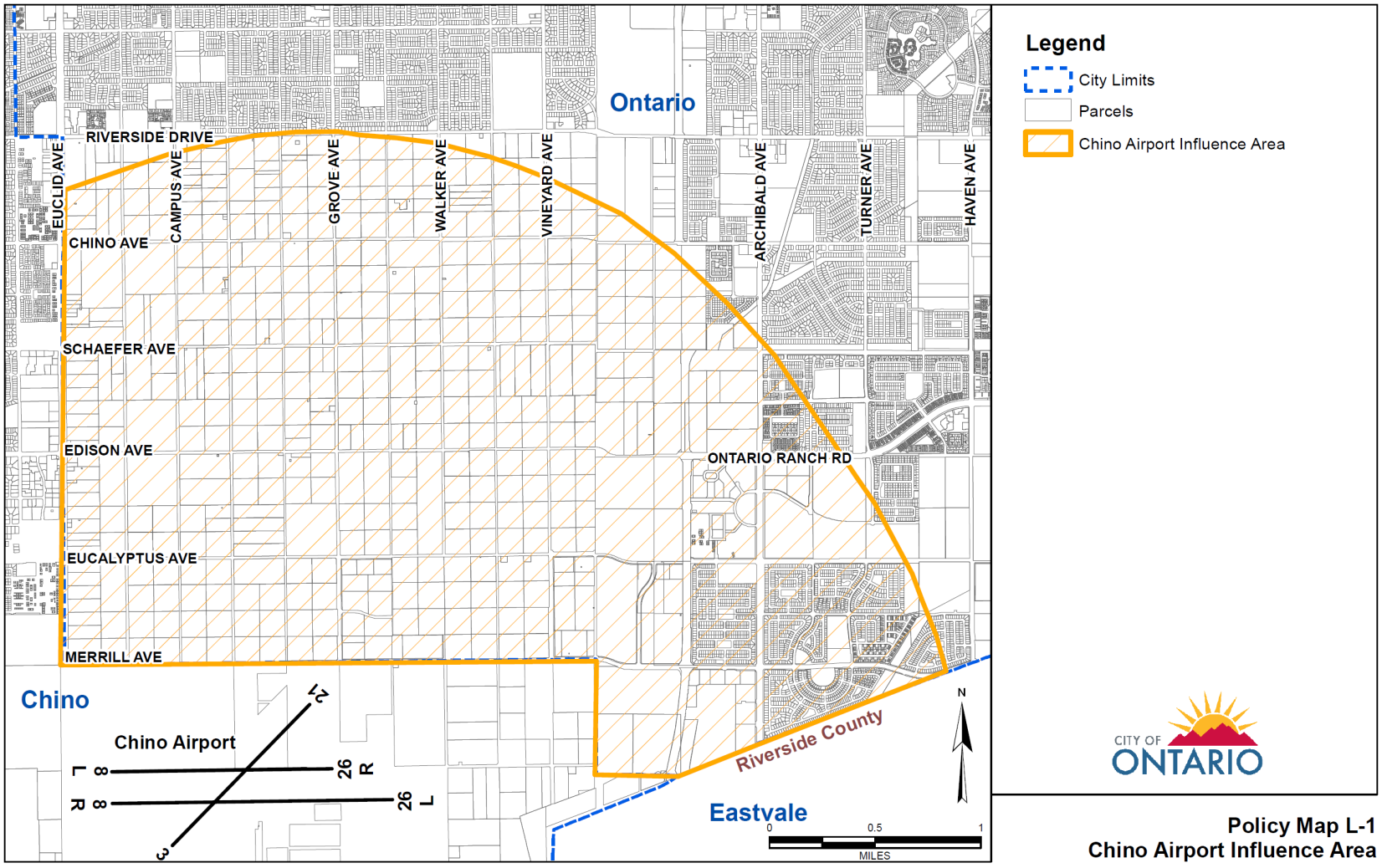
Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use

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- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development. Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category [1] *Note: Multiple land use categories and compatibility criteria may apply to a project*	**Compatibility Zone** [2] 1	2	3	4	6	**Criteria for Conditional Uses** *Note: The numbers below indicate zone in which condition applies.*
Max Sitewide Average Intensity(people/acre)	**0**	**60**	**100**	**150**	**300**	▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) *applicable to all nonresidential development*	**0**	**120**	**300**	**450**	**1200**	

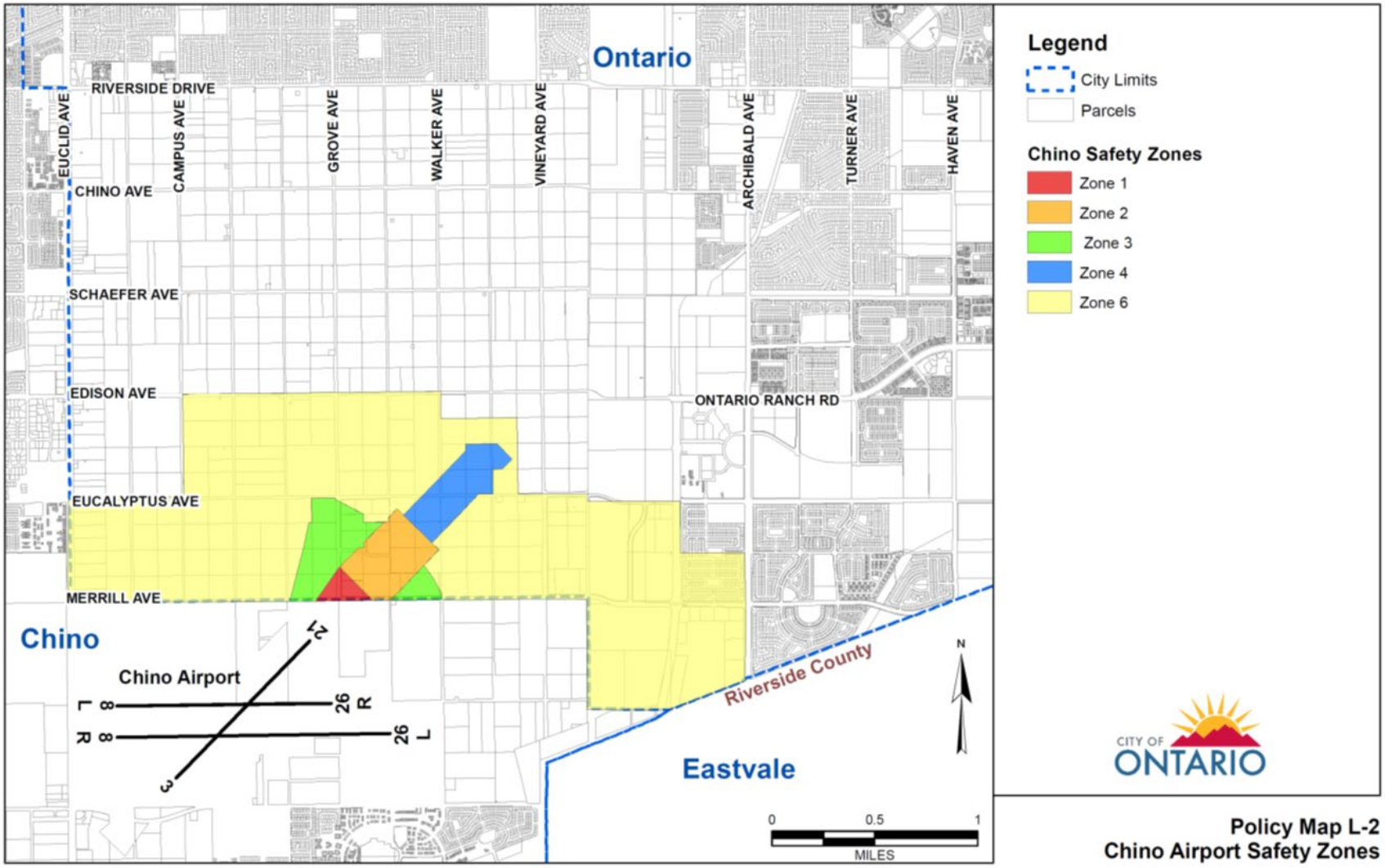
1. Land uses not specifically listed shall be evaluated using the criteria for similar uses.
2. Sample safety zones from the 2011 California Airport Land Use Planning Handbook (Handbook), as applied to Chino Airport, extend into the limits of the City of Ontario, except for Safety Zone 5. For numerical consistency, the Compatibility Zones for Chino Airport maintain the same numbering system used in the Handbook despite omission of Safety Zone 5. Avigation easement dedication required as condition of approval for all properties within Compatibility Zones 1-4.
3. Although these uses may satisfy the Safety criteria, they may be inconsistent with the Airspace Protection criteria as these uses may attract birds or other wildlife that could pose hazards to flight (see **Airspace Protection Policies**) or create obstructions to navigable airspace.
4. A *Major Assembly Facility* is defined as having a capacity of ≥1,000 people, while a *Large Assembly Facility* has a capacity of 300 to 999 people. Source: International Building Code.
5. Construction of a single-family home, including a second dwelling unit as defined by state law, allowed on a legal lot of record if such use is permitted by local land use regulations. A family day care home (serving ≤14 children) may be established in any dwelling.
6. These uses may generate dust or other hazards to flight.
7. Power lines or other tall objects associated with these uses may be hazards to flight.

Policy Map L-1 (Chino Airport Influence Area)

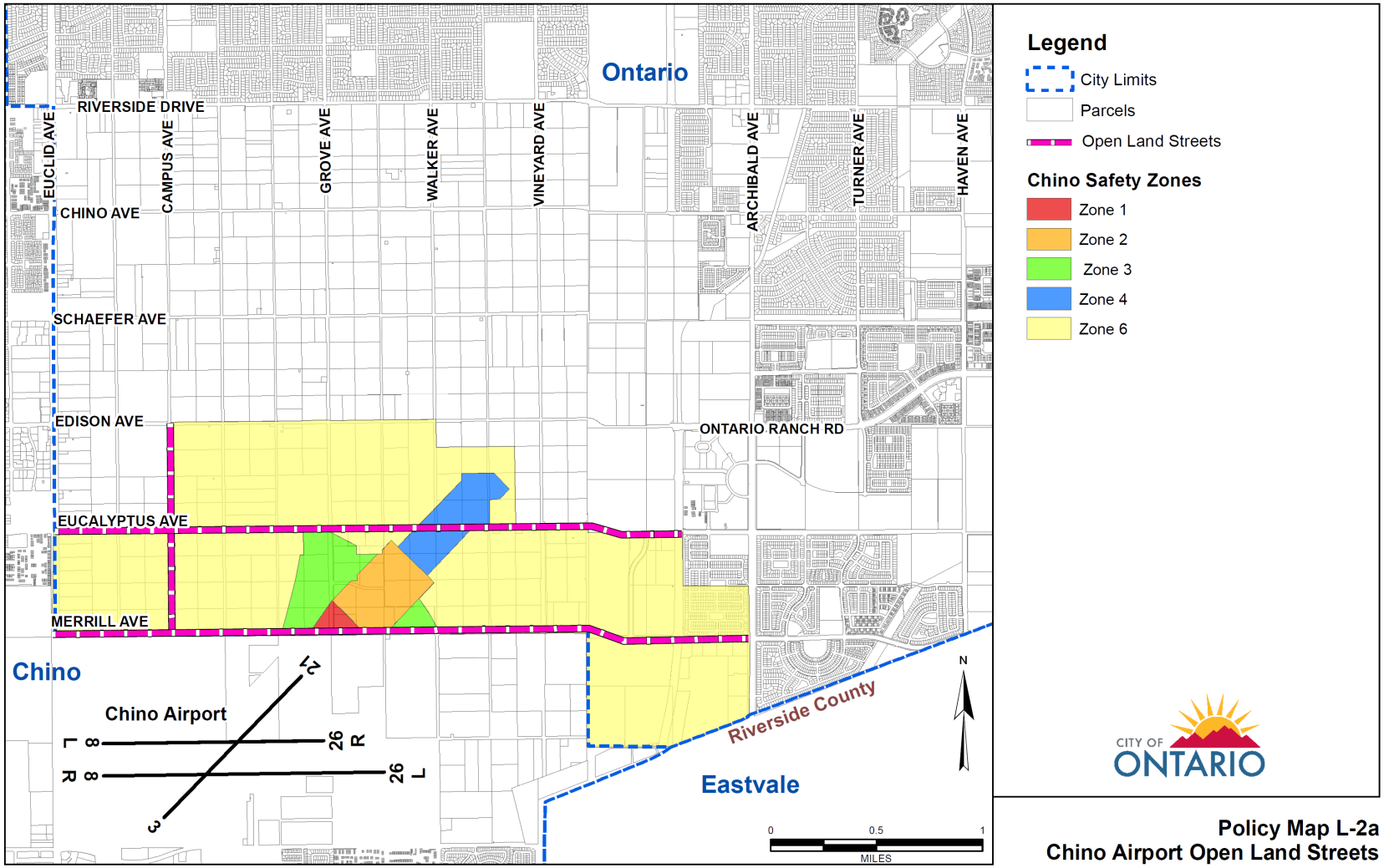


Policy Map L-1
Chino Airport Influence Area

Policy Map L-2 (Chino Airport Safety Zones)

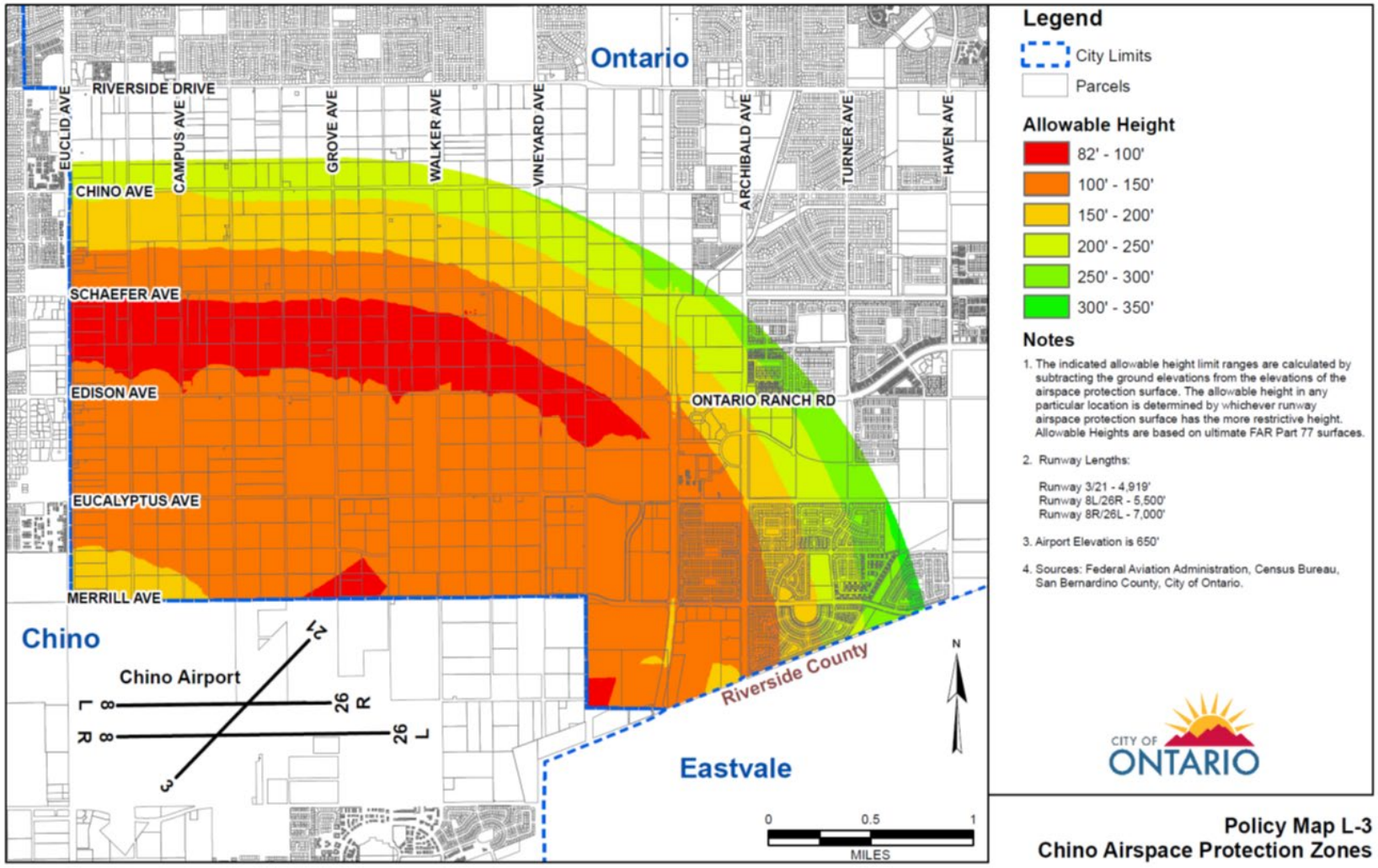


Policy Map L-2a: Chino Airport Open Land Streets



Policy Map L-2a
Chino Airport Open Land Streets

Policy Map L-3: Chino Airspace Protection Zones



Policy Map L-3
Chino Airspace Protection Zones

Policy Map L-4: Chino Overflight Notification Zones

