CITY OF ONTARIO

Regular City Council/Housing Authority/Ontario Public Financing Authority Meeting
SEPTEMBER 2, 2025

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 PORADA AND DAISY MACIAS

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

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.

To submit written public comments by email, please send your name, the agenda item you are commenting on, and your comments to publiccomments@ontarioca.gov. The public comment submission window opens at the time the agenda is published and remains open until 4:00 p.m. on the day of the meeting. All comments received during this timeframe will be forwarded to the City Council for consideration before action is taken on the matter and will be entered into the record.

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.
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.

ACCOMMODATIONS

If you need special assistance or accommodations to participate in this meeting, please contact the City Clerk's office at 909-395-2009. Notification of 48 hours prior to the meeting will help the City make reasonable arrangements. Equipment for the hearing impaired is available in the Records Management Office.

ORDER OF BUSINESS

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

CALL TO ORDER *(OPEN SESSION)*

ROLL CALL

Wapner, Bowman, Porada, Macias, Mayor/Chairman Leon

INFORMATION RELATIVE TO POSSIBLE CONFLICT OF INTEREST

Agenda item contractors, subcontractors and agents may require member abstentions due to conflict of interests and financial interests. Council Member abstentions shall be stated under this item for recordation on the appropriate item.

PLEDGE OF ALLEGIANCE

Council Member Porada

INVOCATION

Pastor Richard Hernandez, The Church of God Ontario

PUBLIC COMMENTS 6:30 P.M.

The Public Comment portion of the Council/Housing Authority/Ontario Public Financing Authority meeting is limited to 30 minutes. An opportunity for further Public Comment may be given at the end of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests. As previously noted -- if you wish to address the Council, fill out one of the blue slips at the rear of the chambers and give it to the City Clerk.

To submit written public comments by email, please send your name, the agenda item you are commenting on, and your comments to publiccomments@ontarioca.gov. The public comment submission window opens at the time the agenda is published and remains open until 4:00 p.m. on the day of the meeting. All comments received during this timeframe will be forwarded to the City Council for consideration before action is taken on the matter and will be entered into the record.

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.

1. APPROVAL OF MINUTES

Minutes for the special meetings of the City Council and Housing Authority of July 30, 2025 and August 5, 2025, and cancelled regular meetings of August 5, 2025, and approving same as on file in the Records Management Department.

ATTACHMENT: 20250730(S) Meeting Minutes (Not Official Until Approved).docx
ATTACHMENT: 20250805 (S) Meeting Minutes (Not Official Until Approved).docx
ATTACHMENT: 20250805 C Minutes (Not Official Until Approved).docx

2. BILLS & PAYROLL

Bills July 31, 2025 through August 7, 2025, and Payroll July 13, 2025 through July 26, 2025.

3. A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND THE CITY OF RANCHO CUCAMONGA FOR PAVEMENT REHABILITATION OF THE VINEYARD AVENUE AND EIGHTH STREET INTERSECTION

That the City Council authorize the City Manager, or his designee, to execute a Reimbursement Agreement between the City of Ontario and the City of Rancho Cucamonga for the pavement rehabilitation of the Vineyard Avenue and Eighth Street intersection, estimated to be $176,484.

ATTACHMENT: Exhibit A - Vineyard Eighth Map.pdf
ATTACHMENT: AGR Rancho Ontario Agreement_Vineyard-Eighth Intersection

4. AUTHORIZE THE RENEWAL OF THE CITY'S GEOGRAPHIC INFORMATION SYSTEM SOFTWARE LICENSE AGREEMENT WITH ESRI, INC.

That the City Council authorize the City Manager, or his designee, to execute the renewal of the City's Geographic Information System (GIS) software Agreement with ESRI, Inc., of Redlands, CA, for annual licensing and maintenance support, for a total contract not-to-exceed of $643,632 for a three-year term.

ATTACHMENT: ESRI_Renewal_Q-553536.pdf

5. AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH INLAND EMPIRE STAGES, LTD, FOR CHARTER BUS TRANSPORTATION SERVICES

That the City Council authorizes the City Manager, or his designee, to execute Amendment No. 1 to the Professional Services Agreement with Inland Empire Stages, Ltd., increasing the contract by $244,000 for a new total not-to-exceed amount of $384,000, and extend the contract term to June 30, 2027.

ATTACHMENT: Inland Empire Stages, LTD Amendment.docx

6. AN AMENDMENT TO THE GOODS AND SERVICES AGREEMENT WITH J6D INC, FOR CUSTOM APPAREL SERVICES

That the City Council authorize the City Manager or his designee to execute Amendment No. 1 to the Goods and Services Agreement with J6D, Inc. of Ontario, California, in the amount of $200,000 for a total not-to-exceed contract amount of $500,000, and extend the contract term to October 16, 2027.

ATTACHMENT: J6D Goods and Services Amendment.pdf

7. OPTING INTO A SETTLEMENT AGREEMENT WITH PURDUE PHARMA, L.P. AND THE SACKLER FAMILY

That the City Council authorize the City Manager, or his designee, to opt into a Settlement Agreement with opioid distributors, Purdue Pharma, L.P. and the Sackler Family, and authorize the City Manager to execute any documents necessary to implement the action.

ATTACHMENT: Exhibit A - Purdue_Sackler Settlement Agreement.pdf

8. A CONSTRUCTION CONTRACT WITH BOGH CONSTRUCTION LLC FOR THE CONSTRUCTION OF THE DE ANZA PARK RENOVATION PROJECT

That the City Council take the following actions:

A. Authorize the City Manager, or his designee, to execute a Construction Contract for D&C25-001 De Anza Park Renovation with Bogh Construction LLC, of Beaumont, California, for the De Anza Park Renovation Project for a total contract amount of $11,541,198 plus a 10% contingency of $1,154,120, for a total contract amount not-to-exceed $12,695,318; and
B. Authorize the City Manager, or his designee, to execute all documents required for the completion of the project which may include, but is not limited to, agreements,

assessments, easements, reduction of retention accounts, contract amendments within the authorization limits, and filing a notice of completion at the conclusion of all construction-related activities.

ATTACHMENT: Contract - Bogh Construction.pdf

9. A MAINTENANCE SERVICES AGREEMENT WITH T.E. ROBERTS INC. FOR ON-CALL SERVICES FOR WATER DISTRIBUTION AND SEWAGE COLLECTION SYSTEM REPAIRS

That the City Council authorize the City Manager, or designee, to execute a one-year Maintenance Services Agreement with T.E. Roberts Inc., of Irvine, California, for on-call water distribution and sewage collection system repairs in the amount of $1,200,000 from September 2, 2025 to June 30, 2026, with the option to extend the agreement for up to four successive one-year periods for a total not-to-exceed $6,630,750.

ATTACHMENT: 20250902 MSA with T.E. Roberts^04 AGMT.pdf

10. AN AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT WITH FUEL SERV, INC. FOR FUEL SITE EQUIPMENT MAINTENANCE AND ON-CALL SERVICES

That the City Council authorize the City Manager, or his designee, to execute Amendment No. 1 to the Maintenance Services Agreement with Fuel Serv, Inc., of Montclair, California, for fuel site equipment maintenance and on-call services in the amount of $600,000, for a total not-to-exceed contract amount of $750,000, and exercising the remaining four option years extending the term to September 30, 2029.

ATTACHMENT: 2. Fuel Serv - Amendment No. 1.pdf

11. AUTHORIZE THE PURCHASE OF SPECIALIZED LAW ENFORCEMENT SAFETY EQUIPMENT WITH AARDVARK

That the City Council authorize the City Manager or his designee to execute the one-time purchase of specialized law enforcement safety equipment through Aardvark, with its principal place of business in La Verne, California, for an amount not to exceed $187,684.

ATTACHMENT: Quotation - SQ22194

12. AN AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT WITH ASSETWORKS, INC. FOR FLEET MAINTENANCE, REPAIR, DATA TRACKING SOFTWARE, AND DATA RETENTION

That the City Council authorize the City Manager, or his designee, to execute Amendment No. 2 to the Maintenance Services Agreement with AssetWorks, Inc., of Wayne, Pennsylvania, for the fleet maintenance, repair, data tracking software, and data retention in the amount of $198,142 for a total not-to-exceed amount of $345,485 over the five-year term.

ATTACHMENT: Ontario CA FA Maint Renewal July 2025_3yr.pdf

13. AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH JUNIPER GROUP, LLC FOR LEADERSHIP COACHING AND EMPLOYEE DEVELOPMENT SERVICES

That the City Council authorize the City Manager, or his designee, to execute Amendment No. 4 to the Professional Services Agreement with Juniper Group, LLC, of Annapolis, Maryland, for

leadership coaching and employee development services in the amount of $175,000 for a total not-to-exceed amount of $325,000.

ATTACHMENT: Amendment No 4_Juniper Group LLC..pdf

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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14. A PUBLIC HEARING TO APPROVE FILE NO. PUD23-001, A PLANNED UNIT DEVELOPMENT ON 0.37-ACRE OF LAND LOCATED AT 111 NORTH MONTEREY AVENUE

That the City Council introduce and waive further reading of an Ordinance approving File No. PUD23-001, the Monterey Avenue Planned Unit Development, establishing development standards, design guidelines, and infrastructure requirements to facilitate a commercial development at 111 North Monterey Avenue.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PUD23-001, A PLANNED UNIT DEVELOPMENT TO ESTABLISH DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE REQUIREMENTS FOR PROPERTY LOCATED AT 111 NORTH MONTEREY AVENUE, WITHIN LUA-3 (HOLT BOULEVARD) OF THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF —APN: 1048-523-15.

ATTACHMENT: 20250902 File No. PUD23-001 01 PC Back-up.pdf
ATTACHMENT: 20250902 File No. PUD23-001 02 ORD RM
ATTACHMENT: 20250902 File Nos. PUD23-001 PDEV23-018 03 PUD.pdf

15. LEASE FINANCING PLAN FOR THE PROPOSED ACQUISITION OF PARK LAND AT THE SOUTHWEST CORNER OF PARK VISTA DRIVE AND ARCHIBALD AVENUE

That the City Council authorize the City Manager, or his designee, to execute all documents required for the completion of the lease-leaseback financing within the authorization limits and adopt a Resolution approving:

A. The financing for the acquisition of real property located at southwest corner of Park Vista Drive and Archibald Avenue for a period of ten (10) years; and
B. The Lease Agreement between the City of Ontario and the Ontario Public Finance Authority; and
C. The Site and Facility Lease between the City of Ontario and Ontario Public Finance Authority

That the Ontario Public Finance Authority authorize the Executive Director, or his designee, to

execute all documents required for the completion of the lease-leaseback financing within the authorization limits and adopt a Resolution approving:

A. The financing for the acquisition of real property located at southwest corner of Park Vista Drive and Archibald Avenue for a period of ten (10) years; and
B. The Lease Agreement between the City of Ontario and the Ontario Public Finance Authority; and
C. The Site and Facility Lease between the City of Ontario and Ontario Public Finance Authority; and
D. The Assignment Agreement between the Ontario Public Finance Authority and SC Ontario Development Company, LLC.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING PROCEEDINGS AND AGREEMENTS RELATING TO THE FINANCING OF PUBLIC CAPITAL IMPROVEMENTS FOR PUBLIC PURPOSES, APPROVING PREPARATION AND AUTHORIZING OFFICIAL ACTIONS.

A RESOLUTION OF THE ONTARIO PUBLIC FINANCING AUTHORITY, OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING A LEASE FINANCING IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $21,829,500 IN CONNECTION WITH THE FINANCING OF PUBLIC CAPITAL IMPROVEMENTS, AUTHORIZING AND DIRECTING EXECUTION OF A SITE AND FACILITIES LEASE, LEASE AGREEMENT, ASSIGNMENT AGREEMENT AND AUTHORIZING OFFICIAL ACTIONS AND EXECUTION OF RELATED DOCUMENTS.

ATTACHMENT: Ontario Park Acquisition-Resolution of the City Authorizing Financing
ATTACHMENT: Ontario Park Acquisition-Resolution of Authority Authorizing Financing
ATTACHMENT: Ontario Park Acquisition - Lease Agreement 03.docx
ATTACHMENT: Ontario Park Acquisition - Site and Facility Lease 04.docx
ATTACHMENT: Ontario Park Acquisition - Assignment Agreement 05.docx

STAFF MATTERS

City Manager Ochoa

COUNCIL MATTERS

Mayor Leon
Mayor pro Tem Wapner
Council Member Bowman
Council Member Porada
Council Member Macias

ADJOURNMENT

ONTARIO CITY COUNCIL/
ONTARIO HOUSING AUTHORITY
MINUTES
JULY 30, 2025
(Not Official Until Approved)

JOINT MEETINGS

The special meetings of the Ontario City Council and Housing Authority were held on Wednesday, July 30, 2025 at Ontario City Hall, 303 E. B Street Ontario, California.

OPEN MEETING CALLED TO ORDER

Mayor Leon called the joint meetings to order at 1:00 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 Porada, and Daisy Macias
ABSENT:	Council/Authority Members:	None

Also present were City Manager / Executive Director Scott Ochoa, City Attorney / Legal Counsel Ruben Duran, Special Counsel Michael T. Travis, and City Clerk / Secretary Sheila Mautz.

INFORMATION RELATIVE TO POSSIBLE CONFLICTS OF INTEREST

Mayor pro Tem Wapner announced a conflict out of an abundance of caution and excused himself from the meeting at 1:01 p.m.

AGENDA REVIEW/ANNOUNCEMENTS

City Manager Ochoa made no announcements.

CLOSED SESSION

Mayor Leon inquired whether persons were present who wished to speak to the Closed Session items. Hearing no one, City Attorney Duran announced the matter for discussion as listed on the agenda. Mayor Leon recessed to Closed Session at 1:02 p.m., for the discussion of the following:

GC 54956.9 (d)(4), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION One (1) case

OPEN MEETING CALLED TO ORDER

Mayor Leon reconvened the meetings at 1:14 p.m.

ADMINSTRATIVE REPORTS/DISCUSSION/ACTION

1. TERMINATION APPEAL HEARING – BRADLEY NEUMANN

Emanuela Tala presented the City's case and Bradley Neumann presented his case before the City Council.

PUBLIC COMMENT

Mayor Leon inquired whether persons were present who wished to comment, there were no written communications or speakers.

CLOSED SESSION

Mayor Leon inquired whether persons were present who wished to speak to the Closed Session items. Hearing no one, City Attorney Duran announced the matter for discussion as listed on the agenda. Mayor Leon recessed to Closed Session at 2:15 p.m., for the discussion of the following:

GC 54957, PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

REPORT ON CLOSED SESSION

City Attorney Duran announced Council deliberated and directed Staff to prepare additional information for the item to be considered in Closed Session at a future meeting.

ADJOURNMENT

Mayor Leon adjourned the special meetings of the Joint Agencies at 2:33 p.m.

Respectfully submitted,

_____
SHEILA MAUTZ, CITY CLERK/SECRETARY

APPROVED:

_____
PAUL S. LEON, MAYOR/CHAIRMAN

ONTARIO CITY COUNCIL/
ONTARIO HOUSING AUTHORITY
MINUTES
AUGUST 5, 2025
(Not Official Until Approved)

JOINT MEETINGS

The special meetings of the Ontario City Council and Housing Authority were held on Wednesday, August 5, 2025 at Ontario City Hall, 303 E. B Street Ontario, California.

OPEN MEETING CALLED TO ORDER

Mayor Leon called the joint meetings to order at 2:00 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 Porada, Daisy Macias (Arrived at 2:05 p.m.)
ABSENT:	Council/Authority Members:	None.

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

INFORMATION RELATIVE TO POSSIBLE CONFLICTS OF INTEREST

There were no legal conflicts announced.

CLOSED SESSION

Mayor Leon inquired whether persons were present who wished to speak to the Closed Session items. Hearing no one, City Attorney Duran announced the matters for discussion as listed on the agenda. Mayor Leon recessed to Closed Session at 2:01 p.m., with the exception of Council Member Macias, for the discussion of the following:

GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APN: 0210-204-17; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: San Juan Owners LLC; Under negotiation: Price and terms of payment.

GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APN: 0218-122-10; 9175 East Chino Avenue; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: Ronald and Kristine Pietersma Family Trust; Under negotiation: Price and terms of payment.

GC 54956.9 (d)(4), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION One (1) case

OPEN MEETING CALLED TO ORDER

Mayor Leon reconvened the meetings at 2:34 pm.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor pro Tem Wapner.

INVOCATION

Invocation was led by Pastor Anthony Riley of Mt. Zion Church of Ontario.

REPORT ON CLOSED SESSION

City Attorney Duran announced no reportable action regarding the first two items. Regarding the anticipated litigation, Mr. Duran reported Council's authorization for the City Attorney's office to interact with Liberty Mutual Insurance company regarding Jay Littleton Field.

AGENDA REVIEW/ANNOUNCEMENTS

City Manager Ochoa made no announcements.

PUBLIC COMMENT

Assistant City Clerk Isbell announced five written comments:
Ken Braithwaite, regarding Jay Littleton Ballpark.
Jean Gambill, regarding a memorial at an accident site.
Joseph Anthony DePice, regarding Immigration and Customs Enforcement concerns.
Norman Cervantes, regarding Immigration and Customs Enforcement concerns.
Luis Nolasco, regarding Immigration and Customs Enforcement concerns.

Mayor Leon called upon the first speaker:
Tina Silva, gave a land acknowledgement and spoke regarding Immigration and Customs Enforcement concerns.
Bryan Sanchez, spoke regarding Immigration and Customs Enforcement concerns.
Joseph Anthony DePice, spoke regarding Immigration and Customs Enforcement concerns.
Dora Gomez, spoke regarding Immigration and Customs Enforcement concerns.
Anthony Pace, spoke regarding Immigration and Customs Enforcement concerns.
Javier Gomez, spoke regarding Immigration and Customs Enforcement concerns.
Michael Rios, spoke regarding Immigration and Customs Enforcement concerns.
Chrissy Turriciano, spoke regarding Immigration and Customs Enforcement concerns.

Martha Aragon, spoke regarding Immigration and Customs Enforcement concerns.
James Rendon, spoke regarding Immigration and Customs Enforcement concerns.
Arianna Harrison, spoke regarding Immigration and Customs Enforcement concerns.

CONSENT CALENDAR

MOTION: Moved by Council Member Porada, seconded by Council Member Bowman and carried by a unanimous vote of 5-0, to approve the consent calendar as presented.

1. APPROVAL OF MINUTES

Approved minutes for the regular meetings of the City Council and Housing Authority of June 17, 2025 and special meetings of the City Council and Housing Authority of June 18, 2025, and regular meetings of the City Council and Housing Authority of July 1, 2025, and approving same as on file in the Records Management Department.

2. BILLS & PAYROLL

Approved bills June 26, 2025 through July 17, 2025, in the amount of $98,628, 884.13 and payroll June 15, 2025 and June 28, 2025, in the amount of $5,827,793.51.

3. AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH ARDURRA GROUP, INC. FOR ON-CALL CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES

The City Council authorized the City Manager, or his designee, to execute Amendment No. 6 to the Professional Services Agreement with Ardurra Group, Inc., of El Segundo, California, to provide on-call construction management and inspection services in the amount of $800,000, for a total not-to-exceed contract amount of $4,889,828 and extend the term of the agreement one additional year.

4. AN AGREEMENT WITH THE STATE OF CALIFORNIA FOR STATE HIGHWAY ELECTRICAL FACILITIES

The City Council authorized the Mayor and City Manager, or their designee, to execute an Agreement with the State of California for State Highway Electrical Facilities and authorized the City Manager, or his designee, to execute any future amendments and related documents.

5. AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH SWA GROUP, INC. FOR THE GRAND PARK PROJECT

The City Council authorized the City Manager, or his designee, to execute Amendment No. 3 to the Professional Services Agreement with SWA Group, Inc., of Laguna Beach, California, for additional engineering services for the Security and Information Technology (IT) design for the construction documents for the Grand Park project in

the amount of $185,795 for a total not-to-exceed amount of $6,600,996; and granted authorization to execute all documents required for the completion of the project which may include, but is not limited to, agreements, assessments, easements, reduction of retention accounts, contract amendments within the authorization limits, and filing a notice of completion at the conclusion of all construction-related activities.

6. ESTABLISHING THE ONTARIO LOCAL HOUSING TRUST FUND AND DESIGNATING THE AFFORDABLE HOUSING IN-LIEU FUND AS A DEDICATED FUNDING SOURCE AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15378

The City Council adopted a Resolution establishing the Ontario Local Housing Trust Fund, designating the Affordable Housing In-Lieu Fund as a designated funding source, and finding the action exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378.

RESOLUTION NO. 2025-131 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ESTABLISHING THE ONTARIO LOCAL HOUSING TRUST FUND AND DESIGNATING THE AFFORDABLE HOUSING IN-LIEU FUND AS A DEDICATED FUNDING SOURCE AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO CEQA GUIDELINES SECTION 15378.

PUBLIC HEARINGS

7. A PUBLIC HEARING TO CONSIDER A DEVELOPMENT CODE AMENDMENT (FILE NO. PDCA25-001) REVISING AND CLARIFYING CERTAIN PROVISIONS OF THE CITY OF ONTARIO DEVELOPMENT CODE

The City Council introduced and waived further reading of an Ordinance approving File No. PDCA25-001, a Development Code Amendment revising and clarifying certain provisions of Chapters 2.0 (Administration and Procedures), 5.0 (Zoning and Land Use), 6.0 (Development and Subdivision Regulations), 8.0 (Sign Regulations), and 9.0 (Definitions and Glossary) of the City of Ontario Development Code.

ORDINANCE NO. 3312 (FIRST READING) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA25-001, A DEVELOPMENT CODE AMENDMENT REVISING AND CLARIFYING CERTAIN PROVISIONS OF CHAPTERS 2.0 (ADMINISTRATION AND PROCEDURES), 5.0 (ZONING AND LAND USE), 6.0 (DEVELOPMENT AND SUBDIVISION REGULATIONS), 8.0 (SIGN REGULATIONS), AND 9.0 DEFINITIONS AND GLOSSARY OF THE CITY OF ONTARIO DEVELOPMENT CODE, AND MAKING FINDINGS IN SUPPORT THEREOF.

Notice of public hearing was duly given. Affidavits of compliance were on file. There were no written communications. Mayor Leon opened the public hearing and inquired if anyone was interested in speaking to the item. Hearing no one wishing to speak, Mayor Leon

closed the public hearing and opened the item for Council discussion.

Council Member Porada commented regarding state mandates.

MOTION: Moved by Council Member Porada, seconded by Council Member Macias and carried by a unanimous vote of 5-0, to introduce Ordinance No. 3312.

STAFF MATTERS

City Manager Ochoa made no announcements.

COUNCIL MATTERS

Council Member Porada announced National Night Out.

Mayor pro Tem Wapner made no comments.

Council Member Bowman made no comments.

Council Member Macias made no comments.

Mayor Leon made no comments.

ADJOURNMENT

Mayor Leon adjourned the special meetings of the Joint Agencies at 3:00 p.m.

Respectfully submitted,

_____
SHEILA MAUTZ, CITY CLERK/ SECRETARY

APPROVED:

_____
PAUL S. LEON, MAYOR/CHAIRMAN

ONTARIO CITY COUNCIL/
ONTARIO HOUSING AUTHORITY
MINUTES
AUGUST 5, 2025
(Not Official Until Approved)

JOINT MEETINGS

The regular Joint Meetings of the Ontario City Council and the Ontario Housing Authority scheduled for August 5, 2025, were cancelled to allow for participation in the City's celebration of National Night Out.

Respectfully submitted,

_____
CLAUDIA Y. ISBELL, MMC,
ASSISTANT CITY CLERK/SECRETARY

APPROVED

_____
PAUL S. LEON, MAYOR/CHAIRMAN

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **CONSENT CALENDAR**
Department: Public Works Prepared By: Tricia Maruki Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Khoi Do, Bonnie Tam, Andrea Ampig Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 3

SUBJECT: **A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND THE CITY OF RANCHO CUCAMONGA FOR PAVEMENT REHABILITATION OF THE VINEYARD AVENUE AND EIGHTH STREET INTERSECTION**

RECOMMENDATION: That the City Council authorize the City Manager, or his designee, to execute a Reimbursement Agreement between the City of Ontario and the City of Rancho Cucamonga for the pavement rehabilitation of the Vineyard Avenue and Eighth Street intersection, estimated to be $176,484.

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

FISCAL IMPACT: The Fiscal Year 2025-26 Adopted Budget includes appropriations in the Measure I Fund for pavement rehabilitation of the Vineyard Avenue and Eighth Street intersection. The City of Ontario will reimburse the City of Rancho Cucamonga for Ontario's portion of actual costs incurred for survey and construction plus a 10% project management fee. The anticipated cost is $176,484.

BACKGROUND & ANALYSIS: The Vineyard Avenue and Eighth Street intersection lies partially within the City of Ontario and partially in the City of Rancho Cucamonga (see Exhibit "A"). To facilitate pavement rehabilitation of the entire intersection, Staff has reached a reimbursement agreement with the City of Rancho Cucamonga, which will act as the lead agency on this project. The scope of the project includes pavement rehabilitation, curb ramp replacement, pedestrian push button installation, and adjustment of water valves and manholes. If approved, the City of Ontario agrees to reimburse the City of Rancho Cucamonga for the survey costs and construction costs related to improvements on the southerly portion of the intersection within the City of Ontario Right of Way, plus a 10% fee for engineering, project management and inspection costs, for a total anticipated cost of $176,484.

Exhibit "A"
Vineyard Avenue and Eighth Street Intersection Pavement Rehabilitation



REIMBURSEMENT AGREEMENT

BETWEEN

CITY OF RANCHO CUCAMONGA

AND

CITY OF ONTARIO

FOR

PAVEMENT RESURFACING OF VINEYARD AVENUE FROM THE SOUTH HALF OF THE EIGHTH STREET INTERSECTION

This Reimbursement Agreement (hereinafter referred to as "AGREEMENT") is made and entered into this ____ day of _____, 2025 ("Effective Date"), by and between the City of Rancho Cucamonga, a California municipal corporation (hereinafter referred to as "RANCHO CUCAMONGA"), and the City of Ontario, a California municipal corporation (hereinafter referred to as "ONTARIO"). RANCHO CUCAMONGA and ONTARIO may be referred to individually as a "PARTY" and collectively as "PARTIES" in this AGREEMENT.

WITNESSETH

A. WHEREAS, the RANCHO CUCAMONGA Capital Improvement Program ("CIP") includes the provision of certain public improvements and the construction of street resurfacing improvements on Vineyard Avenue at the Eighth Street intersection ("PROJECT"); and

B. WHEREAS, the PROJECT includes the design, project management, street preparation, street asphalt resurfacing, all striping replacement, concrete improvements, traffic signal improvements, traffic control, and construction inspection; and

C. WHEREAS, the PROJECT begins at the border of RANCHO CUCAMONGA and ONTARIO, and is mutually beneficial to both cities; and

D. WHEREAS, RANCHO CUCAMONGA and ONTARIO agree that RANCHO CUCAMONGA shall serve as Lead Agency on the PROJECT for the design and construction phases of the PROJECT; and

E. WHEREAS, RANCHO CUCAMONGA, as the California Environmental Quality Act (CEQA) Lead Agency for the PROJECT, has determined that the PROJECT is categorically exempt per Article 19, Section 15301(c) of the CEQA guidelines; and

F. WHEREAS, RANCHO CUCAMONGA and ONTARIO mutually agree that ONTARIO shall reimburse RANCHO CUCAMONGA for One Hundred Percent (100%) of the PROJECT'S actual construction costs and survey costs that occur within the City of ONTARIO ("ONTARIO'S COSTS"), plus Ten Percent (10%) for design, construction administration, and inspection ("ENGINEERING & PROJECT MANAGEMENT COSTS") associated with the PROJECT.

NOW, THEREFORE, RANCHO CUCAMONGA and ONTARIO mutually agree to the following:

SECTION I

RANCHO CUCAMONGA AGREES:

1. That only eligible PROJECT expenses, as set forth in Attachment "A" to this AGREEMENT, will be reimbursed by ONTARIO. RANCHO CUCAMONGA agrees that it will only request reimbursement from ONTARIO for eligible PROJECT expenses as defined in Attachment "A."

2. To maintain and make available to ONTARIO, copies of all consultant/contractor invoices, source documents, books and records; and expenses as set forth in Attachment "A" and in connection with the PARTIES' performance under this AGREEMENT for a minimum of three (3) years from the date of the Final Acceptance by RANCHO CUCAMONGA or until audit retention is achieved, whichever is later.

3. To fully cooperate with ONTARIO to allow for the preparation of a PROJECT audit if requested by ONTARIO in writing within three (3) years from date of the Final Acceptance by RANCHO CUCAMONGA. The audit is intended to verify that all funds expended for costs on the PROJECT were used in conformance with this AGREEMENT.

4. To render services for design, project management and construction management utilizing RANCHO CUCAMONGA staff which may be supplemented by consultants that are specifically tasked for completing the PROJECT.

5. To make a CEQA Determination on the PROJECT and file the necessary environmental documents with the County Clerk and Office of Planning and Research, if necessary, and to complete all required public notifications and hearings. Under CEQA, RANCHO CUCAMONGA is the Lead Agency for the PROJECT.

6. To prepare plans, specifications and estimates for the PROJECT under the direction of a registered Professional Engineer licensed in the applicable professional field in the State of California, which shall be subject to review and

approval by ONTARIO with respect to the portions of the PROJECT located within ONTARIO.

7. To contract for the construction and installation of the PROJECT at RANCHO CUCAMONGA's cost and expense, but subject to ONTARIO'S reimbursement, as set forth in accordance with the terms of this AGREEMENT.

8. To complete the PROJECT in a timely manner in accordance with the plans and specifications approved by ONTARIO.

SECTION II

ONTARIO AGREES:

1. To reimburse RANCHO CUCAMONGA for One Hundred Percent (100%) of ONTARIO'S COSTS that are incurred by RANCHO CUCAMONGA for the PROJECT, plus Ten Percent (10%) for the ENGINEERING & PROJECT MANAGEMENT COSTS.

2. To reimburse RANCHO CUCAMONGA for its share of costs no later than sixty (60) days following the date of final acceptance of the PROJECT by RANCHO CUCAMONGA.

3. To designate a Project Manager to represent ONTARIO through whom all communications shall be channeled.

4. That its Project Manager will distribute submittals, schedules, and other correspondence to applicable ONTARIO departments for review and comment. ONTARIO shall transmit review comments within ten (10) working days after the submittal is received. If no comments are received within such time, ONTARIO will be considered to have no objection to the approval of RANCHO CUCAMONGA.

5. In the event ONTARIO elects to perform a PROJECT audit, ONTARIO may rely on any prior audit of RANCHO CUCAMONGA relating to the PROJECT performed pursuant to the provisions of State and Federal laws.

SECTION III

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. To abide by all applicable federal, state and local laws and regulations pertaining to the PROJECT, including policies in the applicable program in the applicable General Plan, as amended, as of the date of the last signature on this AGREEMENT.

2. ONTARIO's financial responsibility for the PROJECT (ONTARIO'S COSTS and ENGINEERING & PROJECT MANAGEMENT COSTS) shall not exceed

One Hundred Percent (100%) of the estimated costs set forth in Attachment "A," plus Ten Percent (10%) for the ENGINEERING & PROJECT MANAGEMENT COSTS. According to current cost estimates, the reimbursement is estimated to be One Hundred Seventy-Six Thousand Four Hundred Eighty-Three Dollars and Sixty Cents ($176,483.60) as demonstrated in Attachment "A"; however the actual costs of the items listed in Attachment "A," and ONTARIO's share of those costs, upon completion of the project may be different. The final costs for all eligible PROJECT expenses set forth in Attachment "A" shall be used to set the final amount of reimbursement. In the event ONTARIO'S COSTS and/or ENGINEERING & PROJECT MANAGEMENT COSTS exceed the amounts identified in Attachment "A," RANCHO CUCAMONGA shall inform ONTARIO in writing of the excess costs, accompanied by supporting evidence, and thereafter the PARTIES shall work together in an attempt to agree upon an amendment to the amounts identified in Attachment "A." In no event, however, will ONTARIO be responsible for COSTS and/or ENGINEERING & PROJECT MANAGEMENT COSTS in excess of One Hundred Seventy-Six Thousand Four Hundred Eighty-Three Dollars and Sixty Cents ($176,483.60) absent a written amendment approved by both PARTIES.

3. This AGREEMENT can be amended only when agreed upon in writing by both PARTIES.

4. RANCHO CUCAMONGA will use its own funds to design and construct the PROJECT with the understanding that ONTARIO will reimburse RANCHO CUCAMONGA for ONTARIO's share of eligible PROJECT expenditures at a later date in accordance with this AGREEMENT.

5. Eligible PROJECT reimbursements shall include only those costs incurred by RANCHO CUCAMONGA for PROJECT activities that are described in this Attachment "A" of this AGREEMENT and shall not include escalation or interest.

6. RANCHO CUCAMONGA shall defend, indemnify, and hold harmless ONTARIO, its officers and employees, from and against any and all actions, claims, injuries, damages, liabilities, demands, losses, judgments, penalties, expenses and costs including attorney's fees for staff attorneys and outside counsel (collectively "Liabilities") arising out of or in any way connected with anything done or omitted to be done by RANCHO CUCAMONGA, its officers, employees, agents, contractors, consultants, subcontractors and sub consultants of any level, in connection with the PROJECT or under or in connection with any work, authority or jurisdiction delegated to RANCHO CUCAMONGA under this AGREEMENT. RANCHO CUCAMONGA's obligations under this Article apply to ONTARIO's "passive" and "active" negligence, but do not apply to ONTARIO's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

7. ONTARIO shall defend, indemnify, and hold harmless RANCHO CUCAMONGA, its officers and employees, from and against any and all actions, claims, injuries, damages, liabilities, demands, losses, judgments, penalties, expenses and costs including attorney's fees for staff attorneys and outside counsel (collectively "Liabilities") arising out of or in any way connected with anything done or omitted to be done by ONTARIO, its officers, employees, agents, contractors, consultants, subcontractors and subconsultants of any level, in connection with the PROJECT or under or in connection with any work, authority or jurisdiction delegated to ONTARIO under this AGREEMENT. ONTARIO's obligations under this Article apply to RANCHO CUCAMONGA's "passive" and "active" negligence, but do not apply to RANCHO CUCAMONGA's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

8. RANCHO CUCAMONGA is an authorized self-insured public entity for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrants that through its programs of self-insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this AGREEMENT.

9. ONTARIO is an authorized self-insured public entity for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrants that through its program of self-insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this AGREEMENT.

10. This AGREEMENT shall be considered terminated upon reimbursement of all eligible costs by PROJECT expenses as defined herein, with the exception of paragraphs 6 and 7 above, which shall survive termination of this AGREEMENT. Notwithstanding any other provision herein, to the extent consistent with the terms and obligations hereof, any PARTY may terminate this AGREEMENT at any time, with or without cause, by giving thirty (30) calendar days written notice to the other PARTY. In the event of termination, the PARTY terminating the AGREEMENT shall be liable for any costs or other obligations it may have incurred under the terms of the AGREEMENT prior to termination and the terminating PARTY shall reimburse the non-terminating PARTY for any payments or reimbursements paid to the terminating party pursuant to this AGREEMENT.

11. Notice given under or regarding this AGREEMENT shall be deemed given (a) upon actual delivery, if delivery is personally made; or (b) upon delivery into the United States Mail if delivery is by postage paid certified mail (return receipt requested), fax or private courier including overnight delivery services. Notice shall be sent to the respective PARTY at the address indicated below or to any other address as a PARTY may designate from time to time by a notice given in accordance with this paragraph.

If to RANCHO CUCAMONGA:

John R. Gillison, City Manager
10500 Civic Center Drive
P.O. Box 807
Rancho Cucamonga, CA 91729-0807
(909) 477-2700

If to ONTARIO:

Scott Ochoa, City Manager
303 East B Street
Ontario, CA 91764
(909) 395-2010

12. The Recitals stated above are true and correct and are incorporated by this reference into the AGREEMENT.

13. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of California. Any action brought by any PARTY hereto shall be brought within the State of California, County of San Bernardino and both PARTIES waive any right to change venue, including under Code of Civil Procedure Section 394.

14. This AGREEMENT may be signed in counterparts, each of which shall constitute an original. This AGREEMENT shall be dated on the date executed by RANCHO CUCAMONGA.

15. There are no third party beneficiaries, and this AGREEMENT is not intended, and shall not be construed to be for the benefit of, or be enforceable by, any other person or entity whatsoever.

16. Attachment "A" is hereby incorporated into this AGREEMENT and includes:

    1. Pavement Rehabilitation of Vineyard Avenue at the Eighth Street intersection.

    2. Project Scope

    3. Projected Cost and Schedule

SIGNATURE PAGE TO
REIMBURSEMENT AGREEMENT BETWEEN CITY OF ONTARIO
AND
CITY OF RANCHO CUCAMONGA
FOR
PAVEMENT RESURFACING OF VINEYARD AVENUE AT THE EIGHTH STREET INTERSECTION

IN WITNESS WHEREOF, the PARTIES have executed this AGREEMENT below.

CITY OF ONTARIO

By: _____
Scott Ochoa
City Manager

Dated: _____

Attest: _____
Sheila Mautz, City Clerk

APPROVED AS TO FORM:

By: _____
Best, Best & Krieger, LLP
City Attorney

CITY OF RANCHO CUCAMONGA

By: _____
John R. Gillison
City Manager

Dated: _____

Attest: _____
Kim Sevy, City Clerk

APPROVED AS TO FORM:

By: _____
Nick Ghirelli
City Attorney

Attachment A

Pavement Rehabilitation of Vineyard Avenue at the Eighth Street Intersection

Project Scope, Projected Cost, and Schedule

Proposed Project Work

Vineyard Avenue at the Eighth Street intersection is to be resurfaced as part of the City of Rancho Cucamonga 2026 Spring Pavement Rehabilitation Project. This project includes grinding removal of old failing asphalt and placement of rubberized asphalt pavement, upgrading curb ramps, sidewalk repairs, and new striping. The Ontario portion of costs are described below.

Summary of Project Costs (Estimate)

Vineyard Avenue at 8th Street Intersection (Ontario Portion)					
ITEM	Engineer's Estimate				
NO	DESCTRIPTION	QUANTITY	UNITS	UNIT COST	TOTAL
1	Mobilization (Including Clearing and Grubbing Removal and Disposal)	1	LS	$ 10,477.50	$ 10,477.50
2	Traffic Control	1	LS	$ 10,477.50	$ 10,477.50
3	Construction Staking	1	LS	$ 2,000.00	$ 2,000.00
4	Construct PCC Access Ramp Including Truncated Detectible Warning Surface Complete in Place Per Plans and Specifications	2	EA	$ 15,000.00	$ 30,000.00
5	2" Full Grind	650	SY	$ 4.00	$ 2,600.00
6	Grind Heavy Alligator Surface with Header Cut from 2"-4"	650	SY	$ 12.00	$ 7,800.00
7	Install Leveling Course	35	TON	$ 175.00	$ 6,125.00
8	Install 2" B-PG6410 Asphalt	75	TON	$ 190.00	$ 14,250.00
9	Install 2" Asphalt Rubber Hot Mix (ARHM)	75	TON	$ 145.00	$ 10,875.00
10	Adjust Existing Water Valve Can and Cover to Finish Grade	4	EA	$ 400.00	$ 1,600.00
11	Furnish and Install New Pedestrian Push Button Pole Per Caltrans Standard Plan ES-7A.	2	EA	$ 2,100.00	$ 4,200.00
12	Furnish and Install Push Button Assembly Per Caltrans Standard Plan ES-5C	4	EA	$ 5,000.00	$ 20,000.00
13	Traffic Thermoplastic Striping, Signing and Markers Per City & Caltrans Std. Plan Complete in Place (All Striping Including Lane Lines, Legends, Symbols, Limit Line & Crosswalks Shall be Thermoplastic)	1	LS	$ 7,325.00	$ 7,325.00
14	Install Construction Notification Sign	1	EA	$ 2,000.00	$ 2,000.00
				Construction Total	$ 129,730.00
				20% Contingency	$ 25,946.00
				Total	$ 155,676.00
				10% Engineering and Project Management Costs	$ 15,567.60
				Survey Cost	$ 5,240.00
				Total Cost	$ 176,483.60

Proposed Project Schedule (milestone delivery dates)

Estimated construction start date: **March 2026**
Estimated completion date: **June 2026**

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**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: 4

SUBJECT: AUTHORIZE THE RENEWAL OF THE CITY'S GEOGRAPHIC INFORMATION SYSTEM SOFTWARE LICENSE AGREEMENT WITH ESRI, INC.

RECOMMENDATION: That the City Council authorize the City Manager, or his designee, to execute the renewal of the City's Geographic Information System (GIS) software Agreement with ESRI, Inc., of Redlands, CA, for annual licensing and maintenance support, for a total contract not-to-exceed of $643,632 for a three-year term.

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

FISCAL IMPACT: The Fiscal Year 2025-26 adopted budget includes appropriations from the Information Technology Fund for annual licensing and maintenance support for ESRI software. The proposed License Agreement has a total contract amount not-to-exceed $643,632, which includes fiscal year 2025-26 of $195,040, fiscal year 2026-27 of $195,040, fiscal year 2027-28 of $195,040, and a 10% contingency amount of $58,512 for additional user licenses, if needed. If approved, appropriations will be added to the future years' budgets consistent with the annual adoption process.

BACKGROUND & ANALYSIS: Over the past several decades, the City has developed extensive Geographic Information Systems (GIS) using ESRI's ArcGIS software suite. This software documents and tracks changes to the City's land data, and it is a foundation data source for many of the software applications used by City staff, including computer-aided dispatch (CAD), emergency operations, permitting and land management, utility billing, and collection, work order management system, the Property Information Management System (PIMS) and community improvement case management.

In 2013, the City subscribed to ESRI's Small Government Enterprise Agreement (SGEA). The SGEA provides better and broader access to ESRI's suite of GIS tools, and subsequent renewals in 2016, 2019, and 2022 have allowed for continuity of the City's test, development, and production GIS to support a growing number of systems that rely on geographic data.

Staff requests City Council approval for a three-year agreement with a not-to-exceed amount of $643,632.

Quotation # Q-553536

Date: July 22, 2025

Customer # 95 **Contract #**

Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853
DUNS Number: 06-313-4175 **CAGE Code: 0AMS3**

City of Ontario
Information Technology Agency
303 E B St
Ontario, CA 91764-4105

ATTENTION: Toni McNaughton
PHONE: 9093952064
EMAIL: tmcnaughton@ontarioca.gov

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 7/22/2025 To: 10/20/2025

SGEA

Material	Qty	Term	Unit Price	Total
193209	1	Year 1	$180,400.00	$180,400.00
Populations of 150,001 to 250,000 Small Government Enterprise Agreement Annual Subscription				
193209	1	Year 2	$180,400.00	$180,400.00
Populations of 150,001 to 250,000 Small Government Enterprise Agreement Annual Subscription				
193209	1	Year 3	$180,400.00	$180,400.00
Populations of 150,001 to 250,000 Small Government Enterprise Agreement Annual Subscription				

Year 1 09/05/2025 - 09/04/2026

Material	Qty	Term	Unit Price	Total
153148	2		$700.00	$1,400.00
ArcGIS Online Creator User Type Annual Subscription				
153147	3		$125.00	$375.00
ArcGIS Online Viewer User Type Annual Subscription				
173625	1		$5,150.00	$5,150.00

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact:	**Email:**	**Phone:**
Beth Wood	etaylor@esri.com	909-793-2853 ext 2137 x2137

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, Esri may invoice at least 30 days in advance of each anniversary date without the issuance or a Purchase Order, and Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. US Federal government entities and US government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some US state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin for customers located in the USA.

WOODB **This offer is limited to the terms and conditions incorporated and attached herein.**

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Quote is valid from: 7/22/2025 To: 10/20/2025

Material	Qty	Term	Unit Price	Total
Site Scan for ArcGIS Operator Annual Subscription USA Hosted. This user type license is the foundation of Site Scan for ArcGIS. It provides drone operators the ability to create and fly drone missions using Site Scan Flight Planning, and to upload drone flight data into Site Scan Manager for processing into 2D and 3D outputs. In addition to the ability to fly a drone and upload images for processing, Site Scan Operators have the same privileges as a Site Scan Access License, including ability to download, edit, analyze, and share project data using the Site Scan Manager web interface. What's Included: Access to Site Scan for ArcGIS Flight Planning iOS App, Access to Site Scan for ArcGIS Manager Web App, Unlimited data processing and storage in private cloud, Unlimited View Only Licenses, Technical support (Email/phone support [7AM to 7PM PT: Monday thru Friday], E Learning online knowledge base.				
173632	1		$515.00	$515.00
Site Scan for ArcGIS Access Annual Subscription USA Hosted. This user type license is for drone data users that need full access to analyze, manage, and share data from their organization's Site Scan drone projects. An Access License is required to download, edit, analyze, and process project data using Site Scan Manager, to make persistent measurements or annotations, or to access Admin functionalities such as user or fleet management, if authorized. What's Included: Access to Site Scan for ArcGIS Manager Web App, Access to Site Scan for ArcGIS Flight Planning iOS App to plan flights only (cannot operate drone), Technical support (Email/phone support [7AM to 7PM PT: Monday thru Friday], E Learning online knowledge base.				
178623	2		$3,600.00	$7,200.00
ArcGIS Business Analyst Web App Advanced Online Annual Subscription				

Year 2 09/05/2026 - 09/04/2027

Material	Qty	Term	Unit Price	Total
153148	2		$700.00	$1,400.00
ArcGIS Online Creator User Type Annual Subscription				

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For questions contact:	Email:	Phone:
Beth Wood	etaylor@esri.com	909-793-2853 ext 2137 x2137

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For questions contact:	**Email:**	**Phone:**
Beth Wood	etaylor@esri.com	909-793-2853 ext 2137 x2137

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Information Technology Agency
303 E B St
Ontario, CA 91764-4105

ATTENTION: Toni McNaughton
PHONE: 9093952064
EMAIL: tmcnaughton@ontarioca.gov

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 7/22/2025 To: 10/20/2025

Year 3 09/05/2027 - 09/04/2028

Material	Qty	Term	Unit Price	Total
153148	2		$700.00	$1,400.00
ArcGIS Online Creator User Type Annual Subscription				
153147	3		$125.00	$375.00
ArcGIS Online Viewer User Type Annual Subscription				
173625	1		$5,150.00	$5,150.00
Site Scan for ArcGIS Operator Annual Subscription USA Hosted. This user type license is the foundation of Site Scan for ArcGIS. It provides drone operators the ability to create and fly drone missions using Site Scan Flight Planning, and to upload drone flight data into Site Scan Manager for processing into 2D and 3D outputs. In addition to the ability to fly a drone and upload images for processing, Site Scan Operators have the same privileges as a Site Scan Access License, including ability to download, edit, analyze, and share project data using the Site Scan Manager web interface. What's Included: Access to Site Scan for ArcGIS Flight Planning iOS App, Access to Site Scan for ArcGIS Manager Web App, Unlimited data processing and storage in private cloud, Unlimited View Only Licenses, Technical support (Email/phone support [7AM to 7PM PT: Monday thru Friday], E Learning online knowledge base.				
173632	1		$515.00	$515.00
Site Scan for ArcGIS Access Annual Subscription USA Hosted. This user type license is for drone data users that need full access to analyze, manage, and share data from their organization's Site Scan drone projects. An Access License is required to download, edit, analyze, and process project data using Site Scan Manager, to make persistent measurements or annotations, or to access Admin functionalities such as user or fleet management, if authorized. What's Included: Access to Site Scan for ArcGIS Manager Web App, Access to Site Scan for ArcGIS Flight Planning iOS App to plan flights only (cannot operate drone), Technical support (Email/phone support [7AM to 7PM PT: Monday thru Friday], E Learning online knowledge base.				

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact:	**Email:**	**Phone:**
Beth Wood	etaylor@esri.com	909-793-2853 ext 2137 x2137

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, Esri may invoice at least 30 days in advance of each anniversary date without the issuance or a Purchase Order, and Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. US Federal government entities and US government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some US state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin for customers located in the USA.

WOODB **This offer is limited to the terms and conditions incorporated and attached herein.**

Quotation # Q-553536

Date: July 22, 2025

Customer # 95 **Contract #**

Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853
DUNS Number: 06-313-4175 **CAGE Code: 0AMS3**

City of Ontario
Information Technology Agency
303 E B St
Ontario, CA 91764-4105

ATTENTION: Toni McNaughton
PHONE: 9093952064
EMAIL: tmcnaughton@ontarioca.gov

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Quote is valid from: 7/22/2025 To: 10/20/2025

Material	Qty	Term	Unit Price	Total
178623	2		$3,600.00	$7,200.00
ArcGIS Business Analyst Web App Advanced Online Annual Subscription				

Subtotal:	$585,120.00
Sales Tax:	$0.00
Estimated Shipping and Handling (2 Day Delivery):	$0.00
Contract Price Adjust:	$0.00
Total:	$585,120.00

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For questions contact:	**Email:**	**Phone:**
Beth Wood	etaylor@esri.com	909-793-2853 ext 2137 x2137

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To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 7/22/2025 To: 10/20/2025

If you have made ANY alterations to the line items included in this quote and have chosen to sign the quote to indicate your acceptance, you must fax Esri the signed quote in its entirety in order for the quote to be accepted. You will be contacted by your Customer Service Representative if additional information is required to complete your request.

If your organization is a US Federal, state, or local government agency; an educational facility; or a company that will not pay an invoice without having issued a formal purchase order, a signed quotation will not be accepted unless it is accompanied by your purchase order.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy, GSA, BPA) on your ordering document.

BY SIGNING BELOW, YOU CONFIRM THAT YOU ARE AUTHORIZED TO OBLIGATE FUNDS FOR YOUR ORGANIZATION, AND YOU ARE AUTHORIZING ESRI TO ISSUE AN INVOICE FOR THE ITEMS INCLUDED IN THE ABOVE QUOTE IN THE AMOUNT OF $_____, PLUS SALES TAXES IF APPLICABLE. DO NOT USE THIS FORM IF YOUR ORGANIZATION WILL NOT HONOR AND PAY ESRI'S INVOICE WITHOUT ADDITIONAL AUTHORIZING PAPERWORK.

Please check one of the following:

___ I agree to pay any applicable sales tax.

___ I am tax exempt, please contact me if exempt information is not currently on file with Esri.

_____ _____
Signature of Authorized Representative **Date**

_____
Name (Please Print)

_____
Title

The quotation information is proprietary and may not be copied or released other than for the express purpose of system selection and purchase/license. This information may not be given to outside parties or used for any other purpose without consent from Environmental Systems Research Institute, Inc. (Esri).

Any estimated sales and/or use tax reflected on this quote has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state tax directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact:	**Email:**	**Phone:**
Beth Wood	etaylor@esri.com	909-793-2853 ext 2137 x2137

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, Esri may invoice at least 30 days in advance of each anniversary date without the issuance or a Purchase Order, and Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. US Federal government entities and US government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some US state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin for customers located in the USA.

WOODB **This offer is limited to the terms and conditions incorporated and attached herein.**

Esri Use Only:
Cust. Name _____
Cust. # _____
PO # _____
Esri Agreement # _____

SMALL ENTERPRISE AGREEMENT
COUNTY AND MUNICIPALITY GOVERNMENT
(E214-6)

This Agreement is by and between the organization identified in the Quotation (**"Customer"**) and **Environmental Systems Research Institute, Inc.** (**"Esri"**).

This Agreement sets forth the terms for Customer's use of Products and incorporates by reference (i) the Quotation and (ii) the Master Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this Agreement, the order of precedence for the documents shall be as follows: (i) the Quotation, (ii) this Agreement, and (iii) the Master Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state in which Customer is located without reference to conflict of laws principles, and the United States of America federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this Agreement apply only to the Products listed in Table A.

Table A
List of Products

Uncapped Quantities (annual subscription)

ArcGIS Enterprise Software and Extensions ArcGIS Enterprise (Advanced and Standard) ArcGIS Monitor ArcGIS Enterprise Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Data Reviewer	**ArcGIS Enterprise Additional Capability Servers** ArcGIS Image Server **ArcGIS Online User Types** ArcGIS Online Viewer User Type **ArcGIS Enterprise User Types** ArcGIS Enterprise Viewer User Type

Capped Quantities (annual subscription)

ArcGIS Online User Types		**ArcGIS Enterprise User Types**	
ArcGIS Online Contributor User Type	100	ArcGIS Enterprise Contributor User Type	100
ArcGIS Online Mobile Worker User Type	300	ArcGIS Enterprise Mobile Worker User Type	300
ArcGIS Online Creator User Type	300	ArcGIS Enterprise Creator User Type	300
ArcGIS Online Professional User Type	70	ArcGIS Enterprise Professional User Type	70
ArcGIS Online Professional Plus User Type	70	ArcGIS Enterprise Professional Plus User Type	70
ArcGIS Pro (Add-on Apps) for ArcGIS Online Creator or Professional User Type		**ArcGIS Pro (Add-on Apps) for ArcGIS Enterprise Creator or Professional User Type**	
ArcGIS 3D Analyst, ArcGIS Data Reviewer, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Publisher, ArcGIS Spatial Analyst, ArcGIS Workflow Manager, ArcGIS Image Analyst	70 each	ArcGIS 3D Analyst, ArcGIS Data Reviewer, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Publisher, ArcGIS Spatial Analyst, ArcGIS Workflow Manager, ArcGIS Image Analyst	70 each
ArcGIS Online Apps and Other		**ArcGIS Enterprise Apps and Other**	
ArcGIS Location Sharing for ArcGIS Online	70	ArcGIS Location Sharing for ArcGIS Enterprise	70
ArcGIS Online Service Credits	175,000	ArcGIS Advanced Editing User Type Extension for ArcGIS Enterprise	100

Other Benefits

Number of Esri User Conference registrations provided annually	5
Number of Tier 1 Help Desk individuals authorized to call Esri	5
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement	

Customer may accept this Agreement by signing and returning the whole Agreement with (i) the Quotation attached, (ii) a purchase order, or (iii) another document that matches the Quotation and references this Agreement ("**Ordering Document**"). **ADDITIONAL OR CONFLICTING TERMS IN CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN.** This Agreement is effective as of the date of Esri's receipt of an Ordering Document, unless otherwise agreed to by the parties ("**Effective Date**").

Term of Agreement: Three (3) years

This Agreement supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Products. Except as provided in Article 4—Product Updates, no modifications can be made to this Agreement.

Accepted and Agreed:

_____	Environmental Systems Research Institute, Inc.
(Customer)	
By: _____	By: _____
Authorized Signature	Authorized Signature
Printed Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

CUSTOMER CONTACT INFORMATION

Contact: _____	Telephone: _____
Address: _____	Fax: _____
City, State, Postal Code: _____	E-mail: _____
Country: _____	
Quotation Number (if applicable): _____	

1.0—Additional Definitions

In addition to the definitions provided in the Master Agreement, the following definitions apply to this Agreement:

"Case" means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

"Deploy", "Deployed" and "Deployment" mean to redistribute and install the Products and related Authorization Codes within Customer's organization(s).

"Fee" means the fee set forth in the Quotation.

"Maintenance" means Tier 2 Support, Product updates, and Product patches provided to Customer during the Term of Agreement.

"Master Agreement" means the applicable master agreement for Esri Products incorporated by this reference that is (i) found at https://www.esri.com/en-us/legal/terms/full-master-agreement and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed Esri master agreement or license agreement that supersedes such electronically acknowledged master agreement.

"Product(s)" means the products identified in Table A—List of Products and any updates to the list Esri provides in writing.

"Quotation" means the offer letter and quotation provided separately to Customer.

"Technical Support" means the technical assistance for attempting resolution of a reported Case through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Product corrections or modifications.

"Tier 1 Help Desk" means Customer's point of contact(s) to provide all Tier 1 Support within Customer's organization(s).

"Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk.

"Tier 2 Support" means the Esri Technical Support provided to the Tier 1 Help Desk when a Case cannot be resolved through Tier 1 Support.

2.0—Additional Grant of License

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Esri grants to Customer a personal, nonexclusive, nontransferable license solely to use, copy, and Deploy quantities of the Products listed in Table A—List of Products for the Term of Agreement (i) for the applicable Fee and (ii) in accordance with the Master Agreement.

2.2 Consultant Access. Esri grants Customer the right to permit Customer's consultants or contractors to use the Products exclusively for Customer's benefit. Customer will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Customer. Access to or use of Products by consultants or contractors not exclusively for Customer's benefit is prohibited. Customer may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations, except for the purpose of hosting the Software or Data on Contractor servers for the benefit of Customer.

3.0—Term, Termination, and Expiration

3.1 Term. This Agreement and all licenses hereunder will commence on the Effective Date and continue for the duration identified in the Term of Agreement, unless this Agreement is terminated earlier as provided herein. Customer is only authorized to use Products during the Term of Agreement. For an Agreement with a limited term, Esri does not grant Customer an indefinite or a perpetual license to Products.

3.2 No Use upon Agreement Expiration or Termination. All Product licenses, all Maintenance, and Esri User Conference registrations terminate upon expiration or termination of this Agreement.

3.3 Termination for a Material Breach. Either party may terminate this Agreement for a material breach by the other party. The breaching party will have thirty (30) days from the date of written notice to cure any material breach.

3.4 Termination for Lack of Funds. For an Agreement with government or government-

owned entities, either party may terminate this Agreement before any subsequent year if Customer is unable to secure funding through the legislative or governing body's approval process.

3.5 Follow-on Term. If the parties enter into another agreement substantially similar to this Agreement for an additional term, the effective date of the follow-on agreement will be the day after the expiration date of this Agreement.

4.0—Product Updates

4.1 Future Updates. Esri reserves the right to update the list of Products in Table A—List of Products by providing written notice to Customer. Customer may continue to use all Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Products are incorporated into the standard program, they will be offered to Customer via written notice for incorporation into the Products schedule at no additional charge. Customer's use of new or updated Products requires Customer to adhere to applicable additional or revised terms and conditions in the Master Agreement.

4.2 Product Life Cycle. During the Term of Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at https://support.esri.com/en/other-resources/product-life-cycle. Updates for Products in the mature and retired phases may not be available. Customer may continue to use Products already Deployed, but Customer will not be able to Deploy retired Products.

5.0—Maintenance

The Fee includes standard maintenance benefits during the Term of Agreement as specified in the most current applicable Esri Maintenance and Support Program document (found at https://www.esri.com/en-us/legal/terms/maintenance). At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other than the defined Products will receive Maintenance. Customer may acquire maintenance for other Software outside this Agreement.

a. Tier 1 Support

1. Customer will provide Tier 1 Support through the Tier 1 Help Desk to all Customer's authorized users.

2. The Tier 1 Help Desk will be fully trained in the Products.

3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.

4. The Tier 1 Help Desk will be the initial point of contact for all questions and reporting of a Case. The Tier 1 Help Desk will obtain a full description of each reported Case and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Case.

5. If the Tier 1 Help Desk cannot resolve the Case, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Customer's organization.

6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Customer may change the Tier 1 Help Desk individuals by written notice to Esri.

b. Tier 2 Support

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.

2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.

3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to

supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.

4. Tier 2 Support will attempt to resolve the Case submitted by Tier 1 Help Desk.

5. When the Case is resolved, Tier 2 Support will communicate the information to Tier 1 Help Desk, and Tier 1 Help Desk will disseminate the resolution to the user(s).

6.0—Endorsement and Publicity

This Agreement will not be construed or interpreted as an exclusive dealings agreement or Customer's endorsement of Products. Either party may publicize the existence of this Agreement.

7.0—Administrative Requirements

7.1 **OEM Licenses.** Under Esri's OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri products and services with their application or service. OEM partners' business model, licensing terms and conditions, and pricing are independent of this Agreement. Customer will not seek any discount from the OEM partner or Esri based on the availability of Products under this Agreement. Customer will not decouple Esri products or services from the OEM partners' application or service.

7.2 **Annual Report of Deployments.** At each anniversary date and ninety (90) calendar days prior to the expiration of this Agreement, Customer will provide Esri with a written report detailing all Deployments. Upon request, Customer will provide records sufficient to verify the accuracy of the annual report.

8.0—Ordering, Administrative Procedures, Delivery, and Deployment

8.1 **Orders, Delivery, and Deployment**

a. Upon the Effective Date, Esri will invoice Customer and provide Authorization Codes to activate the nondestructive copy protection program that enables Customer to download, operate, or allow access to the Products. If this is a multi-year Agreement, Esri may invoice the Fee up to thirty (30) calendar days before the annual anniversary date for each year.

b. Undisputed invoices will be due and payable within thirty (30) calendar days from the date of invoice. Esri reserves the right to suspend Customer's access to and use of Products if Customer fails to pay any undisputed amount owed on or before its due date. Esri may charge Customer interest at a monthly rate equal to the lesser of one percent (1.0%) per month or the maximum rate permitted by applicable law on any overdue fees plus all expenses of collection for any overdue balance that remains unpaid ten (10) days after Esri has notified Customer of the past-due balance.

c. Esri's federal ID number is 95-2775-732.

d. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. Customer acknowledges that should sales or use taxes become due as a result of any shipments of tangible media, Esri has a right to invoice and Customer will pay any such sales or use tax associated with the receipt of tangible media.

8.2 **Order Requirements.** Esri does not require Customer to issue a purchase order. Customer may submit a purchase order in accordance with its own process requirements, provided that if Customer issues a purchase order, Customer will submit its initial purchase order on the Effective Date. If this is a multi-year Agreement, Customer will submit subsequent purchase orders to Esri at least thirty (30) calendar days before the annual anniversary date for each year.

a. All orders pertaining to this Agreement will be processed through Customer's centralized point of contact.

b. The following information will be included in each Ordering Document:

(1) Customer name; Esri customer number, if known; and bill-to and ship-to addresses
(2) Order number
(3) Applicable annual payment due

9.0—Mergers, Acquisitions, or Divestitures

If Customer is a commercial entity, Customer will notify Esri in writing in the event of (i) a consolidation, merger, or reorganization of Customer with or into another corporation or entity; (ii) Customer's acquisition of another entity; or (iii) a transfer or sale of all or part of Customer's organization (subsections i, ii, and iii, collectively referred to as "**Ownership Change**"). There will be no decrease in Fee as a result of any Ownership Change.

9.1 If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.

9.2 If an Ownership Change results in transfer or sale of a portion of Customer's organization, that portion of Customer's organization will transfer the Products to Customer or uninstall, remove, and destroy all copies of the Products.

9.3 This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Customer will require any successor entity to uninstall, remove, and destroy the Products. This Agreement will terminate upon such Ownership Change.

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **CONSENT CALENDAR**
Department: Recreation & Community Services Prepared By: Danielle Guevara Department: Prepared By: Danielle Guevara Staff Member Presenting: Helen McAlary, Executive Director Community Life and Culture Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 5

SUBJECT: AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH INLAND EMPIRE STAGES, LTD, FOR CHARTER BUS TRANSPORTATION SERVICES

RECOMMENDATION: That the City Council authorizes the City Manager, or his designee, to execute Amendment No. 1 to the Professional Services Agreement with Inland Empire Stages, Ltd., increasing the contract by $244,000 for a new total not-to-exceed amount of $384,000, and extend the contract term to June 30, 2027.

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 recommended Amendment will add $244,000 to the current contract amount of $140,000, bringing the not-to-exceed contract amount to $384,000. Additionally, the Amendment will extend the current term through June 30, 2027. The Fiscal Year 2025-26 Adopted Budget includes appropriations from the General Fund for charter bus transportation services. If approved, appropriations for future years of the agreement will be included in the annual budget adoption process to be approved by the City Council.

BACKGROUND & ANALYSIS:

The Recreation & Community Services Department utilizes charter bus transportation for community programs, excursions, and events throughout the year. Inland Empire Stages, Ltd., has consistently provided safe, reliable, and timely transportation services for various City programs, including senior excursions, youth trips, and special events. The transportation needs include services for the City's July 4th Fireworks Show and Trunk or Treat event, 11 excursions for the Ontario Senior Center, 8 excursions for the Summer Day Camps at two locations (requiring two buses per excursion), one excursion for Spring Camp, two excursions for Winter Camp, and 2 Teen Action Committee excursions per year.

The demand for charter transportation services continues to grow due to the expansion of community programs and increased participation. Inland Empire Stages, Ltd., has demonstrated the ability to meet these service needs while maintaining competitive rates and high service quality.

On July 1, 2024, the City entered into a Professional Services Agreement with Inland Empire Stages, Ltd., for a not-to-exceed amount of $140,000 Based on satisfactory performance and ongoing service needs, Staff recommends the approval of Amendment No.1, which extends the agreement through June 30, 2027, and increases the total contract amount to $384,000.

CITY OF ONTARIO
303 EAST B STREET | ONTARIO, CALIFORNIA 91764
(909) 395-2000 FAX (909) 395-2070 OntarioCA.gov

PAUL S. LEON
MAYOR

ALAN D. WAPNER
MAYOR PRO TEM

JIM W. BOWMAN
DEBRA PORADA
DAISY MACIAS
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
CITY TREASURER

SCOTT OCHOA
CITY MANAGER

AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND INLAND EMPIRE STAGES, LTD

1. Parties and Date.

This Amendment No. 1 to the Agreement (as defined herein) is made and entered as of _____, by and between the City of Ontario ("City") and Inland Empire Stages, LTD, a C Corporation, ("Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties."

2. Recitals.

2.1 Agreement. The City and Consultant have entered into an agreement entitled "Professional Services Agreement" dated August 30, 2024 ("Agreement").

2.2 Amendment Purpose. The City and Consultant desire to amend the Agreement to add additional compensation in the amount of $244,000 and extend the contract term from June 30, 2026, to June 30, 2027. This will increase the total not-to-exceed contract amount from $140,000 to $384,000.

2.3 Amendment Authority. This Amendment No. 1 is authorized pursuant to Section 3.1.2 and 3.2.1 of the Agreement.

3. Terms.

3.1 Amendment. Section 3.1.2 of the Agreement is hereby amended in its entirety to read as follows:

Term. The Term of this Agreement shall be from July 1, 2024, to June 30, 2027, unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to renew this Agreement for no more than one additional one-year term. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual written consent, extend the term of this Agreement if necessary to complete the

Services."

Section 3.2.1 of the Agreement is hereby amended in its entirety to read as follows:

Compensation. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in Exhibit "B attached hereto and incorporated herein by reference. The total compensation shall not exceed Three Hundred Eighty-Four Thousand Dollars ($384,000), without written approval of the City Council or City Manager, as applicable. Extra work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.2 Continuing Effect of Agreement. Except as amended by this Amendment No. 1, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this Amendment No. 1. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Amendment No. 1.

3.3 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 1.

3.4 Severability. If any portion of this Amendment No. 1 is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5 Integration. This Amendment represents the entirety of the Parties' understanding relating to the subject of this Amendment, including written or verbal communications between the Parties, which shall have no relevance unless expressly incorporated herein. This is an integrated amendment.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND INLAND EMPIRE STAGES, LTD

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 1 as of the day and year first above written.

CITY OF ONTARIO

Approved By:

_____
Scott Ochoa
City Manager

Approved as to Form:

_____
Best Best & Krieger LLP
City Attorney

Attested By:

_____
City Clerk

INLAND EMPIRE STAGES, LTD

By: _____

Its: _____

Printed Name: _____

By: _____

Its: _____

Printed Name: _____

[If Corporation, TWO SIGNATURES, President OR Vice President AND Secretary OR Treasurer REQUIRED]

EXHIBIT "B"

SCHEDULE OF SERVICES & COMPENSATION

See Attached



Effective August 30, 2025 through December 31, 2025

2025 Bus Tariff

All trips at the time of booking are evaluated based on hours of service or mileage with the following rates as shown below. All pricing is subject to change.

47 passenger coach

$1,050.00 5 hour minimum
$192.00 each additional hour (prorated per 15 minutes $48.00)

55/56 passenger coach & 52+1 ADA coach

$1,200.00 5 hour minimum
$192.00 each additional hour (prorated per 15 minutes $48.00)

All trips will be evaluated on mileage vs. hours of service the mileage rate is estimated at $7.50 per mile
Holiday rate is an additional $300.00

ANY TRIPS THAT IS CANCELED ON THE DAY OF OR LESS THAN 24-HOURS PRIOR TO THE DEPARTURE TIME WILL RESULT IN A 5-HOUR MINIMUM CANCELLATION FEE.

In addition to the motor coach fee a 15% Senate Bill fuel tax will be added. You will find it on a separate line item on your charter confirmation and all invoices. This rate is subject to change based on weekly fuel rates until further notice.

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **CONSENT CALENDAR**
Department: Recreation & Community Services Prepared By: Danielle Guevara Department: Prepared By: Danielle Guevara Staff Member Presenting: Helen McAlary, Executive Director Community Life and Culture Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 6

SUBJECT: AN AMENDMENT TO THE GOODS AND SERVICES AGREEMENT WITH J6D INC, FOR CUSTOM APPAREL SERVICES

RECOMMENDATION: That the City Council authorize the City Manager or his designee to execute Amendment No. 1 to the Goods and Services Agreement with J6D, Inc. of Ontario, California, in the amount of $200,000 for a total not-to-exceed contract amount of $500,000, and extend the contract term to October 16, 2027.

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 recommended Amendment will add $200,000 to the current contract amount of $300,000, bringing the not-to-exceed contract amount to $500,000, and extending the term through October 16, 2027. A portion of the overall expense is offset by program revenue and participant registration fees, such as fee-based sports programs, and events such as the 5K Reindeer Run. The Fiscal Year 2025-26 Operating Budget includes appropriations from the General Fund for custom apparel services. If approved, appropriations for future years of the agreement will be included in the annual budget adoption process to be approved by City Council.

BACKGROUND & ANALYSIS: The Recreation and Community Services Department regularly orders uniforms and event supplies for youth and adult sports, programs, special events, and staff uniforms. This includes sports jerseys for adult basketball and volleyball leagues, tot and youth sports programs, shirts for the annual 5K Reindeer Run, Summer Concerts, and the Tot Olympics event. Goods are locally produced in Ontario. The Recreation and Community Services department typically purchases around 8,400 items per year, at an average cost of $11.90 per unit.

On January 17, 2023, the City Council approved a Goods and Services Agreement with J6D, Inc., for employee uniforms and event supplies. The selected supplier possesses the knowledge of the Recreation and Community Services Department's specific needs and can meet the timelines

needed for the Department's operations.

Based on the efficient turnaround times and the ability to produce specialized items from J6D, Inc., Staff is recommending the approval of Amendment No. 1 with J6D, Inc. for a total not-to-exceed contract amount of $500,000.

CITY OF ONTARIO
303 EAST B STREET | ONTARIO, CALIFORNIA 91764
(909) 395-2000 FAX (909) 395-2070 OntarioCA.gov

PAUL S. LEON
MAYOR

ALAN D. WAPNER
MAYOR PRO TEM

JIM W. BOWMAN
DEBRA PORADA
DAISY MACIAS
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
CITY TREASURER

SCOTT OCHOA
CITY MANAGER

AMENDMENT NO. 1 TO THE GOODS AND SERVICES BETWEEN THE CITY OF ONTARIO AND J6D, INC

1. Parties and Date.

This Amendment No. 1 to the Agreement (as defined herein) is made and entered as of _____, by and between the City of Ontario ("City") and J6D, Inc, an S Corporation ("Contractor"). City and J6D, Inc are sometimes individually referred to as "Party" and collectively as "Parties."

2. Recitals.

2.1 Agreement. The City and J6D, Inc have entered into an agreement entitled "GOODS AND SERVICES AGREEMENT" dated February 21, 2023 ("Agreement").

2.2 Amendment Purpose. The City and J6D, Inc desire to amend the Agreement to add additional compensation in the amount of $200,000 and extend the contract term from October 16, 2025 to October 16, 2027. This will increase the total not-to-exceed amount from $300,000 to $500,000.

2.3 Amendment Authority. This Amendment No. 1 is authorized pursuant to Section 2.1 of the Agreement.

3. Terms.

3.1 Amendment. Section 2.1 of the Agreement is hereby amended in its entirety to read as follows:

> "Term: The term of this Agreement shall be from October 16, 2022 to October 16, 2027, unless earlier terminated as provided herein. Vendor shall provide all Goods and complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the work."

Section 3.1 of the Agreement is hereby amended in its entirety to read as follows:

"Compensation. Vendor shall receive compensation, including authorized reimbursement, for all Good provided and Services rendered under this Agreement at the rates previously sent forth. The total compensation shall not exceed fiver hundred thousand dollars ($500,000) without written approval of City Manager. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement."

3.2 Continuing Effect of Agreement. Except as amended by this Amendment No. 1, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this Amendment No. 1. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Amendment No.1.

3.3 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 1.

3.4 Severability. If any portion of this Amendment No. 1 is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5 Integration. This Amendment represents the entirety of the Parties' understanding relating to the subject of this Amendment, including written or verbal communications between the Parties, which shall have no relevance unless expressly incorporated herein. This is an integrated amendment.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR AMENDMENT NO. 1 TO GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND J6D, INC

IN WITNESS WHEREOF, the Parties have entered into this Amendment No.1 as of the day and year first above written.

CITY OF ONTARIO

Approved By:

_____
Scott Ochoa
City Manager

Approved as to Form:

_____
Best Best & Krieger LLP
City Attorney

Attested By:

_____
City Clerk

J6D, INC.

By: _____

Its: _____

Printed Name: _____

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **CONSENT CALENDAR**
Department: Housing Prepared By: Albert Ramirez Staff Member Presenting: Helen McAlary, Executive Director Community Life and Culture Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 7

SUBJECT: OPTING INTO A SETTLEMENT AGREEMENT WITH PURDUE PHARMA, L.P. AND THE SACKLER FAMILY

RECOMMENDATION: That the City Council authorize the City Manager, or his designee, to opt into a Settlement Agreement with opioid distributors, Purdue Pharma, L.P. and the Sackler Family, and authorize the City Manager to execute any documents necessary to implement the action.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Invest in the Growth and Evolution of the City's Economy
Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner

FISCAL IMPACT: The City of Ontario is expected to receive approximately $450,000 in additional funding if it opts into the Settlement Agreement as recommended. The funds will be paid over a period of 15 years. If approved, the funds will be deposited into the Opioid Settlement fund.

BACKGROUND & ANALYSIS: Many states and cities across the United States have sued the three largest opioid painkiller distributors (Amerisource Bergen, Cardinal Health, and McKesson) and the opioid painkiller manufacturer, Janssen (owned by Johnson & Johnson). These lawsuits resulted in two settlements totaling approximately $26 billion. Additional parties joined these settlements in late 2022. In June 2024, an additional settlement was reached with another opioid distributor, Kroger Co., for $1.2 billion. The City of Ontario has opted into every round of opioid settlements and began receiving payments in November 2022.

In 2025, Purdue Pharma, L.P. and the Sackler Family (“Purdue”) reached a tentative $7.4 billion settlement for opioid distribution claims, payable over 15 years. California is scheduled to receive roughly $440 million. The State will distribute 15% of the funds to the State Fund, 70% to the California Abatement Accounts Fund, and 15% to the California Subdivision Fund.

Local subdivisions, such as the City of Ontario, will receive their share from the California Abatement Accounts Fund. Ontario will receive approximately $450,000 distributed over 15 years, starting in late 2025. Cities can use the funds directly, following State requirements, or allow the County to use the funds. Cities can also opt out and pursue independent legal action.

Funds received from this settlement must be used for future opioid remediation or abatement efforts. Currently, the City is using other opioid settlement funds to help support the Community Outreach and Support Team (C.O.A.S.T.) with providing education and support to prevent overdoses. Any funds that remain unused or uncommitted within five years of receipt must be returned to the State. The City must complete an annual report that details fund usage until fully expended, plus one additional year. The California Department of Health Care Services ("DHCS") has the authority to review these reports for compliance.

Staff recommends that the City Council opt into the settlement and elect to receive payments directly by releasing its claims against Purdue Pharma, L.P. and the Sackler Family.

Proposed California State-Subdivision Agreement
Regarding Distribution and Use of Settlement Funds
Purdue/Sackler Settlement

1. Introduction

The State of California[1] and certain of its cities and counties have reached this proposed agreement (the "California Purdue/Sackler State-Subdivision Agreement" or the "Agreement") to govern the payments made to California in *In re: Purdue Pharma L.P., et al*, Case No. 19-23649, pending in the United States Bankruptcy Court, Southern District of New York (the "Purdue Bankruptcy Matter") and pursuant to the related settlement with the Sacklers.

This Agreement is proposed to govern the allocation, distribution, and use of payments, including the Statewide Payment Amounts, consisting of Base Payments and Incentive Payments, and Estate Distributions, paid to California pursuant to the Governmental Entity & Shareholder Direct Settlement Agreement ("GESA"), the Master Settlement Agreement ("MSA"), the Thirteenth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and its Affiliated Debtors (the "Plan"), and the Governmental Remediation Trust Agreement ("GRTA"), and any revisions thereto (collectively, the "Governing Documents"), filed in the Purdue Bankruptcy Matter.

For the avoidance of doubt, this Agreement does not apply to payments of attorneys' fees and costs made to California, including any payments to California from the Local Government Costs and Expenses Fund and the State Expenses Fund and payments pursuant to Sections 9.01, 9.02, and 9.03 and Exhibit R of the GESA and Sections 5.9(a) and 5.9(b) of the Plan, unless otherwise noted.

Pursuant to Exhibit O, paragraph 4, of the GESA, acceptance of this California State-Subdivision Agreement is a requirement to be an Initial Participating Subdivision.

2. Definitions

a) *CA Participating Subdivision* means a General Purpose Government that is a Participating Subdivision and also (a) a Plaintiff Subdivision; (b) a Primary Subdivision; and/or (c) a Non-Litigating Threshold Subdivision. For the avoidance of doubt, eligible CA Participating Subdivisions are those California Subdivisions listed in Exhibits C (excluding Litigating Special Districts), I, and/or W to the GESA.

b) *CA Litigating Special District* means a Litigating Special District located in California. For the avoidance of doubt, CA Litigating Special District does not include School Districts and certain Health and Hospital Special Districts that fall under a separate creditor group in the Purdue Bankruptcy Plan.

[1] For purposes of clarity, use of the term "California" refers to the geographic territory of California and the state and its local governments therein. The term "State" or "State of California" refers to the State of California as a governmental unit.

c) *Plaintiff Subdivision* means a Subdivision located in California, other than a CA Litigating Special District, that filed a lawsuit, on behalf of the Subdivision and/or through an official of the Subdivision on behalf of the People of the State of California, against one or more Opioid Defendants prior to October 1, 2020.

d) *Opioid Defendant* means any defendant (including but not limited to Alvogen, Inc. Amneal Pharmaceuticals LLC; Apotex Corp., Hikma Pharmaceuticals USA Inc. f/k/a West-Ward Pharmaceuticals Corp.; Indivior Inc.; Viatris Inc. a/k/a Mylan N.V.; Sun Pharmaceutical Industries, Inc.; Zydus Pharmaceuticals (USA) Inc.; Kroger Co., Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Allergan Limited, CVS Health Corporation, CVS Pharmacy, Inc., Walgreen Co., Walmart Inc., Johnson & Johnson, Janssen Pharmaceuticals, Inc., Purdue Pharma L.P., Cardinal Health, Inc., Cencora, Inc. f/k/a AmerisourceBergen Corporation, McKesson Corporation, Dr. Richard S. Sackler, Beverly Sackler, Jonathan Sackler, David Sackler, Marianna Sackler, Theresa Sackler, Ilene Sackler Lefcourt, Dr. Kathe Sackler, and Mortimer D.A. Sackler) named in a lawsuit seeking damages, abatement, or other remedies related to or caused by the opioid public health crisis in any lawsuit brought by any state or local government on or before October 1, 2020.

3. General Terms

This Agreement is subject to the requirements of the Governing Documents, as well as applicable law, and the Governing Documents govern over any inconsistent provision of this California Purdue/Sackler State-Subdivision Agreement. Terms not otherwise defined herein shall have the same meaning as in the Governing Documents.

All payments made to the State of California and CA Participating Subdivisions subject to this Agreement will be used for Opioid Remediation, except as allowed by Section 5.02(b) of the GESA and Section 4.01(f)(ii) of the MSA.

This Agreement does not apply to funds received by California for attorneys' fees and cost, including payments from the Local Government Costs and Expenses Fund or the State Expenses Fund, unless otherwise noted.

4. State Allocation

Funds allocated to California shall be combined pursuant to this Agreement, and 15% of that total shall be allocated to the State of California (the "State of California Allocation"), 70% to the California Abatement Accounts Fund ("CA Abatement Accounts Fund"), and 15% to the California Subdivision Fund ("CA Subdivision Fund").

A. State of California Allocation

Fifteen percent of the payments to California subject to this Agreement will be allocated to the State and used by the State for future Opioid Remediation.

B. CA Abatement Accounts Fund

i. Allocation of CA Abatement Accounts Funds

a) Seventy percent of the payments to California subject to this Agreement will be allocated to the CA Abatement Accounts Fund. The funds in the CA Abatement Accounts Fund will be allocated based on the allocation model developed in connection with the proposed negotiating class in the National Prescription Opiate Litigation (MDL No. 2804), as adjusted to reflect only those cities and counties that are eligible, based on population or litigation status, to become a CA Participating Subdivision. The percentage from the CA Abatement Accounts Fund allocated to each CA Participating Subdivision is set forth in Appendix 1 in the column entitled abatement percentage (the "Local Allocation"). For the avoidance of doubt, CA Litigating Special Districts and California towns, cities, and counties with a population less than 10,000 (except those that are Plaintiff Subdivisions) are not eligible to receive an allocation of CA Abatement Accounts Funds.

b) A CA Participating Subdivision that is a county, or a city and county, will be allocated its Local Allocation share as of the date on which it becomes a Participating Subdivision, and will receive payments as provided in the Governing Documents and this Agreement.

c) A CA Participating Subdivision that is a city will be allocated its Local Allocation share as of the date on which it becomes a Participating Subdivision. The Local Allocation share for a city that is a CA Participating Subdivision will be paid to the county in which the city is located, rather than to the city, so long as the county is a CA Participating Subdivision; *provided, however*, that if a city currently receives direct payment of its share of funds in the National Opioids Settlement with Distributors Cencora, Inc. (f/k/a AmerisourceBergenCorporation), Cardinal Health, Inc., and McKesson Corporation (the "Distributors Settlement"), that city's Local Allocation amount will be paid directly to the city. A Local Allocation share allocated to a city but paid to a county is not required to be spent exclusively for abatement activities in that city, but will become part of the county's share of the CA Abatement Accounts Funds, which will be used in accordance with Section 4.B.ii (Use of CA Abatement Accounts Funds).

d) A city within a county that is a CA Participating Subdivision may opt in or out of direct payment at any time, and it may also elect direct payment of only a portion of its share, with the remainder going to the county, by providing notice to the Settlement Administrator at least 60 days prior to a Payment Date.

e) The State will receive the Local Allocation share of any payment that is attributable to a county or city that is eligible to become a CA Participating Subdivision, but has not, for a particular payment, become a Participating Subdivision.

f) Funds received by a CA Participating Subdivision, and not expended or encumbered within five years of receipt and in accordance with the Governing Documents and this

Agreement shall be transferred to the State; provided however, that CA Participating Subdivisions have seven years to expend or encumber CA Abatement Accounts Funds designated to support capital outlay projects before they must be transferred to the State.

ii. Use of CA Abatement Accounts Funds

a) The CA Abatement Accounts Funds will be used for future Opioid Remediation in one or more of the areas described in the List of Opioid Remediation Uses, which is Exhibit E to the GESA.

b) In addition to this requirement, no less than 50% of the funds received by a CA Participating Subdivision from the CA Abatement Accounts Fund in each calendar year will be used for one or more of the following High Impact Abatement Activities:

(1) the provision of matching funds or operating costs for substance use disorder facilities within the Behavioral Health Continuum Infrastructure Program;

(2) creating new or expanded Substance Use Disorder ("SUD") treatment infrastructure;

(3) addressing the needs of communities of color and vulnerable populations (including sheltered and unsheltered homeless populations) that are disproportionately impacted by SUD;

(4) diversion of people with SUD from the justice system into treatment, including by providing training and resources to first and early responders (sworn and non-sworn) and implementing best practices for outreach, diversion and deflection, employability, restorative justice, and harm reduction;

(5) interventions to prevent drug addiction in vulnerable youth, including but not limited to, youth in foster care, juvenile justice-impacted youth, youth experiencing adversities related to socioeconomic status, and unhoused youth; and/or

(6) the purchase of naloxone for distribution and efforts to expand access to naloxone for opioid overdose reversals.

c) The California Department of Health Care Services ("DHCS") may add to this list (but not delete from it) by designating additional High Impact Abatement Activities. DHCS will make reasonable efforts to consult with stakeholders, including the CA Participating Subdivisions, before adding additional High Impact Abatement Activities to this list.

d) For the avoidance of doubt, and subject to the requirements of the Governing Documents and applicable law, CA Participating Subdivisions may form agreements or ventures, or otherwise work in collaboration with, federal, state, local, tribal or private sector entities in pursuing Opioid Remediation activities funded from the CA Abatement Accounts Fund. Further, provided that all CA Abatement Accounts Funds are used for Opioid Remediation consistent with the Governing Documents and this Agreement, a county and

any cities or towns within the county may agree to reallocate their respective shares of the CA Abatement Accounts Funds among themselves, provided that any direct distribution may only be to a CA Participating Subdivision and any CA Participating Subdivision must agree to their share being reallocated.

iii. CA Abatement Accounts Fund Oversight

a) Pursuant to Section 5 below, CA Participating Subdivisions receiving funds pursuant to the Purdue Bankruptcy Plan and related Sackler settlement must prepare and file reports annually regarding the use of those funds. DHCS may regularly review the reports prepared by CA Participating Subdivisions about the use of CA Abatement Accounts Funds for compliance with the Governing Documents and this Agreement.

b) If DHCS determines that a CA Participating Subdivision's use of CA Abatement Accounts Funds is inconsistent with the Governing Documents or this Agreement, whether through review of reports or information from any other sources, DHCS shall send a request to meet and confer with the CA Participating Subdivision. The parties shall meet and confer in an effort to resolve the concern.

c) If the parties are unable to reach a resolution, DHCS may conduct an audit of the Subdivision's use of the CA Abatement Accounts Funds within one year of the request to meet and confer, unless the parties mutually agree in writing to extend the meet and confer time frame.

d) If the concern still cannot be resolved, the State may bring a motion or action against the Subdivision in the court where the State has filed its Consent Judgment to resolve the concern or otherwise enforce the requirements of the Governing Documents or this Agreement. However, in no case shall any audit be conducted, or motion be brought, as to a specific expenditure of funds, more than five years after the date on which the expenditure of the funds was reported to DHCS, in accordance with this Agreement.

e) Notwithstanding the foregoing, this Agreement does not limit the statutory or constitutional authority of any state or local agency or official to conduct audits, investigations, or other oversight activities, or to pursue administrative, civil, or criminal enforcement actions.

C. CA Subdivision Fund

i. Fifteen percent of the payments to California subject to this Agreement will be allocated to the CA Subdivision Fund. All funds in the CA Subdivision Fund will be allocated among the Plaintiff Subdivisions that are Initial Participating Subdivisions. The funds will be used, subject to any limits imposed by the Governing Documents and this Agreement, to fund future Opioid Remediation and reimburse past opioid-related expenses, which may include fees and expenses related to litigation.

However, in no event shall more than one-third (5% out of the 15%) be used for litigation-related fees and expenses.

D. Provision for State Back-Stop Agreement

On August 6, 2021, Judge Dan Polster of the U.S. District Court, Northern District of Ohio, Eastern Division, issued an order (ECF Docket Number 3814) ("MDL Fees Order") in the National Prescription Opiate Litigation (MDL No. 2804) "cap[ping] all applicable contingent fee agreements at 15%." Private counsel representing Plaintiff Subdivisions should seek its contingency fees and costs from the Local Government Costs and Expenses Fund pursuant to the Governing Documents, and if applicable, the Attorney Fee Fund or Cost Funds under the settlement agreements with other Opioid Defendants.

A Plaintiff Subdivision may separately agree to use up to one-third (5% out of the 15%) of its share of the CA Subdivision Fund to pay for fees or costs incurred by its contingency-fee counsel ("State Back-Stop Agreement"), pursuant to Exhibit R of the GESA and the MDL Fees Order, so long as: (1) such payments, together with any payments to contingency-fee counsel from the Local Government Costs and Expenses Fund related to such Plaintiff Subdivision, do not exceed 15% of a Plaintiff Subdivision's total gross recovery under this Agreement; and (2) Plaintiff Subdivision certifies that any payments made under a State Back-Stop Agreement will be made in accordance with the 95% Opioid Abatement use requirements under Section 5.02(a) of the GESA and Section 4.01(f)(i) of the MSA. Before seeking fees or litigation costs and expenses from a State Back-Stop Agreement, private counsel representing Plaintiff Subdivisions must first seek contingency fees and costs from the Local Government Costs and Expenses Fund funded pursuant to the Governing Documents. Further, private counsel may only seek reimbursement for litigation fees and costs that have not previously been reimbursed through prior settlements or judgments.

To effectuate a State Back-Stop Agreement pursuant to this section, an agreement in the form of Appendix 2 may be entered into by a Plaintiff Subdivision, private counsel, and the California Office of the Attorney General. The California Office of the Attorney General shall, upon the request of a Plaintiff Subdivision, execute any agreement executed by a Plaintiff Subdivision and its private counsel if it is in the form of Appendix 2. The California Office of the Attorney General will also consider requests from Plaintiff Subdivisions to execute and enter into agreements presented in other forms.

For the avoidance of doubt, this Agreement does not require a Plaintiff Subdivision to request or enter into a State Back-Stop Agreement, and no State Back-Stop Agreement shall impose any duty or obligation on the State of California or any of its agencies or officers, including without limitation the Attorney General.

5. State and Subdivision Reporting

a) DHCS will prepare an annual written report regarding the State's use of funds from the settlement until those funds are fully expended and for one year thereafter. These reports will be made publicly available on the DHCS web site.

b) Each CA Participating Subdivision that receives payments of funds from the Purdue Bankruptcy Plan and related Sackler settlement will prepare written reports at least annually regarding the use of those funds, until those funds are fully expended and for one year thereafter. These reports will also include a certification that all funds that the CA Participating Subdivision has received through the Purdue Bankruptcy Plan and related Sackler settlement have been used in compliance with the Governing Documents and this Agreement. The report will be in a form reasonably determined by DHCS. Prior to specifying the form of the report DHCS will confer with representatives of the Plaintiff Subdivisions.

c) The State and all CA Participating Subdivisions receiving CA Abatement Accounts Funds will track all deposits and expenditures. Each such subdivision is responsible solely for the CA Abatement Accounts Funds it receives. A county is not responsible for oversight, reporting, or monitoring of CA Abatement Accounts Funds received by a city within that county that receives direct payment. Unless otherwise exempt, Subdivisions' expenditures and uses of CA Abatement Accounts Funds and other payments will be subject to the normal budgetary and expenditure process of the Subdivision.

d) Each Plaintiff Subdivision receiving CA Subdivision Funds will track all deposits and expenditures, as required by the Governing Documents and this Agreement. Among other things, Plaintiff Subdivisions using monies from the CA Subdivision Fund for purposes that do not qualify as Opioid Remediation must identify and include in their annual report, the amount and how such funds were used, including if used to pay attorneys' fees, investigation costs, or litigation costs. Pursuant to Section 5.02(b) of the GESA and Section 4.01(f)(ii) of the MSA, such information must also be reported to the Settlement Administrator and Sackler Parties' Representative.

e) In each year in which DHCS prepares an annual report DHCS will also host a meeting to discuss the annual report and the Opioid Remediation activities being carried out by the State and Participating Subdivisions.

6. Miscellaneous

a) The State or any CA Participating Subdivision may bring a motion or action in the court where the State has filed its Consent Judgment to enforce the requirements of this California Purdue/Sackler State-Subdivision Agreement. Before filing such a motion or action the State will meet and confer with any CA Participating Subdivision that is the subject of the anticipated motion or action, and vice versa.

b) Except as provided in the Governing Documents, this California Purdue/Sackler State-Subdivision Agreement is not enforceable by any party other than the State and the CA Participating Subdivisions. It does not confer any rights or remedies upon, and shall not be enforceable by, any third party.

c) Except as provided in this Agreement, if any provision of this Agreement or the application thereof to any person, entity, or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities, or circumstances other than those as to which it is invalid or unenforceable, will not be affected thereby, and each other provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

d) Except as provided in the Governing Documents, this Agreement shall be governed by and interpreted in accordance with the laws of California.

The undersigned, Ontario city, CA, ACKNOWLEDGES acceptance of this Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds - Purdue/Sackler Settlement is a requirement to be an Initial Participating Subdivision and ACCEPTS this Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds - Purdue/Sackler Settlement.

I swear under penalty of perjury that I have all necessary power and authorization to execute this agreement on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

APPENDIX 1

DISCLAIMER: The allocation percentages herein are estimates only and should not be relied on for decisions regarding legal rights, releases, waivers, or other decisions affecting current or potential legal claims. Percentages shown in the Plaintiff Subdivision Percentage column may change pursuant to Section 4.C. of the Proposed California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds—Purdue/Sackler Settlement, whereas the percentages shown in the Abatement Percentage column should not change. Participating Subdivisions, underlying calculations, and the calculated allocation percentages are subject to change. Regarding the column herein entitled "Abatement Percentage," pursuant to Section 4.B.e., the State of California will receive the Local Allocation share of any payment to the Settlement Fund that is attributable to a county or city that is eligible to become a CA Participating Subdivision, but that has not, as of the date of that payment to the Settlement Fund, become a Participating Subdivision. Regarding the column herein entitled "Plaintiff Subdivision Percentage," payments allocated to a Plaintiff Subdivision, which is not an Initial Participating Subdivision, will be re-allocated among the Plaintiff Subdivisions that are Initial Participating Subdivisions. Regarding the column herein entitled "Abatement Percentage," the annotation of "100%" refers to one-hundred percent (100%) of the California Abatement Account Funds received, pursuant to Section 4.B. Regarding the column herein entitled "Plaintiff Subdivision Percentage," the annotation of "100%" refers to one-hundred percent (100%) of the California Subdivision Funds received, pursuant to Section 4.C. Regarding the column herein entitled "Weighted Allocation Percentage," the annotation of "100%" refers to one-hundred percent (100%) of the combined and weighted allocation of the Abatement Percentage and the Plaintiff Subdivision Percentage.

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			100.000%	100.000%	100.000%
Participating Subdivision Classification	**Participating Subdivision**	**County**	**Abatement Percentage**	**Plaintiff Subdivision Percentage**	**Weighted Allcation Percentage**
County	***Alameda County***	Alameda	2.332%	2.853%	**2.4237952%**
City	Alameda	Alameda	0.069%		**0.0570162%**
City	Albany	Alameda	0.013%		**0.0107768%**
City	Berkeley	Alameda	0.152%		**0.1249656%**
City	Dublin	Alameda	0.033%	0.040%	**0.0338810%**
City	Emeryville	Alameda	0.023%		**0.0185765%**
City	Fremont	Alameda	0.108%		**0.0888576%**
City	Hayward	Alameda	0.117%		**0.0966218%**
City	Livermore	Alameda	0.054%		**0.0446740%**
City	Newark	Alameda	0.026%		**0.0217626%**
City	Oakland	Alameda	0.486%	0.595%	**0.5055601%**
City	Piedmont	Alameda	0.014%		**0.0114064%**
City	Pleasanton	Alameda	0.067%		**0.0554547%**
City	San Leandro	Alameda	0.039%		**0.0321267%**
City	Union City	Alameda	0.043%		**0.0352484%**
County	***Amador County***	Amador	0.226%	0.277%	**0.2349885%**
County	***Butte County***	Butte	1.615%	1.975%	**1.6783178%**
City	Chico	Butte	0.216%	0.264%	**0.2246499%**
City	Oroville	Butte	0.079%		**0.0646595%**
County	***Calaveras County***	Calaveras	0.226%	0.277%	**0.2351644%**
County	***Colusa County***	Colusa	0.059%		**0.0489221 %**
County	***Contra Costa County***	Contra Costa	2.102%	2.571%	**2.1844585%**
City	Antioch	Contra Costa	0.037%		**0.0301879%**
City	Brentwood	Contra Costa	0.026%		**0.0215339%**
City	Clayton	Contra Costa	0.002%		**0.0018060%**
City	Concord	Contra Costa	0.055%		**0.0456676%**
City	Danville	Contra Costa	0.010%		**0.0082255%**
City	El Cerrito	Contra Costa	0.023%		**0.0189024%**
City	Hercules	Contra Costa	0.010%		**0.0078273%**

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Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	Lafayette	Contra Costa	0.006%		**0.0046030%**
City	Martinez	Contra Costa	0.012%		**0.0098593%**
City	Moraga	Contra Costa	0.004%		**0.0031007%**
City	Oakley	Contra Costa	0.010%		**0.0079416%**
City	Orinda	Contra Costa	0.005%		**0.0038157%**
City	Pinole	Contra Costa	0.013%		**0.0110909%**
City	Pittsburg	Contra Costa	0.053%		**0.0436369%**
City	Pleasant Hill	Contra Costa	0.013%		**0.0106309%**
City	Richmond	Contra Costa	0.146%		**0.1201444%**
City	San Pablo	Contra Costa	0.018%		**0.0148843%**
City	San Ramon	Contra Costa	0.021%		**0.0176459%**
City	Walnut Creek	Contra Costa	0.026%		**0.0212132%**
County	***Del Norte County***	Del Norte	0.114%	0.140%	**0.1189608%**
County	***El Dorado County***	El Dorado	0.768%	0.939%	**0.7980034%**
City	Placerville	El Dorado	0.015%		**0.0127642%**
City	South Lake Tahoe	El Dorado	0.081%		**0.0665456%**
County	***Fresno County***	Fresno	1.895%	2.318%	**1.9693410%**
City	Clovis	Fresno	0.065%		**0.0536211 %**
City	Coalinga	Fresno	0.012%		**0.0098554%**
City	Fresno	Fresno	0.397%		**0.3270605%**
City	Kerman	Fresno	0.005%		**0.0042534%**
City	Kingsburg	Fresno	0.008%		**0.0066167%**
City	Mendota	Fresno	0.002%		**0.0019387%**
City	Orange Cove	Fresno	0.004%		**0.0035607%**
City	Parlier	Fresno	0.008%		**0.0069755%**
City	Reedley	Fresno	0.012%		**0.0098804%**
City	Sanger	Fresno	0.018%		**0.0146135%**
City	Selma	Fresno	0.015%		**0.0127537%**
County	***Glenn County***	Glenn	0.107%	0.131%	**0.1116978%**
County	***Humboldt County***	Humboldt	1.030%	1.260%	**1.0703185%**

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Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allocation Percentage
City	Arcata	Humboldt	0.054%		**0.0447660%**
City	Eureka	Humboldt	0.117%	0.143%	**0.1216284%**
City	Fortuna	Humboldt	0.032%		**0.0266837%**
County	***Imperial County***	Imperial	0.258%	0.315%	**0.2679006%**
City	Brawley	Imperial	0.011%		**0.0087986%**
City	Calexico	Imperial	0.019%		**0.0152799%**
City	El Centro	Imperial	0.158%		**0.1302522%**
City	Imperial	Imperial	0.006%		**0.0048791%**
County	***Inyo County***	Inyo	0.073%	0.089%	**0.0754413%**
County	***Kern County***	Kern	2.517%	3.079%	**2.6159145%**
City	Arvin	Kern	0.006%		**0.0046425%**
City	Bakersfield	Kern	0.212%		**0.1747198%**
City	California City	Kern	0.009%		**0.0070820%**
City	Delano	Kern	0.030%		**0.0249316%**
City	McFarland	Kern	0.003%		**0.0025644%**
City	Ridgecrest	Kern	0.015%		**0.0120938%**
City	Shafter	Kern	0.013%		**0.0103417%**
City	Tehachapi	Kern	0.009%		**0.0073580%**
City	Wasco	Kern	0.008%		**0.0069861%**
County	***Kings County***	Kings	0.293%		**0.2413469%**
City	Avenal	Kings	0.007%		**0.0056335%**
City	Corcoran	Kings	0.013%		**0.0107032%**
City	Hanford	Kings	0.027%		**0.0226038%**
City	Lemoore	Kings	0.016%		**0.0131900%**
County	***Lake County***	Lake	0.795%		**0.6545389%**
City	Clearlake	Lake	0.041%	0.050%	**0.0426253%**
City	Lakeport	Lake	0.021%	0.026%	**0.0222964%**
County	***Lassen County***	Lassen	0.319%	0.391%	**0.3320610%**
City	Susanville	Lassen	0.027%		**0.0219295%**
County	***Los Angeles County***	Los Angeles	13.896%	16.999%	**14.4437559%**

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Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	Agoura Hills	Los Angeles	0.005%		**0.0040024%**
City	Alhambra	Los Angeles	0.042%		**0.0343309%**
City	Arcadia	Los Angeles	0.033%		**0.0267718%**
City	Artesia	Los Angeles	0.001%		**0.0005100%**
City	Azusa	Los Angeles	0.026%		**0.0210857%**
City	Baldwin Park	Los Angeles	0.027%		**0.0218520%**
City	Bell	Los Angeles	0.008%		**0.0068783%**
City	Bellflower	Los Angeles	0.002%		**0.0014485%**
City	Bell Gardens	Los Angeles	0.014%		**0.0114301%**
City	Beverly Hills	Los Angeles	0.065%		**0.0534897%**
City	Burbank	Los Angeles	0.100%		**0.0823132%**
City	Calabasas	Los Angeles	0.006%		**0.0048948%**
City	Carson	Los Angeles	0.019%		**0.0159805%**
City	Cerritos	Los Angeles	0.005%		**0.0039682%**
City	Claremont	Los Angeles	0.010%		**0.0082584%**
City	Commerce	Los Angeles	0.000%		**0.0002971%**
City	Compton	Los Angeles	0.044%		**0.0361882%**
City	Covina	Los Angeles	0.028%		**0.0229127%**
City	Cudahy	Los Angeles	0.001%		**0.0006020%**
City	Culver City	Los Angeles	0.055%		**0.0449894%**
City	Diamond Bar	Los Angeles	0.001%		**0.0006993%**
City	Downey	Los Angeles	0.052%		**0.0429994%**
City	Duarte	Los Angeles	0.003%		**0.0027261%**
City	El Monte	Los Angeles	0.031%	0.038%	**0.0318985%**
City	El Segundo	Los Angeles	0.033%		**0.0268020%**
City	Gardena	Los Angeles	0.034%		**0.0278088%**
City	Glendale	Los Angeles	0.166%		**0.1366586%**
City	Glendora	Los Angeles	0.016%		**0.0134411 %**
City	Hawaiian Gardens	Los Angeles	0.005%		**0.0040549%**
City	Hawthorne	Los Angeles	0.050%		**0.0407833%**

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Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	Hermosa Beach	Los Angeles	0.018%		**0.0145307%**
City	Huntington Park	Los Angeles	0.023%		**0.0190667%**
City	Inglewood	Los Angeles	0.059%		**0.0489195%**
City	La Cafiada Flintridge	Los Angeles	0.003%		**0.0025565%**
City	Lakewood	Los Angeles	0.005%		**0.0039971%**
City	La Mirada	Los Angeles	0.010%		**0.0081572%**
City	Lancaster	Los Angeles	0.045%		**0.0369689%**
City	La Puente	Los Angeles	0.002%		**0.0012999%**
City	La Verne	Los Angeles	0.024%		**0.0194190%**
City	Lawndale	Los Angeles	0.002%		**0.0017731%**
City	Lomita	Los Angeles	0.004%		**0.0031940%**
City	Long Beach	Los Angeles	0.439%		**0.3614151%**
City	Los Angeles	Los Angeles	2.715%	3.321%	**2.8218811%**
City	Lynwood	Los Angeles	0.016%		**0.0134345%**
City	Malibu	Los Angeles	0.002%		**0.0019269%**
City	Manhattan Beach	Los Angeles	0.032%		**0.0260686%**
City	Maywood	Los Angeles	0.004%		**0.0035528%**
City	Monrovia	Los Angeles	0.031%		**0.0254455%**
City	Montebello	Los Angeles	0.030%		**0.0250670%**
City	Monterey Park	Los Angeles	0.031%		**0.0256677%**
City	Norwalk	Los Angeles	0.031%		**0.0258228%**
City	Palmdale	Los Angeles	0.046%		**0.0375827%**
City	Palos Verdes Estates	Los Angeles	0.006%		**0.0053102%**
City	Paramount	Los Angeles	0.011%		**0.0091483%**
City	Pasadena	Los Angeles	0.146%		**0.1200524%**
City	Pico Rivera	Los Angeles	0.022%		**0.0183333%**
City	Pomona	Los Angeles	0.111%		**0.0911933%**
City	Rancho Palos Verdes	Los Angeles	0.002%		**0.0012645%**
City	Redondo Beach	Los Angeles	0.062%		**0.0506992%**
City	Rosemead	Los Angeles	0.003%		**0.0028260%**

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Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	San Dimas	Los Angeles	0.003%		**0.0022016%**
City	San Fernando	Los Angeles	0.013%		**0.0104837%**
City	San Gabriel	Los Angeles	0.018%		**0.0147726%**
City	San Marino	Los Angeles	0.009%		**0.0073791%**
City	Santa Clarita	Los Angeles	0.022%		**0.0178167%**
City	Santa Fe Springs	Los Angeles	0.031%		**0.0257531%**
City	Santa Monica	Los Angeles	0.158%		**0.1298513%**
City	Sierra Madre	Los Angeles	0.006%		**0.0048646%**
City	Signal Hill	Los Angeles	0.010%		**0.0084884%**
City	South El Monte	Los Angeles	0.005%		**0.0039603%**
City	South Gate	Los Angeles	0.020%		**0.0166272%**
City	South Pasadena	Los Angeles	0.012%		**0.0095334%**
City	Temple City	Los Angeles	0.005%		**0.0039498%**
City	Torrance	Los Angeles	0.112%		**0.0919820%**
City	Walnut	Los Angeles	0.006%		**0.0047305%**
City	West Covina	Los Angeles	0.049%		**0.0404521%**
City	West Hollywood	Los Angeles	0.013%		**0.0108517%**
City	Whittier	Los Angeles	0.032%		**0.0260581%**
County	***Madera County***	Madera	0.349%	0.427%	**0.3630669%**
City	Chowchilla	Madera	0.012%		**0.0097332%**
City	Madera	Madera	0.039%		**0.0318441%**
County	***Marin County***	Marin	0.564%	0.690%	**0.5861325%**
City	Larkspur	Marin	0.015%		**0.0124697%**
City	Mill Valley	Marin	0.020%		**0.0168401%**
City	Novato	Marin	0.028%		**0.0229824%**
City	San Anselmo	Marin	0.009%		**0.0078062%**
City	San Rafael	Marin	0.089%		**0.0729823%**
County	***Mariposa County***	Mariposa	0.084%	0.103%	**0.0876131%**
County	***Mendocino County***	Mendocino	0.439%	0.536%	**0.4558394%**
City	Ukiah	Mendocino	0.039%		**0.0317153%**

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Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
County	***Merced County***	Merced	0.551%	0.674%	**0.5724262%**
City	Atwater	Merced	0.024%		**0.0195846%**
City	Livingston	Merced	0.006%		**0.0045873%**
City	Los Banos	Merced	0.020%		**0.0165142%**
City	Merced	Merced	0.061%		**0.0500762%**
County	***Modoc County***	Modoc	0.065%	0.080%	**0.0678250%**
County	***Mono County***	Mono	0.023%	0.029%	**0.0242606%**
County	***Monterey County***	Monterey	0.908%	1.111%	**0.9437083%**
City	Greenfield	Monterey	0.006%		**0.0050552%**
City	King City	Monterey	0.005%		**0.0037355%**
City	Marina	Monterey	0.017%		**0.0144098%**
City	Monterey	Monterey	0.041%		**0.0336540%**
City	Pacific Grove	Monterey	0.009%		**0.0074842%**
City	Salinas	Monterey	0.094%		**0.0776576%**
City	Seaside	Monterey	0.023%		**0.0191772%**
City	Soledad	Monterey	0.007%		**0.0060870%**
County	***Napa County***	Napa	0.288%	0.352%	**0.2994325%**
City	American Canyon	Napa	0.017%		**0.0136869%**
City	Napa	Napa	0.078%		**0.0642783%**
County	***Nevada County***	Nevada	0.441%	0.539%	**0.4579827%**
City	Grass Valley	Nevada	0.024%		**0.0197805%**
City	Truckee	Nevada	0.003%		**0.0023843%**
County	***Orange County***	Orange	4.364%	5.339%	**4.5363576%**
City	Aliso Viejo	Orange	0.014%		**0.0113841%**
City	Anaheim	Orange	0.554%	0.678%	**0.5759282%**
City	Brea	Orange	0.086%		**0.0708897%**
City	Buena Park	Orange	0.087%		**0.0714352%**
City	Costa Mesa	Orange	0.124%	0.152%	**0.1288366%**
City	Cypress	Orange	0.033%		**0.0271937%**
City	Dana Point	Orange	0.001%		**0.0005560%**

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Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	Fountain Valley	Orange	0.055%		**0.0455980%**
City	Fullerton	Orange	0.137%	0.168%	**0.1425744%**
City	Garden Grove	Orange	0.213%		**0.1752482%**
City	Huntington Beach	Orange	0.247%	0.302%	**0.2568420%**
City	Irvine	Orange	0.139%	0.170%	**0.1442350%**
City	Laguna Beach	Orange	0.047%	0.058%	**0.0493043%**
City	Laguna Hills	Orange	0.014%		**0.0115457%**
City	Laguna Niguel	Orange	0.001%		**0.0007071%**
City	Laguna Woods	Orange	0.001%		**0.0006546%**
City	La Habra	Orange	0.060%	0.073%	**0.0621049%**
City	Lake Forest	Orange	0.012%		**0.0101249%**
City	La Palma	Orange	0.012%		**0.0095439%**
City	Los Alamitos	Orange	0.008%		**0.0069190%**
City	Mission Viejo	Orange	0.014%		**0.0117560%**
City	Newport Beach	Orange	0.179%		**0.1470134%**
City	Orange	Orange	0.150%		**0.1231320%**
City	Placentia	Orange	0.029%	0.035%	**0.0298912%**
City	Rancho Santa Margarita	Orange	0.001%		**0.0006296%**
City	San Clemente	Orange	0.008%	0.010%	**0.0086083%**
City	San Juan Capistrano	Orange	0.008%		**0.0065510%**
City	Santa Ana	Orange	0.502%	0.614%	**0.5213866%**
City	Seal Beach	Orange	0.020%		**0.0165891%**
City	Stanton	Orange	0.035%		**0.0291955%**
City	Tustin	Orange	0.073%		**0.0600341%**
City	Westminster	Orange	0.104%	0.127%	**0.1082721%**
City	Yorba Linda	Orange	0.044%		**0.0362223%**
County	***Placer County***	Placer	1.045%	1.278%	**1.0861002%**
City	Auburn	Placer	0.017%		**0.0141114%**
City	Lincoln	Placer	0.031%		**0.0255599%**
City	Rocklin	Placer	0.076%		**0.0625485%**

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Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	Roseville	Placer	0.196%		**0.1616559%**
County	***Plumas County***	Plumas	0.205%	0.251%	**0.2128729%**
County	***Riverside County***	Riverside	4.534%	5.547%	**4.7128296%**
City	Banning	Riverside	0.017%		**0.0143848%**
City	Beaumont	Riverside	0.021%		**0.0171135%**
City	Blythe	Riverside	0.012%		**0.0096714%**
City	Canyon Lake	Riverside	0.000%		**0.0001761%**
City	Cathedral City	Riverside	0.067%		**0.0553614%**
City	Coachella	Riverside	0.021%		**0.0173054%**
City	Corona	Riverside	0.147%		**0.1207083%**
City	Desert Hot Springs	Riverside	0.024%		**0.0200433%**
City	Eastvale	Riverside	0.000%		**0.0002747%**
City	Hemet	Riverside	0.051%		**0.0421792%**
City	Indio	Riverside	0.056%		**0.0457794%**
City	Jurupa Valley	Riverside	0.001%		**0.0008991 %**
City	Lake Elsinore	Riverside	0.021%		**0.0172949%**
City	La Quinta	Riverside	0.063%		**0.0516732%**
City	Menifee	Riverside	0.032%		**0.0260909%**
City	Moreno Valley	Riverside	0.137%		**0.1130348%**
City	Murrieta	Riverside	0.048%	0.059%	**0.0497423%**
City	Norco	Riverside	0.016%		**0.0134542%**
City	Palm Desert	Riverside	0.083%		**0.0682465%**
City	Palm Springs	Riverside	0.076%		**0.0629862%**
City	Perris	Riverside	0.009%		**0.0076774%**
City	Rancho Mirage	Riverside	0.052%		**0.0431098%**
City	Riverside	Riverside	0.268%		**0.2206279%**
City	San Jacinto	Riverside	0.010%		**0.0085936%**
City	Temecula	Riverside	0.022%		**0.0180086%**
City	Wildomar	Riverside	0.008%		**0.0062500%**
County	***Sacramento County***	Sacramento	3.797%	4.645%	**3.9465887%**

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Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	Citrus Heights	Sacramento	0.057%		**0.0465312%**
City	Elk Grove	Sacramento	0.130%		**0.1066994%**
City	Folsom	Sacramento	0.108%		**0.0890850%**
City	Galt	Sacramento	0.017%		**0.0143704%**
City	Rancho Cordova	Sacramento	0.008%		**0.0067679%**
City	Sacramento	Sacramento	0.721%	0.882%	**0.7496530%**
County	***San Benito County***	San Benito	0.106%	0.130%	**0.1101417%**
City	Hollister	San Benito	0.027%		**0.0225355%**
County	***San Bernardino County***	San Bernardino	3.259%	3.987%	**3.3878124%**
City	Adelanto	San Bernardino	0.008%		**0.0066640%**
City	Apple Valley	San Bernardino	0.025%		**0.0207360%**
City	Barstow	San Bernardino	0.015%		**0.0122056%**
City	Chino	San Bernardino	0.064%		**0.0525893%**
City	Chino Hills	San Bernardino	0.001%		**0.0006388%**
City	Colton	San Bernardino	0.031%		**0.0253443%**
City	Fontana	San Bernardino	0.112%		**0.0920543%**
City	Grand Terrace	San Bernardino	0.006%		**0.0051051%**
City	Hesperia	San Bernardino	0.035%		**0.0291522%**
City	Highland	San Bernardino	0.004%		**0.0029061%**
City	Loma Linda	San Bernardino	0.009%		**0.0071188%**
City	Montclair	San Bernardino	0.039%		**0.0322108%**
City	Ontario	San Bernardino	0.179%		**0.1472934%**
City	Rancho Cucamonga	San Bernardino	0.084%		**0.0689431 %**
City	Redlands	San Bernardino	0.057%		**0.0469150%**
City	Rialto	San Bernardino	0.073%		**0.0603206%**
City	San Bernardino	San Bernardino	0.178%		**0.1461880%**
City	Twentynine Palms	San Bernardino	0.002%		**0.0012605%**
City	Upland	San Bernardino	0.052%		**0.0424460%**
City	Victorville	San Bernardino	0.033%		**0.0269400%**
City	Yucaipa	San Bernardino	0.016%		**0.0128772%**

APPENDIX 1

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	Yucca Valley	San Bernardino	0.003%		**0.0021228%**
County	***San Diego County***	San Diego	5.706%	6.980%	**5.9309748%**
City	Carlsbad	San Diego	0.128%		**0.1050485%**
City	Chula Vista	San Diego	0.189%	0.231%	**0.1961456%**
City	Coronado	San Diego	0.044%		**0.0359095%**
City	El Cajon	San Diego	0.113%		**0.0933582%**
City	Encinitas	San Diego	0.061%	0.074%	**0.0630289%**
City	Escondido	San Diego	0.145%		**0.1192204%**
City	Imperial Beach	San Diego	0.014%		**0.0118283%**
City	La Mesa	San Diego	0.055%	0.068%	**0.0575593%**
City	Lemon Grove	San Diego	0.022%		**0.0183911%**
City	National City	San Diego	0.080%		**0.0656808%**
City	Oceanside	San Diego	0.213%		**0.1753428%**
City	Poway	San Diego	0.062%		**0.0511040%**
City	San Diego	San Diego	1.975%	2.416%	**2.0531169%**
City	San Marcos	San Diego	0.089%		**0.0733897%**
City	Santee	San Diego	0.033%		**0.0268401%**
City	Solana Beach	San Diego	0.017%		**0.0138564%**
City	Vista	San Diego	0.052%		**0.0425144%**
Consolidated	***San Francisco***	San Francisco	3.026%	3.702%	**3.1457169%**
County	***San Joaquin County***	San Joaquin	1.680%	2.055%	**1.7460399%**
City	Lathrop	San Joaquin	0.009%		**0.0075394%**
City	Lodi	San Joaquin	0.053%		**0.0439484%**
City	Manteca	San Joaquin	0.054%		**0.0443454%**
City	Ripon	San Joaquin	0.013%		**0.0104219%**
City	Stockton	San Joaquin	0.313%	0.383%	**0.3256176%**
City	Tracy	San Joaquin	0.084%		**0.0692047%**
County	***San Luis Obispo County***	San Luis Obispo	0.816%	0.999%	**0.8484126%**
City	Arroyo Grande	San Luis Obispo	0.024%		**0.0199053%**
City	Atascadero	San Luis Obispo	0.029%		**0.0240680%**

APPENDIX 1

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	El Paso de Robles (Paso Robles)	San Luis Obispo	0.043%		**0.0353456%**
City	Grover Beach	San Luis Obispo	0.017%		**0.0137881%**
City	Morro Bay	San Luis Obispo	0.020%		**0.0160922%**
City	San Luis Obispo	San Luis Obispo	0.077%		**0.0637841 %**
County	***San Mateo County***	San Mateo	1.074%	1.313%	**1.1159599%**
City	Belmont	San Mateo	0.021%		**0.0169860%**
City	Burlingame	San Mateo	0.019%		**0.0152537%**
City	Daly City	San Mateo	0.044%		**0.0363880%**
City	East Palo Alto	San Mateo	0.013%		**0.0103982%**
City	Foster City	San Mateo	0.020%		**0.0166101%**
City	Half Moon Bay	San Mateo	0.004%		**0.0031638%**
City	Hillsborough	San Mateo	0.013%		**0.0110029%**
City	Menlo Park	San Mateo	0.015%		**0.0126209%**
City	Millbrae	San Mateo	0.013%		**0.0105836%**
City	Pacifica	San Mateo	0.016%		**0.0130625%**
City	Redwood City	San Mateo	0.056%		**0.0463511%**
City	San Bruno	San Mateo	0.021%		**0.0172161%**
City	San Carlos	San Mateo	0.013%		**0.0108885%**
City	San Mateo	San Mateo	0.052%		**0.0425841%**
City	South San Francisco	San Mateo	0.043%		**0.0353943%**
County	***Santa Barbara County***	Santa Barbara	1.132%	1.385%	**1.1768968%**
City	Carpinteria	Santa Barbara	0.001%		**0.0008938%**
City	Goleta	Santa Barbara	0.004%		**0.0028969%**
City	Lompoc	Santa Barbara	0.047%		**0.0389379%**
City	Santa Barbara	Santa Barbara	0.122%		**0.1004559%**
City	Santa Maria	Santa Barbara	0.058%		**0.0479179%**
County	***Santa Clara County***	Santa Clara	2.404%	2.941%	**2.4987553%**
City	Campbell	Santa Clara	0.014%		**0.0112566%**
City	Cupertino	Santa Clara	0.008%		**0.0066824%**
City	Gilroy	Santa Clara	0.025%		**0.0202891%**

APPENDIX 1

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	Los Altos	Santa Clara	0.013%		**0.0103338%**
City	Los Gatos	Santa Clara	0.013%		**0.0103220%**
City	Milpitas	Santa Clara	0.036%		**0.0298120%**
City	Morgan Hill	Santa Clara	0.015%		**0.0124619%**
City	Mountain View	Santa Clara	0.041%		**0.0334608%**
City	Palo Alto	Santa Clara	0.039%		**0.0323080%**
City	San Jose	Santa Clara	0.294%	0.360%	**0.3054960%**
City	Santa Clara	Santa Clara	0.067%		**0.0549723%**
City	Saratoga	Santa Clara	0.004%		**0.0034161%**
City	Sunnyvale	Santa Clara	0.053%		**0.0434069%**
County	***Santa Cruz County***	Santa Cruz	0.783%	0.957%	**0.8135396%**
City	Capitola	Santa Cruz	0.020%		**0.0168191%**
City	Santa Cruz	Santa Cruz	0.143%		**0.1180348%**
City	Scotts Valley	Santa Cruz	0.015%		**0.0126525%**
City	Watsonville	Santa Cruz	0.063%		**0.0520136%**
County	***Shasta County***	Shasta	1.095%	1.339%	**1.1380191%**
City	Anderson	Shasta	0.024%		**0.0198896%**
City	Redding	Shasta	0.284%		**0.2334841 %**
City	Shasta Lake	Shasta	0.004%		**0.0031993%**
County	***Siskiyou County***	Siskiyou	0.228%	0.279%	**0.2373393%**
County	***Solano County***	Solano	0.760%		**0.6260795%**
City	Benicia	Solano	0.031%		**0.0253903%**
City	Dixon	Solano	0.016%		**0.0130849%**
City	Fairfield	Solano	0.109%		**0.0897317%**
City	Suisun City	Solano	0.021%		**0.0176183%**
City	Vacaville	Solano	0.119%		**0.0976497%**
City	Vallejo	Solano	0.167%		**0.1373644%**
County	***Sonoma County***	Sonoma	1.218%	1.490%	**1.2661290%**
City	Healdsburg	Sonoma	0.032%		**0.0266929%**
City	Petaluma	Sonoma	0.081%		**0.0667507%**

APPENDIX 1

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	Rohnert Park	Sonoma	0.041%		**0.0340759%**
City	Santa Rosa	Sonoma	0.184%		**0.1519070%**
City	Sonoma	Sonoma	0.022%		**0.0183438%**
City	Windsor	Sonoma	0.016%		**0.0129298%**
County	***Stanislaus County***	Stanislaus	1.722%		**1.4182273%**
City	Ceres	Stanislaus	0.041%		**0.0340260%**
City	Modesto	Stanislaus	0.217%		**0.1788759%**
City	Newman	Stanislaus	0.006%		**0.0046964%**
City	Oakdale	Stanislaus	0.018%		**0.0145531%**
City	Patterson	Stanislaus	0.015%		**0.0126590%**
City	Riverbank	Stanislaus	0.010%		**0.0085699%**
City	Turlock	Stanislaus	0.065%		**0.0531966%**
County	***Sutter County***	Sutter	0.306%	0.374%	**0.3179548%**
City	Yuba City	Sutter	0.074%		**0.0606242%**
County	***Tehama County***	Tehama	0.213%	0.261%	**0.2216654%**
City	Red Bluff	Tehama	0.014%		**0.0117771%**
County	***Trinity County***	Trinity	0.082%	0.101%	**0.0855476%**
County	***Tulare County***	Tulare	0.809%	0.990%	**0.8410949%**
City	Dinuba	Tulare	0.014%		**0.0116929%**
City	Exeter	Tulare	0.004%		**0.0032479%**
City	Farmersville	Tulare	0.003%		**0.0027879%**
City	Lindsay	Tulare	0.007%		**0.0057111%**
City	Porterville	Tulare	0.021%		**0.0171845%**
City	Tulare	Tulare	0.037%		**0.0302273%**
City	Visalia	Tulare	0.066%		**0.0545872%**
County	***Tuolumne County***	Tuolumne	0.486%	0.594%	**0.5047621%**
County	***Ventura County***	Ventura	2.192%	2.681%	**2.2781201%**
City	Camarillo	Ventura	0.002%		**0.0012815%**
City	Fillmore	Ventura	0.002%		**0.0020294%**
City	Moorpark	Ventura	0.008%		**0.0067337%**

APPENDIX 1

Participating Subdivision Classification	Participating Subdivision	County	Abatement Percentage	Plaintiff Subdivision Percentage	Weighted Allcation Percentage
City	Oxnard	Ventura	0.156%	0.190%	**0.1617338%**
City	Port Hueneme	Ventura	0.021%		**0.0174145%**
City	San Buenaventura (Ventura)	Ventura	0.085%		**0.0702181%**
City	Santa Paula	Ventura	0.014%		**0.0119072%**
City	Simi Valley	Ventura	0.065%		**0.0533043%**
City	Thousand Oaks	Ventura	0.022%		**0.0179902%**
County	***Yolo County***	Yolo	0.357%	0.437%	**0.3713319%**
City	Davis	Yolo	0.055%		**0.0451747%**
City	West Sacramento	Yolo	0.066%		**0.0544321%**
City	Woodland	Yolo	0.058%		**0.0477904%**
County	***Yuba County***	Yuba	0.214%	0.262%	**0.2225679%**
City	Marysville	Yuba	0.014%		**0.0112079%**

APPENDIX 2

CALIFORNIA-SUBDIVISION BACKSTOP AGREEMENT

On August 6, 2021, Judge Polster of the US District Court for the Northern District of Ohio issued an Order (the Order), docket number 3814, in In Re National Prescription Opiate Litigation, MDL 2804, addressing contingent attorney fee contracts between political subdivisions eligible to participate in the Purdue/Sackler settlement and their counsel.

In light of the Order, and at the request of [SUBDIVISION], the [SUBDIVISION], its counsel [COUNSEL], and the California Attorney General, on behalf of the State of California, are entering into this California-Subdivision Backstop Agreement (Backstop Agreement).

[SUBDIVISION] and [COUNSEL] intend this Backstop Agreement to constitute a State Back-Stop Agreement as that term is used in the Order and in Exhibit R (Agreement on Attorneys' Fees, Expenses and Costs) of the Governmental Entity & Shareholder Settlement Agreement (GESA).

Pursuant to this Backstop Agreement, [SUBDIVISION] may, subject to the limitations of the Governing Documents and California Purdue/Sackler State-Subdivision Agreement, as well as any other limitations imposed by law, use funds that it receives from the CA Subdivision Fund of the Purdue/Sackler settlement to pay a contingent fee to [COUNSEL]. Any such payment from [SUBDIVISION] to [COUNSEL] from [SUBDIVISION'S] CA Subdivision Fund allocation will not exceed [PERCENTAGE NOT TO EXCEED ONE-THIRD OR 5% OUT OF THE 15%] out of the [SUBDIVISION'S] 15% CA Subdivision Fund allocation; provided further that such payments, together with any contingency-fees that [COUNSEL] may receive from the Local Government Costs and Expenses Fund, will not exceed a total contingency fee of [PERCENTAGE NOT TO EXCEED 15%] of the [SUBDIVISION'S] total gross recovery from the Purdue/Sackler settlement. [SUBDIVISION] further certifies that any payments made under this Backstop Agreement will be made in accordance with the 95% Opioid Abatement use requirements under Section 5.02 A of the GESA and Section 4.01(f)(i) of the Master Settlement Agreement.

[COUNSEL] certify that they first sought fees and costs from the Local Government Costs and Expenses Fund created under the Governing Documents before seeking or accepting payment under this backstop agreement. [COUNSEL] further certify that they are not seeking and will not accept payment under this backstop agreement of any litigation fees or costs that have been reimbursed through prior settlements or judgments.

The Attorney General is executing this agreement solely because the definition of "State Back-Stop Agreement" in Exhibit R of the Governmental Entity & Shareholder Settlement Agreement requires such agreements to be between "a Settling State" and private counsel for a participating subdivision. Neither the California Attorney General nor the State of California have any obligations under this Backstop Agreement, and this Backstop Agreement does not require the payment of any state funds to [SUBDIVISION], [COUNSEL], or any other party.

[DATE]	[SUBDIVISION SIGNATURE BLOCK]
[DATE]	[COUNSEL SIGNATURE BLOCK]
[DATE]	[ATTORNEY GENERAL SIGNATURE BLOCK]

EXHIBIT K

Subdivision Participation and Release Form

Governmental Entity: Ontario city	State: CA
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to that certain Governmental Entity & Shareholder Direct Settlement Agreement accompanying this participation form (the "*Agreement*")[1], and acting through the undersigned authorized official, hereby elects to participate in the Agreement, grant the releases set forth below, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Agreement, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Agreement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall promptly after the Effective Date, and prior to the filing of the Consent Judgment, dismiss with prejudice any Shareholder Released Claims and Released Claims that it has filed. With respect to any Shareholder Released Claims and Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs' Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at https://nationalopioidsettlement.com.

3. The Governmental Entity agrees to the terms of the Agreement pertaining to Participating Subdivisions as defined therein.

4. By agreeing to the terms of the Agreement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning following the Effective Date.

5. The Governmental Entity agrees to use any monies it receives through the Agreement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as and to the extent provided in, and for resolving disputes to the extent provided in, the

[1] Capitalized terms used in this Exhibit K but not otherwise defined in this Exhibit K have the meanings given to them in the Agreement or, if not defined in the Agreement, the Master Settlement Agreement.

Agreement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Agreement.

7. The Governmental Entity has the right to enforce the Agreement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Agreement, including without limitation all provisions of Article 10 (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in his or her official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Subdivision Releasor, to the maximum extent of its authority, for good and valuable consideration, the adequacy of which is hereby confirmed, the Shareholder Released Parties and Released Parties are, as of the Effective Date, hereby released and forever discharged by the Governmental Entity and its Subdivision Releasors from: any and all Causes of Action, including, without limitation, any Estate Cause of Action and any claims that the Governmental Entity or its Subdivision Releasors would have presently or in the future been legally entitled to assert in its own right (whether individually or collectively), notwithstanding section 1542 of the California Civil Code or any law of any jurisdiction that is similar, comparable or equivalent thereto (which shall conclusively be deemed waived), whether existing or hereinafter arising, in each case, (A) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (ii) the Estates, (iii) the Chapter 11 Cases, or (iv) Covered Conduct and (B) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor (each such release, as it pertains to the Shareholder Released Parties, the "Shareholder Released Claims", and as it pertains to the Released Parties other than the Shareholder Released Parties, the "Released Claims"). For the avoidance of doubt and without limiting the foregoing: the Shareholder Released Claims and Released Claims include any Cause of Action that has been or may be asserted against any Shareholder Released Party or Released Party by the Governmental Entity or its Subdivision Releasors (whether or not such party has brought such action or proceeding) in any federal, state, or local action or proceeding (whether judicial, arbitral, or administrative) (A) directly or indirectly based on, arising out of, or in any way relating to or concerning, in whole or in part, (i) the Debtors, as such Entities existed prior to or after the Petition Date, and their Affiliates, (ii) the Estates, (iii) the Chapter 11 Cases, or (iv) Covered Conduct and (B) as to which any conduct, omission or liability of any Debtor or any Estate is the legal cause or is otherwise a legally relevant factor.

9. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Shareholder Released Claims or Released Claims against any Shareholder Released Party or Released Party in any forum whatsoever, subject in all respects to Section 9.02 of the Master Settlement Agreement. The releases provided for herein (including the term "Shareholder Released

Claims" and "Released Claims") are intended by the Governmental Entity and its Subdivision Releasors to be broad and shall be interpreted so as to give the Shareholder Released Parties and Released Parties the broadest possible release of any liability relating in any way to Shareholder Released Claims and Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Agreement shall be a complete bar to any Shareholder Released Claim and Released Claims.

10. To the maximum extent of the Governmental Entity's power, the Shareholder Released Parties and the Released Parties are, as of the Effective Date, hereby released and discharged from any and all Shareholder Released Claims and Released Claims of the Subdivision Releasors.

11. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Agreement.

12. In connection with the releases provided for in the Agreement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Shareholder Released Claims or such other Claims released pursuant to this release, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Shareholder Released Claims or such other Claims released pursuant to this release that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Agreement.

13. Nothing herein is intended to modify in any way the terms of the Agreement, to which Governmental Entity hereby agrees. To the extent any portion of this Participation and Release Form not relating to the release of, or bar against, liability is interpreted differently from the Agreement in any respect, the Agreement controls.

14. Notwithstanding anything to the contrary herein or in the Agreement, (x) nothing herein shall (A) release any Excluded Claims or (B) be construed to impair in any way the rights and obligations of any Person under the Agreement; and (y) the Releases set forth herein shall be subject to being deemed void to the extent set forth in Section 9.02 of the Master Settlement Agreement.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **CONSENT CALENDAR**
Department: Public Works Prepared By: Gil H Mars Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam, Andrea Ampig Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 8

SUBJECT: A CONSTRUCTION CONTRACT WITH BOGH CONSTRUCTION LLC FOR THE CONSTRUCTION OF THE DE ANZA PARK RENOVATION PROJECT

RECOMMENDATION: That the City Council take the following actions:

A. Authorize the City Manager, or his designee, to execute a Construction Contract for D&C25-001 De Anza Park Renovation with Bogh Construction LLC, of Beaumont, California, for the De Anza Park Renovation Project for a total contract amount of $11,541,198 plus a 10% contingency of $1,154,120, for a total contract amount not-to-exceed $12,695,318; and
B. Authorize the City Manager, or his designee, to execute all documents required for the completion of the project which may include, but is not limited to, agreements, assessments, easements, reduction of retention accounts, contract amendments within the authorization limits, and filing a notice of completion at the conclusion of all construction-related activities.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: The Construction Contract with Bogh Construction LLC is in the amount of $11,541,198 plus a 10% contingency of $1,154,120, for a total contract amount not-to-exceed $12,695,318. The Fiscal Year 2025-26 Adopted Budget included appropriations in the Capital Projects – Measure Q Fund for the renovation of De Anza Park.

BACKGROUND & ANALYSIS: On November 1, 2022, the City Council approved Amendment No. 1 to the Design Services Agreement with Community Works Design Group for design services of the De Anza Park Splash Pad and De Anza Soccer Field Synthetic Turf. On August 15, 2023, the City Council authorized the cooperative purchase of synthetic turf for the De Anza Park soccer field. On November 19, 2024, the City Council authorized the cooperative purchase of playground equipment and picnic shelters for the De Anza Park Renovation.

On April 28, 2025, the City solicited bids for Invitation No. 1918 De Anza Park Renovation. Four (4) bids were received.

Bidder	**Location**	**Amount**
Bogh Construction LLC	Beaumont, CA	$11,541,197.15
KASA Construction, Inc.	Chino, CA	$11,996,000.00
Los Angeles Engineering, Inc.	Covina, CA	$12,050,000.00
RCCI	Azusa, CA	$14,438,806.00

Bogh Construction LLC, of Beaumont, California, submitted the lowest responsible and responsive bid with a base bid of $11,541,197.15. Based on the bid, credentials, pricing, and favorable reference checks, staff recommends awarding the Construction Contract to Bogh Construction LLC.

A protest was received from KASA Construction, Inc. City staff denied the protest because the protest was related to responsibility, but there was no basis to conclude that the lowest bidder was not responsible.

The De Anza Park Renovation Project will consist of a new splash pad, shade structures, decorative fencing, picnic tables and benches, skate park, synthetic soccer field turf, parking lot improvements, landscape and irrigation improvements, ADA improvements, walkway paths, upgraded park lighting, restroom expansion, and a security upgrade with surveillance systems and emergency blue phone stations throughout the Park.

The project has an estimated completion date of September 2026.

CITY OF ONTARIO
303 EAST B STREET | ONTARIO, CALIFORNIA 91764
(909) 395-2000 FAX (909) 395-2070 OntarioCA.gov

PAUL S. LEON
MAYOR

ALAN D. WAPNER
MAYOR PRO TEM

JIM W. BOWMAN
DEBRA PORADA
DAISY MACIAS
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
CITY TREASURER

SCOTT OCHOA
CITY MANAGER

CONTRACT FOR CONSTRUCTION

This Contract for Construction ("Contract"), No. _____ is made and entered as of _____, by and between City of Ontario, with its principal place of business at 303 East "B" Street, Ontario, CA 91764, sometimes hereinafter called the "City" and **Bogh Construction LLC**, sometimes hereinafter called "Contractor."

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

ARTICLE 1. SCOPE OF WORK.

The Contractor shall perform all Work within the time stipulated in the Contract, and shall provide all labor, materials, equipment, tools, utility services, and transportation to complete all of the Work required in strict compliance with the Contract Documents as specified in Article 5, below, for the following Project:

D&C25-001 DE ANZA PARK RENOVATION

Contractor is an independent contractor and not an agent of the City. The Contractor and its surety shall be liable to the City for any damages arising as a result of the Contractor's failure to comply with this obligation.

ARTICLE 2. TIME FOR COMPLETION.

Time is of the essence in the performance of the Work. The Work shall be commenced on the date stated in the City's Notice to Proceed. The Contractor shall complete all Work required by the Contract Documents within **300** calendar days from the commencement date stated in the Notice to Proceed. By its signature hereunder, Contractor agrees the time for completion set forth above is adequate and reasonable to complete the Work.

ARTICLE 3. CONTRACT PRICE.

The City shall pay to the Contractor as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the sum of **Eleven Million Five Hundred Forty-One Thousand One Hundred Ninety-Eight Dollars ($11,541,198.00).** Payment shall be made as set forth in the General Conditions. The City will pay to Contractor compensation based upon the prices set forth in the Bid Schedule.

ARTICLE 4. LIQUIDATED DAMAGES.

Contractor acknowledges that the City will sustain actual damages for each and everyday completion of the Project is delayed beyond the Contract Time. Because of the nature of the Project, it would be impracticable or extremely difficult to determine the City's actual damages. Accordingly, in accordance with Government Code section 53069.85, it is agreed that the Contractor will pay the City the sum of **$250** for each and every calendar day of delay beyond the time prescribed in the Contract Documents for finishing the Work, as Liquidated Damages and not as a penalty or forfeiture. In the event this is not paid, the Contractor agrees the City may deduct that amount from any money due or that may become due the Contractor under the Contract. This Section does not exclude recovery of other damages specified in the Contract Documents. Liquidated damages may be deducted from progress payments due Contractor, Project retention or may be collected directly from Contractor, or from Contractor's surety. These provisions for liquidated damages shall not prevent the City, in case of Contractor's default, from terminating the Contractor.

ARTICLE 5. COMPONENT PARTS OF THE CONTRACT.

The "Contract Documents" include the following:

Notice Inviting Bids
Instructions to Bidders
Bid Forms
Bid Acknowledgement
Bid Schedule
Bid Guarantee
Designation of Subcontractors
Information Required of Bidders
Non-Collusion Declaration Form
Iran Contracting Act Certification
Public Works Contractor DIR Registration Certification
Performance Bond
Payment (Labor and Materials) Bond
Contract for Construction
General Conditions
Special Conditions
Specifications
Addenda
Construction Plans and Drawings
Standard Specifications for Public Works Construction "Greenbook", latest edition, Except Sections 1-9
Applicable Local Agency Standards and Specifications, as last revised
Reference Specifications
Approved and fully executed Change Orders
Permits
Any other documents contained in or incorporated into the Contract

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. In the event of conflict, the various Contract Documents will be given effect in the order set forth in the General Conditions. This Contract shall supersede any prior agreement of the parties.

ARTICLE 6. PROVISIONS REQUIRED BY LAW AND CONTRACTOR COMPLIANCE.

Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

ARTICLE 7. INDEMNIFICATION.

Contractor shall provide indemnification and defense as set forth in the General Conditions.

ARTICLE 8. PREVAILING WAGES.

Contractor shall be required to pay the prevailing rate of wages in accordance with the Labor Code which such rates shall be made available at the City's Office or may be obtained online at http://www.dir.ca.gov and which must be posted at the job site.

ARTICLE 9. FALSE CLAIMS.

Contractor acknowledges that if a false claim is submitted to the City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that the False Claims Act, California Government Code sections 12650, et seq., provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include within their scope false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of the information. In the event the City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys' fees. Contractor hereby acknowledges that the filing of a false claim may the Contractor to an administrative debarment proceeding wherein Contractor may be prevented from further bidding on public contracts for a period of up to five (5) years.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year above written.

CITY OF ONTARIO

By: _____

Scott Ochoa

City Manager

ATTEST:

By: _____

Sheila Mautz, City Clerk

APPROVED AS TO FORM:

By: _____

Best Best & Krieger LLP

City Attorney

BOGH CONSTRUCION LLC

By: _____

Its: _____

Printed Name: _____

[DELETE THE FOLLOWING SIGNATURE LINE IF NOT **REQUIRED**]

By: _____

Its: _____

Printed Name: _____

_____

Contractor's License Number and Classification

_____

DIR Registration Number

[IF CORPORATION, TWO SIGNATURES, PRESIDENT **OR** VICE PRESIDENT **AND** SECRETARY **OR** TREASURER **REQUIRED]**

END OF CONTRACT

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**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: 9

SUBJECT: A MAINTENANCE SERVICES AGREEMENT WITH T.E. ROBERTS INC. FOR ON-CALL SERVICES FOR WATER DISTRIBUTION AND SEWAGE COLLECTION SYSTEM REPAIRS

RECOMMENDATION: That the City Council authorize the City Manager, or designee, to execute a one-year Maintenance Services Agreement with T.E. Roberts Inc., of Irvine, California, for on-call water distribution and sewage collection system repairs in the amount of $1,200,000 from September 2, 2025 to June 30, 2026, with the option to extend the agreement for up to four successive one-year periods for a total not-to-exceed $6,630,750.

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 Fiscal Year 2025-26 Adopted Budget includes appropriations from the Water and Sewer Operating Funds for these services. The recommended Agreement is for $1,200,000 for the initial term. At the City's discretion, up to four additional one-year extensions may be executed. Should the City exercise all four successive one-year extensions, the projected amount for the five years (September 2, 2025 to June 30, 2030) would be a total not-to-exceed amount of $6,630,750.

The City and Contractor have agreed to fixed billing rates, and the Contractor will be compensated for on-call, as-needed services at the billing rates set forth in the proposed Agreement. Prices for the first year are fixed, and after the first year, any proposed increases in fees will be negotiated annually and will not exceed 5% per year. The total compensation paid under the proposed Agreement will be commensurate with the City Council approved plans and budgets. There is no impact to the General Fund.

BACKGROUND & ANALYSIS: The City's water distribution and sewer collection systems have over 1,000 miles of pipelines that are primarily maintained by City Staff. At times, the amount of work

required to maintain these systems exceeds Staff's availability. This annual Agreement will assist Staff with planned maintenance and emergency repairs on an as-needed basis. The additional resources will enable the City to complete scheduled maintenance, as well as provide assistance during emergency repairs due to sudden and unexpected system failures.

On July 16, 2025, six bids were received for Bid No. 1930 for on-call water distribution and sewage collection system repairs. The bids ranged from a low bid amount of $2,880,785 to a high bid amount of $10,918,385.

Company	**Location**	**Amount**
T.E. Roberts, Inc.	**Irvine, CA**	**$2,880,785**
Norstar Plumbing & Engineering, Inc.	Alta Loma, CA	$3,048,909
Big Ben Engineering	Irvine CA	$3,845,465
Mladen Buntich Construction	Upland, CA	$5,688,575
C.P. Construction	Upland, CA	$6,889,375
Gentry General Engineering Inc.	Upland, CA	$10,918,385

The bids received were based on estimated quantities of materials, along with hourly rates for staffing and equipment. The quantities reflected in the bids are estimates only. The recommendation to award the proposed Agreement is based on historical budgets previously allocated for this type of work. Staff recommends awarding the Agreement to T.E. Roberts Inc., based on their status as the lowest responsive bidder, demonstrated performance on similar projects, ability to complete the work in a timely manner, and proven expertise in water distribution and sewer system repairs.

CITY OF ONTARIO
303 EAST B STREET | ONTARIO, CALIFORNIA 91764
(909) 395-2000 FAX (909) 395-2070 OntarioCA.gov

PAUL S. LEON
MAYOR

ALAN D. WAPNER
MAYOR PRO TEM

JIM W. BOWMAN
DEBRA PORADA
DAISY MACIAS
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
CITY TREASURER

SCOTT OCHOA
CITY MANAGER

CITY OF ONTARIO
MAINTENANCE SERVICES AGREEMENT

1. PARTIES AND DATE.

This Agreement is made and entered as of _____, by and between the City of Ontario, a municipal corporation organized under the laws of the State of California with its principal place of business at 303 East "B" Street, Ontario, California 91764-4196, County of San Bernardino, State of California ("City") and **T.E. Roberts, Inc.** a **CORPORATION**, with its principal place of business at **306 West Katella Avenue, Unit 8, Orange, CA 92867 ("Contractor").** City and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

2. RECITALS.

2.1 Contractor.

Contractor desires to perform and assume responsibility for the provision of certain maintenance services required by the City on the terms and conditions set forth in this Agreement. Contractor represents that it is experienced in providing **On-Call Services for Water Distribution and Sewer Collection System Repairs** services to public clients, that it and its employees or subcontractors have all necessary licenses and permits to perform the Services in the State of California, and that it is familiar with the plans of the City.

2.2 Project.

City desires to engage Contractor to render such services for the **On-Call Services for Water Distribution and Sewer Collection System Repairs** project ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Contractor promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the maintenance services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance

with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state, and federal laws, rules, and regulations.

3.1.2 Term. The term of this Agreement shall be from **September 2nd, 2025** to **June 30th, 2026**, unless earlier terminated as provided herein. The City shall have the unilateral option, at its sole discretion, to renew this Agreement automatically for no more than (4) additional one-year terms. Contractor shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Compensation.

3.2.1 Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed **One Million and Two Hundred Thousand ($1,200,000.00)** without written approval of City's City Manager. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.2.2 Payment of Compensation. Contractor shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Contractor. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.2.3 Deductions. City may deduct or withhold, as applicable, from each progress payment an amount necessary to protect City from loss because of: (1) stop payment notices as allowed by state law; (2) unsatisfactory prosecution of the Services by Contractor; (3) sums representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Agreement; and (4) any other sums which the City is entitled to recover from Contractor under the terms of the Agreement or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.2.4 Reimbursement for Expenses. Contractor shall not be reimbursed for any expenses unless authorized in writing by City.

3.2.5 Extra Work. At any time during the term of this Agreement, City may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

3.2.6 Automated Clearing House ("ACH") payments. It is the City's policy to pay its consultant invoices via electronic fund transfers through the ACH network. All payments due and owing pursuant to a properly issued and correct invoice or under this Agreement shall be made through electronic ACH transfers, unless otherwise agreed upon by both Parties in writing. Contractor shall provide the City with ACH payment details whereby the City shall initiate the ACH transfers to Contractor in the amount required pursuant to a properly issued and correct invoice

or under this Agreement. Each Party shall undertake any and all required actions and execute any required documents, instruments, or agreements required to effectuate the requirements of this Section. In the event the City erroneously deposits funds into an account, or otherwise deposits funds to which Contractor is not entitled: (1) Contractor shall immediately notify the City and the financial institution; (2) Contractor shall not withdraw any of the funds which were erroneously deposited or to which Contractor is not entitled; and (3) Contractor authorizes both the City and financial institution to take all actions necessary to correct the error and return to the City all funds erroneously deposited or to which Contractor is not entitled.

3.3 Responsibilities of Contractor.

3.3.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Contractor or under its supervision. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Contractor on an independent contractor basis and not as an employee. Contractor retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Contractor shall also not be employees of City and shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.3.2 Schedule of Services. Contractor shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Contractor represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Contractor's conformance with the Schedule, City shall respond to Contractor's submittals in a timely manner. Upon request of City, Contractor shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.3.3 Conformance to Applicable Requirements. All work prepared by Contractor shall be subject to the approval of City.

3.3.4 City's Representative. The City hereby designates **Andy Marquez, Utilities Operations Manager**, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Agreement except for increasing compensation. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.3.5 Contractor's Representative. Contractor hereby designates **Timothy Roberts**, or his or her designee, to act as its representative for the performance of this Agreement ("Contractor's Representative"). Contractor's Representative shall have full authority to represent and act on behalf of the Contractor for all purposes under this Agreement. The Contractor's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.3.6 Coordination of Services. Contractor agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.3.7 Standard of Care; Performance of Employees. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Contractor shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care provided for herein. Any employee of the Contractor or its sub-contractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Contractor and shall not be re-employed to perform any of the Services or to work on the Project.

3.3.8 Period of Performance and Liquidated Damages.

3.3.8.1 Contractor shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Contractor shall perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be provided separately in writing to the Contractor. Contractor agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such completion schedule or Project milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged, and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum of Five Hundred Dollars ($500.00**)** per day for each and every calendar day of delay beyond the Performance Time or beyond any completion schedule or Project milestones established pursuant to this Agreement.

3.3.8.2 Neither City nor Contractor shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing Party. For purposes of this Agreement, such circumstances include a Force Majeure Event. A Force Majeure Event shall mean an event that materially affects a Party's performance and is one or more of the following: (1) Acts of God or other natural disasters; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the Services); (4) strikes and other organized labor action occurring at the site and the effects thereof on the Services, only to the extent such strikes and other organized labor action are beyond the control of Contractor and its subconsultants, and to the extent the effects thereof cannot be avoided by use of replacement workers; and (5) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to

protect the public health, welfare and safety, and other actions of a public agency applicable to the Services and Agreement.

3.3.8.3 Should a Force Majeure Event occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Force Majeure Events and/or delays, regardless of the Party responsible for the delay, shall not entitle Contractor to any additional compensation. Notwithstanding the foregoing in this section, the City may still terminate this Agreement in accordance with the termination provisions of this Agreement.

3.3.9 Disputes. Should any dispute arise respecting the true value of any work done, of any work omitted, or of any extra work which Contractor may be required to do, or respecting the size of any payment to Contractor during the performance of this Contract, Contractor shall continue to perform the Work while said dispute is decided by the City. If Contractor disputes the City's decision, Contractor shall have such remedies as may be provided by law.

3.3.10 Laws and Regulations; Employee/Labor Certifications.

3.3.10.1 Compliance with Laws. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Services. If the Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Agreement to the same extent as though set forth herein and will be complied with. These include but are not limited to the payment of prevailing wages, the stipulation that eight (8) hours' labor shall constitute a legal day's work and that no worker shall be permitted to work in excess of eight (8) hours during any one calendar day except as permitted by law. Contractor shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.3.10.2 Employment Eligibility; Contractor. By executing this Agreement, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement. Contractor shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some

other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for in Section 3.3.10 or any of its sub-sections.

3.3.10.3 Employment Eligibility; Subcontractors, Sub-subcontractors and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.3.10.1.

3.3.10.4 Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Contractor verifies that they are a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the City to terminate the Agreement for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in Sections 3.3.10.1 or 3.3.10.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Contractor under Section 3.3.10.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

3.3.10.5 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Contractor shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.3.10.6 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall specifically be aware of the CARB limits and requirements' application to "portable equipment", which definition is considered by CARB to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.3.10.7 Water Quality.

(A) To the extent applicable, Contractor's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency, the State Water Resources Control Board and the Colorado River Regional Water Quality Control Board; the City's ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority

regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State.

(B) Liability for Non-Compliance. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Contractor or City to penalties, fines, or additional regulatory requirements. Contractor shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from and against any and all fines, penalties, claims or other regulatory requirements imposed as a result of Contractor's non-compliance with the laws, regulations and policies described in this Section, unless such non-compliance is the result of the sole established negligence, willful misconduct or active negligence of the City, its officials, officers, agents, employees or authorized volunteers.

(C) Training. In addition to any other standard of care requirements set forth in this Agreement, Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them without impacting water quality in violation of the laws, regulations and policies described in this Section. Contractor further warrants that it, its employees and subcontractors will receive adequate training, as determined by City, regarding the requirements of the laws, regulations and policies described in this Section as they may relate to the Services provided under this Agreement. Upon request, City will provide Contractor with a list of training programs that meet the requirements of this paragraph.

3.3.11 Insurance.

3.3.11.1 Time for Compliance. Contractor shall not commence Services under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this Section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this Section.

3.3.11.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. The policy shall not contain any exclusion contrary to the Agreement, including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 29); or (2) cross liability for claims or suits by one insured against another.

(B) Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability:* $3,000,000 per occurrence for bodily injury, personal

injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability:* $2,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of $1,000,000 per accident for bodily injury or disease. Defense costs shall be paid in addition to the limits*. (4) Pollution Liability Insurance* of at least $2,000,000 per occurrence shall be provided by the Supplier if transporting hazardous materials.

(C) Notices; Cancellation or Reduction of Coverage. At least fifteen (15) days prior to the expiration of any such policy, evidence showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or materially reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, the City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by the City will be promptly reimbursed by Contractor or the City may withhold amounts sufficient to pay premium from Contractor payments. In the alternative, the City may suspend or terminate this Agreement.

(D) Additional Insured. The City, its directors, officials, officers, employees, agents, and volunteers shall be named as additional insureds on Contractor's and its subcontractors' policies of commercial general liability and automobile liability insurance using the endorsements and forms specified herein or exact equivalents.

3.3.11.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall include or be endorsed (amended) to state that: (1) using ISO CG forms 20 10 and 20 37, or endorsements providing the exact same coverage, the City of Ontario, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Services or ongoing and complete operations performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection with such work; and (2) using ISO form 20 01, or endorsements providing the exact same coverage, the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any excess insurance shall contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of the City, before the City's own primary insurance, deductible, or self-insurance shall be called upon to protect it as a named insured. Any insurance, deductible, or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way. Notwithstanding the minimum limits set forth in Section 3.3.11.2(B), any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds pursuant to this Section 3.3.11.3(A).

(B) Automobile Liability. The automobile liability policy shall include or be endorsed (amended) to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance, deductible, or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way. Policy shall contain or be endorsed to contain such provisions. Notwithstanding the minimum limits set forth in Section 3.3.11.2(B), any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds pursuant to this Section 3.3.11.3(B).

(C) Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Contractor.

(D) Pollution Liability Insurance of at least $2,000,000 per occurrence shall be provided by the Supplier if transporting hazardous materials.

(E) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days (10 days for nonpayment of premium) prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents, and volunteers. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officials, officers, employees, agents and volunteers, or any other additional insureds.

3.3.11.4 Separation of Insureds; No Special Limitations; Waiver of Subrogation. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents, and volunteers. Requirement of specific coverage or minimum limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. All policies shall waive any right of subrogation of the insurer against the City, its officials, officers, employees, agents, and volunteers, or any other additional insureds, or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against City, its officials, officers, employees, agents, and volunteers, or any other additional insureds, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

3.3.11.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents,

and volunteers; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.3.11.6 Subcontractor Insurance Requirements. Contractor shall not allow any subcontractors to commence work on any subcontract relating to the work under the Agreement until they have provided evidence satisfactory to the City that they have secured all insurance required under this Section. If requested by Contractor, the City may approve different scopes or minimum limits of insurance for particular subcontractors. The Contractor and the City shall be named as additional insureds on all subcontractors' policies of Commercial General Liability using ISO form 20 38, or coverage at least as broad.

3.3.11.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the City.

3.3.11.8 Verification of Coverage. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.3.11.9 Reporting of Claims. Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the Services under this Agreement.

3.3.12 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and lifesaving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3.13 Bonds.

3.3.13.1 Performance Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor shall execute and provide to City concurrently with this Agreement a Performance Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.3.13.2 Payment Bond. If required by law or otherwise specifically requested by City in Exhibit "C" attached hereto and incorporated herein by reference, Contractor

shall execute and provide to City concurrently with this Agreement a Payment Bond in the amount of the total, not-to-exceed compensation indicated in this Agreement, and in a form provided or approved by the City. If such bond is required, no payment will be made to Contractor until it has been received and approved by the City.

3.3.13.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient or any surety be found to be unsatisfactory, Contractor shall renew or replace the affected bond within 10 days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Agreement until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the total compensation is increased in accordance with the Agreement, the Contractor shall, upon request of the City, cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. To the extent available, the bonds shall further provide that no change or alteration of the Agreement (including, without limitation, an increase in the total compensation, as referred to above), extensions of time, or modifications of the time, terms, or conditions of payment to the Contractor, will release the surety. If the Contractor fails to furnish any required bond, the City may terminate this Agreement for cause.

3.3.13.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety with a current A.M. Best's rating no less than A:VIII and satisfactory to the City. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.3.14 Work Site.

3.3.14.1 Inspection Of Site. Contractor shall visit sites where Services are to be performed and shall become acquainted with all conditions affecting the Services prior to commencing the Services. Contractor shall make such examinations as it deems necessary to determine the condition of the work sites, its accessibility to materials, workmen and equipment, and to determine Contractor's ability to protect existing surface and subsurface improvements. No claim for allowances–time or money–will be allowed as to such matters after commencement of the Services.

3.3.14.2 Field Measurements. Contractor shall make field measurements, verify field conditions and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract Documents, including any plans, specifications, or scope of work before commencing Services. Errors, inconsistencies or omissions discovered shall be reported to the City immediately and prior to performing any Services or altering the condition.

3.3.15 Loss and Damage. Contractor shall be responsible for all loss and damage which may arise out of the nature of the Services agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Services until the same is fully completed and accepted by City.

3.3.16 Warranty. Contractor warrants all Services under the Contract (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Contract or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Services or non-conformance of the Services to the Contract, commence and prosecute with due diligence all Services necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work (or work of other contractors) damaged by its defective Services or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Contract, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

3.4 Labor Code Requirements.

3.4.1 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815)

and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

3.4.2 Registration/DIR Compliance. If the Services are being performed as part of an applicable "public works" or "maintenance" project, and if the total compensation is $15,000 or more, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable.

3.4.3 Registration/DIR Compliance. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Services, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

3.4.4 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5 Termination of Agreement.

3.5.1 Grounds for Termination. City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Contractor shall be compensated only for those services which have been adequately rendered to City, and Contractor shall be entitled to no further compensation. Contractor may not terminate this Agreement except for cause. The rights and remedies of the City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this Agreement.

3.5.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished Documents and Data and other information of any kind prepared by Contractor in connection with the performance of Services under this Agreement. Contractor shall be required to provide such document and other information within fifteen (15) days of the request.

3.5.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.6 Indemnification.

3.6.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its officials, employees, agents and volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's Services, the Project or this Agreement, including without limitation the payment of all expert witness fees, attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent required by Civil Code section 2782, Contractor's indemnity obligation shall not apply to such loss or damage which is caused by the sole or active negligence or willful misconduct of the City.

3.6.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense and risk, any and all Claims covered by this section that may be brought or instituted against City or its officials, employees, agents and volunteers. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its officials, employees, agents and volunteers as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by City or its officials, employees, agents and volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Contractor shall reimburse City and its officials, employees, agents and volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, its officials, employees, agents and volunteers.

3.7 General Provisions.

3.7.1 Accounting Records. Contractor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Contractor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Contractor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.7.2 Independent Contractors and Subcontracting.

3.7.2.1 Use of Contractors. Contractor is aware of statutory and case law regarding classification of workers as independent contractors, including California Labor Code Section 2750.3 and Dynamex Operations West, Inc. v. Superior Court, 4 Cal. 5th 903 (2018). To ensure that Contractor is in compliance with the California Labor Code, Contractor shall only utilize its employees to provide the Services. Contractor may not provide the services through any independent contractor, subcontractor or subconsultant ("Subcontractor(s)") unless approved by the City as set forth in Section 3.7.2.2 below. Contractor represents and warrants that all personnel who perform the Services on Contractor's behalf are Contractor's employees,

and that Contractor complies with all applicable laws, rules and regulations governing its employees, including, but not limited to, the California Labor Code, Unemployment Insurance Code and all applicable Industrial Welfare Commission Wage Orders.

3.7.2.2 Prior Approval Required. Contractor shall not use any Subcontractor to provide the Services, or any portion of the work required by this Agreement, without prior written approval of City. In the event that City authorizes Contractor to use a Subcontractor, Contractor shall enter into a written agreement with the Subcontractor, which must include all provisions of the Agreement, including a restriction on the Subcontractor's use of further independent contractors, subcontractors or subconsultants without the City's prior written consent.

3.7.3 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor:

T.E. Roberts, Inc.
306 West Katella Avenue, Unit 8
Orange, CA 92867
Attn: Timothy Roberts, President

City:

City of Ontario
303 East "B" Street
Ontario, CA 91764
Attn: Andy Marquez, OMUC

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.7.4 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Contractor must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

3.7.5 Attorneys' Fees. If either Party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys' fees and all other costs of such action.

3.7.6 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.7.7 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project.

3.7.8 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.7.9 Assignment or Transfer. Contractor shall not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.7.10 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Contractor include all personnel, employees, agents, and subcontractors of Contractor, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

3.7.11 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.7.12 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.7.13 No Third Party Beneficiaries. Except to the extent expressly provided for in Section 3.5.7, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.7.14 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.7.15 Prohibited Interests. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this

Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.7.16 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.7.17 Authority to Enter Agreement. Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.7.18 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.7.19 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

SIGNATURES NEXT PAGE

SIGNATURE PAGE FOR MAINTENANCE SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND T.E. ROBERTS, INC

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF ONTARIO	**T.E. Roberts, Inc.**
Approved By:	
_____	By: _____
Scott Ochoa City Manager	Its: _____
Approved as to Form:	Printed Name: _____
_____	By: _____
Best Best & Krieger LLP City Attorney	Its: _____
	Printed Name: _____
Attested By:	
_____	_____ Contractor's License Number and Classification
City Clerk	
	_____ DIR Registration Number

EXHIBIT "A"

SCOPE OF SERVICES

SECTION 00700
GENERAL CONDITIONS

ARTICLE 1. DEFINITIONS

a. Acceptable, Acceptance or words of similar import shall be understood to be the acceptance of the Engineer and/or the City.

b. Act of God is an earthquake of magnitude 3.5 or higher on the Richter scale or a tidal wave.

c. Applicable Laws means laws, statutes, ordinances, rules, codes, regulations permits and licenses of any kind, issued by local, state or federal governmental authorities or private authorities with jurisdiction (including utilities), to the extent they apply to the Work.

d. Approval means written authorization by Engineer and/or City.

e. Contract Documents includes all documents as stated in the Contract.

f. City and Contractor are those stated in the Contract. The terms City and Owner may be used interchangeably.

g. Day shall mean calendar day unless otherwise specifically designated.

h. Engineer shall mean the Utilities Engineering Division of the City of Ontario, acting either directly or through properly authorized agents, such as agents acting within the scope of the particular duties entrusted to them. Also sometimes referred to as the "City's Representative" or "Representative" in the Contract Documents.

i. Equal, Equivalent, Satisfactory, Directed, Designated, Selected, As Required and similar words shall mean the written approval, selection, satisfaction, direction, or similar action of the Engineer and/or City.

j. Indicated, Shown, Detailed, Noted, Scheduled or words of similar meaning shall mean that reference is made to the drawings, unless otherwise noted. It shall be understood that the direction, designation, selection, or similar import of the Engineer and/or City is intended, unless stated otherwise.

k. Install means the complete installation of any item, equipment or material.

l. Material shall include machinery, equipment, manufactured articles, or construction such as form work, fasteners, etc., and any other classes of material to be furnished in connection with the Contract. All materials shall be new unless specified otherwise.

m. Perform shall mean that the Contractor, at Contractor's expense, shall take all actions necessary to complete the Work, including furnishing of necessary labor, tools, and equipment, and providing and installing Materials that are indicated, specified, or required

4. Federal Requirements (If Applicable)
5. Special Provisions (or Special Conditions)
6. Technical Specifications
7. Plans (Contract Drawings)
8. Contract
9. General Conditions
10. Instructions to Bidders
11. Notice Inviting Bids
12. Contractor's Bid Forms
13. Standard Specifications/Greenbook
14. Standard Plans
15. Reference Documents

With reference to the Drawings, the order of precedence shall be as follows:

1. Figures govern over scaled dimensions
2. Detail drawings govern over general drawings
3. Addenda or Change Order drawings govern over Contract Drawings
4. Contract Drawings govern over Standard Drawings
5. Contract Drawings govern over Shop Drawings

c. **Conflicts in Contract Documents**. Notwithstanding the orders of precedence established above, in the event of conflicts, the higher standard shall always apply.

d. **Organization of Contract Documents**. Organization of the Contract Documents into divisions, sections, and articles, and arrangement of drawings shall not control the Contractor in dividing The Work among subcontractors or in establishing the extent of Work to be performed by any trade.

ARTICLE 3. CONTRACTS DOCUMENTS: COPIES & MAINTENANCE

Contractor will be furnished, free of charge, (two) **2** copies of the Contract Documents.

SECTION 00700
GENERAL CONDITIONS

Additional copies may be obtained at cost of reproduction.

Contractor shall maintain a clean, undamaged set of Contract Documents at the Project site.

ARTICLE 4. DETAIL DRAWINGS AND INSTRUCTIONS

a. **Examination of Contract Documents.** Before commencing any portion of The Work, Contractor shall again carefully examine all applicable Contract Documents, the Project site and other information given to Contractor as to materials and methods of construction and other Project requirements. Contractor shall immediately notify the Engineer in writing of any potential error, inconsistency, ambiguity, conflict or lack of detail or explanation. If Contractor performs, permits, or causes the performance of any Work which is in error, inconsistent or ambiguous, or not sufficiently detailed or explained, Contractor shall bear any and all resulting costs, including, without limitation, the cost of correction. In no case shall the Contractor or any subcontractor proceed with Work if uncertain as to the applicable requirements.

b. **Request for Information; Additional Instructions.** Contractor may make a written request for information to address any error, inconsistency, ambiguity, conflict or lack of detail or explanation in the Contract Documents. The Engineer will provide any required additional instructions, by means of drawings or other written direction, necessary for proper execution of Work.

c. **Quality of Parts, Construction and Finish.** All parts of The Work shall be of the best quality of their respective kinds and the Contractor must use all diligence to inform itself fully as to the required construction and finish. In no case shall Contractor proceed with The Work without obtaining first from the Engineer such written Approval as may be necessary for the proper performance of Work.

d. **Contractor's Variation from Contract Document Requirements.** If it is found that the Contractor has varied from the requirements of the Contract Documents including the requirement to comply with all Applicable Laws, ordinances, rules and regulations, the Engineer may at any time, before or after completion of the Work, order the improper Work removed, remade or replaced by the Contractor at the Contractor's expense.

ARTICLE 5. EXISTENCE OF UTILITIES AT THE WORK SITE

a. **Existing Utilities**

1. General – Known existing utilities and pipelines are shown on the Plans in their approximate locations. However, nothing herein shall be deemed to require the City to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities can be inferred from the presence of other visible facilities, such as buildings, cleanouts, meter and junction boxes, on or adjacent to the site of the Project.

2. The City will assume the responsibility for the timely removal, relocation, or

protection of existing main or trunk line utility facilities located on the Project site if such utilities are not identified by the City in the Contract Documents or cannot reasonably be inferred from the presence of other visible facilities.

b. **Utility Location**

1. It shall be the Contractor's responsibility to determine the exact location and depth of all utilities, including service connections, which have been marked by the respective utility owners and which the Contractor believes may affect or be affected by the Contractor's operations. The Contractor shall not be entitled to additional compensation or time extensions for work necessary to avoid interferences or for repair to damaged utilities if the Contractor does not expose all such existing utilities as required by this section.

2. The locating of utilities shall be in conformance with Government Code section 4216 except for the City's utilities located on the City's property and not in public right-of-way.

3. A "High Priority Subsurface Installation" is defined in section 4216 (e) as "high-pressure natural gas pipelines with normal operating pressures greater than 415kPA gauge (60psig) or greater than six inches nominal pipe diameter, petroleum pipelines, pressurized sewage pipelines, high-voltage electric supply lines, conductors, or cables that have a potential to ground of greater than or equal to 60kv, or hazardous materials pipelines that are potentially hazardous to workers or the public if damaged."

4. A "Subsurface Installation" is defined in section 4216 (l) as "any underground pipeline, conduit, duct, wire, or other structure, except nonpressurized sewer lines, nonpressurized storm drains, or other nonpressurized drain lines."

5. Pursuant to Government Code section 4216.2 the Contractor shall contact the appropriate regional notification center at least two (2) working days but not more than fourteen (14) calendar days before performing any excavation. The Contractor shall request that the utility owners conduct a utility survey and mark or otherwise indicate the location of their service. The Contractor shall furnish to the City written documentation of its contact(s) with the regional notification center prior to commencing excavation at such locations.

6. After the utility survey is completed, the Contractor shall commence "potholing" or hand digging to determine the actual location of the pipe, duct, or conduit. The City shall be given written notice prior to commencing potholing operations. The Contractor shall uncover all piping and conduits, to a point one (1) foot below the pipe, where crossings, interferences, or connections are shown on the Drawings, prior to trenching or excavating for any pipe or structures, to determine actual elevations. New pipelines shall be laid to such grade as to clear all existing facilities, which are to remain in service for any period subsequent to the construction of the run of pipe involved.

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7. The Contractor's attention is directed to the requirements of Government Code section 4216.2 (a)(2) which provides: "When the excavation is proposed within 10 feet of a high priority subsurface installation, the operator of the high priority subsurface installation shall notify the excavator of the existence of the high priority subsurface installation prior to the legal excavation start date and time, as such date and time are authorized pursuant to paragraph (1) of subdivision (a) of section 4216.2. The excavator and the operator or its representative shall conduct an onsite meeting at a mutually-agreed-on time to determine actions or activities required to verify the location of the high priority subsurface installation prior to start time." The Contractor shall notify the City in advance of this meeting.

c. **Utility Relocation and Repair**

1. If interferences occur at locations other than those indicated in the Contract Documents with reasonable accuracy, Contractor shall notify the City in writing.

2. Care shall be exercised by the Contractor to prevent damage to adjacent existing facilities and public or private works; where equipment will pass over these obstructions, suitable planking shall be placed. If high priority subsurface installations are damaged and the operator cannot be contacted, Contractor shall call 911 emergency services.

3. City will compensate the Contractor for the costs of locating and repairing damage not due to the failure of the Contractor to exercise reasonable care, and for removing or relocating such main or trunk line utility facilities not indicated in the Contract Documents with reasonable accuracy, and for the cost of equipment on the Project necessarily idled during such work. The payment for such costs will be made as provided in ARTICLE 47 (Changes and Extra Work). The Contractor shall not be assessed liquidated damages for delay in completion of the Project when such delay is caused by the failure of the City or utility company to provide for removal or relocation of such utility facilities. Requests for extensions of time arising out of utility relocation or repair delays shall be filed in accordance with Article 47.

4. The public utility, where they are the owner of the affected utility, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price. The right is reserved to the City and the owners of utilities or their authorized agents to enter upon the Work area for the purpose of making such changes as are necessary for the rearrangement of their facilities or for making necessary connections or repairs to their properties. The Contractor shall cooperate with forces engaged in such work and shall conduct its operations in such a manner as to avoid any unnecessary delay or hindrance to the work being performed by such forces and shall allow the respective utilities time to relocate their facility.

5. When the Contract Documents indicate that a utility is to be relocated, altered or constructed by others, the City will conduct all negotiations with the utility company

and the work will be done at no cost to the Contractor, unless otherwise stipulated in the Contract.

6. Temporary or permanent relocation or alteration of utilities desired by the Contractor for its own convenience shall be the Contractor's responsibility and it shall make arrangements and bear all costs for such work.

ARTICLE 6. SCHEDULE

a. **General Requirements.** The schedule shall be prepared in a Critical Path Method ("CPM") formal and in an electronic scheduling program acceptable to the City. Contractor shall deliver the schedule and all updates to the City in both paper and electronic form. The electronic versions shall be in the format and include all data used to prepare the schedule; pdf. Copies are not acceptable.

b. **Initial Schedule.** Within fourteen (14) days after the issuance of the Notice to Proceed, Contractor shall prepare a schedule for the performance of the Work and shall submit this to the Engineer for Approval. The receipt or Approval of any schedules by the Engineer or the City shall not in any way relieve the Contractor of its obligations under the Contract Documents. The Contractor is fully responsible to determine and provide for any and all staffing and resources at levels which allow for good quality and timely completion of the Project. Contractor's failure to incorporate all elements of Work required for the performance of the Contract or any inaccuracy in the schedule shall not excuse the Contractor from performing all Work required for a completed Project within the specified Contract time period. If the required schedule is not received by the time the first payment under the Contract is due, Contractor shall not be paid until the schedule is received, reviewed and accepted by the Engineer.

c. **Schedule Contents.** The schedule shall allow enough time for inclement weather that can reasonably be expected at the Site. The schedule shall indicate the beginning and completion dates of all phases of construction; critical path for all critical, sequential time related activities; and "float time" for all "slack" or "gaps" in the non-critical activities. The schedule shall clearly identify all staffing and other resources which in the Contractor's judgment are needed to complete the Project within the Contract Time. Schedule duration shall match the Contract Time. Schedules indicating early completion will be rejected.

d. **Schedule Updates.** Contractor shall continuously update its construction schedule to show the actual status of the Work and incorporate changes in the Work. Contractor shall submit an updated and accurate construction schedule to the Engineer whenever requested to do so by Engineer and with each progress payment request. The Engineer may withhold progress payments or other amounts due under the Contract Documents if Contractor fails to submit an updated and accurate construction schedule.

ARTICLE 7. SUBSTITUTIONS

a. Pursuant to Public Contract Code Section 3400(b) the City may make a finding that is described in the invitation for bids that designates certain products, things, or services by

specific brand or trade name.

b. Unless specifically designated in the Contract Documents, whenever any material, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such Specifications shall be deemed to be used for the purpose of facilitating the description of the material, process or article desired and shall be deemed to be followed by the words "or equal." Contractor may, unless otherwise stated, offer for substitution any material, process or article which shall be substantially equal or better in every respect to that so indicated or specified in the Contract Documents. However, the City may have adopted certain uniform standards for certain materials, processes and articles.

c. Contractor shall submit written requests, together with substantiating data, for substitution of any "or equal" material, process or article no later than thirty-five (35) days after award of the Contract. To facilitate the construction schedule and sequencing, some requests may need to be submitted before thirty-five (35) days after award of Contract. Provisions regarding submission of "or equal" requests shall not in any way authorize an extension of time for performance of this Contract. If a proposed "or equal" substitution request is rejected, Contractor shall be responsible for providing the specified material, process or article without adjustment to the Contract Price or Contract Time. The burden of proof as to the equality of any material, process or article shall rest with the Contractor. The City has the complete and sole discretion to determine if a material, process or article is an "or equal" material, process or article that may be substituted.

d. Data required to substantiate requests for substitutions of an "or equal" material, process or article data shall include a signed affidavit from the Contractor stating that, and describing how, the substituted "or equal" material, process or article is equivalent to that specified in every way except as listed on the affidavit. Substantiating data shall include any and all illustrations, specifications, and other relevant data including catalog information which describes the requested substituted "or equal" material, process or article, and substantiates that it is an "or equal" to the material, process or article. The substantiating data must also include information regarding the durability and lifecycle cost of the requested substituted "or equal" material, process or article. Failure to submit all the required substantiating data, including the signed affidavit, to the City in a timely fashion will result in the rejection of the proposed substitution.

e. The Contractor shall bear all of the City's costs associated with the review of substitution requests.

f. The Contractor shall be responsible for all costs related to a substituted "or equal" material, process or article.

g. Contractor is directed to the Special Conditions (if any) to review any findings made pursuant to Public Contract Code section 3400.

ARTICLE 8. SHOP DRAWINGS

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a. Contractor shall check and verify all field measurements and shall submit with such promptness as to provide adequate time for review and cause no delay in his own Work or in that of any other contractor, subcontractor, or worker on the Project, (two) 2 electronic copies of all shop or setting drawings, calculations, schedules, and materials list, and all other provisions required by the Contract. Contractor shall sign all submittals affirming that submittals have been reviewed and approved by Contractor prior to submission to Engineer. Each signed submittal shall affirm that the submittal meets all the requirements of the Contract Documents except as specifically and clearly noted and listed on the cover sheet of the submittal.

b. Contractor shall make any corrections required by the Engineer, and file with the Engineer (two) 2 corrected electronic copies each, and furnish such other copies as may be needed for completion of the Work. Engineer's approval of shop drawings shall not relieve Contractor from responsibility for deviations from the Contract Documents unless Contractor has, in writing, called Engineer's attention to such deviations at time of submission and has secured the Engineer's written Approval. Engineer's Approval of shop drawings shall not relieve Contractor from responsibility for errors in shop drawings.

ARTICLE 9. SUBMITTALS

a. Contractor shall furnish to the Engineer for approval, prior to purchasing or commencing any Work, a log of all samples, material lists and certifications, mix designs, schedules, and other submittals, as required in the specifications. The log shall indicate whether samples will be provided in accordance with other provisions of this Contract.

b. Contractor will provide samples and submittals, together with catalogs and supporting data required by the Engineer, to the Engineer within a reasonable time period to provide for adequate review and avoid delays in the Work.

c. These requirements shall not authorize any extension of time for performance of this Contract. Engineer will check and approve such samples, but only for conformance with design concept of work and for compliance with information given in the Contract Documents. Work shall be in accordance with approved samples and submittals.

d. Contractor shall not be entitled to any extension of the Contract Time on account of the requirements of this Article.

ARTICLE 10. MATERIALS

a. Except as otherwise specifically stated in the Contract Documents, Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this Contract within the Contract Time.

b. Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted and/or specified, and workmanship shall be of good quality.

c. Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of The Work and shall be stored properly and protected as required by the Contract Documents. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or Work.

d. No materials, supplies, or equipment for Work under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in the work and agrees upon completion of all work to deliver the Project, to the City free from any claims, liens, or charges.

e. Materials shall be stored on the Project site in such manner so as not to interfere with any operations of the City or any independent contractor.

ARTICLE 11. CONTRACTOR'S SUPERVISION

Contractor shall continuously keep at the Project site, a competent and experienced full-time Project superintendent approved by the City. Superintendent must be able to proficiently speak, read and write in English. Contractor shall continuously provide efficient supervision of the Project.

ARTICLE 12. WORKERS

a. Contractor shall at all times enforce strict discipline and good order among its employees and subcontractors. Contractor shall not employ or allow subcontractors to employ on the Project any unfit person or any one not skilled in the Work assigned to him or her.

b. Any person in the employ of the Contractor whom the City may deem incompetent or unfit shall be dismissed from the Work and shall not be employed on this Project except with the written Approval of the City.

ARTICLE 13. SUBCONTRACTORS

a. Contractor agrees to bind every subcontractor to the terms of the Contract Documents as far as such terms are applicable to subcontractor's portion of the Work. Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by its subcontractors, as Contractor is for acts and omissions of persons directly employed by Contractor. Nothing contained in these Contract Documents shall create any contractual relationship between any subcontractor and the City.

b. The City reserves the right to Approve all subcontractors. The City's Approval of any subcontractor under this Contract shall not in any way relieve Contractor of its obligations in the Contract Documents.

c. Prior to substituting any subcontractor listed in the Bid Forms, Contractor must comply

with the requirements of the Subletting and Subcontracting Fair Practices Act pursuant to California Public Contract Code section 4100 et seq.

ARTICLE 14. VERIFICATION OF EMPLOYMENT ELIGIBILITY

By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subcontractors, sub-subcontractors and consultants to comply with the same. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor and that any of the following shall be grounds for the City to terminate the Contract for cause: (1) failure of the Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in this Article; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.

ARTICLE 15. PERMITS AND LICENSES

Permits and licenses necessary for prosecution of The Work shall be secured and paid for by Contractor, unless otherwise specified in the Contract Documents.

a. Contractor shall obtain and pay for all other permits and licenses required for the Work, including excavation permit and permits for plumbing, mechanical and electrical work and for operations in or over public streets or right of way under jurisdiction of public agencies other than the City.

b. The Contractor shall arrange and pay for all off-site inspection of the Work related to permits and licenses, including certification, required by the specifications, drawings, or by governing authorities, except for such off-site inspections delineated as the City's responsibility pursuant to the Contract Documents.

c. Before Acceptance of the Project, the Contractor shall submit all licenses, permits, certificates of inspection and required approvals to the City.

ARTICLE 16. UTILITY USAGE

a. All temporary utilities, including but not limited to electricity, water, gas, and telephone, used on the Work shall be furnished and paid for by Contractor. Contractor shall Provide necessary temporary distribution systems, including meters, if necessary, from distribution points to points on the Work where the utility is needed. Upon completion of the Work, Contractor shall remove all temporary distribution systems.

b. Contractor shall provide necessary and adequate utilities and pay all costs for water, electricity, gas, oil, and sewer charges required for completion of the Project, including but not limited to startup and testing required in the Contract Documents.

c. All permanent meters Installed shall be listed in the Contractor's name until Project Acceptance.

d. If the Contract is for construction in existing facilities, Contractor may, with prior written Approval of the City, use the City's existing utilities. If Contractor uses City utilities, it shall compensate the City for utilities used by Contractor.

ARTICLE 17. INSPECTION FEES FOR PERMANENT UTILITIES

All inspection fees and other municipal charges for permanent utilities including, but not limited to, sewer, electrical, phone, gas, water, and irrigation shall be paid for by the City. Contractor shall be responsible for arranging the payment of such fees, but inspection fees and other municipal fees relating to permanent utilities shall be paid by the City. Contractor may either request reimbursement from the City for such fees, or shall be responsible for arranging and coordination with City for the payment of such fees.

ARTICLE 18. TRENCHES

a. Trenches Five Feet or More in Depth. The Contractor shall submit to the City, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five feet or more in depth. If the plan varies from shoring system standards, the plan shall be prepared by a registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations, and all costs therefor shall be included in the Contract Price. Nothing in this section shall be deemed to allow the use of a shoring, bracing, sloping or other protective system less effective than that required by the Construction Safety Orders. Nothing in this section shall be construed to impose a tort liability on the owner, any of its officers, officials, partners, employees, agents, consultants or volunteers. The Owner's review of the Contractor's excavation plan is only for general conformance to the Construction Safety Orders and does not relieve the Contractor of any obligation hereunder. Prior to commencing any excavation, the Contractor shall designate in writing to the City the "competent person(s)" with authority and responsibilities designated in the Construction Safety Orders.

b. Excavations Deeper than Four Feet. If work under this Contract involves digging trenches or other excavation that extends deeper than four feet below the surface, Contractor shall promptly, and before the following conditions are disturbed, notify the City, in writing, of any:

1. Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

2. Subsurface or latent physical conditions at the site differing from those indicated

by information made available to bidders prior to the deadline for submitting bids.

3. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

The City shall promptly investigate the conditions, and if it finds that the conditions do so materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the Work, shall issue a change order under the procedures described in the Contract Documents.

In the event that a dispute arises between the City and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all Work to be performed under the Contract. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the parties.

ARTICLE 19. DIVERSION OF RECYCLABLE WASTE MATERIALS

In compliance with the applicable City's waste reduction and recycling efforts, Contractor shall divert all Recyclable Waste Materials to appropriate recycling centers. Contractor will be required to submit weight tickets and written proof of diversion with its monthly progress payment requests. Contractor shall complete and execute any certification forms required by City or other applicable agencies to document Contractor's compliance with these diversion requirements. All costs incurred for these waste diversion efforts shall be the responsibility of the Contractor.

ARTICLE 20. REMOVAL OF HAZARDOUS MATERIALS

Should Contractor encounter material reasonably believed to be polychlorinated biphenyl (PCB) or other toxic wastes and hazardous materials (as defined in section 25117 of the Health and Safety Code) which have not been rendered harmless at the Project site, the Contractor shall immediately stop work at the affected Project site and shall report the condition to the City in writing. The City shall contract for any services required to directly remove and/or abate PCBs and other toxic wastes and hazardous materials, if required by the Project site(s), and shall not require the Contractor to subcontract for such services. The Work in the affected area shall not thereafter be resumed except by written agreement of the City and Contractor.

ARTICLE 21. SANITARY FACILITIES

Contractor shall provide sanitary temporary toilet buildings for the use of all workers. All toilets shall comply with all applicable federal, state, and local codes, ordinances, and regulations. Toilets shall be kept supplied with toilet paper and shall have workable door fasteners. Toilets shall be serviced no less than once weekly and shall be present in a quantity of not less than 1 per 20 workers as required by CAL-OSHA regulation. The toilets shall be maintained in a

sanitary condition at all times. Use of toilet facilities in The Work under construction shall not be permitted. Any other Sanitary Facilities required by CAL-OSHA shall be the responsibility of the Contractor.

ARTICLE 22. AIR POLLUTION CONTROL

Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes. All containers of paint, thinner, curing compound, solvent or liquid asphalt shall be labeled to indicate that the contents fully comply with the applicable material requirements. Without limiting the foregoing, Contractor must fully comply with all Applicable Laws, rules and regulations in furnishing or using equipment and/ or providing services, including but not limited to, emissions limits and permitting requirements imposed by the Air Quality Management City with jurisdiction over the Project and/ or California Air Resources Board (CARB). Contractor shall specifically be aware of the application of these limits and requirements to "portable equipment" which definition is considered to include any item of equipment with a fuel-powered engine. Contractor shall indemnify City against any fines or penalties imposed by the air quality management City, CARB, or any other governmental or regulatory agency for its violations of Applicable laws as well as those of its subcontractors or others for whom Contractor is responsible under its indemnity obligations provided for in ARTICLE 49.

ARTICLE 23. COMPLIANCE WITH STATE STORM WATER PERMIT

a. Contractor shall be required to comply with all conditions of the State Water Resources Control Board ("State Water Board") Water Quality Order No. 2009-00009-DWQ as modified by Order No. 2010-0014-DWQ, National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Discharges Associated with Construction Activity ("Permit") for all construction activity which results in the disturbance of in excess of one acre of total land area or which is part of a larger common area of development or sale. Contractor shall be responsible for filing the Notice of Intent and for obtaining the Permit. Contractor shall be solely responsible for preparing and implementing a Storm Water Pollution Prevention Plan ("SWPPP") prior to initiating Work. In bidding on this Contract, it shall be Contractor's responsibility to evaluate the cost of procuring the Permit and preparing the SWPPP as well as complying with the SWPPP and any necessary revision to the SWPPP. Contractor shall comply with all requirements of the State Water Resources Control Board. Contractor shall include all costs of compliance with specified requirements in the Contract amount.

b. Contractor shall be responsible for procuring, implementing and complying with the provisions of the Permit and the SWPPP, including the standard provisions, monitoring and reporting requirements as required by the Permit. Contractor shall provide copies of all reports and monitoring information to the Engineer.

c. Contractor shall comply with the lawful requirements of any applicable municipality, the City, drainage City, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

d. Storm, surface, nuisance, or other waters may be encountered at various times during construction of the Work. Therefore, the Contractor, by submitting a Bid, hereby acknowledges that it has investigated the risk arising from such waters, has prepared its Bid accordingly, and assumes any and all risks and liabilities arising therefrom.

e. Failure to comply with the Permit is in violation of federal and state law. Contractor hereby agrees to indemnify and hold harmless City, its officials, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which City, its officials, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the sole established negligence, willful misconduct or active negligence of the City, its officials, officers, agents, employees or authorized volunteers. City may seek damages from Contractor for delay in completing the Contract in accordance with the Contract Documents, caused by Contractor's failure to comply with the Permit.

ARTICLE 24. CLEANING UP

a. Contractor at all times shall keep premises free from debris such as waste, rubbish, and excess materials and equipment. Contractor shall not store debris under, in, or about the premises. Upon completion of Work, Contractor shall clean the interior and exterior of the building or improvement including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected so surfaces are free from foreign material or discoloration. Contractor shall clean and polish all glass, plumbing fixtures, and finish hardware and similar finish surfaces and equipment and contractor shall also remove temporary fencing, barricades, planking and construction toilet and similar temporary facilities from site. Contractor shall also clean all buildings, asphalt and concrete areas to the degree necessary to remove oil, grease, fuel, or other stains caused by Contractor operations or equipment.

b. Contractor shall fully clean up the site at the completion of the Work. If the Contractor fails to immediately clean up at the completion of the Work, the City may do so and the cost of such clean up shall be charged back to the Contractor.

ARTICLE 25. LAYOUT AND FIELD ENGINEERING

All field engineering required for laying out The Work and establishing grades for earthwork operations shall be furnished by the Contractor at its expense. Layout shall be done by a qualified individual Approved by the Engineer. Any required "as-built" drawings of civil engineering elements of the Work shall be prepared by a registered civil engineer.

ARTICLE 26. EXCESSIVE NOISE

a. The Contractor shall use only such equipment on the work and in such state of repair so that the emission of sound therefrom is within the noise tolerance level of that equipment as established by CAL-OSHA.

b. The Contractor shall comply with the most restrictive of the following: (1) local sound control and noise level rules, regulations and ordinances and (2) the requirements contained in these Contract Documents, including hours of operation requirements. No internal combustion engine shall be operated on the Project without a muffler of the type recommended by the manufacturer. Should any muffler or other control device sustain damage or be determined to be ineffective or defective, the Contractor shall promptly remove the equipment and shall not return said equipment to the job until the device is repaired or replaced. Said noise and vibration level requirements shall apply to all equipment on the job or related to the job, including but not limited to, trucks, transit mixers or transit equipment that may or may not be owned by the Contractor.

ARTICLE 27. TESTS AND INSPECTIONS

a. If the Contract Documents, the Engineer, or any instructions, laws, ordinances, or public authority require any part of the Work to be tested or Approved, Contractor shall provide the Engineer at least two (2) working days' notice of its readiness for observation or inspection. If inspection is by a public authority other than the City, Contractor shall promptly inform the City of the date fixed for such inspection. Required certificates of inspection (or similar) shall be secured by Contractor. Costs for City testing and City inspection shall be paid by the City. Costs of tests for Work found not to be in compliance with the Contract Documents or Applicable Law shall be paid by the Contractor.

b. If any Work is done or covered up without the required testing or approval, the Contractor shall uncover or deconstruct the Work, and the Work shall be redone after completion of the testing at the Contractor's cost in compliance with the Contract Documents, at the Contractor's cost.

c. Where inspection and testing are to be conducted by an independent laboratory or agency, materials or samples of materials to be inspected or tested shall be selected by such laboratory or agency, or by the City, and not by Contractor. All tests or inspections of materials shall be made in accordance with the commonly recognized standards of national organizations.

d. In advance of manufacture of materials to be supplied by Contractor which must be tested or inspected, Contractor shall notify the City so that the City may arrange for testing at the source of supply. Any materials which have not satisfactorily passed such testing and inspection shall not be incorporated into the Work.

e. If the manufacture of materials to be inspected or tested will occur in a plant or location outside the geographic limits of City, the Contractor shall pay for any excessive or unusual costs associated with such testing or inspection, including but not limited to excessive travel time, standby time and required lodging.

f. Reexamination of Work may be ordered by the City. If so ordered, Work must be uncovered or deconstructed by Contractor. If Work is found to be in accordance with the Contract Documents, the City shall pay the costs of reexamination and reconstruction. If such work is found not to be in accordance with the Contract Documents, Contractor shall

pay all costs.

ARTICLE 28. PROTECTION OF WORK AND PROPERTY

a. The Contractor shall be responsible for all damages to persons or property that occur as a result of the Work. Contractor shall be responsible for the proper care and protection of all materials delivered and Work performed until completion and final Acceptance by the City. All Work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support as necessary. Contractor shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the Project site where Work is being performed. Contractor shall erect and properly maintain at all times, as required by field conditions and progress of work, all necessary safeguards, signs, barriers, lights, and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created in the course of construction.

b. In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from the Engineer, is hereby permitted to act to prevent such threatened loss or injury; and Contractor shall so act, without appeal, if so authorized or instructed by the Engineer or the City. Any compensation claimed by Contractor on account of emergency work shall be determined by and agreed upon by the City and the Contractor in accordance with ARTICLE 47.

c. Contractor shall provide such heat, covering, and enclosures as are necessary to protect all Work, materials, equipment, appliances, and tools against damage by weather conditions.

d. Contractor shall take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, and other adjoining property and structures, and to avoid damage thereto, and Contractor shall repair any damage thereto caused by The Work operations. Contractor shall:

1. Enclose the working area with a substantial barricade, and arrange work to cause minimum amount of inconvenience and danger to the public.

2. Provide substantial barricades around any shrubs or trees indicated to be preserved.

3. Deliver materials to the Project site over a route designated by the Engineer.

4. Provide any and all dust control required and follow the Applicable air quality regulations as appropriate. If the Contractor does not comply, the City shall have the immediate authority to provide dust control and deduct the cost from payments to the Contractor.

5. Confine Contractor's apparatus, the storage of materials, and the operations of its workers to limits required by law, ordinances, permits, or directions of the

Engineer. Contractor shall not unreasonably encumber the Project site with its materials.

6. Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved civil engineer or land surveyor, at no cost to the City.

7. Ensure that existing facilities, fences and other structures are all adequately protected and that, upon completion of all Work, all facilities that may have been damaged are restored to a condition acceptable to the City.

8. Preserve and protect from injury all buildings, pole lines and all direction, warning and mileage signs that have been placed within the right-of-way.

9. At the completion of work each day, leave the Project site in a clean, safe condition.

10. Comply with any stage construction and traffic handling plans. Access to residences and businesses shall be maintained at all times.

These precautionary measures will apply continuously and not be limited to normal working hours. Full compensation for the Work involved in the preservation of life, safety and property as above specified shall be considered as included in the prices paid for the various contract items of Work, and no additional allowance will be made therefor.

e. Should damage to persons or property occur as a result of the Work, Contractor shall promptly notify the City, in writing. Contractor shall be responsible for proper investigation, documentation, including video or photography, to adequately memorialize and make a record of what transpired. The City shall be entitled to inspect and copy any such documentation, video, or photographs.

ARTICLE 29. CONTRACTORS MEANS AND METHODS

Contractor is solely responsible for the means and methods utilized to Perform the Work. In no case shall the Contractor's means and methods deviate from commonly used industry standards.

ARTICLE 30. INSPECTOR'S FIELD OFFICE

a. The Contractor shall be responsible for providing the inspector's field office. The Office shall be a substantial waterproof construction with adequate natural light and ventilation by means of stock design windows. Door shall have a key type lock or padlock clasp. The office shall have heating and air conditioning and shall be equipped with a telephone, a telephone answering machine, high speed internet connection, and a fax machine at Contractor's expense.

b. A table satisfactory for the study of plans and two chairs shall be Provided by Contractor.

Contractor shall Provide and pay for adequate electric lights, local telephone service, and adequate heat and air conditioning for the field office until authorized removal.

ARTICLE 31. AUTHORIZED REPRESENTATIVES

The City shall designate representatives, who shall have the right to be present at the Project site at all times. The City may designate an inspector who shall have the right to observe all of the Contractor's Work. The inspector is not authorized to make changes in the Contract Documents or excuse Contractor from performing in accordance with the Contract Documents. The inspector shall not be responsible for the Contractor's failure to carry out The Work in accordance with the Contract Documents. Contractor shall provide safe and proper facilities for such access.

ARTICLE 32. HOURS OF WORK

a. Eight (8) hours of work shall constitute a legal day's work. The Contractor and each subcontractor shall forfeit, as penalty to the City, twenty-five dollars ($25) for each worker employed in the execution of Work by the Contractor or any subcontractor for each day during which such worker is required or permitted to work more than eight (8) hours in any one day and forty (40) hours in any week in violation of the provisions of the Labor Code, and in particular, Section 1810 to Section 1815, except as provided in Labor Code Section 1815.

b. Work shall be accomplished on a regularly scheduled eight (8) hour per day work shift basis, Monday through Friday, between the hours of 7:00 a.m. and 5:00 p.m.

c. It shall be unlawful for any person to operate, permit, use, or cause to operate any of the following at the Project site, other than between the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, with no Work allowed on City-observed holidays, unless otherwise Approved by the Engineer:

   1. Powered Vehicles

   2. Construction Equipment

   3. Loading and Unloading Vehicles

   4. Domestic Power Tool.

ARTICLE 33. PAYROLL RECORDS

a. Pursuant to Labor Code Section 1776, the Contractor and each subcontractor shall maintain weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the work. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate.

Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury.

b. The payroll records described herein shall be certified and submitted by the Contractor at a time designated by the City. The Contractor shall also provide the following:

1. A certified copy of the employee's payroll records shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

2. A certified copy of all payroll records described herein shall be made available for inspection or furnished upon request of the Department of Industrial Relations ("DIR").

c. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement ("DLSE") of the DIR or shall contain the same information as the forms provided by the DLSE.

d. Any copy of records made available for inspection and furnished upon request to the public shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor or any subcontractor shall not be marked or obliterated.

e. In the event of noncompliance with the requirements of this Section, the Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying any item or actions necessary to ensure compliance with this section. Should noncompliance still be evident after such ten (10) day period, the Contractor shall, as a penalty to the City, forfeit One Hundred Dollars ($100.00) for each Day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the DIR, such penalties shall be withheld from contract payments.

ARTICLE 34. PREVAILING RATES OF WAGES

a. The Contractor is aware of the requirements of Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since this Project involves an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is $1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov/dlsr/. In the alternative, the Contractor may view a copy of the prevailing rates of per diem wages at the City. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor's principal place

of business and at the Project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or allege failure to comply with the Prevailing Wage Laws.

b. The Contractor and each subcontractor shall forfeit as a penalty to the City not more than Two Hundred dollars ($200.00) for each Day, or portion thereof, for each worker paid less than the stipulated prevailing wage rate for any work done by him, or by any subcontract under him, in violation of the provisions of the Labor Code. The difference between such stipulated prevailing wage rate and the amount paid to each worker for each Day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

c. Contractor shall post, at appropriate conspicuous points on the Project site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

ARTICLE 35. EMPLOYMENT OF APPRENTICES

The Contractor's attention is directed to the provisions of Sections 1777.5, 1777.6, and 1777.7 of the Labor Code concerning employment of apprentices by the Contractor or any subcontractor. The Contractor shall obtain a certificate of apprenticeship before employing any apprentice pursuant to Section 1777.5, 1777.6, and 1777.7 of the Labor Code. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, the Administrator of Apprenticeships, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

ARTICLE 36. LABOR COMPLIANCE

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be the Contractor's sole responsibility to evaluate and pay the cost of complying with all labor compliance requirements under this Contract and applicable law.

ARTICLE 37. CONTRACTOR AND SUBCONTRACTOR REGISTRATION

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. This Project will be subject to compliance monitoring and enforcement by the Department of Industrial Relations.

ARTICLE 38. NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY / EMPLOYMENT ELIGIBILITY

Pursuant to Labor Code Section 1735 and other applicable provisions of law, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment

because of race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap on this Work. The Contractor will take affirmative action to insure that employees are treated during employment or training without regard to their race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap.

a. Employment Eligibility; Contractor. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Contract, and shall not violate any such law at any time during the term of the Contract. Contractor shall avoid any violation of any such law during the term of this Contract by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for or referred to herein.

b. Employment Eligibility; Subcontractors, Sub-subcontractors and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any part of the Work or of this Contract to make the same verifications and comply with all requirements and restrictions provided for herein.

c. Employment Eligibility; Failure to Comply. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the City to terminate the Contract for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for herein; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.

ARTICLE 39. LABOR/EMPLOYMENT SAFETY

The Contractor shall maintain emergency first aid treatment for his employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.), and California Code of Regulations, Title 8, Industrial Relations Division 1, Department of Industrial Relations, Chapter 4. Contractor certifies that it is aware of and has complied with the provisions of California Labor Code section 6401.7, which requires every employer to adopt a written injury and illness prevention program.

ARTICLE 40. INSURANCE

The Contractor shall obtain, and at all times during performance of the Work of Contract, maintain all of the insurance described in this Article. Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required hereunder. Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause. Contractor shall furnish City with original certificates of insurance and endorsements effective coverage required by this Contract on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms acceptable to the City. All certificates and endorsements must be received and approved by the City before Work commences.

a. Additional Insureds; Waiver of Subrogation. The City, its elected officials, officers, employees, agents and authorized volunteers shall be named as Additional Insureds on Contractor's All Risk policy and on Contractor's and its subcontractors' policies of Commercial General Liability and Automobile Liability insurance using, for Contractor's policy/ies of Commercial General Liability insurance, ISO CG forms 20 10 and 20 37 (or endorsements providing the exact same coverage, including completed operations), and, for subcontractors' policies of Commercial General Liability insurance, ISO CG form 20 38 (or endorsements providing the exact same coverage). Notwithstanding the minimum limits set forth in this Contract for any type of insurance coverage, all available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as Additional Insureds hereunder. Contractor and its insurance carriers shall provide a Waiver of Subrogation in favor of those parties.

b. Workers' Compensation Insurance. The Contractor shall provide workers' compensation insurance for all of the employees engaged in Work under this Contract, on or at the Site, and, in case of any sublet Work, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees as prescribed by State law. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this Contract, on or at the Site, is not protected under the Workers' Compensation Statutes, the Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected. The Contractor is required to secure payment of compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. The Contractor shall file with the City certificates of his insurance protecting workers. Company or companies providing insurance coverage shall be acceptable to the City, if in the form and coverage as set forth in the Contract Documents.

c. Employer's Liability Insurance. Contractor shall provide Employer's Liability Insurance, including Occupational Disease, in the amount of at least one million dollars ($1,000,000.00) per person per accident. Contractor shall provide City with a certificate

of Employer's Liability Insurance. Such insurance shall comply with the provisions of the Contract Documents. The policy shall be endorsed, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement and contain a Waiver of Subrogation in favor of the City.

d. Commercial General Liability Insurance. Contractor shall provide "occurrence" form Commercial General Liability insurance coverage at least as broad as the most current ISO CGL Form 00 01, including but not limited to, premises liability, contractual liability, products/completed operations, personal and advertising injury which may arise from or out of Contractor's operations, use, and management of the Site, or the performance of its obligations hereunder. The policy shall not contain any exclusion contrary to this Contract including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 39); or (2) cross-liability for claims or suits against one insured against another. Policy limits shall not be less than $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Defense costs shall be paid in addition to the limits.

1. Such policy shall comply with all the requirements of this Article. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit Contractor's indemnification obligations to the City, and shall not preclude the City from taking such other actions available to the City under other provisions of the Contract Documents or law.

2. All general liability policies provided pursuant to the provisions of this Article shall comply with the provisions of the Contract Documents.

3. All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, under-ground excavation, removal of lateral support, and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Contractor of that part of the indemnification contained in these General Conditions relating to liability for injury to or death of persons and damage to property.

4. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, the City may require additional coverage to be purchased by Contractor to restore the required limits. Contractor may combine primary, umbrella, and as broad as possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy

shall include the additional insured endorsement described in the Contract Documents.

5. All policies of general liability insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.

e. Automobile Liability Insurance. Contractor shall provide "occurrence" form Automobile Liability Insurance at least as broad as ISO CA 00 01 (Any Auto) in the amount of, at least, one million dollars ($1,000,000) per accident for bodily injury and property damage. Such insurance shall provide coverage with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible, in a form and with insurance companies acceptable to the City. All policies of automobile insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.

f. Builder's Risk ["All Risk"]

1. It is the Contractor's responsibility to maintain or cause to be maintained Builder's Risk ["All Risk"] extended coverage insurance on all work, material, equipment, appliances, tools, and structures that are or will become part of the Work and subject to loss or damage by fire, and vandalism and malicious mischief, in an amount to cover 100% of the replacement cost. The City accepts no responsibility for the Work until the Work is formally accepted by the City. The Contractor shall provide a certificate evidencing this coverage before commencing performance of the Work.

2. The named insureds shall be Contractor, all Subcontractors of any tier (excluding those solely responsible for design work), suppliers, and City, its elected officials, officers, employees, agents and authorized volunteers, as their interests may appear. Contractor shall not be required to maintain property insurance for any portion of the Work following acceptance by City.

3. Policy shall be provided for replacement value on an "all risk" basis. There shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for any ensuing loss from faulty workmanship, nonconforming work, omission or deficiency in design or specifications; (2) coverage against machinery accidents and operational testing; (3) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures and all other properties constituting a part of the Project; (4) transit coverage, including ocean marine coverage (unless insured by the supplier), with sub-limits sufficient to insure the full replacement value of any key equipment item; and (5) coverage with sub-limits sufficient to insure the full replacement value of any property or equipment stored either on or off the Site. Such insurance shall be on a form acceptable to City to ensure adequacy and sublimit.

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4. In addition, the policy shall meet the following requirements:

   i. Insurance policies shall be so conditioned as to cover the performance of any extra work performed under the Contract.

   ii. Coverage shall include all materials stored on site and in transit.

   iii. Coverage shall include Contractor's tools and equipment.

   iv. Insurance shall include boiler, machinery and material hoist coverage.

g. Professional Liability Insurance. The Contractor or all architects, engineers, consultants or design professionals retained or employed by Contractor in the performance of the Project shall procure and maintain, for a period of five (5) years following completion of the Contract, errors and omissions liability with a limit of not less than $1,000,000 per occurrence.

h. Contractor's Pollution Liability Coverage. Contractor shall provide pollution liability insurance in an amount not less than $1,000,000 per occurrence and $2,000,000 aggregate.

i. Contractor shall require all tiers of sub-contractors working under this Contract to provide the insurance required under this Article unless otherwise agreed to in writing by City. Contractor shall make certain that any and all subcontractors hired by Contractor are insured in accordance with this Contract. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold the City harmless from any damage, loss, cost, or expense, including attorneys' fees, incurred by the City as a result thereof.

ARTICLE 41. FORM AND PROOF OF CARRIAGE OF INSURANCE

a. Any insurance carrier providing insurance coverage required by the Contract Documents shall be admitted to and authorized to do business in the State of California unless waived, in writing, by the City's Risk Manager. Carrier(s) shall have an A.M. Best rating of not less than an A:VII. Insurance deductibles or self-insured retentions must be declared by the Contractor. At the election of the City, the Contractor shall either 1) reduce or eliminate such deductibles or self-insured retentions, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses. If umbrella or excess liability coverage is used to meet any required limit(s) specified herein, the Contractor shall provide a "follow form" endorsement satisfactory to the City indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

b. Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or cancelled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (2) any failure to comply with reporting or other provisions of the policies,

including breaches of warranties, shall not affect coverage provided to the City its officials, officers, employees, agents and volunteers.

c. The Certificates(s) and policies of insurance shall contain or shall be endorsed to contain the covenant of the insurance carrier(s) that it shall provide no less than thirty (30) days written notice be given to the City prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, the City may terminate the Contract or stop the Work in accordance with the Contract Documents, unless the City receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. Contractor shall not take possession, or use the Site, or commence operations under this Contract until the City has been furnished original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this section. The original endorsements for each policy and the Certificate of Insurance shall be signed by an individual authorized by the insurance carrier to do so on its behalf.

d. The Certificate(s) of Insurance, policies and endorsements shall so covenant and shall be construed as primary, and the City's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

e. The City reserves the right to adjust the monetary limits of insurance coverages during the term of this Contract including any extension thereof if in the City's reasonable judgment, the amount or type of insurance carried by the Contractor becomes inadequate.

f. Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by the Contractor in connection with the Work under this Contract.

ARTICLE 42. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

a. **Time for Completion/Liquidated Damages.** Work shall be commenced within ten (10) days of the date stated in the City's Notice to Proceed and shall be completed by Contractor in the Contract Time. The City is under no obligation to consider early completion of the Project; and the Contract completion date shall not be amended by the City's receipt or acceptance of the Contractor's proposed earlier completion date. Furthermore, Contractor shall not, under any circumstances, receive additional compensation from the City (including but not limited to indirect, general, administrative or other forms of overhead costs) for the period between the time of earlier completion proposed by the Contractor and the Contract completion date. If The Work is not completed within the Contract Time, it is understood that the City will suffer damage. In accordance with Government Code section 53069.85, being impractical and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum stipulated in the Contract for each day of delay until the Work is fully completed. Contractor and its surety shall be liable for any liquidated damages. Any money due or to become due the Contractor may

be retained to cover liquidated damages.

b. **Inclement Weather.** Contractor shall abide the Engineer's determination of what constitutes inclement weather. Time extensions for inclement weather shall only be granted when the Work stopped during inclement weather is on the critical path of the then-current Project schedule.

c. **Extension of Time.** Contractor shall not be charged liquidated damages because of any delays in completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of Contractor (or its subcontractors or suppliers). Contractor shall within five (5) Days of identifying any such delay notify the City in writing of causes of delay. The City shall ascertain the facts and extent of delay and grant extension of time for completing The Work when, in its judgment, the facts justify such an extension. Time extensions to the Project shall be requested by the Contractor as they occur and without delay. No delay claims shall be permitted unless the event or occurrence delays the completion of the Project beyond the Contract completion date.

d. **No Damages for Reasonable Delay.** The City's liability to Contractor for delays for which the City is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall the City be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs. Damages caused by unreasonable City delay, including delays caused by items that are the responsibility of the City pursuant to Government Code section 4215, shall be based on actual costs only, no proportions or formulas shall be used to calculate any delay damages.

ARTICLE 43. COST BREAKDOWN AND PERIODIC ESTIMATES

Contractor shall furnish on forms Approved by the City:

a. Within ten (10) Days of award of the Contract a detailed Schedule of Values giving a complete breakdown of the Contract price. The Schedule of Values shall be adjusted as directed by the City;

b. A monthly itemized estimate of Work done for the purpose of making progress payments. In order for the City to consider and evaluate each progress payment application, the Contractor shall submit a detailed measurement of Work performed and a progress estimate of the value thereof before the tenth (10th) Day of the following month.

c. Contractor shall submit, with each of its payment requests, an adjusted list of actual quantities, verified by the Engineer, for unit price items listed, if any, in the Bid Form.

d. Following the City's Acceptance of the Work, the Contractor shall submit to the City a written statement of the final quantities of unit price items for inclusion in the final payment request.

e. The City shall have the right to adjust any estimate of quantity and to subsequently correct

any error made in any estimate for payment.

Contractor shall certify under penalty of perjury, that all cost breakdowns and periodic estimates accurately reflect the Work on the Project.

ARTICLE 44. MOBILIZATION

a. When a bid item is included in the Bid Form for mobilization, the costs of Work in advance of construction operations and not directly attributable to any specific bid item will be included in the progress estimate ("Initial Mobilization"). When no bid item is provided for "Initial Mobilization," payment for such costs will be deemed to be included in the other items of the Work.

b. Payment for Initial Mobilization shall be based on the lump sum provided in the Bid Form, which shall constitute full compensation for all such Work. No payment for Initial Mobilization will be made until all of the listed items have been completed to the satisfaction of the Engineer. The scope of the Work included under Initial Mobilization shall include, but shall not be limited to, the following principal items:

1. Obtaining and paying for all bonds, insurance, and permits.

2. Moving on to the Project site of all Contractor's plant and equipment required for first month's operations.

3. Installing temporary construction power, wiring, and lighting facilities.

4. Establishing fire protection system.

5. Developing and installing a construction water supply.

6. Providing and maintaining the field office trailers for the Contractor and the Engineer, complete, with all specified furnishings and utility services including telephones, telephone appurtenances, computer and printer, and copying machine.

7. Providing on-site communication facilities for the Owner and the Engineer, including telephones, radio pagers, and fax machines.

8. Providing on-site sanitary facilities and potable water facilities as specified per Cal-OSHA and these Contract Documents.

9. Furnishing, installing, and maintaining all storage buildings or sheds required for temporary storage of products, equipment, or materials that have not yet been installed in the Work. All such storage shall meet manufacturer's specified storage requirements, and the specific provisions of the specifications, including temperature and humidity control, if recommended by the manufacturer, and for all security.

10. Arranging for and erection of Contractor's work and storage yard.

11. Posting all OSHA required notices and establishment of safety programs per Cal-OSHA.

12. Full-time presence of Contractor's superintendent at the job site as required herein.

13. Submittal of Construction Schedule as required by the Contract Documents.

ARTICLE 45. PAYMENTS

a. The City shall make monthly progress payments following receipt of undisputed and properly submitted payment requests. Unless the City has made findings pursuant to Public Contract Code section 7201 (that the work included in this Contract is substantially complex, and therefore a retention of 10% shall be withheld from each progress payment as provided by the Contract Documents), Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of Work performed up to the last day of the previous month, less the aggregate of previous payments.

b. The Contractor shall, after the full completion of The Work, submit a final payment application. All prior progress estimates shall be subject to correction in the final estimate and payment.

c. Unless otherwise required by law or unless the City has made findings pursuant to Public Contract Code section 7201 (that the work included in this Contract is substantially complex, and therefore a retention of 10% shall be withheld from each progress payment as provided by the Contract Documents), the final payment of five percent (5%) of the value of the Work, if unencumbered, shall be paid no later than sixty (60) Days after the date of recordation of the Notice of Completion.

d. Acceptance by Contractor of the final payment shall constitute a waiver of all claims against the City arising from this Contract.

e. Payments to the Contractor shall not be construed to be an acceptance of any defective work or improper materials, or to relieve the Contractor of its obligations under the Contract Documents.

f. The Contractor shall submit with each payment request the Contractor's conditional waiver of lien for the entire amount covered by such payment request, as well as a valid unconditional waiver of lien from the Contractor and all subcontractors and materialmen for all work and materials included in any prior invoices. Waivers of lien shall be in the forms prescribed by California Civil Code Section 8132, 8132, 8136 and 8138. Prior to final payment by the City, the Contractor shall submit a final conditional waiver of lien for the Contractor's work, together with unconditional releases of lien from any subcontractor or materialmen.

ARTICLE 46. PAYMENTS WITHHELD AND BACKCHARGES

In addition to amounts which the City may retain under other provisions of the Contract Documents the City may withhold payments due to Contractor as the City may consider to be necessary to cover:

a. Stop Notice Claims.

b. Defective work not remedied.

c. Failure of Contractor to make proper payments to its subcontractors or suppliers.

d. Completion of the Contract if there exists a reasonable doubt that the work can be completed for balance then unpaid.

e. Damage to another contractor or third party.

f. Amounts which may be due the City for claims against Contractor.

g. Failure of Contractor to keep the record ("as-built") drawings up to date.

h. Failure to provide updates on the construction schedule.

i. Site cleanup.

j. Failure of the Contractor to comply with requirements of the Contract Documents.

k. Liquated damages.

l. Legally permitted penalties.

Upon completion of the Contract, the City will reduce the final Contract amount to reflect costs charged to the Contractor, back charges or payments withheld pursuant to the Contract Documents.

ARTICLE 47. CHANGES AND EXTRA WORK

a. Contract Change Orders.

1. The City, without invalidating the Contract, may order changes in the Work consisting of additions, deletions or other revisions, the Contract Price and Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including any adjustment in the Contract amount or the Contract time, and the full and final settlement of all costs (direct, indirect and overhead) related to the Work authorized by the Change Order.

2. Contractor shall promptly execute changes in the Work as directed in writing by the City even when the parties have not reached agreement on whether the change increases the scope of Work or affects the Contract Price or Contract Time. All claims for additional compensation to the Contractor shall be presented in writing. No claim will be considered after the work in question has been done unless a written contract change order has been issued or a timely written notice of claim has been made by Contractor. Contractor shall not be entitled to claim or bring suit for damages, whether for loss of profits or otherwise, on account of any decrease or omission of any item or portion of Work to be done. Whenever any change is made as provided for herein, such change shall be considered and treated as though originally included in the Contract, and shall be subject to all terms, conditions and provisions of the original Contract.

3. Contractor shall not reserve a right to assert impact costs, extended job site costs, extended overhead, constructive acceleration and/or actual acceleration beyond what is stated in the change order for work. No claims shall be allowed for impact, extended overhead costs, constructive acceleration and/or actual acceleration due to a multiplicity of changes and/or clarifications. The Contractor may not change or modify the City's change order form in an attempt to reserve additional rights.

4. Any alterations, extensions of time, extra work or any other changes may be made without securing consent of the Contractor's surety or sureties.

b. Process for Determining Adjustments in Contract Price.

1. Owner Initiated Change. The Contractor must submit a complete cost proposal, including any change in the Contract time, within seven (7) Days after receipt of a scope of a proposed change order initiated by the City, unless the City requests that proposals be submitted in less than seven (7) Days.

2. Contractor Initiated Change. The Contractor must give written notice of a proposed change order required for compliance with the Contract Documents within seven (7) Days of discovery of the facts giving rise to the proposed change order.

3. Whenever possible, any changes to the Contract amount shall be in a lump sum mutually agreed to by the Contractor and the City.

4. Price quotations from the Contractor shall be accompanied by sufficiently detailed supporting documentation to permit verification by the City, including but not limited to estimates and quotations from subcontractors or material suppliers, as City may reasonably request.

5. If the Contractor fails to submit a complete cost proposal within the seven (7) Day period (or as requested), the City has the right to order the Contractor in writing to commence the work immediately on a force account basis and/or issue a lump sum change to the Contract Price and/ or Contract Time in accordance with the

City's estimate. If the change is issued based on the City estimate, the Contractor will waive its right to dispute the action unless within fifteen (15) Days following completion of the added/deleted work, the Contractor presents written proof that the City's estimate was in error.

6. Estimates for lump sum quotations and accounting for cost-plus-percentage work shall be limited to direct expenditures necessitated specifically by the subject extra work, and shall be segregated as follows:

i. Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft or type of worker at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State or local laws, as well as assessment or benefits required by lawful collective bargaining agreements. The use of a labor classification which would increase the extra work cost will not be permitted unless the contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.

ii. Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available in the quantities involved, plus sales tax, freight and delivery. Materials cost shall be based upon supplier or manufacturer's invoice. If invoices or other satisfactory evidence of cost are not furnished within fifteen (15) Days of delivery, then the Engineer shall determine the materials cost, at its sole discretion.

iii. Tool and Equipment Use. Costs for the use of small tools, tools which have a replacement value of $1,000 or less shall be considered included in the markups described below. Regardless of ownership, the rates to be used in determining equipment use costs shall not exceed listed rates prevailing locally at equipment rental agencies, or distributors, at the time the work is performed.

iv. Overhead, Profit and Other Charges. The mark-up for overhead (including supervision) and profit on work added to the Contract shall be according to the following:

(a) "Net Cost" is defined as consisting of costs of labor, materials and tools and equipment only excluding overhead and profit. The costs of applicable insurance and bond premium will be reimbursed to the Contractor and subcontractors at cost only, without mark-up. Contractor shall provide City with documentation of the costs, including but not limited to payroll records, invoices and such other information as City may reasonably request.

(b) For Work performed by the Contractor's forces the added cost for

overhead and profit shall not exceed fifteen (15%) percent of the Net Cost of the Work.

(c) For Work performed by a subcontractor, the added cost for overhead and profit shall not exceed fifteen (15%) percent of the subcontractor's Net Cost of the Work to which the Contractor may add five (5%) percent of the subcontractor's Net Cost.

(d) For Work performed by a sub-subcontractor the added cost for overhead and profit shall not exceed fifteen (15 %) percent of the sub-subcontractor's Net Cost for Work to which the subcontractor and general contractor may each add an additional five (5 %) percent of the Net Cost of the lower tier subcontractor.

(e) No additional markup will be allowed for lower tier subcontractors, and in no case shall the added cost for overhead and profit payable by City exceed twenty-five (25%) percent of the Net Cost as defined herein, of the party that performs the Work.

7. All of the following costs are included in the markups for overhead and profit described above, and Contractor shall not receive any additional compensation for: Submittals, drawings: field drawings, Shop Drawings, including submissions of drawings; field inspection; General Superintendence; General administration and preparation of cost proposals, schedule analysis, Change Orders, and other supporting documentation; computer services; reproduction services; Salaries of project engineer, superintendent, timekeeper, storekeeper, and secretaries; Janitorial services; Small tools, incidentals and consumables; Temporary on-Site facilities (Offices, Telephones, Internet access, Plumbing, Electrical Power, lighting; Platforms, Fencing, Water), Jobsite and Home office overhead or other expenses; vehicles and fuel used for work otherwise included in the Contract Documents; Surveying; Estimating; Protection of Work; Handling and disposal fees; Final cleanup; Other incidental Work; Related warranties; insurance and bond premiums.

8. For added or deducted Work by subcontractors, the Contractor shall furnish to the City the subcontractor's signed detailed record of the cost of labor, material and equipment, including the subcontractor markup for overhead and profit. The same requirement shall apply to sub-subcontractors.

9. For added or deducted work furnished by a vendor or supplier, the Contractor shall furnish to the City a detailed record of the cost to the Contractor, signed by such vendor or supplier.

10. Any change in The Work involving both additions and deletions shall indicate a net total cost, including subcontracts and materials. Allowance for overhead and profit, as specified herein, shall be applied if the net total cost is an increase in the Contract Price; overhead and profit allowances shall not be applied if the net total

cost is a deduction to the Contract Price. The estimated cost of deductions shall be based on labor and material prices on the date the Contract was executed.

11. No dispute, disagreement or failure of the parties to reach agreement on the terms of the change order shall relieve the Contractor from the obligation to proceed with performance of the work, including extra work, promptly and expeditiously.

c. Change of Contract Time

1. Contract Time may only be changed by a Change Order.

2. All changes in the Contract Price and/or adjustments to the Contract Time related to each change shall be included in Contractor's change order proposal, as described above. No cost or time will be allowed for cumulative effects of multiple changes. All Change Orders must state that the Contract Time is not changed or is either increased or decreased by a specific number of days. Failure to include a change to time shall waive any change to the time unless the parties mutually agree in writing to postpone a determination of the change to time resulting from the Change Order.

3. Notice of the amount of the request for adjustment in the Contract Time with supporting data shall be delivered within seven (7) Days after such start of occurrence, unless the City allows an additional period of time to ascertain more accurate data in support of the request. No extension of time or additional compensation shall be given for a delay if the Contractor failed to give notice in the manner and within the time prescribed.

4. The City may elect, at its sole discretion, to grant an extension in Contract Time, without Contractor's request, because of delays or other factors.

5. Float is for the benefit of the Project. Float shall not be considered for the exclusive use or benefit of either the City or the Contractor. Contractor shall not be entitled to compensation, and the City will not compensate Contractor, for delays which impact early completion. Any difference in time between the Contractor's early completion and the Contract Time shall be considered a part of the Project float.

6. Contractor's entitlement to an extension of the Contract Time is limited to a City-caused extension of the critical path, reduced by the Contractor's concurrent delays, and established by a proper time impact analysis. No time extension shall be allowed unless, and then only to the extent that, the City-caused delay extends the critical path beyond the previously approved Contract Time. If approved, the increase in time required to complete the Work shall be added to the Contract Time.

7. Requests for Contract Time Extension. Contractor's justification for entitlement shall be clear and complete citing specific Contract Document references and reasons on which Contractor's entitlement is based. At a minimum, each request

for a time extension must include:

i. Each request for an extension of Contract Time must identify the impacting event, in narrative form, providing a description of the delay event and sufficient justification as to why the Contractor is entitled to a time extension. Contractor must demonstrate that the delay arises from unforeseeable causes beyond the control and without the fault or negligence of both Contractor and any subcontractors or suppliers, or any other persons or organizations employed by any of them or for whose acts any of them may be liable, and that such causes in fact lead to performance or completion of the Work, or specified part in question, beyond the corresponding Contract Time, despite Contractor's reasonable and diligent actions to guard against those effects.

ii. Each request for an extension of Contract Time must include a time impact analysis in CPM format, using the most recent monthly update to calculate the impact of the delay event.

d. Unilateral Change Orders

If the City disagrees with the proposal submitted by Contractor, it will notify the Contractor and the City will provide its opinion of the appropriate price and/or time extension. If the Contractor agrees with the City, a change order will be issued by the City. If no agreement can be reached, the City shall have the right to issue a unilateral change order setting forth its determination of the reasonable additions or savings in costs and time attributable to the extra or deleted work. Such determination shall become final and binding if the Contractor fails to submit a claim in writing to the City within fifteen (15) Days of the issuance of the unilateral change order, disputing the terms of the unilateral change order, and providing such supporting documentation for its position as the City may require.

ARTICLE 48. OCCUPANCY

The City reserves the right to occupy or utilize any portion of the Work at any time before completion, and such occupancy or use shall not constitute Acceptance of any part of Work covered by this Contract. This use shall not relieve the Contractor of its responsibilities under the Contract.

ARTICLE 49. INDEMNIFICATION

To the fullest extent allowed by law, Contractor shall defend (with Counsel of City's choosing), indemnify and hold the City, its elected officials, officers, employees, agents and authorized volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, at law or in equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, to the extent arising out of or incident to any acts, omissions or willful misconduct of Contractor, its officials, officers, employees, agents, consultants and contractors arising out of or in connection with the performance of the Work or this Contract, including claims made by

subcontractors for nonpayment, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. Contractor shall defend, at Contractor's own cost, expense and risk, with Counsel of City's choosing, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against City, its elected officials, officers, employees, agents and authorized volunteers. To the extent of its liability, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City, its elected officials, officers, employees, agents and authorized volunteers in any such suit, action or other legal proceeding. Contractor shall reimburse City, its elected officials, officers, employees, agents and authorized volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code Section 2782.

ARTICLE 50. RECORD ("AS BUILT") DRAWINGS

a. Contractor shall prepare and maintain a complete set of record drawings (herein referred to as "as-builts") and shall require each trade to prepare its own as-builts. The as-builts must show the entire site for each major trade, including but not limited to water, sewer, electrical, data, telephone, cable, fire alarm, gas and plumbing. Contractor shall mark the as-builts to show the actual installation where the installation varies from the Work as originally shown. Contractor shall mark whichever drawings are most capable of showing conditions fully and where shop drawings are used, Contractor must record a cross-reference at the corresponding location on the contract drawings. Contractor shall give particular attention to concealed elements that would be difficult to measure and record at a later date. Contractor shall use colors to distinguish variations in separate categories of the Work.

b. Contractor shall note related change order numbers where applicable. Contractor shall organize as-builts into manageable sets, bound with durable paper cover sheets and shall print suitable title, dates and other identification on the cover of each set. Contractor to also provide an electronic version of the as-builts. The suitability of the as-builts will be determined by the Engineer.

ARTICLE 51. RESOLUTION OF CONSTRUCTION CLAIMS

a. All public works claims between the Contractor and the City shall be resolved pursuant to the procedures set forth in Public Contract Code section 9204. All public works claims of $375,000 or less which arise between the Contractor and the City shall be resolved in accordance with Public Contract Code sections 20104 et seq. and other applicable law, unless the City has elected to resolve the dispute pursuant to Public Contract Code section 10240 et seq.

b. Contractor shall timely comply with all notices and requests for additional compensation and extensions of time, including but not limited to all requirements of Article 47, as a prerequisite to filing any claim governed by this Article. The failure to timely provide any notice or request required by the Contract Documents shall constitute a waiver of the right to these procedures.

c. All Claims. All claims shall be submitted in writing and accompanied by substantiating documentation. Claims must be filed on or before the date of final payment unless other notice requirements are provided in the contract. "Claim" means a separate demand by the Contractor for (1) a time extension, including, without limitation, relief from damages or penalties for delay assessed by the City (2) payment of money or damages arising from work done by or on behalf of the Contractor and payment of which is not otherwise expressly provided for or the Contractor is not otherwise entitled, or (3) payment of an amount which is disputed by the City.

d. All Claims. The Contractor will submit the claim justification in the following format:

1. Summary of claim merit and price, and Contract clause pursuant to which the claim is made.

2. List of documents relating to claim

   i. Specifications

   ii. Drawings

   iii. Clarifications (Requests for Information)

   iv. Schedules

   v. Other

3. Chronology of events and correspondence

4. Analysis of claim merit

5. Analysis of claim cost

6. Analysis of time impact analysis in CPM format

7. Cover letter and certification of validity of the claim, including any claims from subcontractors of any tier, in accordance with the Government Code sections 12650 et seq.

e. City Response to Claim. Upon receipt of a Claim pursuant to this Article, the City shall conduct a reasonable review of the Claim and, within a period not to exceed 45 days of receipt of the claim, or as extended by mutual agreement, shall provide a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Any payment due on an undisputed portion of the Claim will be processed and made within 60 days after the City issues its written response.

If the City needs approval from City Council to provide Contractor a written statement as set forth above, and City Council does not meet within the 45 days or within the mutually

agreed to extension of time following receipt of a Claim, the City shall have up to three (3) days following the next publicly noticed meeting of City Council after the 45-day period, or extension, expires to provide Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim.

The City may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the City may have. If additional information is needed thereafter, it shall be provided upon mutual agreement of the City and the claimant. The City's written response shall be submitted 30 days (15 days if the Claim is less than $50,000) after receiving the additional documentation, or within the same period of time taken by the claimant to produce the additional information, whichever is greater.

f. Meet & Confer Conference. If the Contractor disputes the City's response, or if the City fails to respond within the statutory time period(s), the Contractor may so notify the City within 15 days of the receipt of the response or the failure to respond, and demand an informal conference to meet and confer for settlement of those portions of the Claim that remain in dispute. Upon such demand, the City shall schedule a meet and confer conference within 30 Days.

g. Mediation. Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion thereof remains in dispute, the City shall provide the Contractor with a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any portion of the claim that remains in dispute shall be submitted to nonbinding mediation. The selection of the mediator shall be in accordance with Public Contract Code section 9204 and the City and the Contractor shall equally share the associated mediator fees. Each party will be responsible for its own attorney's fees and other costs incurred due to the resolution of any Claim.

h. Condition Precedent. Submission of a claim, properly certified, with all required supporting documentation, and written rejection or denial of all or part of the claim by the City, is a condition precedent to any action, proceeding, litigation, suit, general conditions claim, or demand for arbitration by Contractor.

i. Government Code Claim. If the Claim or any portion thereof remains in dispute, the claimant must file a claim pursuant to Government Code 900 et seq. and Government Code 910 et seq. For purposes of those provisions, the time within which a claim must be filed shall be tolled from the time the claimant submits the written claim until the time the claim is denied, including any time utilized for the meet and confer conference or mediation. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, construction claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if the prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

ARTICLE 52. CITY'S RIGHT TO TERMINATE CONTRACT

a. Termination for Cause: The City may, without prejudice to any other right or remedy, serve written notice upon Contractor of its intention to terminate this Contract if the Contractor: (i) refuses or fails to prosecute the Work or any part thereof with such diligence as will ensure its completion within the time required; (ii) fails to complete the Work within the required time; (iii) should file a bankruptcy petition or be adjudged a bankrupt; (iv) should make a general assignment for the benefit of its creditors; (v) should have a receiver appointed; (vi) should persistently or repeatedly refuse or fail to supply enough properly skilled workers or proper materials to complete the work; (vii) should fail to make prompt payment to subcontractors or for material or labor; (viii) persistently disregard Applicable Laws, ordinances, other requirements or instructions of the City; or (ix) should violate any of the provisions of the Contract Documents.

The notice of default and intent to terminate shall contain the reasons for termination. Unless within ten (10) Days after the service of such notice, Contractor resolves the circumstances giving rise to the notice of default to the City's satisfaction, or makes arrangements acceptable to the City for the required corrective action, this Contract shall terminate. In such case, Contractor shall not be entitled to receive any further payment until the Project has been finished. The City may take over and complete The Work by any method it may deem appropriate. Contractor and its surety shall be liable to the City for any excess costs or other damages incurred by the City to complete the Project. If the City takes over The Work, the City may, without liability for so doing, take possession of and utilize in completing The Work such materials, appliances, plant, and other property belonging to the Contractor as may be on the Project site.

b. Termination For Convenience. In addition to its right to terminate this Contract for default, the City may terminate the Contract, in whole or in part, at any time upon ten (10) Days written notice to Contractor. The Notice of Termination shall specify that the termination is for the convenience of the City, the extent of termination and the effective date of such termination.

After receipt of Notice of Termination, and except as directed by the City, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:

1. Stop Work as specified in the Notice.

2. Complete any Work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents.

3. Leave the Site and any other property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Documents is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety.

4. Terminate all subcontracts and purchase orders to the extent that they relate to the portions of The Work terminated.

5. Place no further subcontracts or orders, except as necessary to complete the remaining portion of the Work.

6. Submit to the City, within ten (10) Days from the effective date of the Notice of Termination, all of the documentation called for by the Contract Documents to substantiate all costs incurred by the Contractor for labor, materials and equipment through the Effective Date of the Notice of Termination. Any documentation substantiating costs incurred by the Contractor solely as a result of the City's exercise of its right to terminate this Contract pursuant to this clause, which costs the Contractor is authorized under the Contract Documents to incur, shall: (i) be submitted to and received by the City no later than thirty (30) Days after the Effective Date of the Notice of Termination; (ii) describe the costs incurred with particularity; and (iii) be conspicuously identified as "Termination Costs Occasioned by the City's Termination for Convenience."

7. City's total liability to Contractor by reason of the termination shall be limited to the total (without duplication of any items) of:

   i. The reasonable cost to the Contractor for all Work performed prior to the effective date of the termination, determined in accordance with the force account provisions of ARTICLE 47, including the Work done to secure the Project for termination. Reasonable cost may not exceed the applicable percentage completion values derived from the progress schedule and the Cost Breakdown. Deductions shall be made for cost of materials to be retained by the Contractor, cost of Work defectively performed, amounts realized by sale of materials, and for other appropriate credits or offsets against cost of Work as allowed by the Contract Documents. Reasonable cost will include reasonable allowance for Project overhead and general administrative overhead.

   ii. When, in the City's opinion, the cost of any item of Work is excessively high due to costs incurred to remedy or replace defective or rejected Work, reasonable cost to be allowed will be the estimated reasonable cost of performing the Work in compliance with requirements of the Contract Documents and excessive actual cost shall be disallowed.

   iii. A reasonable allowance for profit on cost of Work performed as determined in accordance with ARTICLE 47 provided that the Contractor establishes to the City's satisfaction that the Contractor would have made a profit had the Project been completed, and provided further that the profit allowed shall not exceed five percent (5%) percent of the cost.

   iv. Reasonable costs to the Contractor of handling material returned to vendors, delivered to the City or otherwise disposed of as directed by the

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City.

v. A reasonable allowance for the Contractor's internal administrative costs in preparing termination claim.

vi. Reasonable demobilization costs, and reasonable payments made to Subcontractors or suppliers on account of termination.

8. In no event shall the City be liable for unreasonable costs incurred by the Contractor or subcontractors after receipt of a notice of termination. Such non-recoverable costs include, but are not limited to, the cost of or anticipated profits on Work not performed as of the date of termination, post-termination employee salaries, unreasonable post-termination administrative expenses, post-termination overhead or unabsorbed overhead, surety costs of any type, costs of preparing and submitting the Contractor's termination claim, attorney fees of any type, and all other costs relating to prosecution of a claim or lawsuit.

9. The City shall have no obligation to pay the Contractor under this ARTICLE 52b (Termination for Convenience) unless and until the Contractor provides the City with updated and acceptable as-builts and Record Documents for Work completed prior to termination.

10. In arriving at the amount due the Contractor under this clause there shall be deducted in whole or in the appropriate part(s) if the termination is partial:

i. All unliquidated advances or other payments on account previously made to the Contractor, including without limitation all payments which are applicable to the terminated portion of the Contract Documents,

ii. Any claim the City may have against the Contractor in connection with the Work, and

iii. The agreed price for, or proceeds of sale of, any materials, supplies, or other things kept by the Contractor and not otherwise recovered by or credited to the City.

These provisions are in addition to and not in limitation of any other rights or remedies available to the City.

c. Savings Clause. If City terminates Contractor for cause, and if it is later determined that the termination was wrongful, such default termination shall automatically be converted to and treated as a termination for convenience. In such event, Contractor shall be entitled to receive only the amounts payable under this section, and Contractor specifically waives any claim for any other amounts or damages, including, but not limited to, any claim for consequential damages or lost profits.

d. Exception. Notwithstanding any other provision of this Article, when immediate action is

necessary to protect life and safety or to reduce significant exposure or liability, the City may immediately order Contractor to cease Work until such safety or liability issues are addressed to the satisfaction of the City or the Contract is terminated.

ARTICLE 53. WARRANTY AND GUARANTEE

a. Contractor warrants that all materials and equipment furnished under this Contract shall be new unless otherwise specified in the Contract Documents; and that all Work conforms to the Contract Document requirements and is free of any defect whether performed by the Contractor or any subcontractor or supplier.

b. Unless otherwise stated, all warranty periods shall begin upon the filing of the Notice of Completion. Unless otherwise stated, the warranty period shall be for one year.

c. The Contractor shall remedy at its expense any damage to City-owned or controlled real or personal property.

d. Contractor shall furnish the City with all warranty and guarantee documents prior to final Acceptance of the Project by the City.

e. The City shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. The Contractor shall within ten (10) Days after being notified commence and perform with due diligence all necessary Work to complete or correct the Work at issue. If the Contractor fails to promptly remedy any defect, or damage; the City shall have the right to replace, repair, or otherwise remedy the defect, or damage at the Contractor's expense.

f. In the event of any emergency constituting an immediate hazard to health, safety, property, or licensees, when caused by Work of the Contractor not in accordance with the Contract requirements, the City may undertake at Contractor's expense, and without prior notice, all actions necessary to correct such condition.

g. With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for Work performed and Materials furnished under this Contract, the Contractor shall:

   1. Obtain for City all warranties that would be given in normal commercial practice or that are required in the Contract Documents;

   2. Require all warranties to be executed, in writing, for the benefit of the City; and

   3. Enforce all warranties for the benefit of the City, unless otherwise directed in writing by the City.

This Article shall not limit the City's rights under this Contract or with respect to latent defects, gross mistakes, or fraud. The City specifically reserves all rights related to defective work, including but not limited to the defect claims pursuant to California Code of Civil Procedure

Section 337.15.

ARTICLE 54. DOCUMENT RETENTION & EXAMINATION

a. In accordance with Government Code Section 8546.7, records of both the City and the Contractor shall be subject to examination and audit by the State Auditor General for a period of three (3) years after final payment.

b. Contractor shall make available to the City any of the Contractor's other documents related to the Project immediately upon request of the City.

c. In addition to the State Auditor rights above, the City shall have the right to examine and audit all books, estimates, records, contracts, documents, bid documents, subcontracts, and other data of the Contractor (including electronic records, computations and projections) related to negotiating, pricing, or performing the modification in order to evaluate the accuracy and completeness of the cost or pricing data at no additional cost to the City, for a period of four (4) years after final payment.

ARTICLE 55. SOILS INVESTIGATIONS

When a soils investigation report for the Project site is available, such report shall not be a part of the Contract Documents. Any information obtained from such report as to subsurface soil condition, or to elevations of existing grades or elevations of underlying rock, is approximate only and is not guaranteed. Contractor acknowledges that any soils investigation report (including any borings) was prepared for purposes of design only and Contractor is required to examine the site before submitting its bid and must make whatever tests it deems appropriate to determine the underground condition of the soil.

ARTICLE 56. SEPARATE CONTRACTS

a. The City reserves the right to let other contracts in connection with this Work or on the Project site. Contractor shall cooperate with and permit other contractors reasonable access and storage of their materials and execution of their work and shall properly connect and coordinate its Work with theirs.

b. To ensure proper execution of its subsequent Work, Contractor shall immediately inspect work already in place and shall at once report to the Engineer any problems with the work in place or discrepancies with the Contract Documents.

c. Contractor shall ascertain to its own satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by the City in prosecution of the Project to the end that Contractor may perform this Contract in the light of such other contracts, if any. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at site of the Project. Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on the Project. If simultaneous execution of any contract for the Project is likely to cause interference with performance of some other contract or contracts, the Engineer shall decide which Contractor shall

cease Work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously. The City shall not be responsible for any damages suffered or for extra costs incurred by Contractor resulting directly or indirectly from award, performance, or attempted performance of any other contract or contracts on the Project site.

ARTICLE 57. NOTICE AND SERVICE THEREOF

All notices shall be in writing and either served by personal delivery or mailed to the other party as designated in the Bid Forms. Written notice to the Contractor shall be addressed to Contractor's principal place of business unless Contractor designates another address in writing for service of notice. Notice to City shall be addressed to the City as designated in the Notice Inviting Bids unless City designates another address in writing for service of notice. Notice shall be effective upon receipt or five (5) Days after being sent by first class mail, whichever is earlier. Notice given by facsimile shall not be effective unless acknowledged in writing by the receiving party.

ARTICLE 58. NOTICE OF THIRD PARTY CLAIMS

Pursuant to Public Contract Code Section 9201, the City shall provide Contractor with timely notification of the receipt of any third-party claim relating to the Contract.

ARTICLE 59. STATE LICENSE BOARD NOTICE.

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

ARTICLE 60. INTEGRATION

a. This Contract, together with its incorporated documents, contains the entire, integrated agreement of the parties hereto, and supersedes any and all other prior or contemporaneous negotiations, understandings and oral or written agreements between the parties hereto. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void.

b. Any modification of this Contract shall be effective in in writing signed by all parties hereto. No oral order, objection, direction, claim or notice by any party or person shall affect or modify any of the terms or obligations contained in the Contract Documents.

ARTICLE 61. ASSIGNMENT

Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Contract or any part thereof including any claims, without prior written consent of the City. Any assignment without the written consent of the City shall be void. Any assignment of money due or to become due under this Contract shall be subject to a prior lien for services rendered or Material supplied for performance of Work called for under the Contract Documents in favor of all persons, firms, or corporations rendering such services or supplying such Materials to the extent that claims are filed pursuant to the Civil Code, the Code of Civil Procedure or the Government Code.

ARTICLE 62. CHANGE IN NAME AND NATURE OF CONTRACTOR'S LEGAL ENTITY

Should a change be contemplated in the name or nature of the Contractor's legal entity, the Contractor shall first notify the City in order that proper steps may be taken to have the change reflected on the Contract and all related documents. No change of Contractor's name or nature will affect City's rights under the Contract, including but not limited to the bonds.

ARTICLE 63. ASSIGNMENT OF ANTITRUST ACTIONS

Pursuant to Section 7103.5 of the Public Contract Code, in entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, Contractor or subcontractor offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (chapter 2 (commencing with Section 16700) of part 2 of division 7 of the Business and Professions Code), arising from the purchase of goods, services, or materials pursuant to this Contract or any subcontract. This assignment shall be made and become effective at the time the City makes final payment to the Contractor, without further acknowledgment by the parties.

ARTICLE 64. PROHIBITED INTERESTS

No City official or representative who is authorized in such capacity and on behalf of the City to negotiate, supervise, make, accept, or approve, or to take part in negotiating, supervising, making, accepting or approving any engineering, inspection, construction or material supply contract or any subcontract in connection with construction of the project, shall be or become directly or indirectly interested financially in the Contract.

ARTICLE 65. LAWS AND REGULATIONS

a. Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules and regulations bearing on conduct of work as indicated and specified by their terms. References to specific laws, rules or regulations in the Contract Documents are for reference purposes only and shall not limit or affect the applicability of provisions not specifically mentioned. If Contractor observes that drawings and specifications are at variance therewith, he shall promptly notify the Engineer in writing and any necessary changes shall be adjusted as provided for in this Contract for changes in work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Engineer, he shall bear all costs arising

therefrom.

b. Contractor shall be responsible for familiarity with the Americans with Disabilities Act ("ADA") (42 U.S.C. § 12101 et seq.). The Work will be performed in compliance with ADA laws, rules and regulations. Contractor shall comply with the Historic Building code, including but not limited to, as it relates to the ADA, whenever applicable.

c. Contractor acknowledges and understands that, pursuant to Public Contract Code section 20676, sellers of "mined material" must be on an approved list of sellers published pursuant to Public Resources Code section 2717(b) in order to supply mined material for this Contract.

ARTICLE 66. PATENT FEES OR ROYALTIES

The Contractor shall include in its bid amount the patent fees or royalties on any patented article or process furnished or used in the Work. Contractor shall assume all liability and responsibility arising from the use of any patented, or allegedly patented, materials, equipment, devices or processes used in or incorporated with the Work, and shall defend, indemnify and hold harmless the City, its officials, officers, agents, employees and representatives from and against any and all liabilities, demands, claims, damages, losses, costs and expenses, of whatsoever kind or nature, arising from such use.

ARTICLE 67. OWNERSHIP OF DRAWING

All Contract Documents furnished by the City are City property. They are not to be used by Contractor or any subcontractor on other work nor shall Contractor claim any right to such documents. With exception of one complete set of Contract Documents, all documents shall be returned to the City on request at completion of the Work.

ARTICLE 68. NOTICE OF TAXABLE POSSESSORY INTEREST

In accordance with Revenue and Taxation Code Section 107.6, the Contract Documents may create a possessory interest subject to personal property taxation for which Contractor will be responsible.

END OF GENERAL CONDITIONS

SPECIAL CONDITIONS

Based on the above described findings, the City requires that the following specific product(s), thing(s), and/or service(s) be utilized for the Project:

OMUC CONTRACT NO.

FOR

ON CALL SERVICES FOR WATER DISTRIBUTION AND SEWAGE COLLECTION SYSTEM REPAIRS

A. PERMITS AND LICENSES

As set forth in Section 7-5, "Permits" of the Standard Specifications, the Contractor shall procure all permits and licenses, including a license to do business in the City of Ontario, pay all fees, and give all notices necessary and incidental to the due and lawful prosecution of the work except the fee for the City's encroachment permit, which is waived for this Contract.

The Contractor shall submit to the Project Engineer the Contractor's proposed construction schedule and shall have the approval thereof prior to the issuance of the City's encroachment permit.

The Contractor shall obtain a City of Ontario Business License, City Encroachment Permit (no fee), City Traffic control Permit (no fee), and a copy of the Department of Industrial Safety Excavation Permit for all excavations greater than five feet (5') in depth.

The Contractor shall at his own expense, obtain a construction water meter from the City's Water Office. The Contractor shall post the required deposit and shall be responsible for delivering the construction water meter to the City on a monthly basis in order for the City to read water usage.

The Contractor shall comply with all requirements of all permits. In the event of a conflict between these specifications, the Drawings, and any permit requirements, the most stringent and highest requirement, in the opinion of the City, shall prevail.

B. PUBLIC CONVENIENCE AND SAFETY

This Item shall be accomplished in accordance with the provisions set forth in Section 7-10, "Public Convenience and Safety", of the Standard Specifications.

C. CONFINED SPACE ENTRY

The Contractor is hereby informed that the work required in this contract includes entry into confined spaces defined by Article 108, Section 5157(b)(1)(2)(3), of the General Industry Safety Orders. "Permit Space" entry is allowed only through compliance with all Federal, State, local and CAL/OSHA safety regulations. The Contractor shall be responsible for ensuring that any employee entering a confined space shall have substantial training and/or experience that demonstrates knowledge and a level of understanding of the potential hazards associated with entry into a confined space. The Contractor shall also designate in writing to the implementation of measures taken for compliance with the confined space entry requirements.

The Contractor shall conform with all regulations and requirements listed in the "Construction Safety Orders" issued by the State of California, Department of Industrial Relations, Division of Safety (Cal/OSHA). The Contractor shall familiarize himself, and all affected personnel, with all sections of Article 4, "Dust, Fumes, Mists, Vapors, and Gases", of said "Construction Safety Orders" before directing his personnel to enter into any confined space for any reason.

D. COORDINATION WITH UTILITIES AND OTHER AGENCIES

1. The City will operate all main line valves on the existing water mains. It is the Contractor's responsibility to coordinate all work to be done by City forces. The Contractor shall contact the City Utilities Project Manager, a minimum of two (2) working days prior to a water main shutdown. The City of Ontario Utility Department's regular work schedule, for main shutdown purposes, is 6:30 a.m. to 4:00 p.m., Monday through Friday, excluding City observed holidays. Any service requested of the Utility Department (i.e., water main shutdown, etc.) outside of the regular work schedule, shall be at the City's expense.

2. The Contractor shall notify the City of Ontario Police Department, Fire Department, and Refuse Department of any street closures two (2) working days prior to the start of construction:

City of Ontario

Police Department:	(909) 986-6711, Dispatch
Fire Department:	(909) 983-5911, Dispatch
Refuse Department:	(909) 986-1151

State of California

Highway Patrol:	(909) 980-3994

3. The Contractor shall notify "Underground Service Alert" two (2) working days in advance of beginning any excavation.

Underground Service Alert

(800) 422-4133

If the Contractor finds evidence of utilities not shown on the Plans, he shall immediately notify the owner of that utility.

Compensation for notification and coordination with utilities and other agencies shall be included in the compensation for those Items involved and no additional compensation shall be allowed therefore.

E. SURVEYING AND STAKING

For scheduled work, the City of Ontario will provide all necessary surveying and construction staking for this Contract.

The Contractor's request for surveying and construction staking shall be made to the Project Engineer a minimum of five (5) working days in advance of the date said work is required.

If construction staking is provided and subsequently removed, whether-accidentally or otherwise by the Contractor will be charged for restaking at a fee of $120.00 per hour {two (2) hour minimum}.

All work under this Contract shall be built in accordance with the alignment and grades as shown on the Plans. Distances and measurements, except elevations and structural dimensions, are given and made on horizontal planes. For pipeline work, the Project Engineer will provide offset line and grade stakes at ground level and will furnish "cut sheets" therefore. The Contractor shall be responsible for transfer of such offset line into the trench for construction of the work and for the accuracy of such transfer. Cost of such a transfer shall be included in the unit prices bid for the work and no extra compensation will be made to the Contractor.

The Contractor shall preserve bench marks, survey stakes, and points set for lines, grades, or measurement of the work in their proper places until authorized by the Project Engineer to remove them. In the case of their destruction or removal by the Contractor, his employees or agents, they shall be replaced by the Project Engineer at the Contractor's expense. The Contractor and his sureties shall be liable therefor.

F. COMPACTION TESTS

For scheduled work, the City of Ontario will provide all necessary soils compaction testing for the Contract. The Contractor shall excavate holes for all of compaction tests, backfill the holes, compact this backfill, and pave the surface, if required, after the test as part of the line item cost.

Compaction tests of the back fill which meet the specified requirements shall be at the **City's expense.** All compaction tests which do not meet the specified requirements shall be at the **Contractor's expense** without any compensation therefore, and all retakes shall be at the **Contractor's expense.**

G. LOCATION OF EXISTING UNDERGROUND FACILITIES

Attention is directed to the possible existence of underground main or trunk line facilities not indicated on the Plans or described in these Special Provisions and to the possibility that existing underground main or trunk lines may be in a location different from that which is shown on the Plans. Plans may include the City's record drawings or Atlas book sheets, if available. The Contractor shall ascertain the exact location of existing underground main or trunk lines which are indicated on the Plans or described in these Special Provisions, the location of their service laterals or other appurtenances, and of existing service lateral or appurtenances of any other underground facilities which can be inferred from the presence of visible facilities such as buildings, meters, valves and junction boxes, prior to doing any work that may damage such facilities or interfere with their operations.

H. CONSTRUCTION INTERFERENCES

Insofar as practicable , during the progress of the work, the Contractor shall not disturb but shall support and protect against damage and maintain in good operating condition at his own expense, all subsurface, surface, and overhead utilities, fences, structures, and other facilities which are shown on the plans.

In the event that subsurface, surface, or overhead utilities, fences, or other facilities are required to be disturbed or removed to permit the construction of the improvements as provided hereunder, such disturbance or removal shall be done only with the approval of the Project Engineer, upon consent obtained by the City from the owner or lessee involved. The Contractor shall coordinate his operations with those of the owner or lessee concerned with the disturbance or removal of facilities so as to minimize the inconvenience imposed on all affected.

In the event the Contractor disturbs, disconnects, or damages any subsurface, surface, or overhead utility, fence, structure, or other facility prior to the making of necessary arrangements by the City with the owner thereof, he shall immediately give, to the owner, notice of said disturbance, disconnection, or damage and the Contractor shall assume all responsibility in connection therewith.

All facilities removed shall be reconstructed as promptly as is reasonably possible in their original or other authorized locations and in a condition at least as good as when removed and subject to the inspection of the property owner, company, agency or city having jurisdiction.

The City has attempted to locate and show on the plans all existing substructures. However, it is anticipated that other underground facilities maybe encountered. It shall be the Contractor's responsibility to maintain and guard from damage or

destruction any pipelines, conduits, or other utilities existing or encountered and repair or replace any such facilities which may be damaged by the Contractor's operations. (City has not attempted to locate nor provide plans, contractor should take every effort to minimize damage to other underground facilities)

During the performance of the work under these specifications, the owning agency in control of any of the facilities affected by the work shall have the right to enter when necessary upon the right-of-way or upon any portion of the work thereof for the purpose of maintaining service and of making changes in or repairs to existing facilities.

I. COOPERATION

Should construction be under way by other forces or by other Contractors within or adjacent to the limits of the work specified or should work of any other nature by under way by other forces within or adjacent to said limits, the Contractor shall cooperate with all such other Contractors or other forces to the end that any delay or hindrance to their work will be avoided. The right is reserved to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces.

When two (2) or more Contractors are employed on related or adjacent work, or obtain materials from the same material source, each shall conduct his operations in such a manner as not to cause any unnecessary delay or hindrance to the other. Each Contractor shall be responsible to the other for all damage to work, to persons or property caused to the other by his operations, and for loss caused the other due to his unnecessary delays or failure to finish the work within the time specified for completion.

J. OPEN TRENCH OPERATIONS

"Open Trench" is hereby defined as any open excavation, whether for pipeline, jacking area, or other appurtenances, which are below the grade of the existing surface.

The maximum length of open trench shall be as prescribed in Section 306-1.1.2, "Maximum Length of Open Trench", of the Standard Specifications, except as modified below:

At the end of each work day, trenches that were excavated that day shall be backfilled, compacted, temporarily paved and the roadway opened to the public. In locations where steel casing is to be installed, the bore and jacking pit excavation may remain open; however, appropriate fencing, barricading and traffic control shall be implemented in accordance with the contract documents. The Contractor's requests for exceptions to the above requirements must be submitted, in writing, to the Project Engineer will give written notification of approval, conditional approval or denial of request.

All open trenches which remain open overnight, on weekends, on holidays, or any other days when the Contractor is not working at the site, shall be protected by steel plates which totally surround the open trench.

The cost for performing the work as herein described, including equipment, labor, tools and materials, shall be included in the appropriate unit bid prices in the proposal and no additional compensation will be made therefore.

K. GENERAL CONTRACTOR'S RESPONSIBILITY

The Contractor shall comply with Section 7, "Responsibilities of the Contractor", of the Standard Specifications, except as modified and supplemented below.

The General Contractor shall have a supervisor in charge at the project site at all times whenever any work is in progress by the Contractor, or one or more subcontractors. Failure to comply with the preceding will be sufficient grounds for the City Inspector to stop the work and shut the project down.

Sanitary facilities shall be supplied and maintained by the Contractor for the duration of the contract work.

L. STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION REFERENCE SPECIFICATIONS

The Standard Specifications, State of California Department of Transportation, dated July 2010, are hereby incorporated into these specifications. In case of any conflict, the most stringent and highest requirement shall govern, and the Contractor shall adhere to said requirements.

M. MOBILIZATION/DEMOBILIZATION AND TRAFFIC CONTROL AND SAFETY

Mobilization/Demobilization NA

Shall be accomplished in accordance with the provisions set forth in Section 9-3.4, "Mobilization", of the Standard Specifications, except as modified and supplemented below:

The Scope of Work shall include all the incidental work items and costs necessary for mobilizing and demobilizing the contract effort, personnel, equipment, etc.; obtaining all necessary bonds and Certificates of Insurance; miscellaneous management and overhead costs; miscellaneous site preparation and cleanup as necessary; and any other miscellaneous work costs not classifiable under the other Bid Item numbers.

No work shall be started without prior approval of the submittals. Failure to comply with the preceding requirement will be sufficient ground for the city Inspector to stop all work on the project until the requirements are met.

SECTION 00750
SPECIAL CONDITIONS

Traffic Control and Safety

Shall be accomplished in accordance with the provisions set forth in section 7-10, "Public Convenience and safety", of the Standard Specifications, except as modified and supplemented below:

The Contractor shall be responsible for all traffic control during construction, excavation, and any other activity or condition which alters existing traffic control or places in jeopardy the safety of the public or those in the employ of the Contractor.

All traffic control devices must be in place and in proper working condition before the start of work each day. If it is found that traffic control devices are out of place or in a broken or inoperative condition, work will be halted until the necessary corrections are made. Signs shall not be posted on any tree, utility pole, or traffic sign.

Traffic control at intersections shall be adjusted to allow traffic access to the intersection immediately after construction is complete enough to allow safe use of the roadway.

Parking Restrictions

Parking within the areas of improvement may be restricted during construction operations. Temporary "No Parking" signs shall be provided and posted by the Contractor three (3) working days prior to the start of construction. The "No Parking" signs shall clearly state the date and hours during which the restriction is effective.

Signs and Barricades

The Contractor shall provide sufficient signing and barricades to protect the public, both motoring and pedestrian, and construction personnel. All barricading and construction signing shall be in conformance with the most recent version of the Work Area Traffic Control Handbook, as published by Building News, Incorporated, 10801 National Boulevard, Los Angeles, California 90064. Sole determination as to the adequacy of construction signing and barricading shall be made by the Traffic Engineer or his designated representative. Any supplemental signing and barricading required to protect the public, in the opinion of the Traffic Engineer, shall be immediately erected by the Contractor at no additional cost to the City.

Type II barricades mounted with flashers shall be installed around work areas in parkways. Construction stakes with warning tape and/or reflectorized delineators may also be required in addition to Type II barricades.

The Contractor shall install reflectorized C18 "ROAD CONSTRUCTION AHEAD" signs at all approaches to the construction area.

SECTION 00750
SPECIAL CONDITIONS

Street Closures/Full or Partial

The Contractor shall apply for a Traffic Control Permit (no fee) from the City of Ontario Engineering Department, for any street closure, full or partial. If, in the determination of the Traffic Engineer, a full closure is required, such a permit shall be applied for at least five (5) working days prior to the start of work. Partial Traffic Control Permits shall be applied for at least two (2) working days prior to the start of work.

At the time of application for the Traffic Control Permit, the Contractor shall submit a detailed Traffic Control Plan for review and approval by the Traffic Engineer. The Plan shall indicate the location and type of signs and barricades to be utilized. The adequacy of the signing shall be determined by the Traffic Engineer.

The Contractor shall notify the Traffic Engineer a minimum of two (2) working days prior to any proposed change in the approved Traffic Control Plan. In case of a full closure, the Contractor shall provide barricades and reflectorized C3A "ROAD CLOSED TO THRU TRAFFIC" signs at the intersections immediately in advance of all such closures, at entrances to the closures, and at all detour route signing. Detour signs shall be posted on wood or metal posts.

Drive Approaches and Pedestrian Access

Access to all driveways in the area of construction shall be open and accessible during nonworking hours. The Contractor shall keep all driveways open, except for short periods of time as outlined in Section 7-10, "Public Convenience and Safety", of the Standard Specifications.

The Contractor shall make provisions to interrupt the construction to allow access to existing driveways in the event such access is determined necessary by the Traffic Engineer.

Adequate provisions for pedestrian access, in the opinion of the Traffic Engineer, shall be made at all necessary locations and shall be shown on all Construction Phasing and Detour Plans.

Contractor's Personnel

The Contractor shall provide personnel who will be responsible for the maintenance of all traffic control devices on a 24 hour basis. The names and telephone numbers of these personnel shall be submitted to the Engineer prior to the start of any construction.

N. DISINFECTION OF WATER MAIN CONNECTIONS AND VALVES

Where connections are to be made to the existing water system, the interior of all pipes and fittings shall be swabbed with eleven percent (11%) hypochlorite solution immediately prior to installation. Connections to the existing system shall be made

only in the presence of the designated City Inspector. Failure to do so may result in the disconnection of the Contractor installed valve and re-chlorination of the adjoining water main all at the Contractor's expense.

END OF SPECIAL CONDITIONS

TECHNICAL SPECIFICATIONS

"THE FOLLOWING TECHNICAL SPECIFICATIONS ARE INCORPORATED HEREIN BY REFERENCE AS IF SET FORTH IN THEIR ENTIRETY:

OMUC CONTRACT NO.

FOR

ON CALL SERVICES FOR WATER DISTRIBUTION AND SEWAGE COLLECTION SYSTEM REPAIRS

WORK REQUIRED:

1. The work covered under this project is for repairs to the water distribution and sewage collection systems on an as needed or on call basis. The Contractor shall be prepared to respond to scheduled work or to provide an emergency response pursuant to the requirements described herein. The work scheduled under this contract will be authorized by City's Project Manager assigned to this project.

2. The proposed work may include but not be limited to point repair of existing water and sewer piping, services, laterals, and other underground work. Typical items of work for bidding purposes, along with labor and equipment rates, are included in the Line Items Section of the online bid management system.

3. The City makes no guarantees on the amount of work that will be performed by the contractor under this contract as it is based on an as-needed basis.

PROPOSAL FORMAT, CONTENTS, AND EVALUATION:

1. Proposals shall include all the information required by the section of the Contract Documents entitled "INFORMATION REQUIRED OF BIDDERS". Failure to provide the required information or to comply with these requirements may be a basis for rejection of the Proposal.

2. Proposals shall include all bid forms, affidavits, insurance and other requirements of the General Conditions.

3. Proposals will be evaluated by the City on the basis of the requested information. The City reserves the right to award the contract to the Proposer(s) whose proposal provides the best overall and beneficial program to the City.

CONTRACTOR CONTACT AND RESPONSE TIME:

1. The Contractor shall designate a primary point of contact for this contract that will be available twenty four (24) hours a day, seven (7) days a week including Saturdays, Sundays and holidays. In the event the primary contact is not available, the Contractor shall designate no less than two (2) alternate contacts with the same requirements.

2. The Contractor must have sufficient labor and equipment dedicated to this project in order to respond to service calls within the timeframes described herein for "scheduled" or "emergency" work.

3. The response time for "scheduled" work will be a mutually agreed upon schedule as developed between the City Project Manager and the Contractor.

4. The response time for "emergency" work shall be as follows:

    - Contractor should be able to provide required labor and equipment for all work under this contract twenty four (24) hours a day, seven (7) days a week including Saturdays, Sundays and holidays.

    - A skilled supervisor should be capable of arriving at the job site within two hours from the initial telephone notification. The skilled supervisor shall have the experience necessary to evaluate the situation and be fully empowered by the Contractor to commit personnel and resources to the project.

    - The remaining crew and equipment shall be on site within four hours from the initial telephone notification.

REFERENCE STANDARDS:

1. All work and material shall be per the City Standard Drawings, Equivalent Materials List, and Water and Sewer Design Development Guidelines and Specifications, latest editions, unless

specifically modified by these Technical Specifications. All documents are available for download at http://www.ontarioca.gov

2. The Standard Specifications for Public Works Construction (SSPWC or "Green Book"), latest edition, shall apply as described herein or for items or situations not specifically addressed by the City Standard Drawings and Equivalent Materials List.

3. American Water Works Association (AWWA) Standards shall apply to all materials used for water distribution and where applicable, collection system repairs, when not otherwise covered by the City Standard Drawings and Equivalent Materials List.

4. Traffic Control Plans and equipment shall be per "California Manual on Uniform Traffic Control Devices" (MUTCD).

5. Work within Caltrans Right of Way shall be performed per Caltrans Standard Specifications and Drawings, where applicable, or under a project-specific encroachment permit if such permit is issued and in force.

ASSIGNMENT OF WORK:

1. The Contractor may not assign any part of the work to another entity without the written permission of the City.

2. The City may enter into one or more contracts for On Call Services. Every effort will be made to rotate the work among the Contractors. In the event that the Contractor selected for a particular task fails to respond within the specified times after being contacted, the City Project Manager at his discretion may authorize the work to any other Contractor authorized to work under this contract.

EQUIPMENT AND MATERIALS:

1. The Contractor is required to supply all labor, materials, tools, plant, power, water, equipment, insurance, bonds, and supervision to complete the work.

2. The Contractor is solely responsible to protect his equipment and materials while engaged in any task under this contract. The City shall not be responsible for any damage or theft of equipment and materials.

3. Contractor shall be responsible for the storage of all necessary construction equipment, tools, and materials. City property or facilities including but not limited to streets, roads, and highways may not be used except for direct performance of the work or upon written approval of the City Project Manager.

COORDINATION WITH CITY OPERATIONS:

1. The Contractor shall coordinate all its operations with the City to ensure no unnecessary interruption of service.

2. City mainline valves on the water distribution system shall only be operated by City personnel.

3. For scheduled work, mainline shutdown requests shall be made to the City of Ontario at least two (2) working days in advance of the requested shutdown. The City will provide notification to residents in advance of the shutdown. Emergency work may not allow for a 2 day notification in which City staff will work with the contractor to provide the necessary shutdown.

4. For emergency work, the Contractor shall contact City Project Manager immediately for emergency shutdowns.

PROTECTION OF ADJACENT UTILITIES AND STRUCTURES:

1. For scheduled work, the Contractor shall request and coordinate utility mark out through Underground Service Alert (USA) at 1-800-227-2600 no less than 48 hours prior to excavation. For emergency work, the Contractor shall notify USA and request mark out immediately upon mobilization to the job site.

2. The Contractor shall exercise care and caution to prevent damage to existing structures during the work. All damage to existing public or private structures and utilities shall be repaired per the General Conditions at the Contractor's expense.

3. The Contractor shall not unduly restrict access to private property or access for mail delivery or trash pickup, or other related public or private services.

JOB SITE SAFETY:

1. The Contractor is fully responsible for all job site safety to complete the work in full compliance with all applicable safety regulations such, as but not limited to the California Occupational Safety and Health Agency (Cal/OSHA).

2. The public shall at all times be kept safe from the work using all reasonable measures per applicable standards and specifications and at the discretion of the City Project Manager.

DISINFECTION REQUIREMENTS:

1. The Contractor shall be responsible to disinfect newly installed or repaired lines and appurtenances as per California Department of Health Services (CDHS) requirements and AWWA Standards. City staff will take required compliance water samples and provide test results to the Contractor.

2. If any test samples fail to meet the specified requirements on new facilities, the Contractor shall be required to correct the problem and repeat the testing procedures at no additional cost to the City.

PIPELINE TESTING REQUIREMENTS:

1. The Contractor shall be responsible to test all newly installed lines and appurtenances as prescribed in Section 306-1.4 of the SSPWC. This shall include air pressure tests for new sewer lines, and water pressure tests for new water lines.

2. Prior to conducting hydrostatic pressures tests, flush pipes with water to remove dirt and debris. All flushing water shall be properly disposed of by the Contractor pursuant to applicable regulation. Maintain a flushing velocity of at least 3 feet per second. Flush pipes for time period as given by the formula $T = 2L/3$; where T = flushing time (seconds) and L = pipe length (feet).

3. Testing against closed valves is not permitted. Provide test bulkheads of suitable material and construction to withstand no less than 2.0 times the specified test pressure. In the absence of a project-specific test pressure, pipes shall be tested at 50 psi over pipe class or as directed by the City.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) REQUIREMENTS:

1. All the work done under this contract shall be in full compliance with NPDES requirements as governed by the Santa Ana Regional Water Quality Control Board (RWQCB).

2. The Contractor shall be responsible to self-implement all requirements of the Regional Board's NPDES General Permit for Storm Water Discharges Associated with Construction Activity from Small Linear Underground/Aboveground Projects (General Permit).

3. The Contractor shall take all precautions to protect drainage systems and waterways using appropriate BMP devices as required by the applicable Regional Board permits.

4. If in the opinion of the City, the Contractor's BMPs are not achieving the level of protection required by applicable Regional Board permits, the Contractor shall immediately perform corrective measures at no additional cost to the City.

LABOR RATES:

All labor shall be paid at current local prevailing wage rates at a minimum. Overtime shall be paid at no less than one-and-one-half times the basic rate of pay and shall commence when a worker has worked more than eight (8) hours in one day and/or forty (40) hours in one regular week. Equipment shall be paid based on the Line Items Section of the online bid management system bid sheet.

MATERIALS:

All materials paid for by the Contractor for this project shall be reimbursed by the City based on the true cost of the item(s) plus the markup identified on the Line Items Section of the online bid management system. The Contractor shall submit all backup for materials at the time of invoice. Acceptable backup documentation shall include original receipts, invoices, bill of lading, etc.

PERMITS:

Unless otherwise specified, the Contractor shall be responsible to obtain all necessary permits to conduct the work. These include but are not limited to Cal OSHA excavation permits, Cal-Trans permits, NPDES permits, and City Street cut and encroachment permits. Fees for the permits will be paid by the City.

END OF TECHNICAL SPECIFICATIONS

EXHIBIT "B"

SCHEDULE OF SERVICES

AS NEEDED BASIS

EXHIBIT "C"

COMPENSATION

(see next page)

Item #	Item Code	Type	Item Description	UOM	QTY	Unit Price	Line Total
LABOR - HOURLY RATES MUST BE FULLY BURDENED							$573,011.00
1			Foreman	HOURLY RAT	500	$139.94	$69,970.00
2			Pipe fitter	HOURLY RAT	1000	$110.31	$110,310.00
3			Laborer	HOURLY RAT	2000	$106.55	$213,100.00
4			Truck Driver	HOURLY RAT	100	$107.08	$10,708.00
5			Equipment Operator	HOURLY RAT	1000	$135.68	$135,680.00
6			Welder	HOURLY RAT	300	$110.81	$33,243.00
EQUIPMENT							$201,319.50
7			Service truck (1.5 tons)	HOURLY RAT	1000	$30.05	$30,050.00
8			Traffic message board	HOURLY RAT	200	$15.90	$3,180.00
9			Backhoe (Cat 430 or equal)	HOURLY RAT	1000	$50.08	$50,080.00
10			Excavator (Cat 320 or equal)	HOURLY RAT	50	$105.72	$5,286.00
11			Loader (Cat 930 or equal)	HOURLY RAT	250	$50.08	$12,520.00
12			Dump truck, 10 cubic yards	HOURLY RAT	1000	$58.22	$58,220.00
13			Boom truck, 10 ton and 30 foot reach	HOURLY RAT	100	$20.00	$2,000.00
14			Street sweeper	HOURLY RAT	25	$33.39	$834.75
15			Hydro stomper	HOURLY RAT	250	$10.00	$2,500.00
16			Air compressor, 185 cfm or larger	HOURLY RAT	750	$5.00	$3,750.00
17			Traffic rated steel plate 6ft X 10ft	HOURLY RAT	200	$6.56	$1,312.00
18			Generator, 10 KW	HOURLY RAT	100	$16.38	$1,638.00
19			2" centrifugal pump	HOURLY RAT	500	$5.00	$2,500.00
20			4" centrifugal pump	HOURLY RAT	100	$16.38	$1,638.00
21			3" mud pump	HOURLY RAT	200	$5.00	$1,000.00
22			Trench shield 4ft X 12ft X 8.5ft	HOURLY RAT	50	$31.80	$1,590.00
23			Welding truck, 200 amps or larger	HOURLY RAT	250	$33.39	$8,347.50
24			Water truck, 2,000 gal	HOURLY RAT	100	$27.82	$2,782.00
25			Confined space entry equipment	HOURLY RAT	25	$32.75	$818.75
26			Shoring 3ft X 6ft EA. (Hydraulic)	HOURLY RAT	200	$8.73	$1,746.00
27			Barricades	HOURLY RAT	1000	$1.09	$1,090.00
28			Delineators	HOURLY RAT	3000	$0.27	$810.00
29			Traffic Cones, 24" minimum	HOURLY RAT	3000	$0.27	$810.00
30			Vactor truck, combo	HOURLY RAT	25	$272.66	$6,816.50

CONSTRUCTION ITEMS							$1,780,902.20
31			1" Water service, 0-25 linear feet (copper), per City Standard No. 4201	EA	15	$1,108.80	$16,632.00
32			1" Water service, 25-50 linear feet (copper), per City Standard No. 4201	EA	15	$1,713.60	$25,704.00
33			1" Water service, 0-25 linear feet (PE Pipe), per City Standard No. 4210	EA	10	$1,008.00	$10,080.00
34			1" Water service, 25-50 linear feet (PE Pipe), per City Standard No. 4210	EA	10	$1,512.00	$15,120.00
35			1" Water service, 50-75 linear feet (PE Pipe), per City Standard No. 4210	EA	4	$3,024.00	$12,096.00
36			2" Water service, 0-25 linear feet (copper), per City Standard No. 4202	EA	5	$2,217.60	$11,088.00
37			2" Water service, 25-50 linear feet (copper), per City Standard No. 4202	EA	5	$3,225.60	$16,128.00
38			2" Water service, 0-25 linear feet (PE Pipe), per City Standard No. 4211	EA	5	$2,016.00	$10,080.00
39			2" Water service, 25-50 linear feet (PE Pipe), per City Standard No. 4211	EA	5	$2,822.40	$14,112.00
40			2" Water service, 50-75 linear feet (PE Pipe), per City Standard No. 4211	EA	2	$6,854.40	$13,708.80
41			3" or 4" Water service, 0-25 linear feet, per City Standard 4203	EA	5	$17,136.00	$85,680.00
42			4" Manifold with up to 4 meters and services, per City Standard 4209	EA	5	$6,451.20	$32,256.00
43			4" Gate valve, per City Standard No. 4005	EA	3	$1,113.60	$3,340.80
44			6" Gate valve, per City Standard No. 4005	EA	5	$1,512.00	$7,560.00
45			8" Gate valve, per City Standard No. 4005	EA	5	$2,016.00	$10,080.00
46			12" Gate valve, per City Standard No. 4005	EA	5	$3,830.40	$19,152.00
47			16" Butterfly valve, per City Standard No. 4006	EA	2	$8,640.00	$17,280.00

Item #	Item Code	Type	Item Description	UOM	QTY	Unit Price	Line Total
48			18" Butterfly valve, per City Standard No. 4006	EA	1	$5,376.00	$5,376.00
49			24" Butterfly valve, per City Standard No. 4006	EA	1	$11,040.00	$11,040.00
50			36" Butterfly valve, per City Standard No. 4006	EA	1	$20,640.00	$20,640.00
51			1" Air/Vacuum valve, service 0-25 linear feet, per City Standard No. 4102	EA	2	$4,032.00	$8,064.00
52			1" Air/Vacuum valve, service 25-50 linear feet, per City Standard No. 4102	EA	2	$6,350.40	$12,700.80
53			2" Air/Vacuum valve, service 0-25 linear feet, per City Standard No. 4102	EA	2	$4,636.80	$9,273.60
54			2" Air/Vacuum valve, service 25-50 linear feet, per City Standard No. 4102	EA	2	$6,955.20	$13,910.40
55			3" or 4" Air/Vacuum valve, service 0-25 linear feet, per City Standard 4104	EA	2	$6,048.00	$12,096.00
56			3" or 4" Air/Vacuum valve, service 25-50 linear feet, per City Standard 4104	EA	2	$7,459.20	$14,918.40
57			4" Blow-off assembly (PVC), 0-25 linear feet, per City Standard No. 4112	EA	5	$4,435.20	$22,176.00
58			4" Blow-off assembly (CML/CMC), 0-25 linear feet, per City Standard No. 4109	EA	5	$4,536.00	$22,680.00
59			6" Fire hydrant assembly (PVC), 0-25 linear feet, per City Standard No. 4111	EA	10	$8,568.00	$85,680.00
60			6" Fire hydrant assembly (CML/CMC), 0-25 linear feet, per City Standard No. 4101	EA	10	$10,080.00	$100,800.00
61			Hot Tap, 4-6" Main, per City Standard No. 4106	EA	2	$352.80	$705.60
62			Hot Tap, 8-12" Main, per City Standard No. 4106	EA	2	$403.20	$806.40
63			Hot Tap, 16-24" Main, per City Standard No. 4106	EA	1	$10,080.00	$10,080.00
64			Thrust Blocks, 4-6" pipe, per City Standard No. 4004	EA	10	$352.80	$3,528.00
65			Thrust Blocks, 8-12" pipe, per City Standard No. 4004	EA	10	$403.20	$4,032.00
66			8" Water main replacement (PVC), 0-50 linear feet, per City Standard	LF	50	$50.40	$2,520.00
67			8" Water main replacement (CML/CMC), 0-50 linear feet, per City Standard	LF	50	$58.46	$2,923.00
68			8" Water main replacement (Ductile), 0-50 linear feet, per City Standard	LF	50	$61.49	$3,074.50

69			8" Water main replacement (PVC), 50-250 linear feet, per City Standard	LF	250	$45.36	$11,340.00
70			8" Water main replacement (CML/CMC), 50-250 linear feet, per City Standard	LF	250	$51.41	$12,852.50
71			8" Water main replacement (Ductile), 50-250 linear feet, per City Standard	LF	250	$56.45	$14,112.50
72			8" Water main replacement (PVC), 250-500 linear feet, per City Standard	LF	500	$47.38	$23,690.00
73			8" Water main replacement (CML/CMC), 250-500 linear feet, per City Standard	LF	500	$53.42	$26,710.00
74			8" Water main replacement (Ductile), 250-500 linear feet, per City Standard	LF	500	$58.46	$29,230.00
75			8" Water main replacement (PVC), >500 linear feet, per City Standard	LF	750	$37.10	$27,825.00
76			8" Water main replacement (CML/CMC), >500 linear feet, per City Standard	LF	750	$43.34	$32,505.00
77			8" Water main replacement (Ductile), >500 linear feet, per City Standard	LF	750	$49.39	$37,042.50
78			12" Water main replacement (PVC), 0-50 linear feet, per City Standard	LF	50	$99.79	$4,989.50
79			12" Water main replacement (CML/CMC), 0-50 linear feet, per City Standard	LF	50	$103.82	$5,191.00
80			12" Water main replacement (Ductile), 0-50 linear feet, per City Standard	LF	50	$112.90	$5,645.00
81			12" Water main replacement (PVC), 50-250 linear feet, per City Standard	LF	250	$61.49	$15,372.50
82			12" Water main replacement (CML/CMC), 50-250 linear feet, per City Standard	LF	250	$62.50	$15,625.00
83			12" Water main replacement (Ductile), 50-250 linear feet, per City Standard	LF	250	$73.58	$18,395.00
84			12" Water main replacement (PVC), 250-500 linear feet, per City Standard	LF	400	$63.50	$25,400.00
85			12" Water main replacement (CML/CMC), 250-500 linear feet, per City Standard	LF	400	$64.51	$25,804.00
86			12" Water main replacement (Ductile), 250-500 linear feet, per City Standard	LF	400	$75.60	$30,240.00
87			12" Water main replacement (PVC), >500 linear feet, per City Standard	LF	600	$53.42	$32,052.00
88			12" Water main replacement (CML/CMC), >500 linear feet, per City Standard	LF	600	$54.43	$32,658.00
89			12" Water main replacement (Ductile), >500 linear feet, per City Standard	LF	600	$65.52	$39,312.00
90			4" Sewer lateral (VCP), 0-15 linear feet, less than 8 foot depth, per City Standard No. 2003	EA	5	$2,016.00	$10,080.00
91			4" Sewer lateral (VCP), 0-15 linear feet, between 8-12 foot depth, per City Standard No. 2003	EA	5	$3,729.60	$18,648.00
92			4" Sewer lateral (VCP), 15-25 linear feet, less than 8 foot depth, per City Standard No. 2003	EA	5	$7,156.80	$35,784.00
93			4" Sewer lateral (VCP), 15-25 linear feet, between 8-12 foot depth, per City Standard No. 2003	EA	5	$9,576.00	$47,880.00
94			4" Sewer lateral (VCP), 0-25 linear feet, more than 12 foot depth, per City Standard No. 2003	EA	5	$12,600.00	$63,000.00
95			6" Sewer lateral (VCP), 0-25 linear feet, less than 8 foot depth, per City Standard No. 2003	EA	5	$2,116.80	$10,584.00
96			6" Sewer lateral (VCP), 0-25 linear feet, between 8-12 foot depth, per City Standard No. 2003	EA	5	$3,830.40	$19,152.00
97			6" Sewer lateral (VCP), 0-25 linear feet, between 12-16 foot depth, per City Standard No. 2003	EA	4	$7,257.60	$29,030.40

Item #	Item Code	Type	Item Description	UOM	QTY	Unit Price	Line Total
98			8" Sewer main replacement (VCP), 0-25 linear feet, less than 8 foot depth, per City Standard	EA	2	$3,830.40	$7,660.80
99			8" Sewer main replacement (VCP), 0-25 linear feet, between 8-12 foot depth, per City Standard	EA	2	$8,971.20	$17,942.40
100			10-12" Sewer main replacement (VCP), 0-25 linear feet, less than 8 foot depth, per City Standard	EA	2	$4,737.60	$9,475.20
101			10-12" Sewer main replacement (VCP), 0-25 linear feet, between 8-12 foot depth, per City Standard	EA	2	$9,072.00	$18,144.00
102			Raise manhole ring and cover to grade (24"), minimum 4 per day, per City Standard 2001	EA	4	$1,108.80	$4,435.20
103			Raise manhole ring and cover to grade (36"), minimum 4 per day, per City Standard 2001	EA	4	$1,209.60	$4,838.40
104			Establish and maintain one Bypass Pumping Operation for 12 hours at 250 gpm for a distance of 500 feet	EA	10	$1,814.40	$18,144.00
105			Remove and replace AC paving, existing 4" AC over 6" Class II base compacted to 95% max density, per City Standard No. 1011/1306	SF	1500	$4.03	$6,045.00
106			Remove and replace AC paving, existing 5" AC over 8" Class II base compacted to 95% max density, per City Standard No. 1011/1306	SF	1500	$5.04	$7,560.00
107			Remove and replace AC paving, existing 6" AC over 8" Class II base compacted to 95% max density, per City Standard No. 1011/1306	SF	1500	$6.05	$9,075.00
108			Remove and replace AC paving, existing 7" AC over 8" Class II base compacted to 95% max density, per City Standard No. 1011/1306	SF	1500	$7.06	$10,590.00
109			AC street grinding, 2/10ths	SF	1000	$5.04	$5,040.00
110			Traffic loops replacement	EA	10	$1,008.00	$10,080.00
111			5/8-1" Water meter replacement/exchange	EA	500	$388.08	$194,040.00
112			1.5-2" Water meter replacement/exchange	EA	100	$705.60	$70,560.00
MISCELLANEOUS							$325,552.33
113			Material Allowance	LOT	1	$150,000.00	$150,000.00
114			Allowance for Subcontracting Work	LOT	1	$150,000.00	$150,000.00
115			Bonds & Insurance - Enter total cost, the lump sum of which shall not exceed 1% of the total bid amount.	LOT	1	$25,552.33	$25,552.33

Line Item Subtotals

Section Title	Line Total
LABOR - HOURLY RATES MUST BE FULLY BURDENED	$573,011.00
EQUIPMENT	$201,319.50
CONSTRUCTION ITEMS	$1,780,902.20
MISCELLANEOUS	$325,552.33
Grand Total	$2,880,785.03

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **CONSENT CALENDAR**
Department: Public Works Prepared By: Manuel Rebolledo Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam, Jacqueline Leon Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 10

SUBJECT: AN AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT WITH FUEL SERV, INC. FOR FUEL SITE EQUIPMENT MAINTENANCE AND ON-CALL SERVICES

RECOMMENDATION: That the City Council authorize the City Manager, or his designee, to execute Amendment No. 1 to the Maintenance Services Agreement with Fuel Serv, Inc., of Montclair, California, for fuel site equipment maintenance and on-call services in the amount of $600,000, for a total not-to-exceed contract amount of $750,000, and exercising the remaining four option years extending the term to September 30, 2029.

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

FISCAL IMPACT: The recommended Amendment No. 1 with Fuel Serv, Inc., increases the contract amount by $150,000 annually for Fiscal Years 2025 through 2029 for a total not-to-exceed contract amount of $750,000 over the five-year term. The Fiscal Year 2025-26 Adopted Budget includes appropriations in the Equipment Services Fund for fuel site equipment maintenance and on-call services.

BACKGROUND & ANALYSIS: On December 17, 2024, the City entered into a one-year agreement with the option to extend for four additional one-year terms with Fuel Serv, Inc., resulting from the award of Bid No. 1833, for a total contract amount not-to-exceed $150,000. The recommended Amendment No. 1 increases the annual contract amount by $150,000 for Fiscal Years 2025-2029 for a total not-to-exceed amount of $750,000 over the five-year term.

The City owns, operates, and maintains two fleet service repair sites and twelve fuel sites. As the City continues to grow, demand on our garage and fueling equipment has increased, requiring more maintenance to ensure safety, reliability, and uninterrupted support for critical services and infrastructure. The Municipal Services Department depends on vendors to provide maintenance and on-call services for garage and fuel site equipment. Staff recommends approving Amendment No. 1 to ensure continued service and operations.

CITY OF ONTARIO
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PAUL S. LEON
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JIM W. BOWMAN
DEBRA PORADA
DAISY MACIAS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
CITY TREASURER

SCOTT OCHOA
CITY MANAGER

AMENDMENT NO. 1 TO THE MAINTENANCE SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND FUEL SERV

1. Parties and Date.

This Amendment No. 1 to the Agreement (as defined herein) is made and entered as of _____, by and between the City of Ontario ("City") and **Fuel Serv, a S-Corporation ("Contractor")**. City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties."

2. Recitals.

2.1 Agreement. The City and Contractor have entered into an agreement entitled "**Maintenance Service Agreement**" dated **December 17, 2024** ("Agreement").

2.2 Amendment Purpose. The City and Contractor desire to amend the Agreement to extend term to September 30, 2026, and increase compensation by **Six Hundred Thousand Dollars ($600,000)** for a new total not-to-exceed amount of **Seven Hundred Fifty Thousand Dollars (750,000).**

2.3 Amendment Authority. This Amendment No. 1 is authorized pursuant to Section **3.7.11**, and **3.7.19** of the Agreement.

3. Terms.

3.1 Amendment. Section **3.1.2** of the Agreement is hereby amended in its entirety to read as follows:

"The term of this Agreement shall be from **October 1, 2024,** to **September 30, 2029**, with three (3) additional one-year terms exercisable solely at the option of the City unless earlier terminated, as provided herein. Vendor shall provide all Goods and complete the Services within the term of this agreement and shall meet any other established schedules and deadlines. The parties may, by mutual, written consent, extend the term of this Agreement if necessary, to complete the work."

3.2 Amendment. Section **3.2.1** of the Agreement is hereby amended in its entirety to read as follows:

"Compensation. Contractor shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed **Seven Hundred Fifty Thousand Dollars ($750,000)** without written approval of City Manager. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement."

3.3 Continuing Effect of Agreement. Except as amended by this Amendment No. 1, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this Amendment No. 1. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Amendment No. 1.

3.4 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 1.

3.5 Severability. If any portion of this Amendment No. 1 is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.6 Integration. This Amendment represents the entirety of the Parties' understanding relating to the subject of this Amendment, including written or verbal communications between the Parties, which shall have no relevance unless expressly incorporated herein. This is an integrated amendment.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR AMENDMENT NO. 1 TO THE MAINTENANCE SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND FUEL SERV

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 1 as of the day and year first above written.

CITY OF ONTARIO

Approved By:

_____
Scott Ochoa
City Manager

Approved as to Form:

_____
Best Best & Krieger LLP
City Attorney

Attested By:

_____
City Clerk

FUEL SERV

By:_____

Its:_____

Printed Name:_____

EXHIBIT "C"

COMPENSATION

Monthly, Semi-Annual, Annual and Other Services

Qty.	Description	Frequency	Cost per Service	Annual Cost
	ONTARIO MUNICIPAL SERVICE CENTER:			
	Fuel Site Inspection			
1	Certified Operator Inspection	Monthly	275.00	3,300.00
	UST Overfill Prevention Test			
5	Overfill Prevention Test	Triennial	500.00	2,500.00
	Veedor Root & FMU Battery Replacement			
2	Battery Replacement	Annual	150.00	300.00
	Vehicle Lift P.M. Service and Safety Inspection			
2	Stertil-Koni Model SKY250-10	Annual	685.00	1,370.00
2	Rotary SPOA-10	Annual	275.00	550.00
2	Rotary SPO-16	Annual	275.00	550.00
6	Rotary HP415-100	Annual	175.00	1,050.00
6	Stertil-Koni ST-1085-FWA-US	Annual	175.00	1,050.00
	Air Compressor and Dryer P.M. Service and Inspection			
1	Ingersoll Rand 2545SK10-P	Semi-Annual	600.00	1,200.00
1	Ingersoll Rand 7100E15	Semi-Annual	600.00	1,200.00
1	Ingersoll Rand D170ECA100	Semi-Annual	775.00	1,550.00
2	10 HP Misc. Compressor Welding Shop	Sem-Annual	600.00	1,200.00
	Lube Equipment. Service and Inspection			
16	Hose Reels	Annual	40.00	640.00
5	Oil/Lube Pumps	Annual	40.00	200.00
	Fuel Dispenser Inspection and Calibration			
2	2 Hose-Gasboy 9153AXTW1CXFL	Annual	150.00	300.00
2	2 Hose-Wayne 3/G72247D/29GHJ/JK	Annual	150.00	300.00
	C.A.R.B. Vapor Recovery Test			
2	TP 201.1B Static Torque	Annual	110.00	220.00
1	TP 201.1C Drop Tube	Annual	190.00	190.00
1	TP 201.1E Vent Cap Perf	Annual	190.00	190.00
1	TP 201.3 Pressure Decay	Annual	595.00	595.00
1	TP 201.4 Back Pressure	Annual	595.00	595.00
	Monitor Certification			
1	System	Annual	1,200.00	1200.00
10	Sensors	Annual	15.00	150.00
2	Additional Sensors	Annual	15.00	30.00

6	Spill Buckets (visual)	Annual	110.00	660.00
2	Leak Detector	Annual	190.00	380.00

Secondary Containment testing (next required test 2024)

1	Two 10,000 gallon Fuel and three 1.000 gallon oil UST with Piping	As Needed	5,100.00	5,100.00

Ontario Municipal Services Center Total 25,490.00

ONTARIO CITY HALL:

Fuel Dispenser Inspection and Calibration

1	Wayne Dispenser 3/G7107D/29GHRU/JR Pumping Unit	Annual	150.00	150.00

Veedor Root & FMU Battery Replacement

1	Battery Replacement	Annual	150.00	150.00

C.A.R.B. Vapor Recovery Test

1	TP 201.1E Vent Cap Perf'	Annual	190.00	190.00
1	TP 201.3 Pressure Decay	Annual	595.00	595.00
1	TP 201.4 Back Pressure	Annual	190.00	190.00

City Hall Total 1,275.00

ONTARIO FIRE DEPARTMENTS

Fuel Dispenser Inspection and Calibration

5	Gasboy Dispenser ATLC006676 with a 9820 Pumping Unit	Annual	150.00	750.00
1	Gasboy 9153AXTW1CXFL	Annual	150.00	150.00
1	Gasboy 9152A CXLSS	Annual	150.00	150.00
1	Gasboy 91220-C-10-1	Annual	150.00	150.00
1	Dispenser Station 9 TBD	Annual	150.00	150.00

Veedor Root & FMU Battery Replacement

9	Battery Replacement	Annual	150.00	1,350.00

Air Compressor Service and Inspection

9	7 ½ HP Air Compressors	Annual	525.00	4,725.00

Fire Department Total 7,425.00

ONTARIO POLICE DEPARTMENT:

Fuel Dispenser Inspection and Calibration

2	Wayne Dispenser G6101D/27AJK/W1 with a Fill-Rite Model 303 Pumping Unit	Annual	150.00	300.00

Veedor Root & FMU Battery Replacement

1	Battery Replacement	Annual	150.00	150.00

C.A.R.B. Vapor Recovery Test

1	TP 201.1E Vent Cap Perf	Annual	190.00	190.00
1	TP 201.3 Pressure Decay	Annual	595.00	595.00
1	TP 201.4 Back Pressure	Annual	190.00	190.00

Vehicle Lift P.M. Service and Safety Inspection

2	Rotary SPOA10N1305Z	Annual	275.00	550.00
1	Rotary SPOA12N7T5Z	Annual	275.00	275.00

Air Compressor and Dryer P.M. Service and Inspection

1	Ingersoll Rand 2445	Annual	500.00	500.00
1	Ingersoll Rand D72IN	Annual	680.00	680.00

Lube Equipment. Service and Inspection

8	Hose Reels	Annual	30.00	240.00
1	Oil/Lube Pump	Annual	30.00	30.00
1	Waste Oil Pump	Annual	30.00	30.00

Police Department Total 3,730.00

Automotive Information Module (AIM) Installations

Syn-Tech FuelMaster Parts and Services

Labor for AIM's Device Installation and Programing by vehicle type:

Qty.	Description	Cost
1	Cars, SUV and Light Trucks	425.00
1	Heavy Duty and Utility Trucks	450.00
1	Fire Trucks	480.00
1	Construction/Maintenance Equipment	455.00

FuelMaster AIM's Parts

Modules

Titanium Single AIM Kit 2008 and Newer # 144A0100	398.00
Titanium X Single AIM Kit Pre-2008 # 144A0100A	428.00
Titanium X Dual AIM Kit # 1440100B	548.00
RF/ID Interface Module (LUMP BOARD) #941B0405C	74.00

Module to Vehicle Harnesses

Pass Through OBD Harness # 144A0112	46.00
Black 9-Pin Truck Cable # 1440114A	64.00
Black 9-Pin Y-Connector # 144A0118A	78.00
Green 9-Pin Truck Cable #144A0116	47.00
Green 9-Pin Y-Connector # 144A01118B 144A0118B	78.00
Analog Power/Speed Sensor Cable 941b0411	40.00
Analog Chronometer Cable #941B0421	31.00

Fill Rings

3.5 OD Flat Fill Ring # 941B0153C	48.00
4.0 OD Lipless Fill Ring # 941B0159C	61.00
4-3/4 Lipless Fill Ring # 941B0168C	66.00
2.27 ID Tall Fill Ring # 941B0231B	55.00

Module to Fill Ring Cables

RF/ID Cable Extension 5' # 941B0410F	32.00
RF/ID Cable Extension 10' # 941B0410	41.00
RF/ID Cable Extension 15' # 941B0410A	43.00
RF/ID Cable Extension 20' # 941B0410B	51.00
RF/ID Cable Extension 30' # 941B0410C	65.00
RF/ID Cable Extension 50' # 941B0410D	92.00
RF/ID Cable Extension 80' # 941B0410E	211.00

Additional Components

Power Filter Harness # 941B0445F	112.00
Wakeup Wire #941B0505	27.00

EXTRA OR AS-NEEDED COMPENSATION FEE SCHEDULE

Labor Rates

Classification	Regular	Overtime	Premium Time
1. Technician	$120.00 per hour	$160.00 per hour	$190.00 per hour
2. Technician Helper	$120.00 per hour	$160.00 per hour	$190.00 per hour

Please define the days and times that would best describe the above categories.

3. Regular Monday thru Friday 8:am to 4pm, Excluding Holidays

4. Overtime Monday thru Friday 4pm to 8am and All day on Saturday

5. Premium Time All Day on Sunday, City and State recognized Holidays

Minimum Hour Charges

Note if any minimum hourly charges apply to the following:

6. All services calls, regular or emergency during working hours 2.0 hrs. @ the appropriate rate

7. All after hours, weekend or holiday service calls 4.0 hrs. @ the appropriate rate.

Parts/Materials

8. Contractors Cost Plus 15.00 %

Travel Time

9. Travel time is billed @ $Applicable rate above per hour portal to portal.

Mileage

10. Mileage is billed @ $ 0.85 per hour portal to portal.

Detail Any Additional Charges for Services:

If Payment and Performance Bonds are required for this Maintenace Agreement a line item will be added to the total of each invoice for the amount charged by surety company of 3%.

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **CONSENT CALENDAR**
Department: Police Department Prepared By: Celeste Owens Department: Prepared By: Celeste Owens Staff Member Presenting: Mike Lorenz, Chief of Police Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 11

SUBJECT: AUTHORIZE THE PURCHASE OF SPECIALIZED LAW ENFORCEMENT SAFETY EQUIPMENT WITH AARDVARK

RECOMMENDATION: That the City Council authorize the City Manager or his designee to execute the one-time purchase of specialized law enforcement safety equipment through Aardvark, with its principal place of business in La Verne, California, for an amount not to exceed $187,684.

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 2025-26 Adopted Budget includes appropriations of $187,684 in the Department of Justice (DOJ) Asset Seizure Fund for the purchase of specialized law enforcement safety equipment.

BACKGROUND & ANALYSIS: The Ontario Police Department Special Tactic Teams are elite teams composed of a selective group of sworn officers who receive ongoing specialized training to manage unique and challenging law enforcement situations. The core mission of the team is to reduce risk and safeguard life and property during special operations. These Special Tactic Teams are occasionally assigned to execute search and arrest warrants that may involve a heightened level of risk to both officers and the community. The body armor that is currently in use is approaching expiration, creating a timely need for replacements. Authorizing the purchase of new specialized law enforcement safety equipment from Aardvark will ensure the team remains properly equipped and protected while performing their duties.

On April 4, 2023, the City of Ontario approved Aardvark as an essential services vendor. This one-time purchase will provide Police Department personnel with the equipment and supplies necessary to execute their duties safely and efficiently. Based on Aardvark's proven record of delivering exceptional equipment and reliable service that supports the City's high public safety standards, Staff recommends proceeding with the purchase of new body armor.

AARDVARK | PROJECT 7
1935 PUDDINGSTONE DR
LA VERNE, CA 91750

FED TAX ID: [redacted]
DUNS #: 861004349
SAM UEI: DGSKHRKYPDK9

Invoicing and Shipping Address:
Ontario Police Department, Scott Shaffer
2500 South Archibald Ave
Ontario CA 91761
United States
9093952779

Ontario Police Department
2500 South Archibald Avenue
Ontario CA 91761
United States

Quotation: SQ22194

Quotation Date: 06/06/2025

Expiration: 08/30/2025

Salesperson: Brittany Baeza

DESCRIPTION	ROUTE	QUANTITY	UNIT PRICE	TOTAL
[P7Q-IHS-HC-LW-FD] P7 Integrated Helmet System/Light Weight/High Cut/FD (Specify Size, Color)		25.00 Units	1695.00	$ 42,375.00
[P7Q-SEV3-UL3A] Project 7/SEV3/Complete Platform Ultralight 3A Ballistics (Specify Closure, Size, Length, Color)		25.00 Units	2910.00	$ 72,750.00
[P7Q-ACC-TP-UL3A] Project 7/Throat Protector/Complete with Ultralight 3A Ballistics (Specify Color)		25.00 Units	200.00	$ 5,000.00
[P7Q-ACC-UA-UL3A] Project 7/Upper Arm/Complete with Ultralight 3A Ballistics (Specify Color)		25.00 Units	510.00	$ 12,750.00
[P7Q-ACC-GS-UL3A] Project 7/Groin Standard/Complete with Ultralight 3A Ballistics (Specify Color)		25.00 Units	290.00	$ 7,250.00
[P7-PS-LT-SET-OF-5-MC] P7 Lightweight Pouch Set (Five)		25.00 Units	325.00	$ 8,125.00
[P7Q-IDPSET] Project 7 ID Patch Set(Front 2x6, Back 3x8, Upper Arms 2x6)		25.00 Units	70.00	$ 1,750.00
[P7-RP-3++-ICW-LW-LG] Project 7/Rifle Plate/Level 3++ ICW/Lightweight/SAPI Large		50.00 Units	450.00	$ 22,500.00
Standard delivery		1.00 Units	90.00	$ 90.00

AARDVARK | PROJECT 7

1935 PUDDINGSTONE DR
LA VERNE, CA 91750

FED TAX ID: [redacted]
DUNS #: 861004349
SAM UEI: DGSKHRKYPDK9

Untaxed Amount	$ 172,590.00
Taxes	$ 15,093.75
Total	$ 187,683.75

*
Delivery 120 Days ARO
*
Please contact Brittany Baeza at 909-451-6102 or bbaeza@aardvarktactical.com if you would like to place this order. Thank You!

Payment terms: 30 Days

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **CONSENT CALENDAR**
Department: Public Works Prepared By: Manuel Rebolledo Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam, Jacqueline Leon Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 12

SUBJECT: **AN AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT WITH ASSETWORKS, INC. FOR FLEET MAINTENANCE, REPAIR, DATA TRACKING SOFTWARE, AND DATA RETENTION**

RECOMMENDATION: That the City Council authorize the City Manager, or his designee, to execute Amendment No. 2 to the Maintenance Services Agreement with AssetWorks, Inc., of Wayne, Pennsylvania, for the fleet maintenance, repair, data tracking software, and data retention in the amount of $198,142 for a total not-to-exceed amount of $345,485 over the five-year term.

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

FISCAL IMPACT: The recommended Amendment No. 2 with AssetWorks, Inc. is in the amount of $198,142 for a total not-to-exceed amount of $345,485 over the five-year term. The annual costs are $62,563 for Fiscal Year 2025–26, $65,815 for Fiscal Year 2026–27, and $69,764 for Fiscal Year 2027–28. The Fiscal Year 2025-26 Adopted Budget includes appropriations in the Information Technology Fund for fleet maintenance, repair, data tracking software, and data retention.

BACKGROUND & ANALYSIS: On July 1, 2023, the City entered into a Maintenance Services Agreement with AssetWorks, Inc. In July 2024, Amendment No. 1 to the Maintenance Services Agreement with AssetWorks, Inc. was executed to increase the contract amount by $56,841 for a total not-to-exceed contract amount of $147,343. The recommended Amendment No. 2 increases the contract amount by $198,142 over the remaining 3-year term.

The Municipal Services Department utilizes AssetWorks, Inc. to manage critical aspects of our vehicle and equipment maintenance program. This system is essential for accurate tracking of labor, parts, vehicle service history, and shop productivity. AssetWorks, Inc. provides a centralized platform that supports operational efficiency and ensures compliance with City and industry standards. AssetWorks, Inc. is fully integrated into our daily operations. It captures labor hours, parts usage, preventive maintenance schedules, and work order history for every vehicle and piece of equipment in the City's fleet. The software provides the tools necessary to monitor shop productivity, identify cost drivers, and ensure compliance with maintenance schedules, resulting in

improved asset uptime and cost control. AssetWorks, Inc. enables fleet services to generate detailed reports and dashboards used for internal performance reviews, budget planning, and regulatory reporting. Staff recommends approving Amendment No. 2 to ensure uninterrupted service and continued efficiency in our fleet operations.

AssetWORKS
1001 Old Cassatt Road | Suite 204 | Berwyn PA 19312
Tel (484) 588-5515 Fax (610) 971-9447

MAINTENANCE RENEWAL STATEMENT

Number 1341 FA MNT25
5 Year Term
Remaining 3 years

TO: **City of Ontario**
FROM: **AssetWorks Inc.**
DATE: **August 12, 2025**
RE: **FleetFocus FA Maintenance and Support Renewal**

Prices valid through June 30, 2028

Annual Software Maintenance and Support for period 7/1/2025 - 6/30/2026

FleetFocus FA license for up to 1,100 active equipment units Including Bar Code, Call Center, Crystal Reports Embedded, Enterprise Portal, Equipment Planning, Labor Capture, Maxqueue, MobileFocus for 3 devices, Notifications, Production Planning, Query, Replacement Modeling, Reporting, Service Level Agreements, Service Requests, Shop Activity, Shop Scheduling, Warranty, KPI/Dashboards Module, and API subscription - all existing APIs excluding Telematics Cloud	$	60,251.58
MAXQueue Integration Module, year 2 maintenance pro-rated for period 3/29/25 - 6/30/26	$	615.84
MobileFocus / SmartApps year 2 maintenance pro-rated for period 3/29/25 - 6/30/26	$	1,695.56
Includes product updates and enhancements, unlimited email and telephone support for 12 months		
Subtotal, Year 1	**$**	**62,562.98**

Annual Software Maintenance and Support for period 7/1/2026 - 6/30/2027

FleetFocus FA license for up to 1,100 active equipment units Same configuration as above	$	65,814.99
Subtotal, Year 2	**$**	**65,814.99**

Annual Software Maintenance and Support for period 7/1/2027 - 6/30/2028

FleetFocus FA license for up to 1,100 active equipment units Same configuration as above	$	69,763.89
Subtotal, Year 3	**$**	**69,763.89**

For Visa, MasterCard, and American Express payments, add 4%:

Sales Tax: 0.0000% $ -

All software updates are electronically delivered

3 Year Budgetary Total, $ US **$ 198,141.86**

REMIT TO:

CHECKS
AssetWorks
PO Box 202525
Dallas TX 75320-2525

EFT, ACH, OR DIRECT DEPOSIT
Wells Fargo, 8601 N. Scottsdale Rd., Scottsdale AZ 85253
ABA # 122105278
Account # 5076434348

US Tax ID # 46-0521049
Canada GST/HST # 834113896 RT0001

If you require a separate invoice , complete this form and return it by email or fax; AssetWorks will issue an invoice as you instruct below. *If your organization requires us to reference a purchase order number on our invoice* , we must receive that PO by email to Alexis.Scheifley@AssetWorks.com or by fax to (610) 971-9447. ***Do not mail POs to our remittance address*** .

Terms

Unless there is a signed agreement between the parties, this maintenance renewal is subject to the terms and conditions of the AssetWorks Master Service Agreement found at ***http://www.assetworks.com/TC-Fleet/.*** The parties will continue to be bound by those terms during any renewal period unless otherwise agreed by both parties through a signed amendment. Notification of termination of maintenance is required 90 days prior to annual renewal date.

SOLE SOURCE

FleetFocus is proprietary property of AssetWorks Inc. and protected by law. Another party cannot alter, modify, change, manipulate or provide maintenance for this product without infringing upon AssetWorks' ownership rights. Accordingly, **AssetWorks is the sole source for software, maintenance and services of its products.**

AssetWORKS

MAINTENANCE RENEWAL STATEMENT

1001 Old Cassatt Road | Suite 204 | Berwyn PA 19312
Tel (484) 588-5515 Fax (610) 971-9447

Number 1341 FA MNT25
5 Year Term
Remaining 3 years

TO: **City of Ontario**
FROM: **AssetWorks Inc.**
DATE: **August 12, 2025**
RE: **FleetFocus FA Maintenance and Support Renewal**

Prices valid through June 30, 2028

I, the undersigned, accept this maintenance renewal as described above.

Name: _____ **Title:** _____

Signature: _____ **Date:** _____

[ ] PO REQUIRED: #_____ [ ] NO PO REQUIRED

[ ] NO SEPARATE INVOICE NEEDED

[ ] Please MAIL invoice to: _____

[ ] Please E-MAIL invoice to: _____

→ If you have any questions, please contact Alexis Scheifley at Alexis.Scheifley@AssetWorks.com. ***Page 2 of 2*** ←

Confidential Information

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **CONSENT CALENDAR**
Department: Human Resources Prepared By: Amanda Elias Staff Member Presenting: Angela C. Lopez, Executive Director Human Resources Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 13

SUBJECT: **AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH JUNIPER GROUP, LLC FOR LEADERSHIP COACHING AND EMPLOYEE DEVELOPMENT SERVICES**

RECOMMENDATION: That the City Council authorize the City Manager, or his designee, to execute Amendment No. 4 to the Professional Services Agreement with Juniper Group, LLC, of Annapolis, Maryland, for leadership coaching and employee development services in the amount of $175,000 for a total not-to-exceed amount of $325,000.

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

FISCAL IMPACT: The proposed Amendment No. 4 increases the Agreement amount by $175,000 for a revised total not-to-exceed amount of $325,000. Each City Agency will assume fiscal responsibility to ensure that departmental expenditures related to leadership coaching and employee development services remain within the Agency's annual budgets. The Fiscal Year 2025-26 Adopted Budget includes appropriations in the General Fund for these services. If approved, additional appropriations will be included in future years in accordance with the annual budget adoption process.

BACKGROUND & ANALYSIS: On September 22, 2022, the City of Ontario entered into a Professional Services Agreement with Juniper Group, LLC (Juniper Group) to provide leadership coaching and employee development workshops for City Staff. The services were initially limited in scope to address a specific need and were brought forward based on a referral from regional public sector Human Resources professionals. Since that time, Juniper Group has delivered highly effective coaching, leadership development, employee development, and training workshops tailored to the City's organizational needs. As a result, the scope of services has expanded to include broader initiatives across City Departments.

Juniper Group has established a strong rapport with City Staff and demonstrated the ability to consistently deliver high-quality results. City Staff recommends that the City Council approve Amendment No. 4 to continue existing projects and maintain service continuity under the sole

source provision. A transition to a new provider at this stage would disrupt momentum, reduce efficiency, and compromise the City's investment in ongoing leadership and organizational development initiatives. The proposed increase in total compensation by $175,000 will result in a new not-to-exceed amount of $325,000 for the five-year term ending on May 31, 2027.

Although the City has not issued a formal Request for Proposal (RFP) during the current five-year term, City Staff understand the importance of competitive procurement and are committed to issuing an RFP at the end of the current agreement if the City requires ongoing coaching and training services beyond the term of the Agreement.

CITY OF ONTARIO
303 EAST B STREET | ONTARIO, CALIFORNIA 91764
(909) 395-2000 FAX (909) 395-2070 OntarioCA.gov

PAUL S. LEON
MAYOR

ALAN D. WAPNER
MAYOR PRO TEM

JIM W. BOWMAN
DEBRA PORADA
DAISY MACIAS
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
CITY TREASURER

SCOTT OCHOA
CITY MANAGER

AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND JUNIPER GROUP, LLC.

1. Parties and Date.

This Amendment No. 4 to the Agreement (as defined herein) is made and entered as of _____, by and between the City of Ontario ("City") and **Juniper Group, LLC, a Limited Liability Corporation** (Consultant). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties."

2. Recitals.

2.1 Agreement. The City and Consultant have entered into an agreement entitled **"Leadership Coaching and Team Building Workshops"** dated **September 22, 2022** ("Agreement").

2.2 Amendment Purpose. The City and Consultant desire to amend the Agreement to extend the term and increase compensation by $175,000 for a new not-to-exceed amount of $325,000. The Parties have heretofore entered into an Agreement, dated September 22, 2022, for a not-to-exceed amount of $15,000. The Parties have heretofore entered into Amendment No. 1 dated February 1, 2023, for a not-to-exceed amount of $30,000. The Parties have hereto entered into Amendment No. 2 dated February 1, 2024, for a new not-to-exceed amount of $96,000. The Parties have hereto entered into Amendment No. 3 dated March 4, 2025, for a new not-to-exceed amount of $150,000.

2.3 Amendment Authority. This Amendment No. 4 is authorized pursuant to Section 3.7.14 of the Agreement.

3. Terms.

3.1 Amendment. Sections 3.1.2 and 3.2.1 of the Agreement is hereby amended in its entirety to read as follows:

3.1.2 "Term. The term of this agreement shall be from **September 22, 2022, to August 31,**

2027, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement and shall meet any other established schedules and deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services."

3.2.1 "Compensation. Consultant shall receive compensation, including authorized reimbursement, for all Services rendered under this Agreement at the rates set forth in Exhibit "B" attached hereto and incorporated herein by reference. The total compensation amount shall be increased by One Hundred Seventy-Five Thousand Dollars ($175,000) and not to exceed the contract amount of **Three Hundred Twenty-Five Thousand Dollars ($325,000)** without the written approval of the City Council or City Manager, as applicable. Extra work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement."

Attachment "A" Scope of Services is hereby deleted in its entirety and replaced with Exhibit "A" Scopes of Services attached hereto and incorporated herein by reference.

Attachment "B" Compensation is hereby deleted in its entirety and replaced with Exhibit "B" Compensation attached hereto and incorporated herein by reference.

Exhibit "C" Compensation is hereby attached in its entirety.

3.2 Continuing Effect of Agreement. Except as amended by this Amendment No. 4, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this Amendment No. 4. From and after the date of this Amendment No. 4, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Amendment No. 4.

3.3 Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 4.

3.4 Severability. If any portion of this Amendment No. 4is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5 Integration. This Amendment represents the entirety of the Parties' understanding relating to the subject of this Amendment, including written or verbal communications between the Parties, which shall have no relevance unless expressly incorporated herein. This is an integrated amendment.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND JUNIPER GROUP, LLC.

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 4as of the day and year first above written.

CITY OF ONTARIO

Approved By:

_____
Scott Ochoa
City Manager

Approved as to Form:

_____
Best Best & Krieger LLP
City Attorney

Attested By:

_____
City Clerk

JUNIPER GROUP, LLC.

By: _____

Its: _____

Printed Name: _____

By: _____

Its: _____

Printed Name: _____

Exhibit "A"
SCOPE OF SERVICES

Strengths-Based Team-Building Workshops

3 to 4-hour Training Includes:

- Gallup® CliftonStrengths® Online Assessment and Strengths Insight Report
- Supplemental Workshop Materials
- Gallup-Certified Expert Facilitation
- Breakout Activities and Team Discussions
- Customized Team and Organizational Strengths Overview
- Follow-up Materials with Team Resources
- Prep-work

Workshop Outcomes

- Increase self-awareness, team, and strategic alignment
- Appreciate and leverage the strengths of others
- Improve employee engagement and team performance
- Gain techniques to address team challenges
- Understand how to build effective team partnerships
- Transform relationships in the workplace and beyond
- Increase business productivity
- Reinforcement of diversity and inclusion initiatives through activities that encourage the recognition of other team members' strengths, their value, and how they can work together
- Understand and leverage your team's strengths

Exhibit "B"
COMPENSATION

Leadership Coaching - Includes the following:

- 1 to 2-hour coaching sessions; pre and post-coaching work; on-call email and phone support.
- Gallup CliftonStrengths assessment and analysis reports

The hourly coaching rate is $275 per hour.
The hourly coaching rate for Department Heads and Execs is $325 per hour.

- Fee Adjustment Schedule: The hourly rate set forth above shall be subject to an annual increase of five percent (5%) beginning in Year Four (4) of this Agreement. An additional five percent (5%) increase shall apply to the hourly rate in Year Five (5)of this Agreement.

The Leadership Circle Profile 360 assessment work - Includes the following:

- 360 Assessment implementation and administrative work
- 360 Debriefing and coaching sessions
- 360 Team and Leadership Collaboration work

The hourly rate for the Leadership Circle Profile assessment work is $400 per hour.

- Fee Adjustment Schedule: The hourly rate set forth above shall be subject to an annual increase of five percent (5%) beginning in Year Four (4) of this Agreement. An additional five percent (5%) increase shall apply to the hourly rate in Year Five (5)of this Agreement.

Team-Building & Leadership Workshop Trainings - Includes the following:

- Prep work, training materials, individual and team strengths analysis reports, post-workshop resources, and Gallup Certified facilitation for a 3 to 4-hour training session.

$2,000 to $5,000 (fees vary depending on training, number of attendees, materials, and resources needed) + the cost of the Gallup assessment codes $59.99 per person. This fee does not include any additional travel expenses.

Travel Expenses: The City will cover travel expenses that have been pre-approved before any travel arrangements are confirmed.

EXHIBIT "C"
COMPENSATION

The total compensation shall not exceed **Three Hundred Twenty-Five Thousand Dollars ($325,000)** for the five-year period from September 22, 2022, to August 31, 2027.

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **PUBLIC HEARINGS**
Department: Planning Prepared By: Elly Antuna Staff Member Presenting: Rudy Zeledon, Executive Director Community Development Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 14

SUBJECT: **A PUBLIC HEARING TO APPROVE FILE NO. PUD23-001, A PLANNED UNIT DEVELOPMENT ON 0.37-ACRE OF LAND LOCATED AT 111 NORTH MONTEREY AVENUE**

RECOMMENDATION: That the City Council introduce and waive further reading of an Ordinance approving File No. PUD23-001, the Monterey Avenue Planned Unit Development, establishing development standards, design guidelines, and infrastructure requirements to facilitate a commercial development at 111 North Monterey Avenue.

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 not a direct fiscal impact associated with this action. The proposed Monterey Avenue Planned Unit Development (PUD) establishes development standards and guidelines to facilitate the development of a commercial building. Implementation of the PUD would result in an increase in property and sales taxes from future development and the one-time payment to the City of plan check fees and development impact fees.

BACKGROUND & ANALYSIS: On June 29, 2023, Ernest Wang filed a PUD application (File No. PUD23-001), concurrently with a Development Plan (File No. PDEV23-018) applications to facilitate construction of a two-story commercial building.

The Project site is comprised of 0.37-acres of land located at the northwest corner of North Monterey Avenue and East Holt Boulevard, at 111 North Monterey Avenue, within LUA-3 (Holt Boulevard) of the MU-1 (Downtown Mixed Use) zoning district. The site is surrounded by a well-established single-family residential neighborhood to the north, a gas station to the east, a historic multiple-family development to the west and a commercial center to the south.

The Policy Plan specifies that the Downtown Mixed-Use Area is to be implemented through the approval of an Area Plan or Planned Unit Development prior to the development of properties. In compliance with this requirement, the Applicant has submitted the Monterey Avenue Planned Unit

Development (included as Attachment A to the Ordinance), which is consistent with this vision, goals, and policies of the Policy Plan.

A Planned Unit Development is comparable to a Specific Plan in that it establishes development regulations that are unique to a specific area. However, it is unlike a Specific Plan in that a Planned Unit Development is typically intended to apply to a single development project or several interrelated development projects that function together as a single, comprehensive project.

Key components of the Monterey Avenue Planned Unit Development include the following:

- Land Use and Development Regulations — The MU-1 (Downtown Mixed Use) zoning district allows for a mixture of vertical and horizontal retail, entertainment, and office uses at a development intensity of up to 2.0 FAR, and residential uses at a density of 25 to 75 DU/AC. Consistent with the MU-1 zoning district and in keeping with the context of the surrounding development, the Monterey Avenue PUD allows for commercial development with an FAR up to 2.0, with a maximum building height of 35 feet or two-stories. The minimum building setback proposed along Holt Boulevard and Monterey Avenue is 10 feet for buildings, off-street parking stalls, mechanical equipment and ancillary structures. Interior and alley property line setbacks are 5 feet.
- Landscaping — A minimum of 18% of landscaping is required. The PUD provides a planting palette comprised of "California friendly" planting materials that are compatible with the overall architectural style established by the PUD. The PUD also requires the landscaping and irrigation to comply with AB 1881, and all other laws and regulations related to planting materials.
- Parking and Circulation — The PUD utilizes a combination of on-site and on-street parking to provide an adequate parking supply to meet the anticipated parking demand for the Project. The parking ratio for the anticipated uses is 4 spaces per 1,000 SF. The Project site is located within a mixed-use area where on-street parking is available along Monterey Avenue and on surrounding blocks.
- Access to Mass Transit — The San Bernardino County Transportation Authority (SBCTA), in cooperation with the cities of Pomona, Montclair, Ontario, Rancho Cucamonga, and Fontana, is currently constructing a 35-mile-long bus rapid transit (BRT) system referred to as the West Valley Connector Corridor (WVCC) project. The WVCC line will have stations along Holt Boulevard on Lemon Avenue and Campus Avenue.
- Architectural Character — The PUD architectural style and design is a modern commercial style. Architectural treatments will be continued on all sides of the buildings. All towers or raised elements will be fully finished on all sides to appear as 3 dimensional features. The architecture for the building will feature enhanced materials such as natural stone, or tile to be used as a base treatment and to highlight architectural features such as columns, arches or popped out tower elements. All enhanced materials shall terminate at logical points, such as an interior corner, and shall incorporate cap treatments to provide a transition between materials.

On July 22, 2025, the Planning Commission conducted a public hearing to consider the project and concluded the hearing on that date. After considering all public testimony on the application, the

Planning Commission voted (6-0) to approve a Resolution recommending that the City Council approve the PUD and approved a Resolution for a Development Plan (File No. PDEV23-018) to construct a two-story commercial building.

HOUSING ELEMENT COMPLIANCE: The Project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the Project site is not one of the properties in the Housing Element Sites contained in Tables B-1 and B-2 (Housing Element Sites Inventory) of the Housing Element Technical Report.

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 ONT 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 body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ONT ALUCP compatibility factors, including [1] Safety Criteria (ONT ALUCP Table 2-2) and Safety Zones (ONT ALUCP Map 2-2), [2] Noise Criteria (ONT ALUCP Table 2-3) and Noise Impact Zones (ONT ALUCP Map 2-3), [3] Airspace protection Zones (ONT ALUCP Map 2-4), and [4] Overflight Notification Zones (ONT 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 ONT ALUCP.

ENVIRONMENTAL REVIEW: 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.

CITY OF ONTARIO PLANNING DEPARTMENT

PLANNING COMMISSION AGENDA REPORT

July 22, 2025

303 East B Street, Ontario, California 91764 Phone: 909.395.2036 / Email: PlanningDirector@OntarioCA.gov

FILE NOS: PUD23-001 and PDEV23-018

SUBJECT: A public hearing to consider a Planned Unit Development (File No. PUD23-001) to establish development standards and design guidelines, and a Development Plan (File No. PDEV23-018) to facilitate the construction of a 5,795 square foot, 2-story commercial building on approximately 0.37 acres of land located at 111 North Monterey Avenue within the MU-6 (East Holt Mixed Use) zoning district. APN: 1048-523-15; **Submitted by Ernest Wang. City Council action is required for File No. PUD23-001**

PROPERTY OWNER: Qihua Feng

RECOMMENDED ACTION: That the Planning Commission consider and adopt the following:

(1) A Resolution recommending that the City Council approve a Planned Unit Development (File No. PUD23-001), pursuant to the facts and reasons contained in the staff report and attached Resolution as "Attachment A."

(2) A Resolution approving the Development Plan (File No. PDEV23-018) pursuant to the facts and reasons contained in the staff report and attached Resolution, and subject to the conditions of approval appended to the attached Resolution as "Attachment A."

BACKGROUND: The Project site is located within the MU-1/LUA-3 (Downtown Mixed Use/Holt Boulevard) zoning district, requiring the preparation and approval of a Planned Unit Development ("PUD") to establish the development standards, design guidelines, and infrastructure requirements for the site. On June 29, 2023, the Applicant submitted applications for a PUD (Monterey Avenue Planned Unit Development), File No. PUD23-001, concurrently with the subject Development Plan application. Final approval of the Development Plan is contingent upon the City Council adoption of the PUD for the Project site.

On July 7, 2025, the Development Advisory Board conducted a public hearing regarding the Development Plan and recommended approval, subject to City Council approval of the PUD (File No. PUD23-001).

Case Planner:	Elly Antuna, Associate Planner
Planning Director Approval:	
Submittal Date:	06/29/23

Hearing Body	*Date*	*Decision*	*Action*
DAB	07/07/25	Approval	Recommend
PC	07/22/25	Approval	Final
CC	9/2/2025		PUD-Final

PROJECT SETTING: The Project site consists of 0.37 acres of land located at 111 North Monterey Avenue and is depicted in Exhibit A: Project Location Map. The project site is located at the northwest corner of East Holt Boulevard and North Monterey Avenue. The site is currently developed with a residence, one-car garage, and a 3-car garage located along the alley at the north end of the site, depicted in Exhibit F: Site Photos. The southern section of the site which fronts Holt Boulevard is undeveloped. A 5-foot-wide Southern California Edison utility easement runs along the northern half of the west property line.

The site is surrounded by a well-established single-family residential neighborhood to the north, a gas station to the east, a historic multiple-family development to the west and a commercial center to the south. The existing surrounding land uses, zoning, and Policy Plan (general plan) land use designations are summarized in Table 1: Surrounding Zoning & Land Uses.

PROJECT ANALYSIS:

(1) Planned Unit Development (File No. PUD23-001)

(a) Land Use and Development Regulations — The MU-1 (Downtown Mixed Use) zoning district allows for a mixture of vertical and horizontal retail, entertainment, and office uses at a development intensity of up to 2.0 FAR, and residential uses at a density of 25 to 75 DU/AC. Consistent with the MU-1 zoning district and in keeping with the context of the surrounding development, the Monterey Avenue PUD allows for commercial development with an FAR up to 2.0, with a maximum building height of 35 feet or 2 stories. The minimum building setback proposed along Holt Boulevard and Monterey Avenue is 10 feet for buildings, off-street parking stalls, mechanical equipment and ancillary structures. Interior and alley property line setbacks are 5 feet.

(b) Landscaping — A minimum of 18% of landscaping is required. The PUD provides a planting palette comprised of "California friendly" planting materials that are compatible with the overall architectural style established by the PUD. The PUD also requires the landscaping and irrigation to comply with AB 1881, and all other laws and regulations related to planting materials.

(c) Parking and Circulation — The PUD utilizes a combination of on-site and on-street parking to provide an adequate parking supply to meet the anticipated parking demand for the Project. The parking ratio for the anticipated uses is 4 spaces per 1,000 SF. The Project site is located within a mixed-use area where on-street parking is available along Monterey Avenue and on surrounding blocks.

(d) Access to Mass Transit — The San Bernardino County Transportation Authority (SBCTA), in cooperation with the cities of Pomona, Montclair, Ontario, Rancho Cucamonga, and Fontana, is currently constructing a 35-mile-long bus rapid transit (BRT)

system referred to as the West Valley Connector Corridor (WVCC) project. The WVCC line will have stations along Holt Boulevard on Lemon Avenue and Campus Avenue.

(e) Architectural Character — The PUD architectural style and design is a modern commercial style. Architectural treatments will be continued on all sides of the buildings. All towers or raised elements will be fully finished on all sides to appear as 3 dimensional features. The architecture for the building will feature enhanced materials such as natural stone, or tile should be used as a base treatment and to highlight architectural features such as columns, arches or popped-out tower elements. All enhanced materials shall terminate at logical points, such as an interior corner, and shall incorporate cap treatments to provide a transition between materials.

(2) Development Plan (File No. PDEV23-018)

(a) Site Design/Building Layout — The Project proposes to demolish the existing single-family residence and associated garage structures to facilitate the development of one multi-tenant commercial building with 4,820 square feet of office space consisting of 8 units ranging in size from 542 square feet to 688 square feet in area. The 2-story, L-shaped building will have an overall height of 34 feet and is oriented to the southeast corner of the project site. The building will be setback 10 feet from the Holt Boulevard (south) property line and 9-feet and 6-inches from the Monterey Avenue (east) property line. A single row of parking stalls will be located along the interior (west) property line. A trash enclosure is located at the northeast corner of the site.

(b) Site Access/Circulation — The main access to the Project site is from Monterey Avenue, through a 25-foot wide, 2-way drive approach. Secondary access is from the north side of the Project through the alley way. A 24-foot-wide main drive aisle runs north to south. Pursuant to the conditions of approval, decorative pavement will be installed at the Monterey Avenue driveway approach, which will extend from the back of the driveway apron to the first intersecting parking space.

Entries to the first-floor units front onto Holt Boulevard and Monterey Avenue. The second-floor unit entries are located at the rear of the building and are accessed from the parking lot via a centrally located stairwell and corridor.

(c) Parking — As specified in the proposed PUD, the Project utilizes a combination of on-site and adjacent on-street parking. The Project requires 1 parking space per 250 square feet of office space for a total of 19 vehicle parking spaces as specified in the proposed PUD, consistent with the Development Code. The Project provides 16 off-street spaces and 3 on-street spaces meeting the minimum parking requirement for the Project.

(d) Architecture — The Applicant has proposed a modern architectural style, utilizing the following treatments.

- A corner tower element with large expanses of glazing;
- Variations in roof heights with substantial cornices;
- Smooth stucco finish, inset horizontal plank siding and natural stone along the base and tower;
- Decorative metal canopies; and
- Arched top windows with curved header trim.

(e) Landscaping — Perimeter landscaping is provided in the front, side, and rear setback areas. The conceptual landscape plan has been designed to utilize California native trees and drought tolerant planting materials. Planters provide additional landscaping throughout the Project site. The parkway along the Project frontage will be landscaped with new street trees (Date Palms along Monterey Avenue and Ash Trees along Holt Boulevard) and groundcovers. The existing street tree (Canary Island Palm) along Monterey Avenue will remain in place.

(f) Signage — All Project signage is required to comply with sign regulations provided in Ontario Development Code Division 8.1. Prior to the issuance of a Building Permit for the installation of any new on-site signage, the Applicant is required to submit Sign Plans for Planning Department review and approval. Pursuant to the Monterey Planned Unit Development, a sign program will be required for this Project which will regulate the amount and location of signage for the site. More specifically, the Sign Program will:

- Provide coordinated signing within a development project;
- Utilize common design elements; and
- Include sign designs with the context of the building and landscape design, to form a unified architectural statement.

Staff will work with the Applicant to create a Sign Program that will contribute to the overall design quality of the site and surrounding area. A separate application will be required to be approved prior to any signage installation.

(g) Utilities (drainage, sewer) — Public utilities (water and sewer) are available to serve the Project. Furthermore, the Applicant has submitted a Preliminary Water Quality Management Plan (PWQMP), which establishes the Project's compliance with storm water discharge/water quality requirements. The PWQMP includes site design measures that capture runoff and pollutant transport by minimizing impervious surfaces and maximizes low impact development (LID) best management practices (BMPs), such as retention and infiltration, biotreatment, and evapotranspiration. The PWQMP proposes the use of an infiltration chamber at the southwest corner of the site. Any overflow drainage will be conveyed to the public street by way of parkway drains and culverts.

PUBLIC NOTIFICATION: The subject application was advertised as a public hearing in at least one newspaper of general circulation in the City of Ontario (the Inland Valley Daily Bulletin newspaper). In addition, notices were mailed to all owners of real property

located within a minimum of 300 feet of the exterior boundaries of the property that is the subject of the hearing, as shown on the records of the County Assessor.

CORRESPONDENCE: As of the preparation of this Agenda Report, Planning Department staff has not received any written or verbal communications from the owners or occupants of properties surrounding the Project site or from the public in general, regarding the subject application.

AGENCY/DEPARTMENT REVIEWS: Each City agency/department has been provided the opportunity to review and comment on the subject application and recommend conditions of approval to be imposed upon the application. At the time of the Resolution preparation, recommended conditions of approval were provided and are appended to the attached Resolutions as Attachment A.

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 ONT 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 recommending body for the PUD and the decision-making body for the Development Plan, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ONT ALUCP compatibility factors, including [1] Safety Criteria (ONT ALUCP Table 2-2) and Safety Zones (ONT ALUCP Map 2-2), [2] Noise Criteria (ONT ALUCP Table 2-3) and Noise Impact Zones (ONT ALUCP Map 2-3), [3] Airspace protection Zones (ONT ALUCP Map 2-4), and [4] Overflight Notification Zones (ONT ALUCP Map 2-5). As a result, the Planning Commission 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 ONT ALUCP.

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

- Operate in a Businesslike Manner

- Focus Resources in Ontario's Commercial and Residential Neighborhoods

(2) Vision

Distinctive Development that integrates our varied and diverse focal points, districts, centers, corridors, and neighborhoods to provide a feeling of coherence without sacrificing uniqueness.

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.

- A system of vibrant retail, town, and neighborhood centers responsive to market demands and woven into the fabric of the community.

(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.

- G1-1 Consistency with Policies. We require that staff recommendations to the City Council be consistent with adopted City Council Priorities (Goals and Objectives) and The Policy Pan.

- 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 LU-1 Balance: 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.

- LU-1.1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, foster the development of transit, and support the expansion of the active and multimodal transportation networks throughout the City.

- LU-1.6 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.

Goal LU-2 Compatibility: Compatibility between a wide range of uses and a resultant urban patterns and forms.

- LU-2.1 Land Use Decisions. We minimize adverse impacts on adjacent properties when considering land use and zoning requests.

- LU-2.2 Buffers. We require new uses to provide mitigation or buffers between existing uses where potential adverse impacts could occur. Additional mitigation is required when new uses could negatively impact environmental justice areas.

- LU-2.5 Regulation of Uses. We regulate the location, concentration, and operation of uses that have impacts on surrounding land uses.

- LU-2.11 Context-Aware Transitions and Connections. We require new development projects and land-planning efforts to provide context-aware and appropriate transitions and connections between existing and planned neighborhoods, blocks, sites, and buildings.

Goal LU-3 Flexibility: Staff, regulations and processes that support and allow flexible response to conditions and circumstances in order to achieve the Vision.

- LU-3.1 Development Standards. We maintain clear development standards which allow flexibility to achieve our Vision and provide objective standards that ensure predictability and deliver the intended physical outcomes.

Community Economics Element:

Goal CE-1 Complete Community: A complete community that provides for all incomes and stages of life.

- CE-1.1 Jobs-Housing Balance. We pursue improvement to the Inland Empire's balance between jobs and housing by promoting job growth that reduces the regional economy's reliance on out-commuting.

- CE-1.5 Business Attraction. We proactively attract new and expanding businesses to Ontario in order to increase the City's share of growing sectors of the regional and global economy.

Goal CE-2 Placemaking: A City of distinctive neighborhoods, districts, corridors, and centers where people choose to be.

- CE-2.1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.

- CE-2.2 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.

- CE-2.4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

Mobility Element

Goal M-2 Active Transportation: A system of trails and corridors that facilitate and encourage active modes of transportation.

- M-2.3 Pedestrian Walkways. We require streets to include sidewalks and visible crosswalks at major intersections where necessary to promote safe and comfortable mobility between residential areas, businesses, schools, parks, recreation areas, and other key destination points.

Community Design Element

Goal CD-1 Image & Identity: A dynamic, progressive city containing distinct and complete places that foster a positive sense of identity and belonging among residents, visitors, and businesses.

- CD-1.3 Existing Neighborhoods. We require the existing character of viable residential and non-residential neighborhoods be preserved, protected, and enhanced.

- CD-1.4 Transportation Corridors. We will enhance our major transportation corridors within the City through landscape, hardscape, signage and lighting. The extent of enhancement should be appropriate to the use, type, and context of each corridor.

Goal CD-2 Design Quality: A high level of design quality resulting in neighborhoods, public spaces, parks, and streetscapes that are attractive, safe, functional, human-scale, and distinct.

- CD-2.1 Quality Building Design and Architecture. We encourage all development projects to convey visual interest and character through:

    1. Building volume, massing, and height to provide context-appropriate scale and proportion;

    2. 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

    3. Exterior building materials that are articulated, high quality, durable, and appropriate for the architectural style.

- CD-2.4 Urban, Mixed Use, and Transit-oriented Areas. We establish Place Types to require mixed use, urban, and transit-oriented areas to be designed and developed as pedestrian oriented areas that are integrated with adjacent neighborhoods and promote a vibrant, comfortable, and functional environment, as defined for each Place Type.

- CD-2.9 Landscape Design. We encourage durable, sustainable, and drought-tolerant landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

- CD-2.13 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 CD-3 Urban, Mixed Use, and Transit-Oriented Place Types: 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.

- CD-3.1 Unique Identity. We promote development that heightens the unique character and identity of each Place Type by requiring compatible land uses and land planning, site design, and building design that promotes an active public realm.

- CD-3.2 Comfortable, Human-Scale Public Realm. We require that public spaces, including streets, parks, and plazas on both public and private property be designed to maximize safety, comfort and aesthetics and connect to the citywide pedestrian, vehicular, and bicycle networks.

- CD-3.4 Context-Aware and Appropriate Design. We require appropriate building and site design that complements existing development, respects

the intent and identity of the Place Type, and provides appropriate transitions and connections between adjacent uses to ensure compatibility of scale, maintain an appropriate level of privacy for each use, and minimize potential conflicts.

- CD-3.5 Active Frontages. We create lively pedestrian streetscapes by requiring primary building, business, and residential entrances, outdoor dining, and storefronts be located on ground floors adjacent to sidewalks or public spaces and designed to maximize safety, comfort, aesthetics, and the intended functionality (as defined by the Place Type).

HOUSING ELEMENT COMPLIANCE: The Project is consistent with the Housing Element of the Policy Plan (general plan) component of The Ontario Plan, as the Project site is not one of the properties in the Housing Element Sites contained in Tables B-1 and B-2 (Housing Element Sites Inventory) of the Housing Element Technical Report.

ENVIRONMENTAL REVIEW: The proposed PUD 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.

The proposed Development Plan is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 (Class 32, In-Fill Development Projects) of the CEQA Guidelines and meets all of the following conditions:

(a) *The Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations*. The proposed Project is located within the Mixed Use - Downtown land use district of the Policy Plan Land Use Map, and the proposed Monterey Avenue Planned Unit Development zoning district. The proposed Project is consistent with all applicable general plan policies, as well as with the proposed Monterey Avenue Planned Unit Development zoning designation and applicable Development Code regulations.

(b) *The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses*. The Project is proposed within the established boundaries of the City of Ontario, on a site totaling 0.37 acres of land, which is surrounded by a well-established single-family residential neighborhood to the north, a gas station to the east, a historic multiple-family development to the west and a commercial center to the south.

(c) *The Project site has no value as habitat for endangered, rare, or threatened species*. The site is located in an urbanized area, developed with a single-family residence and 2 detached garages, and as such is not a suitable habitat for any endangered, rare, or threatened species.

(d) *Approval of the Project would not result in any significant effects relating to traffic, noise, air quality, or water quality*. The proposed two-story multi-tenant commercial building is similar to, and of no greater impact than other allowed uses and development projects within the MU-1/LUA-3 (Downtown Mixed Use/Holt Boulevard) zoning district.

(e) *The site can be adequately served by all required utilities and public services*. All necessary wet and dry utilities are available for the Project and within the public streets (Holt Boulevard and Monterey Avenue) and/or alley adjacent to the Project site and readily available for connection.

TECHNICAL APPENDIX:

Table 1: Surrounding Zoning and Land Uses

	Existing Land Use	***Policy Plan Designation***	***Zoning Designation***
Site	Single-Family Residential	Mixed Use - Downtown	MU-1/LUA-3 (Downtown Mixed Use/Holt Boulevard)/Monterey PUD
North	Single-Family Residential	Low Density Residential	LDR-5 (Low Density Residential – 2.1 to 5.0 DU/Acre)
South	Commercial	Mixed Use - Downtown	Melrose Plaza PUD (Commercial)
East	Commercial Gas Station	Mixed Use - Downtown	MU-1/LUA-3 (Downtown Mixed Use/Holt Boulevard)
West	Multiple-Family Residential	Mixed Use - Downtown	MU-1/LUA-3 (Downtown Mixed Use/Holt Boulevard)

Table 2: General Site & Building Statistics

Item	***Required Min./Max.***	***Provided (Ranges)***	***Meets Y/N***
Floor Area Ratio:	2.0	.379	Y
Holt Boulevard setback (in FT):	10 FT	Building - 10 FT Off-Street Parking Stalls – 10 FT	Y
Monterey Avenue setback (in FT):	10 FT	Building - 10 FT Off-Street Parking Stalls – 10 FT Ancillary Structures – 14 FT	Y
Alley setback (in FT):	5 FT	Building – 50 FT 11 IN Off-Street Parking Stalls – 5 FT Ancillary Structures – 13 FT 8 IN	Y
Interior setback (in FT):	5 FT	Building – 52 FT 8 IN Off-Street Parking Stalls – 5 FT Ancillary Structures – 67 FT	Y
Maximum height (in FT):	35 FT	34 FT	Y

Table 3: Parking Summary

Type of Use	***Building Area (in SF)***	***Parking Ratio***	***Spaces Required***	***Spaces Provided***
General Business Office	4,820 SF	4 spaces per 1,000 SF	19	19
TOTAL			**19**	**19**

Exhibit A: PROJECT LOCATION MAP

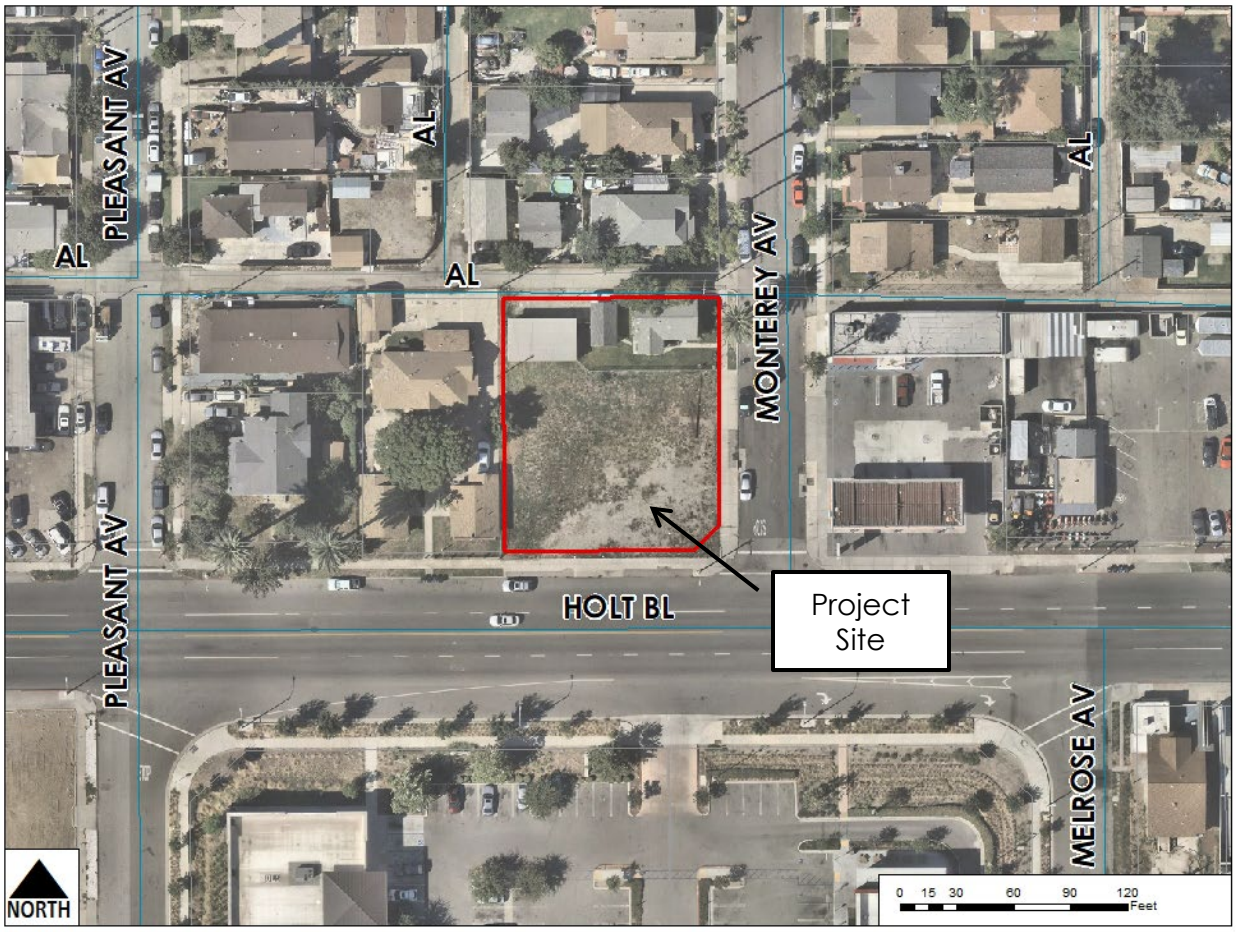


Exhibit B: SITE PLAN

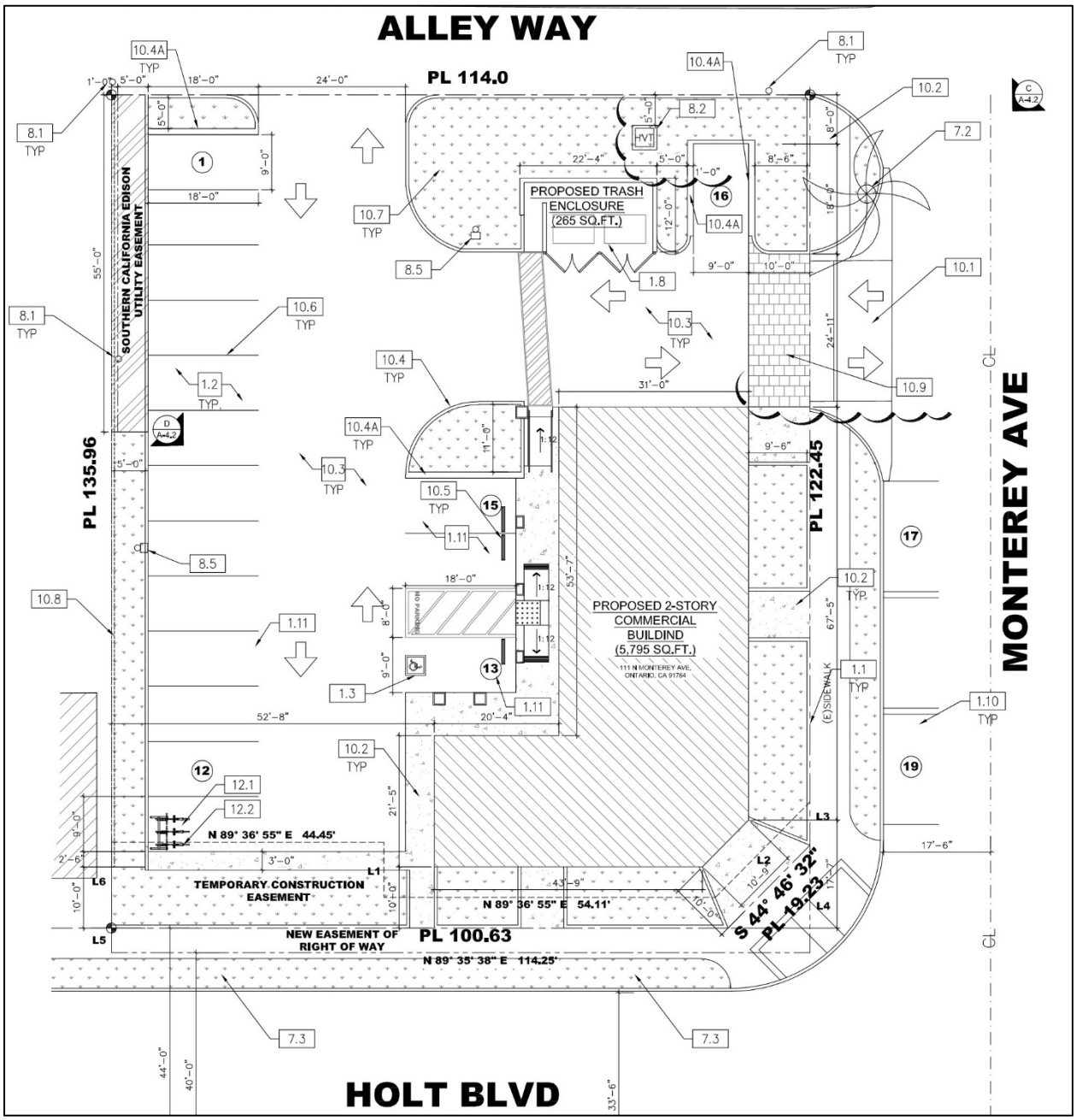
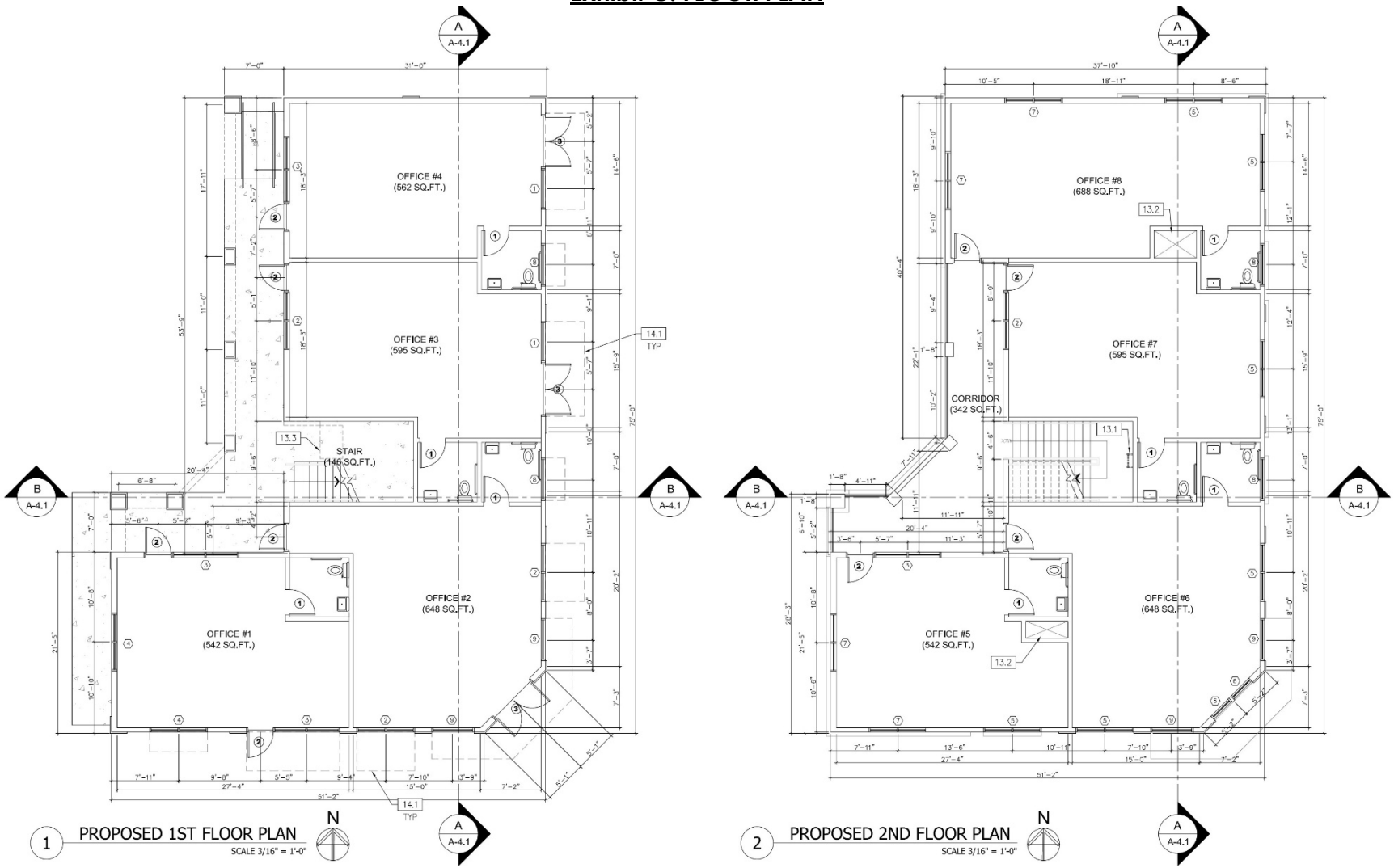


Exhibit C: FLOOR PLAN



1 PROPOSED 1ST FLOOR PLAN
SCALE 3/16" = 1'-0"

2 PROPOSED 2ND FLOOR PLAN
SCALE 3/16" = 1'-0"

Exhibit D: EXTERIOR ELEVATIONS



EAST ELEVATION
SCALE 3/16" = 1'-0"



SOUTH ELEVATION
SCALE 3/16" = 1'-0"



WEST ELEVATION
SCALE 3/16" = 1'-0"



NORTH ELEVATION
SCALE 3/16" = 1'-0"

Exhibit E: LANDSCAPE PLAN

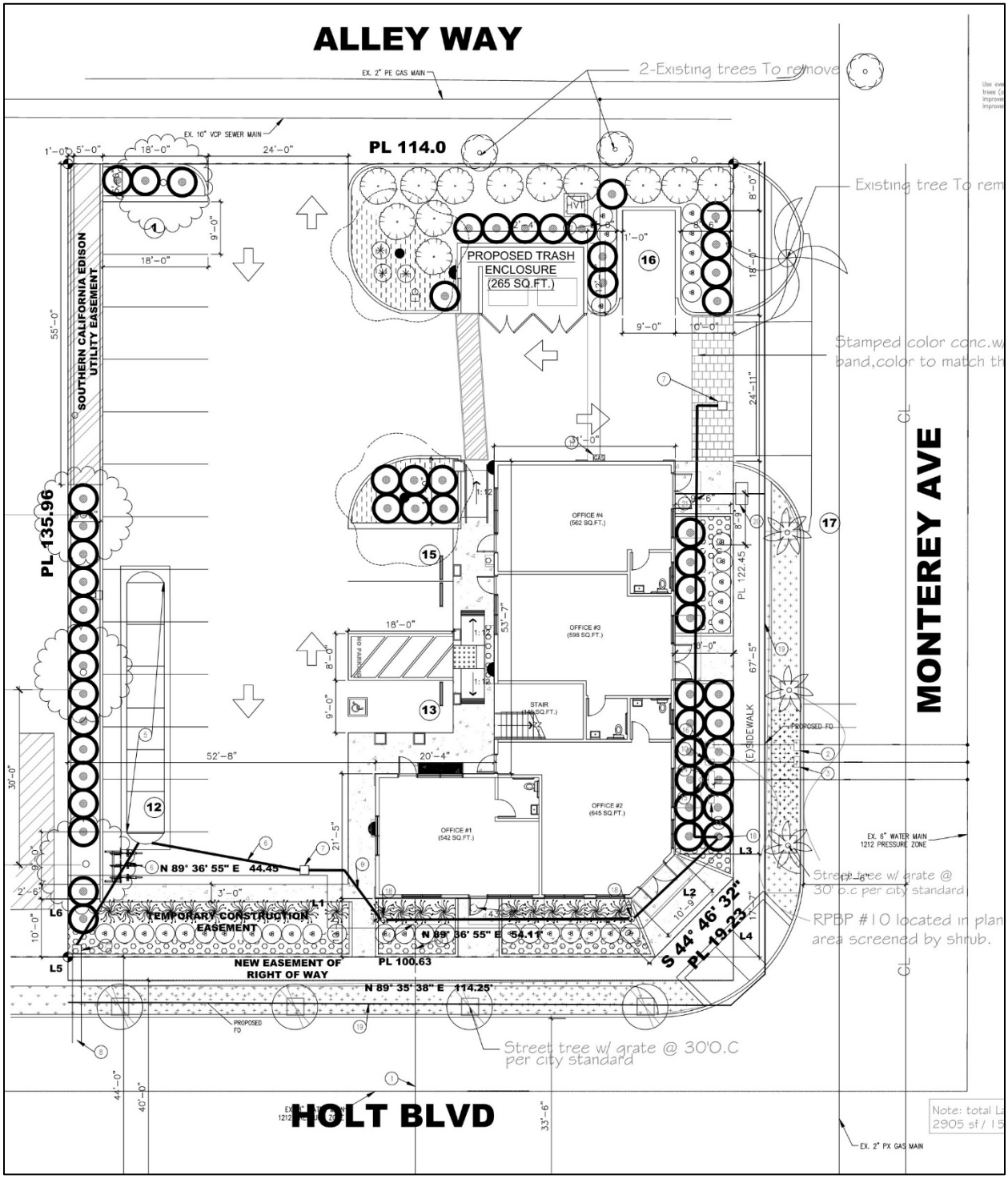


Exhibit F: SITE PHOTOS



View looking northwest



Existing Single-Family Residence

Exhibit F: SITE PHOTOS CONTINUED



Existing Detached Garage

Attachment A:
Resolution for File No. PUD23-001

(Document to follow this page)

Attachment B:
Resolution for File No. PDEV23-018

(Document to follow this page)

RESOLUTION NO. PC25-031

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE FILE NO. PUD23-001, A PLANNED UNIT DEVELOPMENT TO ESTABLISH DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE REQUIREMENTS FOR PROPERTY LOCATED AT 111 NORTH MONTEREY AVENUE, WITHIN THE LUA-3 (HOLT BOULEVARD) DISTRICT OF THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 1048-523-15

WHEREAS, ERNEST WANG ("Applicant") has filed an Application for the approval of a Planned Unit Development, File No. PUD23-001, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 0.37 acres of land generally located the northwest corner of Holt Boulevard and Monterey Avenue, at 111 North Monterey Avenue within the MU-1/LUA-3 (Downtown Mixed Use/Holt Boulevard) zoning district, and is presently improved with a single-family residence and ancillary accessory residential structures; and

WHEREAS, the property to the north of the Project site is within the LDR-5 (Low Density Residential – 2.1 to 5.0 DU/Acre) zoning district and is developed with single-family residential. The property to the east is within the MU-1/LUA-3 (Downtown Mixed Use/Holt Boulevard) zoning district and is developed with a gas station. The property to the south is within the Melrose Plaza PUD zoning district and is developed with a commercial shopping center. The property to the west is within the MU-1/LUA-3 (Downtown Mixed Use/Holt Boulevard) zoning district, and is developed with multiple-family residential; and

WHEREAS, on June 29, 2023, the Applicant submitted a Planned Unit Development (File No. PUD23-001) in conjunction with a Development Plan (File No. PDEV23-018) to construct a 5,795 square foot, 2-story commercial building; and

WHEREAS, the Project site is located within the Downtown Mixed-Use District of the Policy Plan (general plan). The Policy Plan specifies that the Downtown Mixed-Use District is to be implemented through the approval of an Area Plan or Planned Unit Development (“PUD”) prior to the development of properties within the District. In compliance with this requirement, the Applicant has submitted the Monterey Avenue Planned Unit Development (included as Attachment “A” of this Resolution), which is consistent with this vision, and goals and policies of the Policy Plan; and

WHEREAS, the specific purpose of the Planned Unit Development is to secure a fuller realization of the Policy Plan than would otherwise result from the strict application of present zoning district regulations, and to promote high standards in urban design; encourage the development of exceptionally high quality, mixed-use, high intensity projects, while establishing regulations and standards for uses with unique regulatory and design needs; and ensure harmonious relationships with surrounding land uses; 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 has been reviewed for consistency with the Housing Element of the Policy Plan component of The Ontario Plan 2050, as State Housing Element law (as prescribed in Government Code Sections 65580 through 65589.8) requires that development projects must be consistent with the Housing Element, if upon consideration of all its aspects, it is found to further the purposes, principals, goals, and policies of the Housing Element; and

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

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

WHEREAS, on July 22, 2025, 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 determination of CEQA exemption reflects the independent judgment of the Planning Commission.

SECTION 2: ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending authority 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 2050, as the Project site is not one of the properties in the Housing Element Sites Inventory contained in Tables B-1 and B-2 of the Housing Element Technical Report.

SECTION 3: ***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.

(1) 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. 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 ONT ALUCP compatibility factors, including [1] Safety Criteria (ONT ALUCP Table 2-2) and Safety Zones (ONT ALUCP Map 2-2), [2] Noise Criteria (ONT ALUCP Table 2-3) and Noise Impact Zones (ONT ALUCP Map 2-3), [3] Airspace protection Zones (ONT ALUCP Map 2-4), and [4] Overflight Notification Zones (ONT 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 ONT ALUCP.

SECTION 4: ***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 the Sections above, the Planning Commission hereby concludes as follows:

(1) ***The proposed PUD, or amendment thereto, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan 2050.*** The Project is consistent with the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. Section 1.1, The Ontario Plan Objectives of the Planned Unit Development, describes the manner in which the Planned Unit Development complies with the Policy Plan goals and policies.

(2) ***The proposed PUD, or amendment thereto, would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.*** The Planning Commission has required certain safeguards, and has required certain changes, which have been established to ensure that: [i] the purposes of the Planned Unit Development are maintained; [ii] the project will not endanger the public health, safety or general welfare; [iii] the project will not result in any significant environmental impacts; [iv] the project will be in harmony with the area in which it is located; and [v] the project will be in full conformity with the Vision, City Council Priorities and Policy Plan components of The Ontario Plan.

(3) ***In the case of an application affecting specific property(ies), the proposed PUD, or amendment thereto, will not adversely affect the harmonious relationship with adjacent properties and land uses.*** The Planned Unit Development area is situated in Ontario's downtown and is adjacent to residential and commercial land

uses and development. The surrounding development supports the objective of the Planned Unit Development to further commercial and residential mixed-use development. The Project will not affect the harmonious relationship with adjacent properties and land use.

(4) ***In the case of an application affecting specific property(ies), the subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development.*** In preparing the proposed Planned Unit Development, a thorough review and analysis of the proposed Project and the subject site's physical suitability for the Project was completed, including analysis of the project size, shape, intensity of development, building height, building setbacks, site access, site landscaping and drainage, fences and walls, vehicle circulation, pedestrian connections, availability of mass transit, necessary street dedication and easements, public right-of-way improvements, availability of utilities and other infrastructure needs, off-street parking and circulation, building orientation and streetscapes, architectural character, building materials and color, and site signage. Based upon this review and analysis, the subject site has been deemed physically suitable, including but not limited to parcel size, shape, access, and availability of utilities, for the proposed Planned Unit Development and the proposed development.

(5) ***The proposed PUD is superior to that which could be obtained through the application of the Development Code or a specific plan.*** The Planned Unit Development will establish minimum building setbacks, parking requirements, allow on-street parking, and establish a planting palette. These standards in the Planned Unit Development will facilitate the development of a 5,795 square foot 2-story commercial building, related parking facilities and trash enclosure. The proposed Planned Unit Development will allow for subsequent development that is superior to that which could be obtained through the application of the Development Code by itself.

SECTION 5: ***Planning Commission Action.*** Based upon the findings and conclusions set forth in the Sections 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 incorporated herein by this reference.

SECTION 6: ***Indemnification.*** The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7: ***Custodian of Records.*** The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8: ***Certification to Adoption.*** The 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 22nd day of July 2025, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Nicola Ricci
Planning Commission Chairman

ATTEST:

Kimberly Ruddins
Assistant 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. PC25-031, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on July 22, 2025, by the following roll call vote, to wit:

AYES: Anderson, DeDiemar, Gage, Lampkin, Ricci

NOES: None

ABSENT: Marks

ABSTAIN: None

Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

File No. PUD23-001
Monterey Avenue Planned Unit Development

(Departmental conditions of approval to follow this page)

Monterey Avenue

PLANNED UNIT DEVELOPMENT

File Number: PUD23-001

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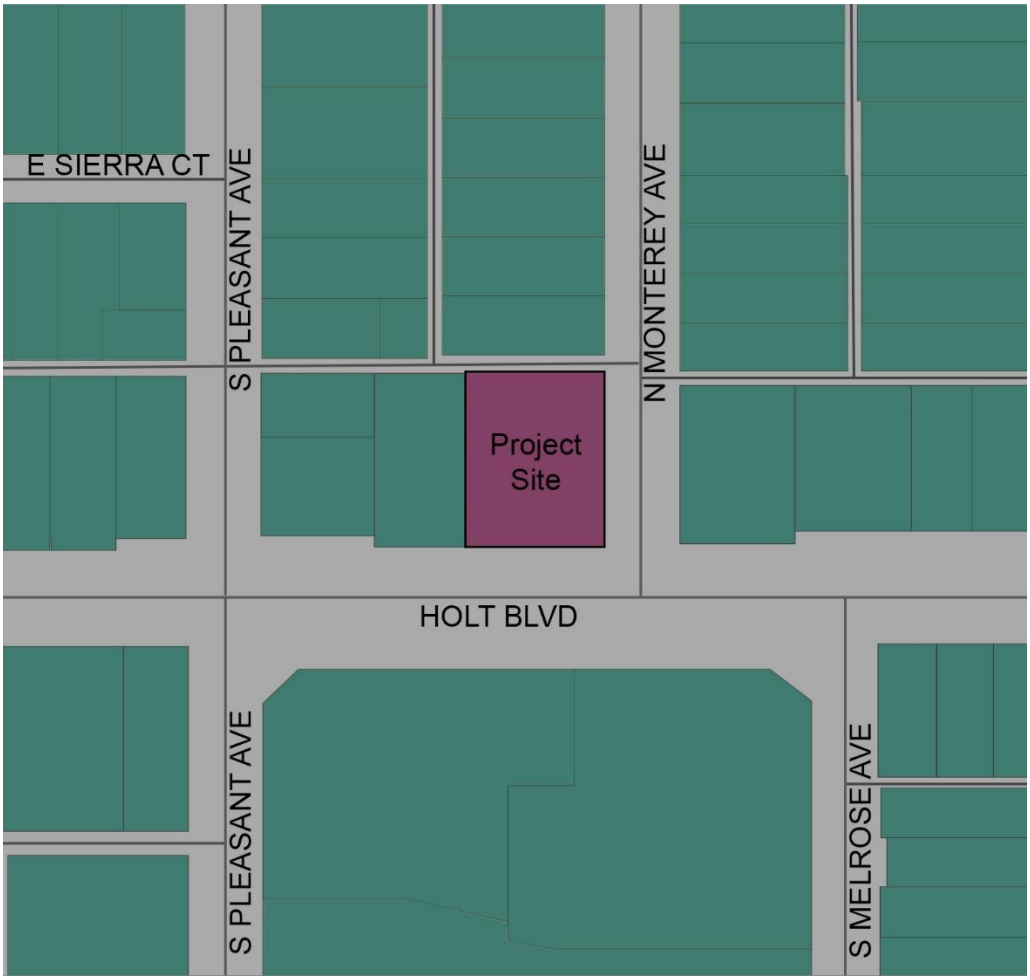
TABLE 3-1 : PERMITTED/CONDITIONALLY PERMITTED LAND USES 6-23

1. INTRODUCTION

This document is intended to function as a set of planning and design principles, development regulations and performance standards to guide and govern the development of a one block area bounded by Holt Boulevard on the south, Monterey Avenue on the east, alley way on the north, and existing residential block on the west (see Exhibit 1-1, Project Location Map), as a potential high quality commercial development on this corner lot that faces Holt Boulevard and Monterey Avenue. Planned Unit Development (PUD) of 111 N. Monterey Ave. will replace the existing zone district designations and zoning standards that apply to the affected properties. Unless otherwise defined herein, definitions and interpretations contained in the Development Code shall apply.

City staff and private developers will rely on this PUD to determine whether precise plans for development ("Development Plans") will adequately meet the City's land use and design objectives.

Exhibit 1-1: Project Location Map



2. OBJECTIVES

2.1 THE ONTARIO PLAN (TOP) OBJECTIVES

The Ontario Plan Policy Plan (General Plan) designates the project area as Downtown Mixed Use/ Holt Boulevard District for the parcels that face Holt Boulevard and Monterey Avenue.

PUD of 111 N. Monterey Avenue is consistent with the principles, goals and policies contained within the components that make up The Ontario Plan (TOP), including: (1) Vision, (2) Policy Plan (General Plan), and (3) City Council Priorities. The policies furthered by this PUD are as follows:

1. Vision
   DISTINCTIVE DEVELOPMENT

   Commercial and Residential Development
   A reputation for being good for business to work with while still satisfying broader community interests.
   Development Quality
   Superior quality and design of the built environment and open spaces through careful attention to detail at every scale, including public and private spaces and structures.
   Public Safety
   A level of security and public safety that exceeds conventional standards, generates a sense of security throughout the community, and establishes Ontario as one of the safest medium-sized cities in the nation.

2. Policy Plan
   LANDUSE

   LU3-1 Development Standards. We maintain clear development standards which allow flexibility to achieve our Vision.

   COMMUNITY DESIGN

   Goal- A goal of community design is to achieve 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.

CD2-5 Streetscapes. We design new and, when necessary, retrofit existing streets to improve walkability, bicycling and transit integration, strengthen connectivity, and enhance community identity through improvements to the public right of way such as sidewalks, street trees, parkways, curbs, street lighting and street furniture.

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.

3. City Council Priorities

Invest In The Growth And Evolution Of The City's Economy.

2.2 CENTER CITY REDEVELOPMENT PLAN OBJECTIVES

- Encourage development of a high intensity, multi-use central business district and surrounding neighborhoods that maximize the economic productivity of the commercial areas and maximize the housing opportunities of the residential areas.
- Apply innovative mixed use urban design that maintains a flexible approach to allow for changing opportunities over a long-term, phased revitalization effort.
- Create a healthy and exciting urban environment, with the ability to work, live, shop and play within a small area, combine daytime and nighttime use and conserve energy and resources through mixed use development
- Cluster activity centers within walking distance of each other, supported by a pedestrian network that provides an enjoyable pedestrian flow

2.3 PUD DISTRICT PURPOSE AND OBJECTIVES

The purpose of the Monterey Avenue Planned Unit Development (PUD) District is to secure a fuller realization of the general plan than that which would result from the application of present zone district regulations; to promote high standards in urban design; to encourage the development of exceptionally high quality, mixed-use, high intensity projects while establishing regulations and standards for uses with special conditions and regulatory needs to ensure harmonious relationships with other land uses. The intent of the PUD District is to:

- Promote development projects that are consistent with the land use/downtown revitalization objectives of the Center City Redevelopment Project area.

- Promote flexibility and innovative design of more intense urban development to provide efficient use of space and preserve significant natural, scenic and cultural features of a site.
- Achieve high density residential developments, mixed use developments, and diversity of housing types, while maintaining high quality in design and construction.
- Encourage clustering of structures to preserve a maximum amount of continuous open space.
- Maintain the integrity of existing Tier I, Tier II historic structures and the historic downtown setting.
- Contribute to the revitalization of downtown and enhancement of the unique character of the downtown streetscape and if applicable, implement the Downtown Ontario Design Guidelines.

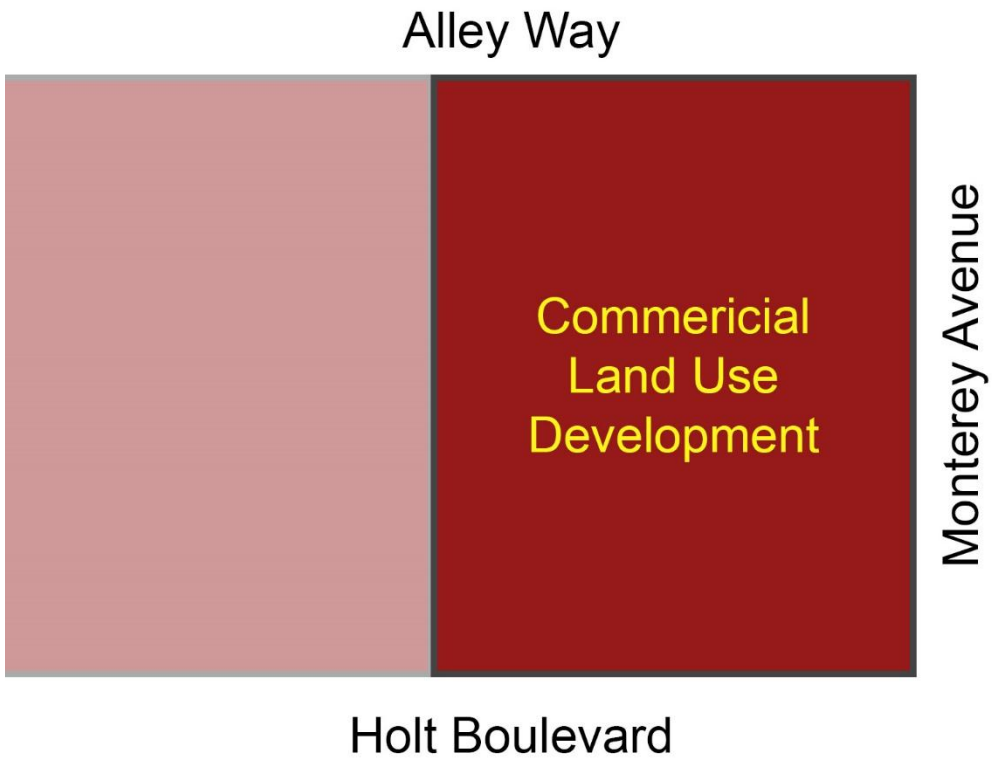
3. LAND USE PLAN

A single land use development (district) is established within the project limits, as shown in Exhibit 2-1, Land Use Plan, and as described below.

3.1 COMMERCIAL USE

The project area encompasses single land use designation. The property located at the corner of Holt Boulevard and Monterey Avenue will be characterized by offices &Services/commercial uses that recognize their location in close proximity to the downtown area.

Exhibit 3-1: Land Use District Map



3.2 ALLOWED USES

The Monterey Avenue PUD defers to existing allowed land uses, activities, and facilities for those parcels located within the boundaries of the LUA-3 (Holt Boulevard) sub-district of the MU-1 (Downtown Mixed Use) zoning districts established in the Ontario Development Code, with the below exceptions listed in Table 3: Prohibited Uses. Details and full descriptions of specific land uses, activities, and facilities within each land use category are found in the Ontario Development Code Section 5.01 Land Use Matrix; definitions are included in Division 9.01 (Definitions) of the Ontario Development Code.

TABLE 3-1: Prohibited Uses

- Medical Offices
- Outpatient Centers, Laboratory Testing Services, Home Healthcare Services, and Community Clinics

4. DEVELOPMENT REGULATIONS

4.1 Density/ INTENSITY

Within the MU-1 zoning district, residential development shall range from a minimum allowed density of 25 dwelling units per acre, to a maximum allowed density of 75.0 dwelling units per acre. Commercial-retail and/or office development shall not exceed 2.0 FAR. Floor Area Ratio is calculated by dividing the building square footage by the net lot.

4.2 BUILDING HEIGHT

The buildings within the MU-1 zoning districts shall be a maximum of 35 feet in height for commercial development in order to be in scale to the existing development in the downtown area.

4.3 SETBACKS

TABLE 4-1: Minimum Setbacks

Property Line	Holt Blvd.	Monterey Ave.	Alley Way	Western Interior Side Property line
Primary Building	10 FT	10 FT	5 FT	5 FT
Off-street Parking stalls	10 FT	10 FT	5 FT	5 FT
Any mechanical equipment	10 FT	10 FT	5 FT	5 FT
Ancillary structures (trash enclosure, etc.)	10 FT	10 FT	5 FT	5 FT

Street front and side setbacks within the Mixed Use district shall be maintained at a minimum of 10 feet along Holt Boulevard, and Monterey Avenue. Interior side setbacks shall be maintained at a minimum of 5 feet are required. All setbacks shall be measured from the ultimate property lines after all dedications to develop streets to the ultimate right-of-way width. Placement of buildings, structures, fences, walls, utility facilities, yards, etc. will be based on the street rights-of-way and property line dimensions.

4.4 ACCESS

Along Monterey Avenue one access driveway, limited to right-in and right-out turning movements, is allowed. The drive access on Monterey Avenue must be located a minimum of City allowable distance north of Holt Boulevard.

Distance from the intersecting streets shall be measured from the end of the curb return to the centerline of the driveway.

4.5 LANDSCAPING

A conceptual landscape plan shall be submitted with Development Plan within PUD area of 111 N. Monterey Ave. A minimum of 18% of the site shall be landscaped. The plan shall specify all landscape and hardscape elements for the development plan site and indicate how the improvements will coordinate with the other sites within the PUD. The landscape plans shall show the location of all ground mounted utility structure such as transformers, back flow prevention devices, trash enclosures, and HVAC equipment and indicate the methods for screening these items. All utility structures and equipment shall be screened from view of the public streets and adjacent development.

Water conservation shall be provided through low water using plant materials, hydro zones, water efficient irrigation and weather based controllers. Landscaped areas may be used for storm water infiltration through vegetated swales, retention basins, or dry wells as needed with the use of appropriate planting materials. Broad canopy shade trees shall be used to reduce heat gain on buildings, paving and parking areas. The plan shall identify all existing trees on site and preserve them where possible. The landscape design shall meet the requirements of the Landscape Development Standards and shall create well-functioning spaces within a sustainable design.

Within the entire PUD area, the parkways shall be installed adjacent to the curb with the public sidewalk located adjacent to the property line. Parkway landscaping and irrigation within the public right-of-way shall be installed and maintained by each development. Trees along street frontages shall comply with the variety, size, and spacing as directed by the City of Ontario Master Street Tree Plan. Holt Boulevard shall include a 13.4-ft landscaped raised median with irrigation. In addition, on Holt Boulevard the 10.5 feet of right-of-way in back of the curb shall be developed as parkway and sidewalk.

4.6 EQUIPMENT SCREENING

All roof mounted and ground mounted equipment shall be fully screened from view of the public street and adjacent developments. The location of items shall be designed to allow screening with landscape materials, walls, architectural features, parapet walls, etc. Screening shall be designed to be integrated into the design of the project.

4.7 FENCES AND WALLS

Fences and walls within the project area shall be made of decorative materials which are compatible with the overall architectural character of the development within the PUD area. All fences and walls shall be in scale with the development to fulfill such needs as screening and security.

Fences, walls and hedges within the project area shall comply with Engineering Corner Sight Distance Standards and other applicable standards. All decorative walls, monuments and/or other similar features shall not encroach into the public street right-of-way.

Within the Commercial land use district walls shall be limited to a maximum of 3 feet in height within any front yard area. Interior or rear walls shall be a maximum of 6 feet in height.

Walls shall be coordinated with the architecture of the building with such features as finish material, reveal lines, trim, etc.

5. CIRCULATION AND PARKING

5.1 VEHICLE CIRCULATION

The developers of the PUD site shall be responsible for improving Holt Boulevard, Monterey Avenue and alley way. Monterey Ave. and alley way will provide vehicular access to the site. On-site circulation will be provided via reciprocal access driveways. The driveways will provide connections between properties and to the public streets and shall be shared by all properties within the PUD. Monterey Avenue shall be restricted to right-in/right out access only once the West Valley Connector Project raised median is constructed along Holt Boulevard.

5.2 PEDESTRIAN CONNECTIONS

Pedestrian connections shall be provided to each building from the public street within the PUD site. The Commercial land use district will also provide pedestrian pathways to connect all of the commercial development. As the entire PUD area will have reciprocal parking, pedestrian connections shall be provided to all parking areas.

5.3 MASS TRANSIT

The San Bernardino County Transportation Authority (SBCTA), in cooperation with the cities of Pomona, Montclair, Ontario, Rancho Cucamonga, and Fontana, is currently constructing a 35-mile-long bus rapid transit (BRT) system referred to as the West Valley Connector Corridor (WVCC) project. The WVCC is the first stage of the San Bernardino County Zero-Emission Bus Initiative and second BRT route in San Bernardino County. The purpose of the BRT is to decrease travel times and improve the existing public transit system within the corridor by linking major destinations along the route such as the Ontario Convention Center, Ontario Mills shopping/entertainment complex, and Victoria Gardens, and connecting the Ontario International Airport (ONT) to the Metrolink San Bernardino Line in Rancho Cucamonga, as well as to the Riverside Line in Pomona.

Upon completion of construction, the WVCC will include up to 60 station platforms at 33 locations/major intersections that will be operated by Omnitrans, a public transit agency that serves the San Bernardino Valley. The future WVCC will have stations along Holt Boulevard at Lemon Avenue and Campus Avenue.

5.4 STREET DEDICATIONS AND EASEMENTS

The developers shall dedicate right-of-way along all street frontages as necessary to increase the right-of-way to ultimate width, including corner cutbacks per City Standard Drawing No. 1301. The ultimate widths for the rights-of ways surrounding the PUD are as follows:

Holt Boulevard 104 feet – 60 feet from south of centerline to right of way, 44 feet from north of centerline to right of way. (Per SBCTA West Valley Connector Project Plans).

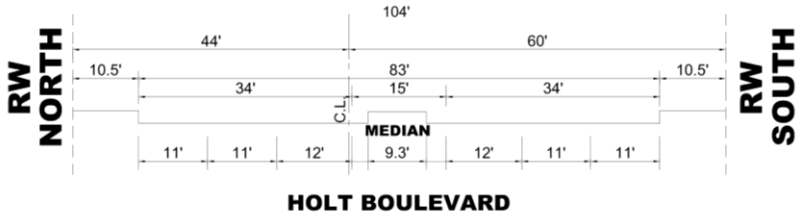
Monterey Avenue 60 feet – 30 feet half width

Alley way 13 feet – 6.5 feet half width

5.5 PUBLIC RIGHT-OF-WAY IMPROVEMENTS

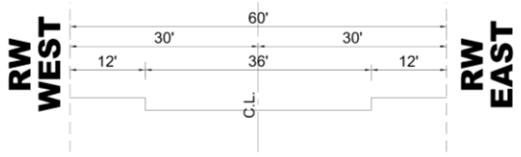
The public right-of-way shall be improved with each proposed development. The width of the right-of-way shall comply with the sections in Exhibit 5-1. The public right-of-way improvements required are to include, but are not limited to the following: street pavement, curb & gutter, parkway landscaping, parkway irrigation, raised landscape median with irrigation on Holt Boulevard, public sidewalk, traffic signing and striping, street lights, bus stop, bus shelter and amenities. The extent of the required improvements shall be determined for each development plan. At a minimum the improvements shall incorporate all items along the street frontages of the properties to be developed with proper transitioning if the entire block frontage is not being installed with a particular development. Improvements along the street frontage for the entire block may be required at the time of development plan review.

* Exhibit 5-1: Right-of-Way Sections

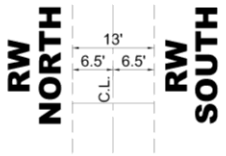


HOLT BOULEVARD

* Based on approved SBCTA West Valley Connector Project Plans



MONTEREY AVENUE



ALLEY WAY

5.6 INFRASTRUCTURE

The existing water lines in Holt Boulevard and Monterey Avenue are sufficient. Water service for the PUD site will be served by the existing water main in Monterey Avenue. The existing wastewater lines are in Holt Boulevard and north Alley Way. Wastewater flows for the PUD will be designed to use existing sewer lines in Holt Boulevard. The developments within the PUD shall be designed and constructed to accommodate the use of recycled water and shall connect to recycled water when it becomes available.

On-site stormwater drainage facilities shall be provided to capture and infiltrate a 2-yr, 24-hour storm event, consistent with the San Bernardino County Stormwater Program's Water Quality

Management Plan (WQMP) requirements for new development projects. Stormwater capture and infiltration facilities may include the utilization of vegetated swales, depressed landscaped basins, pervious concrete pavement or underground stormwater retention/infiltration vaults. All building roof and paved area runoff shall be directed into depressed landscaped swales, trenches or basins, within the development, in order to comply with the requirement to capture and infiltrate the 2-yr, 24-hour storm event runoff. On-site stormwater drainage facilities shall also partially detain the post development 100-yr storm event peak flow, per City Guidelines and Standards. This site does not have an adequate, existing drainage facility.

All Priority Land Use (PLU): Land use consisting of high-density residential, defined as a land use with at least ten (10) dwelling units per acre, industrial, commercial, mixed urban, and public transportation station land uses within the project area shall comply with the statewide Trash Provisions adopted by the State Water Resources Control Board (SWRCB) and trash requirements in the most current San Bernardino County Area- Wide MS4 Permit Certified Trash Treatment/ Pretreatment Devices shall be included in the BMP Design and Construction.

All utility lines (electric, communications, TV, etc.) along Holt Boulevard will remain underground. Existing overhead utility lines along alley way may remain. Existing overhead utility lines on-site shall be under-grounded at or before the time of development by the developer or property owner.

Street lighting shall be installed along the public right-of-way of Monterey Avenue in accordance with City of Ontario Standards. Street lighting shall be installed along the public right-of-way of Holt Blvd in accordance with City of Ontario Standards and per SBCTA West Valley Connector Projects Plans.

5.7 PARKING

Parking shall be provided on-site at the rates listed below in Table 5-1: Parking Requirements and required by the City of Ontario Development Code. Open parking for the entire PUD project area shall be reciprocal.

On-street parking may be allowed on Monterey Avenue only. Monterey Avenue is a public street and will not be designated for guest parking. No street parking will be allowed on Holt Boulevard. On-street parking may not be used to meet the requirements for on-site parking as indicated in the Development code.

TABLE 5-1: Parking Requirements

Land Uses, Activities and Facilities	**No. of Parking Spaces Required**
General Retail	4 spaces per 1,000 SF (0.004/SF) of GFA
General Business Offices	4 spaces per 1,000 SF (0.004/SF) of GFA
Personal Care Services	4 spaces per 1,000 SF (0.004/SF) of GFA

6. DESIGN GUIDELINES

6.1 BUILDING ORIENTATION AND STREETSCAPES

The Commercial buildings shall give the appearance of being oriented towards Holt Boulevard and Monterey Avenue with entry elements, interesting architecture, enhanced materials, and pedestrian scale to provide connection between the development and the street. The building entries may be located on the street frontage of building with connection to path of travel extended to Holt Boulevard and Monterey Avenue so long as strong pedestrian connection is maintained through wide walkways, enhanced pavers, plazas, appropriately scaled lighting and/or other similar features. Rear entrances in parking lot, should be secondary in nature. The street sides of the buildings should be architecturally enhanced along Holt Boulevard and Monterey Avenues to provide a quality appearance from the street.

6.2 ARCHITECTURAL CHARACTER

Due to the size and scale of the PUD project area, virtually most sides of the buildings will be visible from the public street, common access drives, common parking areas or adjacent parcels with commercial uses. As such the architectural treatments should be carried around to the visible portions of all sides of the buildings. All towers or raised elements should be fully finished on all sides to appear as 3 dimensional features.

The architecture for the buildings should feature enhanced materials such as natural stone, or tile should be used as a base treatment and to highlight architectural features such as columns, arches or popped-out tower elements. All enhanced materials shall terminate at logical points, such as an interior corner, and shall incorporate cap treatments to provide a transition between materials.

6.3 MATERIALS AND COLOR

Durable high-quality materials shall be used at pedestrian level. Foam features, trim, or similar materials are not allowed at pedestrian level due to the lack of durability and failure to maintain a quality appearance over time.

The color scheme for developments within the PUD should be taken from an earth-tone palette in order to blend and coordinate the various architectural features of the buildings to provide a cohesive appearance.

6.4 SIGNS

Signs shall comply with the requirements of the City of Ontario Development Code and shall be coordinated through a comprehensive sign program.

6.5 SERVICE FACILITIES

Service facilities such as trash enclosures and yard areas shall be designed, located and oriented to have a minimal visual impact on the development within the PUD area. Trash enclosures shall be placed away from common property lines shared with sensitive uses, such as residential.

Trash enclosures shall be designed to coordinate with the architecture, colors and materials of the style of the development and shall be located to provide adequate access for trash pickup without encroaching on access drives or landscaped areas. Trash enclosures shall be designed and constructed with a solid roof cover which shall also be designed to match the architecture of the development.

7. HISTORIC PRESERVATION

7.1 HISTORIC BACKGROUND

The one block area that comprises the PUD established by this document is not located within the City's Historic Downtown District. However, the property was part of the potential Parkside Addition Historic District. During the late 1990s, the potential historic district was evaluated using a windshield survey, establishing the boundary that exists today. The district is comprised of primarily single and multi-family dwellings constructed during the 1920s-1940s, and the commercial buildings along Holt Boulevard. Some areas retain the original rock curb, but most of the curbs have been replaced with standard concrete curb. Many of the buildings in the potential district have been substantially altered and consequently, were removed by the HPSC from the Ontario Register of Historic Resources in November 2008. The potential district has not been reevaluated since that time.

On July 9, 2020, under Ontario Register Eligibility Review For File No. PHP20-009, The Historic Preservation Subcommittee approved the case, determining that the house and property did not meet landmark eligibility requirement as contained in Section 4.02.040 of the Ontario Development Code. This property will be removed from the Ontario Register of Historic Resources.

The east Holt Boulevard section of the potential historic district was originally developed with residences in the early 1900s when Holt Boulevard (A Street) was a 2-lane dirt road also known as the Ocean to Ocean Highway. Commercial uses were introduced in the 1920s when A Street because a 4-lane higway. The 1950s saw of A Street to Holt Boulevard, and a shift further away from residential to more automotive related and commercial uses. The remaining buildings on the subject site are not thematically related and commercial uses. The remaining buildings on the subject site are not thematically related to the residential to the north and do not contribute to the potential Parkside Addition Historic District.

7.2 EXISTING HISTORIC STRUCTURES

The project site has existing residence & garages and does not contain any historic resources. However, there are four historic properties located adjacent to west, southeast and southwest of the project area. These properties are follows:

- 541 E. Holt Blvd. (Lerch House, Tier II);
- 545 E. Holt Blvd. (Bungalow Court. Tier III); and

The development of the project area will not directly impact the surrounding historic resources. Subsequently, the purpose the PUD is to guide development within this area and ensure that the proposed development of the project site is sensitive to the location and the historic surroundings. Therefore, any new infill development shall comply with the following development standards:

- All structures shall be compatible with the scale and massing of the surrounding historic structures.

- All structures (if feasible) should be oriented to directly front onto Holt Blvd., with parking lots oriented away from the street or behind the structures.
- Lighting should be consistent with the lighting designs of the Downtown Ontario Design Guidelines.

8. ADMINISTRATION

8.1 ITEMS NOT ADDRESSED IN PUD

Any terms, requirements, or regulations not addressed within the PUD document shall be governed by the City of Ontario Development Code, the regulations of the General Commercial and General Industrial zones and City Standards.

8.2 DEVELOPMENT APPLICATIONS

Development Plans for the development of each individual parcel within the PUD area, along with fees and other required items, shall be submitted for review and approval per the requirements contained in Article 8 of the City of Ontario Development Code and the General Application.

8.3 ADMINISTRATIVE EXCEPTIONS

Deviation from the development standards set forth in this document may be granted up to a maximum of 10 percent by the Zoning Administrator. Any deviation that is greater than 10 percent shall require Variance approval.

ORDINANCE NO._____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PUD-23-001, A PLANNED UNIT DEVELOPMENT TO ESTABLISH DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE REQUIREMENTS FOR PROPERTY LOCATED AT 111 NORTH MONTEREY AVENUE, WITHIN LUA-3 (HOLT BOULEVARD) OF THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 1048-523-15

WHEREAS, Ernest Wang ("Applicant") has filed an Application for the approval of a Planned Unit Development, File No. PUD-23-001, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 0.37-acre of land generally located at the northwest corner of Monterey Avenue and Holt Boulevard, at 111 North Monterey Avenue, within LUA-3 (Holt Boulevard) of the MU-1 (Downtown Mixed Use) zoning district, and is presently vacant; and

WHEREAS, properties surrounding the Project Site are located within LUA-3 (Holt Boulevard) of the MU-1 (Downtown Mixed Use) zoning district. The site is surrounded by a well-established single-family residential neighborhood to the north, a gas station to the east, a historic multiple-family residential development to the west, a commercial center to the south; and

WHEREAS, on June 29, 2023, the Applicant submitted a Planned Unit Development (File No. PUD-23-001) in conjunction with a Development Plan (File No. PDEV23-018) to construct a 2-story multi-tenant commercial building; and

WHEREAS, the Project site is located within the Downtown Mixed-Use District of the Policy Plan (general plan). The Policy Plan specifies that the Downtown Mixed-Use District is to be implemented through the approval of an Area Plan or Planned Unit Development (“PUD”) prior to the development of properties within the District. In compliance with this requirement, the Applicant has submitted the Monterey Avenue Planned Unit Development (included as Attachment “A” of this Ordinanace), which is consistent with this vision, and goals and policies of the Policy Plan; and

WHEREAS, the specific purpose of the Planned Unit Development is to secure a fuller realization of the Policy Plan than would otherwise result from the strict application of present zoning district regulations, and to promote high standards in urban design; encourage the development of exceptionally high quality, mixed-use, high intensity projects, while establishing regulations and standards for uses with unique regulatory and design needs; and, ensure harmonious relationships with surrounding land uses; 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 as the activity is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA (CEQA Guidelines Section 15061(b)(3)); and

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

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

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

WHEREAS, on July 22, 2025, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Resolution No. PC25-031, recommending the City Council approve the Application; and

WHEREAS, on September 2, 2025, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1: ***Environmental Determination and Findings.*** As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the 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 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 determination of CEQA exemption reflects the independent judgment of the City Council.

SECTION 2: ***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.

(1) 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. 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 ONT ALUCP compatibility factors, including [1] Safety Criteria (ONT ALUCP Table 2-2) and Safety Zones (ONT ALUCP Map 2-2), [2] Noise Criteria (ONT ALUCP Table 2-3) and Noise Impact Zones (ONT ALUCP Map 2-3), [3] Airspace protection Zones (ONT ALUCP Map 2-4), and [4] Overflight Notification Zones (ONT 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 ONT ALUCP; and

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

(1) ***The proposed Planned Unit Development 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

Project is consistent with Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. Section 1.1, The Ontario Plan Objectives of the Planned Unit Development, describes the manner in which the Planned Unit Development complies with the Policy Plan goals and policies.

(2) ***The proposed Planned Unit Development, would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.*** The City Council has required certain safeguards, and has required certain changes, which have been established to ensure that: [i] the purposes of the Planned Unit Development are maintained; [ii] the project will not endanger the public health, safety or general welfare; [iii] the project will not result in any significant environmental impacts; [iv] the project will be in harmony with the area in which it is located; and [v] the project will be in full conformity with the Vision, City Council Priorities and Policy Plan components of The Ontario Plan.

(3) ***In the case of an application affecting specific property(ies), the proposed Planned Unit Development, will not adversely affect the harmonious relationship with adjacent properties and land uses.*** The Planned Unit Development area is situated in Ontario's downtown and is adjacent to residential and commercial land uses and development. The surrounding development supports the objective of the Planned Unit Development to further commercial and residential mixed-use development. The Project will not affect the harmonious relationship with adjacent properties and land use.

(4) ***In the case of an application affecting specific property(ies), the subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development.*** In preparing the proposed Planned Unit Development, a thorough review and analysis of the proposed Project and the subject site's physical suitability for the Project was completed, including analysis of the project size, shape, intensity of development, building height, building setbacks, site access, site landscaping and drainage, fences and walls, vehicle circulation, pedestrian connections, availability of mass transit, necessary street dedication and easements, public right-of-way improvements, availability of utilities and other infrastructure needs, off-street parking and circulation, building orientation and streetscapes, architectural character, building materials and color, and site signage. Based upon this review and analysis, the subject site has been deemed physically suitable, including but not limited to parcel size, shape, access, and availability of utilities, for the proposed Planned Unit Development and the proposed development.

(5) ***The proposed Planned Unit Development is superior to that which could be obtained through the application of the Development Code or a specific plan.*** The Planned Unit Development will establish minimum

building setbacks, parking and open space requirements, allow on-street parking, and establish a planting palette. These standards in the Planned Unit Development will facilitate the development of a 2-story multi-tenant commercial building, related parking facilities and landscaped areas. The proposed Planned Unit Development will allow for subsequent development that is superior to that which could be obtained through the application of the Development Code by itself.

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 Planned Unit Development, attached hereto as "Attachment A," and incorporated herein by this reference.

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

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

SECTION 7: ***Severability.*** If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

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

SECTION 9: ***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 _____ 2025.

_____
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 _____, 2025 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. PUD23-001,
Monterey Avenue Planned Unit Development

(Document follows this page)

Monterey Avenue

PLANNED UNIT DEVELOPMENT

File Number: PUD23-001

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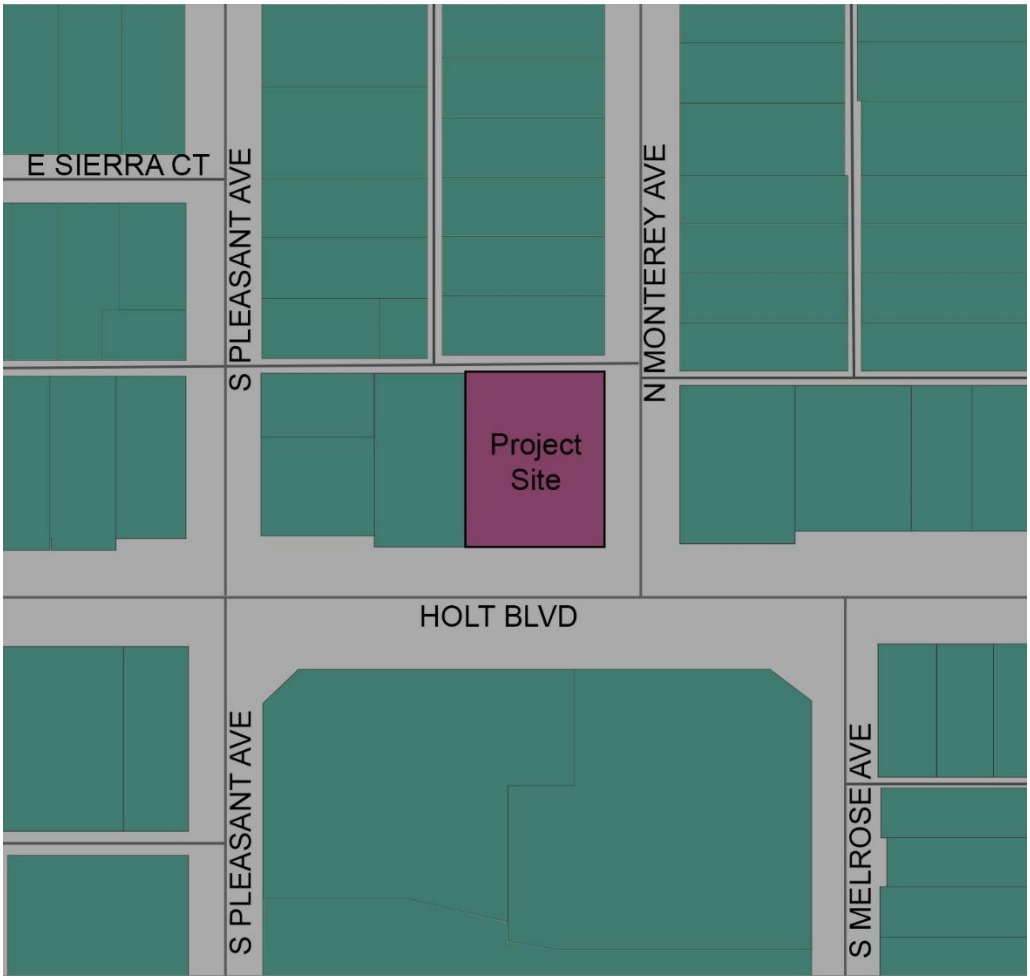
TABLE 3-1 : PERMITTED/CONDITIONALLY PERMITTED LAND USES 6-23

1. INTRODUCTION

This document is intended to function as a set of planning and design principles, development regulations and performance standards to guide and govern the development of a one block area bounded by Holt Boulevard on the south, Monterey Avenue on the east, alley way on the north, and existing residential block on the west (see Exhibit 1-1, Project Location Map), as a potential high quality commercial development on this corner lot that faces Holt Boulevard and Monterey Avenue. Planned Unit Development (PUD) of 111 N. Monterey Ave. will replace the existing zone district designations and zoning standards that apply to the affected properties. Unless otherwise defined herein, definitions and interpretations contained in the Development Code shall apply.

City staff and private developers will rely on this PUD to determine whether precise plans for development ("Development Plans") will adequately meet the City's land use and design objectives.

Exhibit 1-1: Project Location Map



2. OBJECTIVES

2.1 THE ONTARIO PLAN (TOP) OBJECTIVES

The Ontario Plan Policy Plan (General Plan) designates the project area as Downtown Mixed Use/ Holt Boulevard District for the parcels that face Holt Boulevard and Monterey Avenue.

PUD of 111 N. Monterey Avenue is consistent with the principles, goals and policies contained within the components that make up The Ontario Plan (TOP), including: (1) Vision, (2) Policy Plan (General Plan), and (3) City Council Priorities. The policies furthered by this PUD are as follows:

1. Vision
   DISTINCTIVE DEVELOPMENT

   Commercial and Residential Development
   A reputation for being good for business to work with while still satisfying broader community interests.
   Development Quality
   Superior quality and design of the built environment and open spaces through careful attention to detail at every scale, including public and private spaces and structures.
   Public Safety
   A level of security and public safety that exceeds conventional standards, generates a sense of security throughout the community, and establishes Ontario as one of the safest medium-sized cities in the nation.

2. Policy Plan
   LANDUSE

   LU3-1 Development Standards. We maintain clear development standards which allow flexibility to achieve our Vision.

   COMMUNITY DESIGN

   Goal- A goal of community design is to achieve 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.

CD2-5 Streetscapes. We design new and, when necessary, retrofit existing streets to improve walkability, bicycling and transit integration, strengthen connectivity, and enhance community identity through improvements to the public right of way such as sidewalks, street trees, parkways, curbs, street lighting and street furniture.

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.

3. City Council Priorities

Invest In The Growth And Evolution Of The City's Economy.

2.2 CENTER CITY REDEVELOPMENT PLAN OBJECTIVES

- Encourage development of a high intensity, multi-use central business district and surrounding neighborhoods that maximize the economic productivity of the commercial areas and maximize the housing opportunities of the residential areas.
- Apply innovative mixed use urban design that maintains a flexible approach to allow for changing opportunities over a long-term, phased revitalization effort.
- Create a healthy and exciting urban environment, with the ability to work, live, shop and play within a small area, combine daytime and nighttime use and conserve energy and resources through mixed use development
- Cluster activity centers within walking distance of each other, supported by a pedestrian network that provides an enjoyable pedestrian flow

2.3 PUD DISTRICT PURPOSE AND OBJECTIVES

The purpose of the Monterey Avenue Planned Unit Development (PUD) District is to secure a fuller realization of the general plan than that which would result from the application of present zone district regulations; to promote high standards in urban design; to encourage the development of exceptionally high quality, mixed-use, high intensity projects while establishing regulations and standards for uses with special conditions and regulatory needs to ensure harmonious relationships with other land uses. The intent of the PUD District is to:

- Promote development projects that are consistent with the land use/downtown revitalization objectives of the Center City Redevelopment Project area.

- Promote flexibility and innovative design of more intense urban development to provide efficient use of space and preserve significant natural, scenic and cultural features of a site.
- Achieve high density residential developments, mixed use developments, and diversity of housing types, while maintaining high quality in design and construction.
- Encourage clustering of structures to preserve a maximum amount of continuous open space.
- Maintain the integrity of existing Tier I, Tier II historic structures and the historic downtown setting.
- Contribute to the revitalization of downtown and enhancement of the unique character of the downtown streetscape and if applicable, implement the Downtown Ontario Design Guidelines.

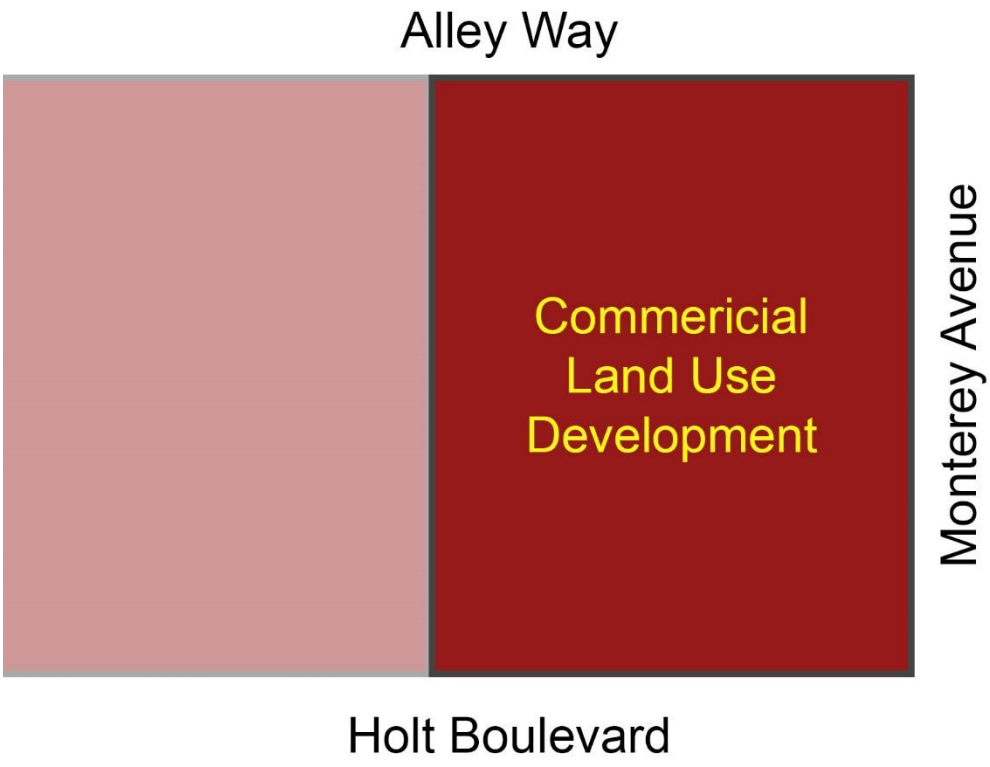
3. LAND USE PLAN

A single land use development (district) is established within the project limits, as shown in Exhibit 2-1, Land Use Plan, and as described below.

3.1 COMMERCIAL USE

The project area encompasses single land use designation. The property located at the corner of Holt Boulevard and Monterey Avenue will be characterized by offices &Services/commercial uses that recognize their location in close proximity to the downtown area.

Exhibit 3-1: Land Use District Map



3.2 ALLOWED USES

The Monterey Avenue PUD defers to existing allowed land uses, activities, and facilities for those parcels located within the boundaries of the LUA-3 (Holt Boulevard) sub-district of the MU-1 (Downtown Mixed Use) zoning districts established in the Ontario Development Code, with the below exceptions listed in Table 3: Prohibited Uses. Details and full descriptions of specific land uses, activities, and facilities within each land use category are found in the Ontario Development Code Section 5.01 Land Use Matrix; definitions are included in Division 9.01 (Definitions) of the Ontario Development Code.

TABLE 3-1: Prohibited Uses

- Medical Offices
- Outpatient Centers, Laboratory Testing Services, Home Healthcare Services, and Community Clinics

4. DEVELOPMENT REGULATIONS

4.1 Density/ INTENSITY

Within the MU-1 zoning district, residential development shall range from a minimum allowed density of 25 dwelling units per acre, to a maximum allowed density of 75.0 dwelling units per acre. Commercial-retail and/or office development shall not exceed 2.0 FAR. Floor Area Ratio is calculated by dividing the building square footage by the net lot.

4.2 BUILDING HEIGHT

The buildings within the MU-1 zoning districts shall be a maximum of 35 feet in height for commercial development in order to be in scale to the existing development in the downtown area.

4.3 SETBACKS

TABLE 4-1: Minimum Setbacks

Property Line	Holt Blvd.	Monterey Ave.	Alley Way	Western Interior Side Property line
Primary Building	10 FT	10 FT	5 FT	5 FT
Off-street Parking stalls	10 FT	10 FT	5 FT	5 FT
Any mechanical equipment	10 FT	10 FT	5 FT	5 FT
Ancillary structures (trash enclosure, etc.)	10 FT	10 FT	5 FT	5 FT

Street front and side setbacks within the Mixed Use district shall be maintained at a minimum of 10 feet along Holt Boulevard, and Monterey Avenue. Interior side setbacks shall be maintained at a minimum of 5 feet are required. All setbacks shall be measured from the ultimate property lines after all dedications to develop streets to the ultimate right-of-way width. Placement of buildings, structures, fences, walls, utility facilities, yards, etc. will be based on the street rights-of-way and property line dimensions.

4.4 ACCESS

Along Monterey Avenue one access driveway, limited to right-in and right-out turning movements, is allowed. The drive access on Monterey Avenue must be located a minimum of City allowable distance north of Holt Boulevard.

Distance from the intersecting streets shall be measured from the end of the curb return to the centerline of the driveway.

4.5 LANDSCAPING

A conceptual landscape plan shall be submitted with Development Plan within PUD area of 111 N. Monterey Ave. A minimum of 18% of the site shall be landscaped. The plan shall specify all landscape and hardscape elements for the development plan site and indicate how the improvements will coordinate with the other sites within the PUD. The landscape plans shall show the location of all ground mounted utility structure such as transformers, back flow prevention devices, trash enclosures, and HVAC equipment and indicate the methods for screening these items. All utility structures and equipment shall be screened from view of the public streets and adjacent development.

Water conservation shall be provided through low water using plant materials, hydro zones, water efficient irrigation and weather based controllers. Landscaped areas may be used for storm water infiltration through vegetated swales, retention basins, or dry wells as needed with the use of appropriate planting materials. Broad canopy shade trees shall be used to reduce heat gain on buildings, paving and parking areas. The plan shall identify all existing trees on site and preserve them where possible. The landscape design shall meet the requirements of the Landscape Development Standards and shall create well-functioning spaces within a sustainable design.

Within the entire PUD area, the parkways shall be installed adjacent to the curb with the public sidewalk located adjacent to the property line. Parkway landscaping and irrigation within the public right-of-way shall be installed and maintained by each development. Trees along street frontages shall comply with the variety, size, and spacing as directed by the City of Ontario Master Street Tree Plan. Holt Boulevard shall include a 13.4-ft landscaped raised median with irrigation. In addition, on Holt Boulevard the 10.5 feet of right-of-way in back of the curb shall be developed as parkway and sidewalk.

4.6 EQUIPMENT SCREENING

All roof mounted and ground mounted equipment shall be fully screened from view of the public street and adjacent developments. The location of items shall be designed to allow screening with landscape materials, walls, architectural features, parapet walls, etc. Screening shall be designed to be integrated into the design of the project.

4.7 FENCES AND WALLS

Fences and walls within the project area shall be made of decorative materials which are compatible with the overall architectural character of the development within the PUD area. All fences and walls shall be in scale with the development to fulfill such needs as screening and security.

Fences, walls and hedges within the project area shall comply with Engineering Corner Sight Distance Standards and other applicable standards. All decorative walls, monuments and/or other similar features shall not encroach into the public street right-of-way.

Within the Commercial land use district walls shall be limited to a maximum of 3 feet in height within any front yard area. Interior or rear walls shall be a maximum of 6 feet in height.

Walls shall be coordinated with the architecture of the building with such features as finish material, reveal lines, trim, etc.

5. CIRCULATION AND PARKING

5.1 VEHICLE CIRCULATION

The developers of the PUD site shall be responsible for improving Holt Boulevard, Monterey Avenue and alley way. Monterey Ave. and alley way will provide vehicular access to the site. On-site circulation will be provided via reciprocal access driveways. The driveways will provide connections between properties and to the public streets and shall be shared by all properties within the PUD. Monterey Avenue shall be restricted to right-in/right out access only once the West Valley Connector Project raised median is constructed along Holt Boulevard.

5.2 PEDESTRIAN CONNECTIONS

Pedestrian connections shall be provided to each building from the public street within the PUD site. The Commercial land use district will also provide pedestrian pathways to connect all of the commercial development. As the entire PUD area will have reciprocal parking, pedestrian connections shall be provided to all parking areas.

5.3 MASS TRANSIT

The San Bernardino County Transportation Authority (SBCTA), in cooperation with the cities of Pomona, Montclair, Ontario, Rancho Cucamonga, and Fontana, is currently constructing a 35-mile-long bus rapid transit (BRT) system referred to as the West Valley Connector Corridor (WVCC) project. The WVCC is the first stage of the San Bernardino County Zero-Emission Bus Initiative and second BRT route in San Bernardino County. The purpose of the BRT is to decrease travel times and improve the existing public transit system within the corridor by linking major destinations along the route such as the Ontario Convention Center, Ontario Mills shopping/entertainment complex, and Victoria Gardens, and connecting the Ontario International Airport (ONT) to the Metrolink San Bernardino Line in Rancho Cucamonga, as well as to the Riverside Line in Pomona.

Upon completion of construction, the WVCC will include up to 60 station platforms at 33 locations/major intersections that will be operated by Omnitrans, a public transit agency that serves the San Bernardino Valley. The future WVCC will have stations along Holt Boulevard at Lemon Avenue and Campus Avenue.

5.4 STREET DEDICATIONS AND EASEMENTS

The developers shall dedicate right-of-way along all street frontages as necessary to increase the right-of-way to ultimate width, including corner cutbacks per City Standard Drawing No. 1301. The ultimate widths for the rights-of ways surrounding the PUD are as follows:

Holt Boulevard 104 feet – 60 feet from south of centerline to right of way, 44 feet from north of centerline to right of way. (Per SBCTA West Valley Connector Project Plans).

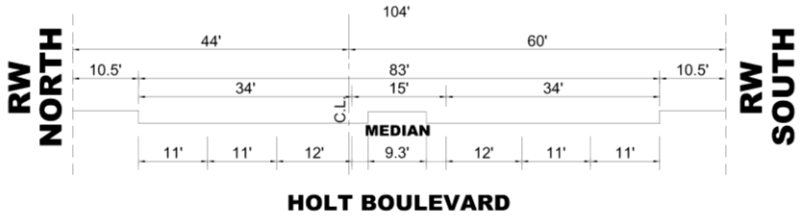
Monterey Avenue 60 feet – 30 feet half width

Alley way 13 feet – 6.5 feet half width

5.5 PUBLIC RIGHT-OF-WAY IMPROVEMENTS

The public right-of-way shall be improved with each proposed development. The width of the right-of-way shall comply with the sections in Exhibit 5-1. The public right-of-way improvements required are to include, but are not limited to the following: street pavement, curb & gutter, parkway landscaping, parkway irrigation, raised landscape median with irrigation on Holt Boulevard, public sidewalk, traffic signing and striping, street lights, bus stop, bus shelter and amenities. The extent of the required improvements shall be determined for each development plan. At a minimum the improvements shall incorporate all items along the street frontages of the properties to be developed with proper transitioning if the entire block frontage is not being installed with a particular development. Improvements along the street frontage for the entire block may be required at the time of development plan review.

* Exhibit 5-1: Right-of-Way Sections

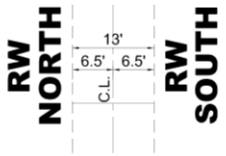


HOLT BOULEVARD

* Based on approved SBCTA West Valley Connector Project Plans



MONTEREY AVENUE



ALLEY WAY

5.6 INFRASTRUCTURE

The existing water lines in Holt Boulevard and Monterey Avenue are sufficient. Water service for the PUD site will be served by the existing water main in Monterey Avenue. The existing wastewater lines are in Holt Boulevard and north Alley Way. Wastewater flows for the PUD will be designed to use existing sewer lines in Holt Boulevard. The developments within the PUD shall be designed and constructed to accommodate the use of recycled water and shall connect to recycled water when it becomes available.

On-site stormwater drainage facilities shall be provided to capture and infiltrate a 2-yr, 24-hour storm event, consistent with the San Bernardino County Stormwater Program's Water Quality

Management Plan (WQMP) requirements for new development projects. Stormwater capture and infiltration facilities may include the utilization of vegetated swales, depressed landscaped basins, pervious concrete pavement or underground stormwater retention/infiltration vaults. All building roof and paved area runoff shall be directed into depressed landscaped swales, trenches or basins, within the development, in order to comply with the requirement to capture and infiltrate the 2-yr, 24-hour storm event runoff. On-site stormwater drainage facilities shall also partially detain the post development 100-yr storm event peak flow, per City Guidelines and Standards. This site does not have an adequate, existing drainage facility.

All Priority Land Use (PLU): Land use consisting of high-density residential, defined as a land use with at least ten (10) dwelling units per acre, industrial, commercial, mixed urban, and public transportation station land uses within the project area shall comply with the statewide Trash Provisions adopted by the State Water Resources Control Board (SWRCB) and trash requirements in the most current San Bernardino County Area- Wide MS4 Permit Certified Trash Treatment/ Pretreatment Devices shall be included in the BMP Design and Construction.

All utility lines (electric, communications, TV, etc.) along Holt Boulevard will remain underground. Existing overhead utility lines along alley way may remain. Existing overhead utility lines on-site shall be under-grounded at or before the time of development by the developer or property owner.

Street lighting shall be installed along the public right-of-way of Monterey Avenue in accordance with City of Ontario Standards. Street lighting shall be installed along the public right-of-way of Holt Blvd in accordance with City of Ontario Standards and per SBCTA West Valley Connector Projects Plans.

5.7 PARKING

Parking shall be provided on-site at the rates listed below in Table 5-1: Parking Requirements and required by the City of Ontario Development Code. Open parking for the entire PUD project area shall be reciprocal.

On-street parking may be allowed on Monterey Avenue only. Monterey Avenue is a public street and will not be designated for guest parking. No street parking will be allowed on Holt Boulevard. On-street parking may not be used to meet the requirements for on-site parking as indicated in the Development code.

TABLE 5-1: Parking Requirements

Land Uses, Activities and Facilities	**No. of Parking Spaces Required**
General Retail	4 spaces per 1,000 SF (0.004/SF) of GFA
General Business Offices	4 spaces per 1,000 SF (0.004/SF) of GFA
Personal Care Services	4 spaces per 1,000 SF (0.004/SF) of GFA

6. DESIGN GUIDELINES

6.1 BUILDING ORIENTATION AND STREETSCAPES

The Commercial buildings shall give the appearance of being oriented towards Holt Boulevard and Monterey Avenue with entry elements, interesting architecture, enhanced materials, and pedestrian scale to provide connection between the development and the street. The building entries may be located on the street frontage of building with connection to path of travel extended to Holt Boulevard and Monterey Avenue so long as strong pedestrian connection is maintained through wide walkways, enhanced pavers, plazas, appropriately scaled lighting and/or other similar features. Rear entrances in parking lot, should be secondary in nature. The street sides of the buildings should be architecturally enhanced along Holt Boulevard and Monterey Avenues to provide a quality appearance from the street.

6.2 ARCHITECTURAL CHARACTER

Due to the size and scale of the PUD project area, virtually most sides of the buildings will be visible from the public street, common access drives, common parking areas or adjacent parcels with commercial uses. As such the architectural treatments should be carried around to the visible portions of all sides of the buildings. All towers or raised elements should be fully finished on all sides to appear as 3 dimensional features.

The architecture for the buildings should feature enhanced materials such as natural stone, or tile should be used as a base treatment and to highlight architectural features such as columns, arches or popped-out tower elements. All enhanced materials shall terminate at logical points, such as an interior corner, and shall incorporate cap treatments to provide a transition between materials.

6.3 MATERIALS AND COLOR

Durable high-quality materials shall be used at pedestrian level. Foam features, trim, or similar materials are not allowed at pedestrian level due to the lack of durability and failure to maintain a quality appearance over time.

The color scheme for developments within the PUD should be taken from an earth-tone palette in order to blend and coordinate the various architectural features of the buildings to provide a cohesive appearance.

6.4 SIGNS

Signs shall comply with the requirements of the City of Ontario Development Code and shall be coordinated through a comprehensive sign program.

6.5 SERVICE FACILITIES

Service facilities such as trash enclosures and yard areas shall be designed, located and oriented to have a minimal visual impact on the development within the PUD area. Trash enclosures shall be placed away from common property lines shared with sensitive uses, such as residential.

Trash enclosures shall be designed to coordinate with the architecture, colors and materials of the style of the development and shall be located to provide adequate access for trash pickup without encroaching on access drives or landscaped areas. Trash enclosures shall be designed and constructed with a solid roof cover which shall also be designed to match the architecture of the development.

7. HISTORIC PRESERVATION

7.1 HISTORIC BACKGROUND

The one block area that comprises the PUD established by this document is not located within the City's Historic Downtown District. However, the property was part of the potential Parkside Addition Historic District. During the late 1990s, the potential historic district was evaluated using a windshield survey, establishing the boundary that exists today. The district is comprised of primarily single and multi-family dwellings constructed during the 1920s-1940s, and the commercial buildings along Holt Boulevard. Some areas retain the original rock curb, but most of the curbs have been replaced with standard concrete curb. Many of the buildings in the potential district have been substantially altered and consequently, were removed by the HPSC from the Ontario Register of Historic Resources in November 2008. The potential district has not been reevaluated since that time.

On July 9, 2020, under Ontario Register Eligibility Review For File No. PHP20-009, The Historic Preservation Subcommittee approved the case, determining that the house and property did not meet landmark eligibility requirement as contained in Section 4.02.040 of the Ontario Development Code. This property will be removed from the Ontario Register of Historic Resources.

The east Holt Boulevard section of the potential historic district was originally developed with residences in the early 1900s when Holt Boulevard (A Street) was a 2-lane dirt road also known as the Ocean to Ocean Highway. Commercial uses were introduced in the 1920s when A Street because a 4-lane higway. The 1950s saw of A Street to Holt Boulevard, and a shift further away from residential to more automotive related and commercial uses. The remaining buildings on the subject site are not thematically related and commercial uses. The remaining buildings on the subject site are not thematically related to the residential to the north and do not contribute to the potential Parkside Addition Historic District.

7.2 EXISTING HISTORIC STRUCTURES

The project site has existing residence & garages and does not contain any historic resources. However, there are four historic properties located adjacent to west, southeast and southwest of the project area. These properties are follows:

- 541 E. Holt Blvd. (Lerch House, Tier II);
- 545 E. Holt Blvd. (Bungalow Court. Tier III); and

The development of the project area will not directly impact the surrounding historic resources. Subsequently, the purpose the PUD is to guide development within this area and ensure that the proposed development of the project site is sensitive to the location and the historic surroundings. Therefore, any new infill development shall comply with the following development standards:

- All structures shall be compatible with the scale and massing of the surrounding historic structures.

- All structures (if feasible) should be oriented to directly front onto Holt Blvd., with parking lots oriented away from the street or behind the structures.
- Lighting should be consistent with the lighting designs of the Downtown Ontario Design Guidelines.

8. ADMINISTRATION

8.1 ITEMS NOT ADDRESSED IN PUD

Any terms, requirements, or regulations not addressed within the PUD document shall be governed by the City of Ontario Development Code, the regulations of the General Commercial and General Industrial zones and City Standards.

8.2 DEVELOPMENT APPLICATIONS

Development Plans for the development of each individual parcel within the PUD area, along with fees and other required items, shall be submitted for review and approval per the requirements contained in Article 8 of the City of Ontario Development Code and the General Application.

8.3 ADMINISTRATIVE EXCEPTIONS

Deviation from the development standards set forth in this document may be granted up to a maximum of 10 percent by the Zoning Administrator. Any deviation that is greater than 10 percent shall require Variance approval.

CITY OF ONTARIO *Agenda Report* **September 2, 2025**	**SECTION:** **PUBLIC HEARINGS**
Department: Economic Development Prepared By: Charity Hernandez Department: Prepared By: Charity Hernandez Staff Member Presenting: Jennifer McLain Hiramoto, Economic Development Director Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 15

SUBJECT: LEASE FINANCING PLAN FOR THE PROPOSED ACQUISITION OF PARK LAND AT THE SOUTHWEST CORNER OF PARK VISTA DRIVE AND ARCHIBALD AVENUE

RECOMMENDATION: That the City Council authorize the City Manager, or his designee, to execute all documents required for the completion of the lease-leaseback financing within the authorization limits and adopt a Resolution approving:

A. The financing for the acquisition of real property located at southwest corner of Park Vista Drive and Archibald Avenue for a period of ten (10) years; and
B. The Lease Agreement between the City of Ontario and the Ontario Public Finance Authority; and
C. The Site and Facility Lease between the City of Ontario and Ontario Public Finance Authority

That the Ontario Public Finance Authority authorize the Executive Director, or his designee, to execute all documents required for the completion of the lease-leaseback financing within the authorization limits and adopt a Resolution approving:

A. The financing for the acquisition of real property located at southwest corner of Park Vista Drive and Archibald Avenue for a period of ten (10) years; and
B. The Lease Agreement between the City of Ontario and the Ontario Public Finance Authority; and
C. The Site and Facility Lease between the City of Ontario and Ontario Public Finance Authority; and
D. The Assignment Agreement between the Ontario Public Finance Authority and SC Ontario Development Company, LLC.

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

FISCAL IMPACT: The aggregate of the principal components of the Lease Payments shall not exceed $21,829,500, and the true interest cost of the interest components of the Lease Payments shall not exceed 4.7%. Annual lease payments are not to exceed $2,724,949 in the Park Impact/Quimby Fund. The FY 2025-26 Adopted Budget includes appropriations for the initial lease payment. Appropriations for future years will be included in accordance with the annual Budget adoption process to City Council for approval. The term will commence on October 1, 2025, and terminate on October 1, 2035.

BACKGROUND & ANALYSIS: The City of Ontario ("City") entered into a Purchase and Sale Agreement on July 28, 2025 (“Purchase Agreement”) with SC Ontario Development Company, LLC (“Seller”) for the acquisition of real property. The property located at southwest corner of Park Vista Drive and Archibald Avenue consists of approximately 7.2 acres and is intended for the initial portion of Phase II of the Grand Park.

As part of the acquisition, the Seller has agreed to take lease payments from the Ontario Public Financing Authority (“Authority”) which will be secured by lease payments to be made by the City to the Authority under a lease agreement (the “Lease Agreement”).

This lease-leaseback financing method is how cities finance capital improvements and land acquisitions. In order to accomplish the acquisition of property, the documents do the following:
On the date of the closing, the City will take fee title to the property. The City will concurrently lease the property to the Authority under the Site Lease (“Site Lease”) as lessee.

Additionally, the Authority will concurrently lease the property under the Lease Agreement (“Lease Agreement”), by which the City will make lease payments sufficient to pay the annual lease payment.

The Authority will then assign its right to receive the lease payments to the Seller under an Assignment Agreement (“Assignment Agreement”).

Staff recommends approval of the City Council Resolution and the Authority Board Resolution.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING PROCEEDINGS AND AGREEMENTS RELATING TO THE FINANCING OF PUBLIC CAPITAL IMPROVEMENTS FOR PUBLIC PURPOSES, APPROVING PREPARATION AND AUTHORIZING OFFICIAL ACTIONS

WHEREAS, the Ontario Public Financing Authority (the "Authority") has been formed pursuant to the laws of the State of California, namely, the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State, as amended from time to time (the "Act"), to finance the acquisition and construction of public capital improvements for the City of Ontario (the "City"); and

WHEREAS, pursuant to the Section 6588(h) of the Act, the Authority has the legal authority to lease and sublease lands, structures, real or personal property, and other interests in lands that are located within the State of California that the Authority determines are necessary or convenient for the financing of public capital improvements, or any portion thereof;

WHEREAS, the City desires to finance the acquisition of land consisting of approximately 14.97 net acres of park land within the Parkside Specific Plan area of the City's Ontario Ranch master plan area (the "Project"); and

WHEREAS, the City is a member of the Authority, and the Project is located within the boundaries of the City; and

WHEREAS, to raise money for the purpose of acquiring the Project, the City will lease certain real property, which property will initially consist of the Project (the "Leased Premises"), to the Authority pursuant to a Site and Facility Lease between the City and the Authority (the "Site and Facility Lease"), and the Authority will lease the Leased Premises back from the Authority pursuant to a Lease Agreement between the City and the Authority (the "Lease Agreement") in consideration of the payment by the City of lease payments (the "Lease Payments") for the use and occupancy of the Leased Premises; and

WHEREAS, concurrently with the execution and delivery of the Site and Facility Lease and the Lease Agreement, the Authority will assign each and all of its rights under the Lease Agreement, including, without limitation, its right to exercise remedies and to receive the Lease Payments from the City under the Lease Agreement to SC Ontario Development Company LLC (the "Seller") under an Assignment Agreement (the "Assignment Agreement") by and between the Authority and Seller in exchange for the payment by the Seller to the Authority in an amount sufficient to acquire the Project; and

WHEREAS, Section 5852.1 of the Government Code of the State of California ("Section 5852.1") provides that the City Council obtain from an underwriter, financial

advisor or private lender and disclose, in a meeting open to the public, prior to authorization of the execution and delivery of the Lease Agreement, good faith estimates of: (a) the true interest cost of the Lease Agreement, (b) the finance charge of the Lease Agreement, meaning the sum of all fees and charges paid to third parties, (c) the amount of proceeds of the Lease Agreement received less the finance charge described above and any reserves or capitalized interest paid or funded with proceeds of the Lease Agreement and (d) the sum total of all debt service payments on the Lease Agreement calculated to the final maturity thereof plus the fees and charges paid to third parties not paid with the proceeds of the Lease Agreement; and

WHEREAS, in accordance with Section 5852.1, the City has obtained such good faith estimates from the Financial Services Agency of the City, and such estimates are disclosed in Exhibit A attached hereto; and

WHEREAS, the City Council has conducted a noticed public hearing pursuant to Section 6586.5 of the California Government Code and published notice was given in accordance with the terms of the Government Code; and

WHEREAS, the City has, prior to the consideration of this Resolution, held a public hearing on the financing of the Project in accordance with Section 6586.5 of the Act, which hearing was held at the City Council Chamber located at 303 East B. Street, Ontario, California on September 2, 2025; and

WHEREAS, the Authority and the City have determined that it would be in the best interests of the City and residents of the City to authorize the execution and delivery of the Lease Agreement (as hereinafter defined) for the purpose of financing the acquisition of the Project; and

WHEREAS, the City Council wishes at this time to authorize all proceedings relating to the issuance and sale of the Note and all other agreements and documents relating thereto.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE CITY OF ONTARIO AS FOLLOWS:

SECTION 1. Findings and Determinations. (a) The City Council hereby finds that the recitals stated above are true and correct.

(b) The City Council finds and determines that it is in the prudent management of the fiscal affairs of the City to execute and deliver the Lease Agreement and related documents to finance the Project.

(c) Pursuant to the Act, the City Council hereby finds that the execution and delivery of the Lease Agreement and related documents by the City and the Authority will result in savings in effective interest rates and bond issuance costs and thereby result in significant public benefits pursuant to Section 6586 of the Act.

(d) The fair rental value of the Leased Premises equals or exceeds the present value of lease payments to be made under the Lease Agreement.

SECTION 2. Approval of Financing Documents. The City Council hereby approves each of the following documents in the respective forms on file with the City Clerk, together with such additions thereto and changes therein as Best Best & Krieger LLP, as special counsel, shall deem necessary, desirable or appropriate, the execution of which by the Mayor, the Mayor Pro Tem, the City Manager or the Executive Director of Finance, and each of their written designees (the "Authorized Officers") shall be conclusive evidence of the approval of any such additions and changes; *provided, however,* that the aggregate of the principal components of the Lease Payments shall not exceed $21,829,500, and the true interest cost of the interest components of the Lease Payments shall not exceed 4.7%, the rate of interest paid on investments by the Local Agency Investment Fund maintained by the California State Treasurer.

(a) The Site and Facility Lease; and

(b) The Lease Agreement.

The Authorized Officers are hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest and affix the seal of the City to, the final forms of each of the above-mentioned documents for and in the name and on behalf of the City.

SECTION 3. Official Actions. The Mayor, the Mayor Pro Tem, the City Manager, the Executive Director of Finance, the City Clerk and any and all other officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions, including execution, delivery and recording of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the transactions as described herein.

SECTION 7. Effective Date. This Resolution shall take effect upon adoption.

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

PASSED, APPROVED, AND ADOPTED this 2nd day of September, 2025.

_____
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. 2025- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 2, 2025 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. 2025- duly passed and adopted by the Ontario City Council at their regular meeting held September 2, 2025.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A
GOOD FAITH ESTIMATES

The good faith estimates set forth herein are provided with respect to the Lease Payments in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided by the City's financial advisor, Urban Futures Incorporated.

Principal Amount. The City is informed that, based on the financing plan and current market conditions, its good faith estimate of the aggregate principal amount of the Lease Payments is **$21,829,500** (the "Estimated Principal Amount")

True Interest Cost. The City is informed that, assuming that the Estimated Principal Amount of the Lease Payments is assigned, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the true interest cost of the Lease Payment is **4.25%**.

Finance Charge. The City is informed that, assuming that the Estimated Principal Amount of the Lease Payments is assigned, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the sum of all fees and charges paid to third parties, is **$0.00**

Amount of Proceeds to be Received. The City is informed that, assuming that the Estimated Principal Amount of the Lease Payments is assigned, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received by the City for the assignment thereof, less the finance charge thereof, as estimated above, and any reserves or capitalized interest paid or funded with proceeds from such assignment, is **$21,829,500**.

Total Payment Amount. The City is informed that, assuming that the Estimated Principal Amount of the Lease Payment is assigned, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the total Lease Payment, which means the sum total of all payments the City will make under the Lease Agreement through maturity is **$27,249,791.40** (excluding any offsets from any reserves or capitalized interest).

The foregoing estimates constitute good faith estimates only. The actual principal amount of the Lease Payments assigned, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the assignment being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Lease Payments sold being different from the Estimated Principal Amount, (c) the actual amortization being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of said assignment being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the financing plan or finance charges, or a combination of such factors. Market interest rates are affected by economic and other factors beyond the control of the City.

RESOLUTION NO. _____

A RESOLUTION OF THE ONTARIO PUBLIC FINANCING AUTHORITY, OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING A LEASE FINANCING IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $21,829,500 IN CONNECTION WITH THE FINANCING OF PUBLIC CAPITAL IMPROVEMENTS, AUTHORIZING AND DIRECTING EXECUTION OF A SITE AND FACILITIES LEASE, LEASE AGREEMENT, ASSIGNMENT AGREEMENT AND AUTHORIZING OFFICIAL ACTIONS AND EXECUTION OF RELATED DOCUMENTS

WHEREAS, the Ontario Public Financing Authority (the "Authority") has been formed pursuant to the laws of the State of California, namely, the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State, as amended from time to time (the "Act"), to finance the acquisition and construction of public capital improvements for the City of Ontario (the "City"); and

WHEREAS, pursuant to the Section 6588(h) of the Act, the Authority has the legal authority to lease and sublease lands, structures, real or personal property, and other interests in lands that are located within the State of California that the Authority determines are necessary or convenient for the financing of public capital improvements, or any portion thereof;

WHEREAS, the City desires to finance the acquisition of land consisting of approximately 14.97 net acres of park land within the Parkside Specific Plan area of the City's Ontario Ranch master plan area (the "Project"); and

WHEREAS, the City is a member of the Authority, and the Project is located within the boundaries of the City; and

WHEREAS, to raise money for the purpose of acquiring the Project, the City will lease certain real property, which property will initially consist of the Project (the "Leased Premises"), to the Authority pursuant to a Site and Facility Lease between the City and the Authority (the "Site and Facility Lease"), and the Authority will lease the Leased Premises back from the Authority pursuant to a Lease Agreement between the City and the Authority (the "Lease Agreement") in consideration of the payment by the City of lease payments (the "Lease Payments") for the use and occupancy of the Leased Premises; and,

WHEREAS, concurrently with the execution and delivery of the Site and Facility Lease and the Lease Agreement, the Authority will assign each and all of its rights under the Lease Agreement, including, without limitation, its right to exercise remedies and to receive the Lease Payments from the City under the Lease Agreement to SC Ontario Development Company LLC (the "Seller") under an Assignment Agreement (the "Assignment Agreement") by and between the Authority and the Seller in exchange for

the payment by the Seller to the Authority in an amount sufficient to acquire the Project; and

WHEREAS, the City Council has conducted a noticed public hearing pursuant to Section 6586.5 of the California Government Code and published notice was given in accordance with the terms of the Government Code and held on September 2, 2025; and.

WHEREAS, the Authority and the City have determined that it would be in the best interests of the City and residents of the City to authorize the execution and delivery of the Lease Agreement (as hereinafter defined) for the purpose of financing the acquisition of the Project; and

WHEREAS, the Board of the Authority (the "Board") has duly considered such transactions and has determined that it approves said transactions in the public interests of the City and the Authority;

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE ONTARIO PUBLIC FINANCING AUTHORITY DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. Findings and Determinations. (a) The Board finds and determines that the above recitals are true and correct

(b) Pursuant to the Act, the Board finds and determines that it is in the prudent management of the fiscal affairs of the Board to execute and deliver the Lease Agreement and related documents to finance the Project.

(c) Pursuant to the Act, the Board hereby finds that the execution and delivery of the Lease Agreement and related documents by the City and the Authority will result in savings in effective interest rates and bond issuance costs and thereby result in significant public benefits pursuant to Section 6586 of the Act.

(d) The fair rental value of the Leased Premises equals or exceeds the present value of Lease Payments to be made under the Lease Agreement.

SECTION 2. Approval of Financing Documents. The Board hereby approves each of the following documents in substantially the respective forms on file with the Secretary, together with such additions thereto and changes therein as Best Best & Krieger LLP shall deem necessary, desirable or appropriate, the execution of which by the Chair, the Vice Chair, the Executive Director, or the Treasurer, and each of their written designees (the "Authorized Officers") shall be conclusive evidence of the approval of any such additions and changes; provided, however, that the aggregate of the principal components of the Lease Payments shall not exceed $21,829,500, and the true interest cost of the interest components of the Lease Payments shall not exceed the rate of 4.7%, interest paid on investments by the Local Agency Investment Fund maintained by the California State Treasurer:

(1) the Site and Facility Lease;

(2) the Lease Agreement; and

(3) the Assignment Agreement.

The Authorized Officers are hereby authorized and directed to execute, and the Secretary is hereby authorized and directed to attest and affix the seal of the Authority to, the final form of each of the foregoing documents and agreements for and in the name and on behalf of the Authority. The Board hereby authorizes the delivery and performance of each of the foregoing documents and agreements.

SECTION 3. Official Actions. The Chair, the Vice Chair, the Executive Director, the Treasurer, the Secretary and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, and including execution, delivery and recording of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in connection with the issuance and sale of the Note.

SECTION 4. Effective Date. This Resolution shall take effect upon adoption.

The Secretary of the Ontario Public Financing Authority shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 2nd day of September, 2025.

_____
PAUL S. LEON, CHAIRMAN

ATTEST:

_____
SHEILA MAUTZ, AUTHORITY SECRETARY

APPROVED AS TO FORM:

_____
AUTHORITY COUNSEL

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

I, SHEILA MAUTZ, Secretary of the Ontario Public Financing Authority, DO HEREBY CERTIFY that the foregoing Resolution No. OPFA- was duly passed and adopted by the Board Members of the Ontario Public Financing Authority at their regular meeting held September 2, 2025, by the following roll call vote, to wit:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

_____
SHEILA MAUTZ, AUTHORITY SECRETARY

(SEAL)

The foregoing is the original of Resolution No. OPFA duly passed and adopted by the Ontario Public Financing Authority at their regular meeting held September 2, 2025.

_____
SHEILA MAUTZ, AUTHORITY SECRETARY

(SEAL)

LEASE AGREEMENT

by and between

ONTARIO PUBLIC FINANCING AUTHORITY,
as Sublessor

and

CITY OF ONTARIO,
as Sublessee

Dated as of _____, 2025

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LEASE AGREEMENT

THIS LEASE AGREEMENT (as amended and supplemented hereafter, this "Lease Agreement"), dated as of _____, 2025, is by and between the **ONTARIO PUBLIC FINANCING AUTHORITY**, a joint exercise of powers authority, duly organized and existing under and by virtue of the laws of the State of California, as lessor (the "Authority"), and the **CITY OF ONTARIO**, a general law city, duly organized and existing under and by virtue of the laws of the State of California, as lessee (the "City");

W I T N E S S E T H :

WHEREAS, the City wishes to acquire certain real property from SC Ontario Development Company LLC ("SC Ontario") consisting of approximately 11.55 net acres commonly described as APN#s: 0218-063-06 and 0218-063-07 and a portion of APN 0218-073-06, situated in the City of Ontario, San Bernardino County, State of California ("Park Area I"), pursuant to a Purchase and Sale Agreement dated _____, 2025 (the "Site PSA"), between the City and SC Ontario, with a portion of the purchase price therefor (in the amount of $21,829,500) to be repaid through the payment of Lease Payments (as hereinafter defined); and

WHEREAS, pursuant to the Site PSA, SC Ontario has dedicated an additional 3.42 acres commonly described on the remaining portion of APN 0218-073-06 and APN 0218-063-06, situated in the City of Ontario, San Bernardino County, State of California ("Park Area II"); and

WHEREAS, the City intends to use Park Area I and Park II for park and recreation facilities known as the Grand Park; and

WHEREAS, the City and the Authority desire to finance the acquisition of Park Area I; and

WHEREAS, to finance the cost to acquire Park Area I, pursuant to that certain Site and Facility Lease, dated as of _____, 2025 (the "Site and Facility Lease"), the City has leased Park Area I and Park Area II, more particularly described in Exhibit A attached hereto and made a part hereof (the "Site"), and the improvements thereon (the "Facility" and, with the Site, the "Property"), to the Authority; and

WHEREAS, the Authority proposes to lease the Property back to the City pursuant to this Lease Agreement; and

WHEREAS, pursuant to the Site PSA, the City and Authority have entered into the Site and Facility Lease and this Lease Agreement, and the Authority is entering into the Assignment Agreement (defined below) as part of an integrated financing transaction of the City and Authority for the purpose of acquiring Park Area I from SC Ontario;

WHEREAS, in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Property during each Rental Period under this Lease, the City agrees to make the Lease Payments; and

WHEREAS, the City and the Authority have agreed to enter into this Lease Agreement providing for Lease Payments with an aggregate principal component in the amount of $_____ for the purpose of implementing the integrated financing transaction described above.

WHEREAS, the City and the Authority agree to mutually cooperate now and hereafter, to the extent possible, in order to sustain the intent of this Lease Agreement and the bargain of both parties hereto.

AGREEMENT

NOW, **THEREFORE**, for and in consideration of the premises and the covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION

Section 1.01. Definitions. All terms defined in this Section 1.01 have the meanings herein specified for all purposes of this Lease Agreement.

"*Additional Payments*" means the amounts specified as such in Section 4.03(b) of this Lease Agreement.

"*Applicable Environmental Laws*" means and shall include, but shall not be limited to, the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 USC Sections 9601 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 USC Sections 6901 et seq.; the Federal Water Pollution Control Act, 33 USC Sections 1251 et seq.; the Clean Air Act, 42 USC Sections 7401 et seq.; the California Hazardous Waste Control Law ("HWCL"), California Health & Safety Code Sections 25100 et seq.; the Hazardous Substance Account Act ("HSAA"), California Health & Safety Code Sections 25300 et seq.; the Porter-Cologne Water Quality Control Act (the "Porter-Cologne Act"), California Water Code Sections 1300 et seq.; the Air Resources Act, California Health & Safety Code Sections 3900 et seq.; the Safe Drinking Water & Toxic Enforcement Act, California Health & Safety Code Sections 25249.5 et seq.; and the regulations under each thereof; and any other local, state, and/or federal laws or regulations, whether currently in existence or hereafter enacted, that govern:

(a) the existence, cleanup, and/or remedy of contamination on property;

(b) the protection of the environment from spilled, deposited, or otherwise emplaced contamination;

(c) the control of hazardous wastes; or

(d) the use, generation, transport, treatment, removal, or recovery of Hazardous Substances, including building materials.

"*Assignee*" means SC ONTARIO DEVELOPMENT COMPANY LLC, a Delaware limited liability company, and its successors and assigns.

"*Assignment Agreement*" means the Assignment Agreement, dated _____, 2025, between the Authority and Assignee, as amended and supplemented hereafter.

"*Business Day*" means a day other than a Saturday, Sunday or legal holiday, on which banking institutions are not closed in the State.

"*City Representative*" means the City Manager, the Executive Director of Finance, or the designee of any such official, or any other person authorized by resolution delivered to the Authority and the Assignee to act on behalf of the City under or with respect to the Site and Facility Lease and this Lease Agreement.

"*Closing Date*" means the date this Lease Agreement or a memorandum thereof is recorded in the office of the County Recorder of the County of San Bernardino.

"*Contract*" means any indenture, trust agreement, contract, agreement (other than this Lease Agreement), other contractual restriction, lease, mortgage or instrument.

"Default Interest Rate" means the rate of interest equal to the sum of (i) the Interest Rate or the Taxable Equivalent Rate, as applicable, plus (ii) _____% per annum, but in no event greater than 12% per annum.

"*Determination of Taxability*" means any determination, decision or decree by the Commissioner of Internal Revenue, or any District Director of Internal Revenue, or any court of competent jurisdiction, to the effect that an Event of Taxability shall have occurred; provided, however, that the City shall have the opportunity to take such remedial action necessary to restore the tax-exempt status of the interest component of the Lease Payments. A Determination of Taxability also shall be deemed to have occurred on the date when the City files any statement, supplemental statement, or other tax schedule, return or document, which discloses that an Event of Taxability shall have occurred.

"*Event of Default*" means any of the events of default as defined in Section 8.01.

"*Event of Taxability*" means, (a) the application of the proceeds of the rental payments in such manner that this Lease Agreement becomes an "arbitrage bond" within the meaning of Sections 103(b)(2) and 148 of the Tax Code, and with the result that interest component of the Lease Payment is or becomes includable in a recipient's gross income (as defined in Section 61 of the Tax Code); or (b) if as the result of any act, failure to act or use of the proceeds of this Lease Agreement or any misrepresentation or inaccuracy in any of the representations, warranties or covenants contained in this Lease Agreement, the interest component of the Lease Payments is or becomes includable in a recipient's gross income (as defined in Section 61 of the Tax Code).

"*Facility*" means any facilities located on the Site.

"*Federal Securities*" means any direct general non-callable obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), or obligations the timely payment of principal of and interest on which are directly guaranteed by the United States of America.

"*Fiscal Year*" means each twelve-month period during the Term of this Lease Agreement commencing on July 1 in any calendar year and ending on June 30 in the next succeeding calendar year, or any other twelve-month period selected by the City as its fiscal year period.

"*Governmental Authority*" means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

"*Hazardous Substance*" means any substance that shall, at any time, be listed as "hazardous" or "toxic" in any Applicable Environmental Law or that has been or shall be determined at any time by any agency or court to be a hazardous or toxic substance regulated under Applicable Environmental Laws; and also means, without limitation, raw materials, building components, the products of any manufacturing, or other activities on the Property, wastes, petroleum, and source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 USC Sections 3011 et seq.).

"*Interest Rate*" means an interest rate of ___% per annum applicable to the Lease Payments.

"*Joint Powers Agreement*" means the _____. The current members of the Authority are the City and the Ontario Housing Authority.

"*Lease Agreement*" this Lease Agreement, as originally executed and as it may from time to time be amended in accordance with the provisions hereof.

"*Lease Payment Date*" means _____ 1 in each year, commencing _____, 2025, and continuing to and including the date on which the Lease Payments are paid in full.

"*Lease Payments*" means all payments required to be paid by the City under Section 4.03, including any prepayment thereof under Sections 9.02 or 9.03.

"Material Adverse Effect" means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of the City; provided, however, in making a determination under this section (a), the Authority will not take into account for purposes of Section 8.01 any event or occurrence affecting solely any of the City's proprietary departments, (b) the ability of the City to carry out its business in the manner conducted as of the date of this Lease Agreement or to meet or perform its obligations under this Lease Agreement on a timely basis, (c) the legality, validity or enforceability of this Lease Agreement, (d) the rights, interests, or remedies of the Authority or the Assignee with

respect to this Lease Agreement, or (e) the exclusion of the interest component of the Lease Payments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes.

"*Material Litigation*" means any action, suit, proceeding, inquiry or investigation against the City in any court or before any arbitrator of any kind or before or by any Governmental Authority, which (i) if determined adversely to the City, may have a Material Adverse Effect, (ii) seeks to restrain or enjoin any of the transactions contemplated by this Lease Agreement, or (iii) may adversely affect (A) the exclusion of the interest component of the Lease Payments from gross income for federal income tax purposes or the exemption of such interest for state income tax purposes or (B) the ability of the City to perform its obligations under this Lease Agreement.

"*Net Proceeds*" means any insurance or eminent domain award (including any proceeds of sale to a governmental entity under threat of the exercise of eminent domain powers), paid with respect to the Property, to the extent remaining after payment therefrom of all expenses incurred in the collection thereof.

"*Permitted Encumbrances*" means, as of any time: (a) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may permit to remain unpaid under Article V of this Lease Agreement; (b) the Site and Facility Lease and this Lease Agreement; (c) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (d) the exceptions disclosed in the title insurance policy issued with respect to the Property as of the Closing Date; and (e) any easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which the City certifies in writing will not materially impair the use of the Property for its intended purposes.

"*Property*" means, collectively, the Site and the Facility.

"*Rental Period*" means each period during the Term of the Lease commencing on and including _____ in each year and extending to and including the next succeeding _____. The first Rental Period begins on the Closing Date and ends on _____, 2025.

"*Site*" means that certain real property more particularly described in Exhibit A to the Site and Facility Lease and in Exhibit A to this Lease Agreement.

"*Site and Facility Lease*" means the Site and Facility Lease, dated as of _____, 2025, by and between the City, as lessor, and the Authority, as lessee, together with any duly authorized and executed amendments thereto.

"Site PSA" means the Purchase and Sale Agreement dated as _____, 2025, between the City and Assignee pursuant to which the City has purchased a portion of the Site.

"*Special Counsel*" means (a) Best Best & Krieger LLP, or (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is excludable from gross income under Section 103 of the Tax Code.

"*State*" means the State of California.

"*Tax Code*" means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Tax Code.

"*Taxable Equivalent Rate*" means a rate of interest equal to ___% per annum.

"*Term of this Lease Agreement*" or "*Term*" means the time during which this Lease Agreement is in effect, as provided in Section 4.02.

Section 1.02. Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Lease Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Lease Agreement as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

Section 2.01. Covenants, Representations and Warranties of the City. The City makes the following covenants, representations and warranties to the Authority and the Assignee as of the date of the execution and delivery of this Lease Agreement:

(a) ***Due Organization and Existence***. The City is a general law city, duly organized and existing under and by virtue of the laws of the State, has full legal right, power and authority under the laws of the State to enter into the Site and Facility Lease and this Lease Agreement and to carry out and consummate all transactions on its part contemplated hereby and thereby, and by proper action the City has duly authorized the execution and delivery by the City of the Site and Facility Lease and this Lease Agreement.

(b) ***Due Execution***. The representative of the City executing the Site and Facility Lease and this Lease Agreement has been fully authorized to execute the same by a resolution duly adopted by the City Council of the City.

(c) ***Valid, Binding and Enforceable Obligations***. The Site and Facility Lease and this Lease Agreement have been duly authorized, executed and delivered by the City and constitute the legal, valid and binding agreements of the City enforceable against the City in accordance with their respective terms.

(d) ***No Conflicts***. The execution and delivery of the Site and Facility Lease and this Lease Agreement, the consummation of the transactions therein and herein contemplated and the fulfillment of or compliance with the terms and conditions thereof and hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance could have consequences that could materially and adversely affect the consummation of the transactions contemplated by the Site and Facility Lease or this Lease Agreement or the financial condition, assets, properties or operations of the City.

(e) ***Consents and Approvals***. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of the Site and Facility Lease and this Lease Agreement, or the consummation of any transaction therein and herein contemplated, except as have been obtained or made and as are in full force and effect.

(f) ***No Litigation***. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending and notice of which has been served on the City or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, could have a Material Adverse Effect upon the consummation of the transactions contemplated by or the validity of the Site and Facility Lease and this Lease Agreement and the City's ability to make the Lease Payments, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that could materially and adversely affect the consummation of the transactions contemplated by this Lease Agreement.

(g) ***Sufficient Funds***. The City reasonably believes that sufficient funds can be obtained to make all Lease Payments and all other amounts required to be paid pursuant to this Lease Agreement.

(h) ***No Defaults***. The City has never non-appropriated or defaulted under any of its payment or performance obligations or covenants, either under any financing lease

of the same general nature as this Lease Agreement, or under any of its bonds, notes, or other debt obligations.

(i) ***Fee Title***. The City is the owner in fee of title to the Property. No lien or encumbrance on the Property materially impairs the City's use of the Property for the purposes for which it is, or may reasonably be expected to be, held.

(j) ***Use of the Property, Essentiality***. During the term of this Lease Agreement, the Property will be used by the City only for the purpose of performing one or more governmental or proprietary functions of the City consistent with the permissible scope of the City's authority. The Property is essential to the City's operations and the lease thereof for use by the City is in the best interest of the City.

(k) ***Hazardous Substances***. The Property is free of all Hazardous Substances, and the City is in full compliance with all Applicable Environmental Laws.

(l) ***Flooding Risk***. The Property is not located in a flood hazard area and has never been subject to material damage from flooding.

(m) ***Value of Property***. The value of the Property (real property replacement cost) is not less than $21,829,500.

(n) ***Financial Statements***. The statement of financial position of the City as of June 30, 2024, and the related statement of activities and statement of cash flows and changes in financial position for the year then ended and the auditors' reports with respect thereto, copies of which have heretofore been furnished to the Authority, are complete and correct and fairly present the financial condition, changes in financial position and results of operations of the City at such date and for such period, and were prepared in accordance with generally accepted accounting principles. Since the period of such statements, there has been no (i) change which could have a Material Adverse Effect and (ii) no material increase in the indebtedness of the City.

(o) ***No Material Adverse Change***. Since the most current date of the information, financial or otherwise, supplied by the City to the Authority:

(i) There has been no change in the assets, liabilities, financial position or results of operations of the City which might reasonably be anticipated to cause a Material Adverse Effect.

(ii) The City has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect.

(iii) The City has not (A) incurred any material indebtedness, other than the Lease Payments, and trade accounts payable arising in the ordinary course of the City's business and not past due, or (B) guaranteed the indebtedness of any other person.

(p) ***Accuracy of Information***. All information, reports and other papers and data furnished by the City to the Authority and the Assignee were, at the time the same were so furnished, complete and accurate in all material respects and insofar as necessary to give the Authority and the Assignee a true and accurate knowledge of the subject matter and were provided in expectation of the Authority's and the Assignee's reliance thereon in entering into the transactions contemplated by this Lease Agreement. Any financial, budget and other projections furnished to the Authority and the Assignee by the City or its or their agents were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of the conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the date of this representation, represent the City's best estimate of its future financial performance.

Section 2.02. Covenants, Representations and Warranties of the Authority. The Authority makes the following covenants, representations and warranties to the City and the Assignee as of the date of the execution and delivery of this Lease Agreement:

(a) the Authority has been duly organized and is validly existing as a joint exercise of powers authority under the laws of the State of California with full corporate power to enter into and undertake its duties and obligations hereunder and has sufficient knowledge and experience in financial and business matters, including purchase and ownership of tax-exempt municipal obligations, to be able to evaluate the economic risks and merits of the investment represented by the Lease;

(b) the execution, delivery and performance of this Lease Agreement and the Site and Facility Lease have been duly authorized by all necessary corporate actions on the part of the Authority and do not require any further approvals or consents;

(c) the execution, delivery and performance of this Lease Agreement and the Site and Facility Lease do not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which the Authority is a party by which it or its property is bound;

(d) there is no pending or, to the knowledge of the Authority, threatened action or proceeding before any court or administrative agency which could materially adversely affect the ability of the Authority to perform its obligations under this Lease Agreement and the Site and Facility Lease;

(e) the Authority will not mortgage or encumber the Property or the Lease Agreement or assign this Lease Agreement or its rights to receive Lease Payments hereunder, except as expressly permitted herein or in the Site and Facility Lease;

(f) on or prior to the Closing Date, the Authority will require the Assignee to deliver to the City a certificate substantially in the form set forth in Exhibit D attached hereto in connection with its assignment of its interest herein to Assignee;

(g) prior to the discharge of this Lease Agreement, the Authority will not engage in any activities inconsistent with the purposes for which the Authority is organized, as set forth in the Joint Powers Agreement.

Section 2.03. Financial Disclosures. In connection with compliance by the City and the Authority with any continuing disclosure undertakings (each, a "Continuing Disclosure Undertaking") entered into by the City and/or the Authority pursuant to SEC Rule 15c2 12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "Rule"), the City and the Authority may be required to file with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system or its successor ("EMMA") notice of its incurrence of its obligations with respect to this Lease Agreement and related documents and notice of any accommodation, waiver, amendment, modification of terms or other similar events reflecting financial difficulties in connection with this Lease Agreement and related documents, in each case including a full copy thereof or a description of the material terms thereof (each such posting, an "EMMA Posting"). The City and the Authority agree that they shall not file or submit or permit the filing or submission of any EMMA Posting that includes the following information relating to the Assignee: i) unredacted sensitive or confidential information about the Assignee or its affiliates; ii) address and account information of the Assignee or any affiliates; iii) e mail addresses, telephone numbers, or fax numbers; or iv) names and signatures of officers, employees and signatories of the Assignee or its affiliates. The City and the Authority acknowledge and agree that the Assignee and its affiliates are not responsible for the compliance or noncompliance (or any claims, losses or liabilities arising therefrom) by the City, the Authority or any other entity (including, but not limited to, any broker-dealer's) with the Rule, any Continuing Disclosure Undertaking or any applicable securities or other laws, including but not limited to those relating to the Rule.

(b) The City and the Authority acknowledge that: (i) the Assignee has represented that it is acting in this transaction solely for its own account and not as a fiduciary for the City or the Authority or in the capacity of broker, dealer, municipal securities underwriter or municipal advisor; (ii) the Assignee has not provided, and will not provide, financial, legal (including securities law), tax, accounting or other advice to or on behalf of the City or the Authority (including to any financial advisor or placement agent engaged by the City or the Authority) with respect to the execution and delivery of this Lease Agreement; (iii) each of the City, the Authority and their financial advisors (if any) will seek and obtain financial, legal (including securities law), tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters) with respect to the execution and delivery of this Lease Agreement from their financial, legal and other advisors (and not the Assignee) to the extent that the City, the Authority, or their financial advisors (if any) desire such advice. The City and the Authority acknowledge that the Assignee has expressed no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, including but not limited to the financial advisors (if any) of the City and the Authority, or the correctness of any legal interpretation made by counsel to any other party, including but not limited to counsel to the City, the Authority or their financial advisors (if any), with respect to any such matters.

ARTICLE III

RESERVED

Section 3.01. [Reserved].

ARTICLE IV

LEASE OF PROPERTY; LEASE PAYMENTS

Section 4.01. Sublease of Property by the Authority Back to the City.

(a) The Authority hereby subleases the Property to the City, and the City hereby subleases the Property from the Authority, upon the terms and conditions set forth in this Lease Agreement.

(b) The leasing of the Property by the City to the Authority pursuant to the Site and Facility Lease shall not affect or result in a merger of the City's subleasehold estate pursuant to this Lease Agreement and its fee estate as lessor under the Site and Facility Lease.

Section 4.02. Term. The Term of this Lease Agreement commences on the __th day of _____, 2025 and ends on _____, or the date on which all of the Lease Payments have been paid in full. If on _____, the Lease Payments payable hereunder shall have been abated at any time and for any reason and not otherwise paid from rental interruption insurance or other sources, or the City shall have defaulted in its payment of Lease Payments hereunder or any Event of Default has occurred and continues without cure by the City, then the term of this Lease Agreement shall be extended for the greater of (i) the actual period of abatement or (ii) for so long as the default remains uncured, as necessary to accommodate the final payment of all Lease Payments due hereunder, not to exceed 10 years. The provisions of this Section 4.02 are subject to the provisions of Section 6.01 relating to the taking in eminent domain of the Property or any portion thereof.

Section 4.03. Lease Payments.

(a) ***Obligation to Pay***. Subject to the provisions of Sections 6.01 and 6.03 and the provisions of Article IX, the City agrees to pay to the Authority, its successors and assigns, the Lease Payments (denominated into components of principal and interest) in the respective amounts specified in Exhibit B attached hereto (including any supplements thereto) and by this reference incorporated herein, to be due and payable in immediately available funds on each of the respective Lease Payment Dates specified in Exhibit B. The Lease Payments payable in any Rental Period with respect to the Property shall be for the use of the Property during such Rental Period. The interest components of the Lease Payments have been calculated based on the Interest Rate (assuming that No Event of Default or Event of Taxability has occurred and is continuing), on the basis of 360 day year consisting of twelve 30-day months If the City fails to make any of the Lease Payments when due, the payment in default shall continue as an obligation of the City until the amount in default has been fully paid, with interest on the overdue payment at the Default

Interest Rate (calculated on the basis of a 360-day year consisting of twelve 30-day months). Lease Payments and Additional Payments shall be paid at the direction of the Authority to the Assignee as set forth in the Assignment Agreement.

Upon the occurrence of a Determination of Taxability with respect to the Loan, the Successor Agency shall make future Lease Payments using the Taxable Equivalent Rate thereto directly to the Assignee equal to the difference between the interest component of the Lease Payments calculated at the Interest Rate and the interest component of the Lease Payments calculated at the Taxable Equivalent Rate (calculated on the basis of a 360-day year based upon twelve 30 day months).

(b) ***Additional Payments***. In addition to the Lease Payments set forth herein, the City agrees to pay as Additional Payments all of the following:

(i) all taxes and assessments of any nature whatsoever, including but not limited to excise taxes, ad valorem taxes, ad valorem and specific lien special assessments and gross receipts taxes, if any, levied upon the Property or upon any interest of the Authority therein or in this Lease Agreement; provided, however, the City may, at the City's expense and in its name, in good faith contest any such taxes and assessments and, in the event of such contest, may permit such taxes and assessments to remain unpaid during the period of such contest and appeal therefrom unless the Authority shall notify the City that, in the opinion of Special Counsel or the City Attorney, by nonpayment of any such items, the interest of the Authority in the Property will be materially endangered or the Property, or any portion thereof, will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes and assessments or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority;

(ii) insurance premiums, if any, on all insurance required under the provisions of Article V hereof;

(iii) any other reasonable fees, costs or expenses incurred by the Authority in connection with the execution, performance or enforcement of this Lease Agreement or any of the transactions contemplated hereby or related to the Property, including, without limitation, any amounts which may become due; and

(iv) any amounts required to be paid as rebate to the United States pursuant to the Tax Certificate.

Amounts constituting Additional Payments payable hereunder shall be paid by the City directly to the person or persons to whom such amounts shall be payable. The City shall pay all such amounts when due or at such later time as such amounts may be paid without penalty or, in any other case, within 30 days after notice in writing from the Authority to the City stating the amount of Additional Payments then due and payable and the purpose thereof.

(c) ***Effect of Prepayment***. If the City prepays all Lease Payments in full under Sections 9.02 or 9.03, the City's obligations under this Section will thereupon cease and

terminate. If the City prepays the Lease Payments in part but not in whole under Section 9.03, the principal components of the remaining Lease Payments will be reduced in inverse order; and the interest component of each remaining Lease Payment will reflect the actual interest amount accrued at the interest rate than in place.

(d) ***Fair Rental Value***. The Lease Payments coming due and payable during each Rental Period constitute the total rental for the Property for such Rental Period, and will be paid by the City in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Property during each Rental Period. The City has determined that the total Lease Payments and Additional Payments due during each Rental Period are not in excess of the fair rental value of the Property during such Rental Periods. In making this determination, consideration has been given to the estimated fair market value of the Property, the estimated replacement cost of the Property, the uses and purposes which may be served by the Property and the benefits therefrom which will accrue to the City and the general public.

(e) ***Source of Payments; Budget and Appropriation***. The Lease Payments are payable from any source of legally available funds of the City, subject to the provisions of Sections 6.01, 6.03 and 9.01. The City covenants to take such action as may be necessary to include all Lease Payments and Additional Payments in each of its annual budgets during the Term of this Lease Agreement and to make the necessary annual appropriations for all such Lease Payments and Additional Payments. The covenants on the part of the City herein contained constitute duties imposed by law and it is the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease Agreement agreed to be carried out and performed by the City.

(f) ***Allocation of Lease Payments***. All Lease Payments received shall be applied first to the interest components of the Lease Payments due hereunder, then to the principal components of the Lease Payments due hereunder, but no such application of any payments that are less than the total rental due and owing shall be deemed a waiver of any default hereunder.

(g) ***No Offsets***. Notwithstanding any dispute between the Authority and the City, the City shall make all Lease Payments when due without deduction or offset of any kind and, except as permitted under Section 4.03(b)(i), shall not withhold any Lease Payments pending the final resolution of such dispute.

(h) ***Payments under this Lease Agreement***. The City understands and agrees that all Lease Payments have been assigned by the Authority to the Assignee under the Assignment Agreement, and the City hereby assents to such assignment. The Authority hereby directs the City, and the City hereby agrees, to pay to the Authority (or to its assignees as directed pursuant to Section 7.04 hereof) all payments payable by the City under this Section 4.03 and all amounts payable by the City under Article IX.

Section 4.04. Additional Obligations. The City shall not issue additional leases, bonds, notes or other indebtedness which are secured or payable from lease payments against the Property without the written consent of the Authority and the Assignee, which consent may be withheld in the sole and absolute discretion of the Authority and the Assignee.

Section 4.05. Quiet Enjoyment. Throughout the Term of this Lease Agreement unless City is in default, the Authority will provide the City with quiet use and enjoyment of the Property and the City will peaceably and quietly have and hold and enjoy the Property, without suit, trouble or hindrance from the Authority, except as expressly set forth in this Lease Agreement. The Authority will, at the request of the City and at the City's cost, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Authority may lawfully do so. Notwithstanding the foregoing, the Authority has the right to inspect the Property as provided in Sections 5.12(c) and 7.02.

Section 4.06. Title. At all times during the Term of this Lease Agreement, the City shall hold title to the Property, including all additions which comprise fixtures, repairs, replacements or modifications thereto, subject to Permitted Encumbrances and subject to the provisions of Section 7.02.

Upon the termination of this Lease Agreement (other than under Section 8.02(b) hereof), all right, title and interest of the Authority in and to the Property shall be transferred to and vested in the City. Upon the payment in full of all Lease Payments, or upon the deposit by the City of security for such Lease Payments as provided in Section 9.01, all right, title and interest of the Authority in and to the Property shall be transferred to and vested in the City. The Authority agrees to take any and all steps and execute and record any and all documents reasonably required by the City to consummate any such transfer.

Section 4.07. Release of Excess Property. The City may, at any time and from time to time, release any portion of the Property (the "Released Property") from this Lease Agreement, with the prior written consent of the Assignee, which consent shall be at the Assignee's sole discretion, and upon satisfaction of all of the following requirements which are conditions precedent to such release:

(a) The City shall certify to the Authority that no Event of Default has occurred and is continuing, and no event giving rise to an abatement of Lease Payments under Section 6.03 has occurred or is continuing with respect to the Property to be remaining following release of the Released Property;

(b) The City shall file with the Authority, and cause to be recorded in the office of the San Bernardino County Recorder, an amendment to this Lease Agreement which deletes the Released Property from the description of the Property;

(c) The City shall file with the Authority a written certificate of the City stating the City's determination that (i) the estimated fair rental value, for each remaining Rental Period and in the aggregate, of the Property remaining after release of the Released Property is at least equal to the remaining Lease Payments for each remaining Rental Period and in the aggregate, (ii) that the useful life of the remaining Property extends

beyond the final Lease Payment Date of the Lease Payments allocable thereto, (iii) and that the remaining property under this Lease Agreement constitutes one or more whole assessor's parcels; and

(d) The City has certified in writing to the Authority and the Assignee that the Property which remains subject to this Lease Agreement following such release is essential to the City's efficient and economic operation, serves the essential municipal purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California;

(e) The City has certified in writing to the Authority and the Assignee that the property which remains subject to this Lease Agreement following such release does not cause the City to violate any of its covenants, representations and warranties made herein, as certified in writing by the City, and no event giving rise to an abatement of Lease Payments has occurred or is continuing with respect to property which remains subject to this Lease Agreement following such release;

(f) The City shall have provided the Authority and the Assignee with an opinion of Special Counsel to the effect that such release will not, in and of itself, cause the interest component of the Lease Payments to be included in gross income for federal income tax purposes; and

(g) The City shall file with the Authority such other information, documents and instruments as the Authority shall reasonably request, including (if requested by the Authority) evidence of the estimated fair market value of the Property to be remaining following release of the Released Property, indicating that such value is in excess of the then unpaid principal component of the Lease Payments and such endorsements to the title policy delivered on the Closing Date.

Upon the satisfaction of all such conditions precedent, the Term of this Lease Agreement will thereupon end as to the Released Property. The City shall be responsible for all costs relating to such release, including the costs of the Assignee's legal counsel. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such release. The Authority and the City shall execute, deliver and cause to be recorded all documents required to discharge this Lease Agreement of record against the Released Property.

Section 4.08. Substitution of Property.

The City may at any time and from time to time, with the prior written consent of the Authority, which consent shall be at the Assignee's sole discretion, substitute other real property (the "Substitute Property") for the Property, or any portion thereof (the "Former Property"), provided that the City satisfies all of the following requirements which are conditions precedent to such substitution:

(i) No Event of Default shall have occurred and be continuing and no event giving rise to an abatement of Lease Payments under Section 6.3 hereof shall have occurred and be continuing with respect to the Substitute Property;

(ii) The City shall file with the Authority, and cause to be recorded in the office of the San Bernardino County Recorder sufficient memorialization of, an amendment of the Lease Agreement which adds to Exhibit A thereto a description of such Substitute Property and deletes therefrom the description of such Former Property;

(iii) The City shall obtain an ALTA policy of title insurance insuring the Authority's leasehold estate under the Site and Facility Lease in such Substitute Property, subject only to Permitted Encumbrances, in an amount at least equal to the aggregate principal components of the Lease Payments outstanding under this Lease Agreement;

(iv) The City shall certify in writing to the Authority and the Assignee that such Substitute Property serves the municipal purposes of the City and constitutes property which the City is permitted to lease under the Laws of the State of California, and has been determined to be essential to the proper, efficient and economic operation of the City and to serve an essential governmental function of the City;

(v) The Substitute Property shall not cause the City to violate any of its covenants, representations and warranties made in this Lease Agreement;

(vi) The City shall file with the Authority and the Assignee an appraisal or other written documentation acceptable to the Authority and the Assignee which establishes that the fair market value and the fair rental value of the Substitute Property are at least equal to the remaining Lease Payments in the aggregate and for each remaining Rental Period, respectively, and that the useful life of the Substitute Property extends beyond the final Lease Payment Date of the Lease Payments allocable thereto;

(vii) In the event of damage or destruction of the Leased Property from earthquake or other uninsured peril, the City shall substitute under this Lease Agreement other unencumbered real property of a value and useful life not less than the outstanding principal component of the Lease Payments and the remaining term of this Lease Agreement, respectively; and

(viii) The City shall have provided the Authority and the Assignee with an opinion of Special Counsel to the effect that such substitution will not, in and of itself, cause the interest component of the Lease Payments to be included in gross income for federal income tax purposes.

Upon the satisfaction of all such conditions precedent, the term of the Lease Agreement shall thereupon end as to the Former Property and shall thereupon commence as to the Substitute Property, and all references to the Former Property shall apply with full force and effect to the Substitute Property. The City shall not be entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such substitution. The Authority and the City shall execute, deliver and cause to be recorded all documents required to discharge the Lease Agreement of record against the Former Property. The City shall be responsible for all costs related to such substitution, including the costs of the Assignee's legal counsel and other consultants retained to evaluate the proposed substitution.

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

Section 5.01. Maintenance, Utilities, Taxes and Assessments. Throughout the Term of this Lease Agreement, as part of the consideration for the rental of the Property, all improvement, repair and maintenance of the Property are the sole responsibility of the City, and the City will pay for or otherwise arrange for the payment of all utility services supplied to the Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or sublessee thereof. In exchange for the Lease Payments herein provided, the Authority agrees to provide only the Property, as hereinbefore more specifically set forth. The City waives the benefits of subsections 1 and 2 of Section 1932, Section 1933(4) and Sections 1941 and 1942 of the California Civil Code, but such waiver does not limit any of the rights of the City under the terms of this Lease Agreement.

The City will pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Authority or the City affecting the Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City is obligated to pay only such installments as are required to be paid during the Term of this Lease Agreement as and when the same become due.

The City may, at the City's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority or the Assignee shall notify the City that, in the reasonable opinion of Special Counsel or the City Attorney, by nonpayment of any such items the interest of the Authority in the Property will be materially endangered or the Property or any part thereof will be subject to loss or forfeiture, in which event the City will promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority. The City shall promptly notify the Authority of any tax, assessment, utility or other charge it elects to contest.

Section 5.02. Modification of Property. The City has the right, at its own expense, to make additions, modifications and improvements to the Property or any portion thereof. All additions, modifications and improvements to the Property will thereafter comprise part of the Property and become subject to the provisions of this Lease Agreement. Such additions, modifications and improvements may not in any way damage the Property, or cause the Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Property, upon completion of any additions, modifications and improvements made thereto under this Section, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements.

Section 5.03. Public Liability Insurance. The City shall maintain or cause to be maintained throughout the Term of this Lease Agreement a standard comprehensive general

liability insurance policy or policies in protection of the City, the Authority and their respective members, officers, agents, employees and assigns. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Property. Such policy or policies must provide coverage with limits of at least $1,000,000 per occurrence and $2,000,000 in the aggregate, for bodily injury and property damage coverage in form and amount (including any deductibles) satisfactory to the Authority. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City (including, with the prior written consent of the Authority and the Assignee, a self-insurance program), and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance. The City will apply the proceeds of such liability insurance toward extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 5.04. Casualty Insurance. The City will procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease Agreement, casualty insurance against loss or damage to all buildings situated on the Property and owned by the City, in an amount at least equal to the greater of the replacement value of the insured buildings and the aggregate principal amount of the Lease Payments outstanding, with a lender's loss payable endorsement. Such insurance must, as nearly as practicable, cover loss or damage by all "special form" perils. Such insurance shall be subject to a deductible of not to exceed $50,000. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City (including, with the prior written consent of the Authority and the Assignee, a self-insurance program), and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance. The City will apply the Net Proceeds of such insurance as provided in Section 6.02.

Section 5.05. Rental Interruption Insurance. The City will procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease Agreement, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the Property and the improvements situated thereon as a result of any of the hazards covered in the insurance required by Section 5.04, in an amount at least equal to the maximum Lease Payments coming due and payable during any future 24 month period. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance; provided that such rental interruption insurance shall not be self-insured by the City. The City will apply the Net Proceeds of such insurance towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

Section 5.06. Worker's Compensation Insurance. If required by applicable California law, the City shall carry worker's compensation insurance covering all employees on, in, near or about the Property and, upon request, shall furnish to the Authority certificates evidencing such coverage throughout the Term of this Lease Agreement. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City (including a self-insurance program), and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance.

Section 5.07. Recordation Hereof; Title Insurance. On or before the Closing Date, the City shall, at its expense, (a) cause this Lease Agreement, the Site and Facility Lease and the Assignment Agreement, or a memorandum hereof or thereof in form and substance approved by Special Counsel, to be recorded in the office of the San Bernardino County Recorder with respect to the Property, and (b) obtain a ALTA title insurance policy insuring the Authority's ground leasehold estate established under the Site and Facility Lease in the Property and the City's leasehold estate hereunder in the Property, subject only to Permitted Encumbrances, in an amount equal to the original principal components of the Lease Payments. The City will apply the Net Proceeds of such insurance as provided in Section 6.02.

Section 5.08. Insurance Net Proceeds; Form of Policies. All insurance policies (or riders) required by this Article V and provided by third party insurance carriers shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least ten days before the cancellation or revision becomes effective. Each insurance policy or rider required by Sections 5.03, 5.04 and 5.05 and provided by third party insurance carriers shall name the City and the Assignee as insured parties and the Assignee as loss payee and shall include a lender's loss payable endorsement for the benefit of the Assignee. In the case of coverage pursuant to Section 5.03, the Assignee shall be added as an additional insured. Prior to the Closing Date, the City will deposit with the Assignee policies (and riders and endorsements, if applicable) evidencing any such insurance procured by it, or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy (or rider), the City will furnish to the Assignee evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article V unless such insurance is no longer obtainable, in which event the City shall notify the Assignee of such fact.

Section 5.09. Installation of City's Personal Property. The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Property. All such items shall remain the sole property of the City, in which the Authority has no interest, and may be modified or removed by the City at any time. The City must repair and restore any and all damage to the Property resulting from the installation, modification or removal of any such items. Nothing in this Lease Agreement prevents the City from purchasing or leasing items to be installed under this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest may attach to any part of the Property.

Section 5.10. Liens. The City will not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Property, other than as herein contemplated and except for such encumbrances as the City certifies in writing to the Authority do not materially and adversely affect the leasehold estate in the Property hereunder and for which the Assignee provides its prior written approval, which approval shall be at Authority's sole discretion. Except as expressly provided in this Article V, the City will promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time. The City will reimburse the Authority and the Assignee as

Additional Payments, with interest at the rate set forth in Section 4.3(a), for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 5.11. Advances. If the City fails to perform any of its obligations under this Article V, the Authority may take such action as may be necessary to cure such failure, including the advancement of money, and the City shall be obligated to repay all such advances as additional rental hereunder, with interest at the rate set forth in Section 4.03(c).

Section 5.12. Environmental Covenants.

(a) ***Compliance with Laws; No Hazardous Substances***. The City will comply with all Applicable Environmental Laws with respect to the Property and will not use, store, generate, treat, transport, or dispose of any Hazardous Substance thereon or in a manner that would cause any Hazardous Substance to later flow, migrate, leak, leach, or otherwise come to rest on or in the Property.

(b) ***Notification of Authority***. The City will transmit copies of all notices, orders, or statements received from any governmental entity concerning violations or asserted violations of Applicable Environmental Laws with respect to the Property and any operations conducted thereon or any conditions existing thereon to the Authority and the Assignee, and the City will notify the Authority and the Assignee in writing immediately of any release, discharge, spill, or deposit of any Hazardous Substance that has occurred or is occurring that in any way affects or threatens to affect the Property, or the people, structures, or other property thereon, provided that no such notification shall create any liability or obligation on the part of the Authority or the Assignee.

(c) ***Access for Inspection***. The City will permit the Authority and the Assignee, their respective agents, or any experts designated by the Authority and the Assignee to have full access to the Property during reasonable business hours for purposes of such independent investigation of compliance with all Applicable Environmental Laws, provided that neither the Authority nor the Assignee has any obligation to do so, or any liability for any failure to do so, or any liability should they do so.

ARTICLE VI

EMINENT DOMAIN; USE OF NET PROCEEDS

Section 6.01. Eminent Domain. If all of the Property shall be taken permanently under the power of eminent domain or sold to a governmental entity threatening to exercise the power of eminent domain, the Term of this Lease Agreement shall cease as of the day possession shall be so taken. If less than all of the Property shall be taken permanently, or if all of the Property or any part thereof shall be taken temporarily under the power of eminent domain, (a) this Lease Agreement shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (b) there shall be a partial abatement of Lease Payments in an amount equal to the application of the Net Proceeds of any eminent domain award to the prepayment of the Lease Payments hereunder, in an amount to be

agreed upon by the City and the Authority such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portion of the Property.

Section 6.02. Application of Net Proceeds.

(a) ***From Insurance Award***.

(i) Any Net Proceeds of insurance against damage to or destruction of any part of the Property collected by the City in the event of any such damage or destruction shall be deposited by the City promptly upon receipt thereof in a special fund with the Authority designated as the "Insurance and Condemnation Fund."

(ii) Within 90 days following the date of such deposit, the City shall determine and notify the Authority and the Assignee in writing of its determination either (A) that the replacement, repair, restoration, modification or improvement of the Property is not economically feasible or in the best interest of the City and the Net Proceeds, together with other moneys available therefor, are sufficient to cause the prepayment of the principal components of all unpaid Lease Payments pursuant to Section 9.03 hereof, or (B) that all or a portion of such Net Proceeds are to be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Property and the fair rental value of the Property following such repair, restoration, replacement, modification or improvement will at least equal the unpaid principal component of the Lease Payments.

(iii) In the event the City's determination is as set forth in clause (A) of subparagraph (ii) above, such Net Proceeds shall be promptly applied to the prepayment of Lease Payments and other amounts pursuant to Section 9.03 of this Lease Agreement; provided, however, that in the event of damage or destruction of the Property in full, such Net Proceeds may be so applied only if sufficient, together with other moneys available therefor, to cause the prepayment of the principal components of all unpaid Lease Payments, all accrued and unpaid interest, Prepayment Premiums described in Section 9.02, and all other costs related to such prepayments pursuant to Section 9.03 of this Lease Agreement and otherwise such Net Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the Property; provided further, however, that in the event of damage or destruction of the Property in part, such Net Proceeds may be applied to the prepayment of Lease Payments only if the resulting Lease Payments following such prepayment from Net Proceeds represent fair consideration for the remaining portions of the Property and otherwise such Net Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the Property, evidenced by a certificate signed by a City Representative.

(iv) In the event the City's determination is as set forth in clause (B) of subparagraph (ii) above, such Net Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or

destroyed portions of the Property by the City, and until the Property has been restored to its prior condition, the City shall not place any lien or encumbrance on the Property that is senior to this Lease Agreement without the prior written consent of the Authority and the Assignee, at their sole discretion.

(b) ***From Eminent Domain Award***. If all or any part of the Property shall be taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain) the Net Proceeds therefrom shall be deposited by the City in the Insurance and Condemnation Fund and shall be applied and disbursed as follows:

(i) If the City has given written notice to the Authority and the Assignee of its determination that (A) such eminent domain proceedings have not materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under this Lease Agreement, and (B) such proceeds are not needed for repair or rehabilitation of the Property, the City shall so certify to the Authority and the Assignee, and the City shall credit such proceeds towards the prepayment of the Lease Payments pursuant to Section 9.03 of this Lease Agreement.

(ii) If the City has given written notice to the Authority and the Assignee of its determination that (A) such eminent domain proceedings have not materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under this Lease Agreement, and (B) such proceeds are needed for repair, rehabilitation or replacement of the Property, the City shall so certify to the Authority and the Assignee, and the City shall apply such amounts for such repair or rehabilitation.

(iii) If (A) less than all of the Property shall have been taken in such eminent domain proceedings or sold to a government threatening the use of eminent domain powers, and if the City has given written notice to the Authority and the Assignee of the City's determination that such eminent domain proceedings have materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under the Lease Agreement or (B) all of the Property shall have been taken in such eminent domain proceedings, then the City shall credit such proceeds towards the prepayment of the Lease Payments pursuant to Section 9.03 of this Lease Agreement.

(iv) In making any determination under this Section 6.02(b), the City may, but shall not be required to, obtain at its expense, the report of an independent engineer or other independent professional consultant, a copy of which shall be filed with the Authority and the Assignee. Any such determination by the City shall be final.

(c) ***From Title Insurance***. The Net Proceeds from a title insurance award shall be deposited by the City in the Insurance and Condemnation Fund and credited towards the prepayment of Lease Payments required to be paid pursuant to Section 9.03 of this Lease Agreement.

Section 6.03. Abatement of Lease Payments in the Event of Damage or Destruction. Lease Payments shall be abated during any period in which, by reason of damage or destruction, there is substantial interference with the use and occupancy by the City of the Property or any portion thereof to the extent to be agreed upon by the City and the Authority and the City waives the benefits of Civil Code Sections 1932(1), 1932(2) and 1933(4) and any and all other rights to terminate the Lease Agreement by virtue of any such interference, and the Lease Agreement shall continue in full force and effect. The parties agree that the amounts of the Lease Payments under such circumstances shall not be less than the amounts of the unpaid Lease Payments as are then set forth in Exhibit B, unless such unpaid amounts are determined to be greater than the fair rental value of the portions of the Property not damaged or destroyed, based upon an appropriate method of valuation, in which event the Lease Payments shall be abated such that they represent said fair rental value. The City and the Authority shall calculate such abatement and shall provide the Assignee with a certificate setting forth such calculation and the basis therefor. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction as evidenced by a Certificate of a City Representative to the Authority. In the event of any such damage or destruction, this Lease Agreement shall continue in full force and effect and the City waives any right to terminate this Lease Agreement by virtue of any such damage and destruction. Notwithstanding the foregoing, there shall be no abatement of Lease Payments under this Section 6.03 to the extent that (a) the proceeds of rental interruption insurance or (b) amounts in the Insurance and Condemnation Fund are available to pay Lease Payments which would otherwise be abated under this Section 6.03, it being hereby declared that such proceeds and amounts constitute special funds for the payment of the Lease Payments.

ARTICLE VII

OTHER COVENANTS OF THE CITY

Section 7.01. Disclaimer of Warranties. THE AUTHORITY MAKES NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PROPERTY OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE PROPERTY OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE CITY LEASES THE PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. In no event is the Authority liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease Agreement for the existence, furnishing, functioning or use of the Property by the City.

Section 7.02. Access to the Property; Grant and Conveyance of Right of Entry. The City agrees that the Authority, and the Authority's successors or assigns, has the right at all reasonable times, following at least 48 hours written notice provided to the City, to enter upon and to examine and inspect (to the extent permitted by law and public policy) the Property or any part thereof. The City further agrees that the Authority, and the Authority's successors or assigns, shall have such rights of access to the Property or any component thereof, following at least 48 hours written notice provided to the City, as may be reasonably necessary to cause the proper

maintenance of the Property if the City fails to perform its obligations hereunder. Neither the Authority nor any of its assigns has any obligation to cause such proper maintenance.

The City further grants, conveys and confirms to the Authority, for the use, benefit and enjoyment of the Authority, its successors in interest to the Property and their respective employees, invitees, agents, independent contractors, patrons, customers, guests and members of the public visiting the Property, a right of entry which shall be irrevocable for the Term of this Lease Agreement over, across and under the property of the City adjacent to the Property to and from the Property for the purpose of: (a) ingress, egress, passage or access to and from the Property by pedestrian or vehicular traffic; (b) installation, maintenance and replacement of utility wires, cables, conduits and pipes; and (c) other purposes and uses necessary or desirable for access to and from and for operation and maintenance of the Property.

Section 7.03. Release and Indemnification Covenants. To the extent permitted by law, the City hereby indemnifies the Authority and the Assignee, and their respective directors, officers, agents, employees, successors and assigns against all claims, losses and damages, including legal fees and expenses, arising out of (a) the use, maintenance, condition or management of, or from any work or thing done on the Property by the City or the City's employees, agents, contractors, invitees or licensees, (b) any breach or default on the part of the City in the performance of any of its obligations under this Lease Agreement, (c) any negligence or willful misconduct of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Property, (d) any intentional misconduct or negligence of any sublessee of the City with respect to the Property, (e) the acquisition, construction, improvement and equipping of the Property, (f) the clean-up of any Hazardous Substances or toxic wastes from the Property, or (g) any claim alleging violation of any Applicable Environmental Laws, or the authorization of payment of the costs thereof. No indemnification is made under this Section 7.03 or elsewhere in this Lease Agreement for willful misconduct or gross negligence under this Lease Agreement by the Authority or the Assignee, or their respective officers, agents, employees, successors or assigns. The indemnification hereunder shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease Agreement or the termination of the Term of this Lease Agreement for any reason. The City and the Authority each agree to promptly give notice to each other and the Assignee of any claim or liability hereby indemnified against following learning thereof.

Section 7.04. Assignment by the Authority. The Authority's rights under this Lease Agreement, including the right to receive and enforce payment of the Lease Payments to be made by the City hereunder, have been assigned to the Assignee under the Assignment Agreement. The City hereby consents to such assignment. Whenever in this Lease Agreement any reference is made to the Authority and such reference concerns rights that the Authority has assigned to the Assignee, such reference shall be deemed to refer to the Assignee.

The Authority and the Assignee may make additional assignment of their rights, title and interests herein, but only to such entities as are set forth in the Assignment Agreement, and no such assignment will be effective as against the City unless and until the Authority or the Assignee have filed with the City at least five Business Days' prior written notice thereof and an executed copy of a letter addressed to the City and the Authority substantially in the form of the letter delivered by the Authority on the Closing Date attached hereto as Exhibit D

The City shall pay all Lease Payments hereunder to the Authority, as provided in Section 4.03(h) hereof, or under the written direction of the assignee named in the most recent assignment or notice of assignment filed with the City. During the Term of this Lease Agreement, the City will keep a complete and accurate record of all such notices of assignment.

Section 7.05. Assignment Agreement and Subleasing by the City. This Lease Agreement may not be assigned, mortgaged, pledged or transferred by the City. The City may sublease the Property, or any portion thereof, with the prior written consent of the Assignee, at the Assignee's sole discretion, subject to all of the following conditions:

(a) This Lease Agreement and the obligation of the City to make Lease Payments hereunder shall remain obligations of the City, and any sublease shall be subject and subordinate to this Lease Agreement.

(b) The City shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority a true and complete copy of such sublease.

(c) No such sublease by the City may cause the Property to be used for a purpose other than as may be authorized under the provisions of the laws of the State.

(d) The City shall furnish the Authority and the Assignee with a written opinion of Special Counsel stating that such sublease does not cause the interest components of the Lease Payments to become includable in gross income for purposes of federal income taxation or to become subject to personal income taxation by the State.

(e) Any such sublease shall be subject and subordinate in all respects to the Site and Facility Lease, this Lease Agreement and the Assignment Agreement.

Notwithstanding the foregoing, in connection with any sublease entered into for financing purposes, the principal component of the then remaining Lease Payments plus the principal component of the sublease payments shall not exceed the fair market value of the Property and the sublease shall not cause the fair market value of the Property to be less than the principal component of the then remaining Lease Payments plus the principal component of the sublease payments. The City shall be responsible for all costs related to such sublease, including the costs of the Assignee's legal counsel.

Section 7.06. Amendment of Lease Agreement. This Lease Agreement may be amended in writing by the parties hereto and their successors and assigns, but only with the prior written consent of the Assignee. Prior to the effective date of any such amendment, and as a condition precedent to the effectiveness thereof, the City at its expense shall deliver to the Authority and the Assignee an opinion of Special Counsel stating that such amendment will not adversely affect the exclusion from gross income of the interest component of the Lease Payments.

Section 7.07. Tax Covenants.

(a) ***Generally***. The City will not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would

cause, the interest components of the Lease Payments to become includable in gross income of the Assignee for federal income tax purposes.

(b) ***Private Activity Bond Limitation***. The City will ensure that the proceeds of the Lease Payments are not so used as to cause the City's obligations hereunder to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.

(c) ***Federal Guarantee Prohibition***. The City will not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Lease Payments to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(d) ***No Arbitrage***. The City will not take, or permit or suffer to be taken, any action with respect to the proceeds of the Lease Payments which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Lease Payments to be "arbitrage bonds" within the meaning of Section 148(a) of the Tax Code.]

Section 7.08. ***Arbitrage Rebate***. The City will take any and all actions necessary to assure compliance with Section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Lease Payments.

Section 7.09. Financial Statements; Budgets. (a) No later than March 31st following the end of each Fiscal Year of the City during the Term of this Lease Agreement, the City will provide the Authority and the Assignee with a copy of its audited financial statements for such Fiscal Year, which may be satisfied by posting such audited financial statements on the Electronic Municipal Market Access ("EMMA") website. Such audited financial statements shall include the City's Annual Comprehensive Financial Report ("ACFR"), including such information as is required by applicable Government Accounting Standards Board pronouncements and applicable State law.

(b) By August 31st of each year, the City will provide the Authority and the Assignee with a copy of its annual adopted budget. Concurrent with the copy of the budget, the City shall provide a certificate of budgeting of the Lease Payments to Authority and the Assignee.

(c) The City hereby agrees to provide the Authority and the Assignee with such other information as may be reasonably requested by the Authority or the Assignee.

Section 7.10. Records and Accounts. The City covenants and agrees that it shall keep proper books of record and accounts of its operations, in which complete and correct entries shall be made of all transactions relating to the City. Said books and records shall at all reasonable times be subject to the inspection of the Authority and the Assignee upon 72 hours' prior notice.

Section 7.11. Observance of Laws and Regulations. The City will well and truly keep, observe and perform or cause to be kept, observed and performed all valid and lawful obligations

or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired and enjoyed by the City, including the City's right to exist and carry on business as a municipal corporation, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 7.12. Notices. During the Term of this Lease Agreement, the City shall provide to the Authority and the Assignee:

(a) immediate notice by telephone, promptly confirmed in writing, of any event, action or failure to take any action which constitutes an Event of Default under this Lease Agreement, together with a detailed statement by a City representative of the steps being taken by the City to cure the effect of such Event of Default.

(b) prompt written notice of any Material Litigation, or any investigation, inquiry or similar proceeding by any Governmental Authority.

(c) with reasonable promptness, such other information respecting the City, and the operations, affairs and financial condition of the City as the Authority and the Assignee may from time to time reasonably request.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default Defined. Any one or more of the following events constitutes an Event of Default hereunder:

(a) Failure by the City to pay any Lease Payment or other payment, required to be paid hereunder at the time specified herein.

(b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, including failure to provide financial information referenced in Section 7.08, other than as referred to in the preceding clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Authority or the Assignee. However, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30-day period, neither the Authority nor the Assignee shall unreasonably withhold their consent to an extension of such time (for a period not to exceed 30 days) if corrective action is instituted by the City within such 30-day period and diligently pursued until the default is corrected.

(c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted

under the provisions of the Federal Bankruptcy Code, as amended, or under any similar federal or State act now existing or which may hereafter be enacted.

(d) Any statement, representation or warranty made by the City in or pursuant to this Lease Agreement or its execution, delivery or performance shall have been false, incorrect, misleading or breached in any material respect on the date when made.

(e) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit under which the City is an obligor.

(f) Any default by the City to observe any covenant, condition or agreement on its part to be observed or performed under the Site and Facility Lease.

(g) Any court of competent jurisdiction shall find or rule that the Site and Facility Lease or this Lease Agreement is not valid or binding against the City.

(h) Any Material Adverse Effect shall exist.

Section 8.02. Remedies on Default. Whenever any Event of Default has happened and is continuing the Default Interest Rate shall apply and the Authority may exercise any and all remedies available under law or granted under this Lease Agreement; provided, however, that notwithstanding anything herein to the contrary, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof the Authority may exercise any and all rights granted hereunder; provided, that no termination of this Lease Agreement shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. Upon the occurrence and during the continuance of any Event of Default, the Authority may exercise any one or more of the following remedies:

(a) ***Enforcement of Payments Without Termination***. If the Authority does not elect to terminate this Lease Agreement in the manner hereinafter provided for in subparagraph (b) hereof, the City agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Authority for any deficiency arising out of the re-leasing of the Property, or, if the Authority is unable to re-lease the Property, then for the full amount of all Lease Payments to the end of the Term of this Lease Agreement, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the Authority or any suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Property or the exercise of any other remedy by the Authority. The City hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the City to enter upon and re-lease the Property upon the occurrence and continuation of an Event of Default and to remove all personal property whatsoever situated upon the Property, to place such property in storage or other suitable place in San Bernardino County for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Authority from any costs, loss or

damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Property and the removal and storage of such property by the Authority or their duly authorized agents in accordance with the provisions herein contained. The City agrees that the terms of this Lease Agreement constitute full and sufficient notice of the right of the Authority to re-lease the Property in the event of such re-entry without effecting a surrender of this Lease Agreement, and further agrees that no acts of the Authority in effecting such re-leasing shall constitute a surrender or termination of this Lease Agreement irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease Agreement shall vest in the Authority to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) hereof. The City agrees to surrender and quit possession of the Property upon demand of the Authority for the purpose of enabling the Property to be re-let under this paragraph. Any rental obtained by the Authority in excess of the sum of Lease Payments plus costs and expenses incurred by the Authority for its services in re-leasing the Property shall be paid to the City.

(b) ***Termination of Lease***. If an Event of Default occurs and is continuing hereunder, the Authority at its option may terminate this Lease Agreement and re-lease all or any portion of the Property, subject to the Site and Facility Lease. If the Authority terminates this Lease Agreement at its option and in the manner hereinafter provided due to a default by the City (and notwithstanding any re-entry upon the Property by the Authority in any manner whatsoever or the re-leasing of the Property), the City nevertheless agrees to pay to the Authority all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments. Any surplus received by the Authority from such re-leasing shall be applied by the Authority to Lease Payments, due under this Lease Agreement. Neither notice to pay rent or to deliver up possession of the premises given under law nor any proceeding in unlawful detainer taken by the Authority shall of itself operate to terminate this Lease Agreement, and no termination of this Lease Agreement on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Authority shall have given written notice to the City of the election on the part of the Authority to terminate this Lease Agreement. The City covenants and agrees that no surrender of the Property, or of the remainder of the Term hereof or any termination of this Lease Agreement shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Authority by such written notice.

(c) ***Proceedings at Law or In Equity***. If an Event of Default occurs and continues hereunder, the Authority may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce any other of its rights hereunder.

(d) ***Remedies under the Site and Facility Lease***. If an Event of Default occurs and continues hereunder, the Authority may exercise its rights under the Site and Facility Lease.

Section 8.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy shall be cumulative and shall be

in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article VIII it shall not be necessary to give any notice, other than such notice as may be required in this Article VIII or by law.

Section 8.04. Agreement to Pay Attorneys' Fees and Expenses. If either party to this Lease Agreement defaults under any of the provisions hereof and the nondefaulting party or the Assignee should employ attorneys (including in-house legal counsel) or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party or the Assignee, as applicable, the reasonable fees of such attorneys (including allocable costs and expenses of in-house legal counsel, if any) and such other expenses so incurred by the nondefaulting party or the Assignee, as applicable.

Section 8.05. No Additional Waiver Implied by One Waiver. If any agreement contained in this Lease Agreement is breached by either party and thereafter waived by the other party, such waiver is limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

Section 8.06. Judicial Reference.

(a) Judicial Reference. The Authority and the City hereby agree: (i) each proceeding or hearing based upon or arising out of, directly or indirectly, this Lease Agreement, the Site and Facility Lease, the Assignment Agreement, the Property or any document related thereto, any dealings between the City and the Authority related to the subject matter of this Lease Agreement, the Site and Facility Lease, the Assignment Agreement or any related transactions, and/or the relationship that is being established between the City and the Authority (hereinafter, a "Claim") shall be determined by a consensual general judicial reference (the "Reference") pursuant to the provisions of Section 638 et seq. of the California Code of Civil Procedure, as such statutes may be amended or modified from time to time; (ii) upon a written request, or upon an appropriate motion by either the Authority or the City, as applicable, any pending action relating to any Claim and every Claim shall be heard by a single Referee (as defined below) who shall then try all issues (including any and all questions of law and questions of fact relating thereto), and issue findings of fact and conclusions of law and report a statement of decision. The Referee's statement of decision will constitute the conclusive determination of the Claim. The Authority and the City agree that the Referee shall have the power to issue all legal and equitable relief appropriate under the circumstances before the Referee; (iii) the Authority and the City shall promptly and diligently cooperate with one another, as applicable, and the Referee, and shall perform such acts as may be necessary to obtain prompt and expeditious resolution of all Claims in accordance with the terms of this Section 8.7; (iv) the Authority or the City, as applicable, may file the Referee's findings, conclusions and statement with the clerk or judge of any appropriate court, file a motion to

confirm the Referee's report and have judgment entered thereon. If the report is deemed incomplete by such court, the Referee may be required to complete the report and resubmit it; (v) the Authority and the City, as applicable, will each have such rights to assert such objections as are set forth in Section 638 et seq. of the California Code of Civil Procedure; and (vi) all proceedings shall be closed to the public and confidential, and all records relating to the Reference shall be permanently sealed when the order thereon becomes final.

(b) Selection of Referee; Powers. The parties to the Reference proceeding shall select a single neutral referee (the "Referee"), who shall be a retired judge or justice of the courts of the State of California, or a federal court judge, in each case, with at least ten (10) years of judicial experience in civil matters. The Referee shall be appointed in accordance with Section 638 of the California Code of Civil Procedure (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts). If within ten (10) days after the request or motion for the Reference, the parties to the Reference proceeding cannot agree upon a Referee, then any party to such proceeding may request or move that the Referee be appointed by the Presiding Judge of the San Bernardino County Superior Court, or of the U.S. District Court for the Southern District of California. The Referee shall determine all issues relating to the applicability, interpretation, legality and enforceability of this Section 8.7.

(c) Provisional Remedies and Self Help. No provision of this Section 8.7 shall limit the right of either the Authority or the City, as the case may be, to (i) exercise such self-help remedies as might otherwise be available under applicable law, or (ii)) obtain or oppose provisional or ancillary remedies, including without limitation injunctive relief, writs of possession, the appointment of a receiver, and/or additional or supplementary remedies from a court of competent jurisdiction before, after, or during the pendency of any Reference. The exercise of, or opposition to, any such remedy does not waive the right of the Authority or the City to the Reference pursuant to this Section 8.7(c).

(d) Costs and Fees. Promptly following the selection of the Referee, the parties to such Reference proceeding shall each advance equal portions of the estimated fees and costs of the Referee. In the statement of decision issued by the Referee, the Referee shall award costs, including reasonable attorneys' fees, to the prevailing party, if any, and may order the Referee's fees to be paid or shared by the parties to such Reference proceeding in such manner as the Referee deems just.

Section 8.07. Assignee to Exercise Rights. Such rights and remedies as are given to the Authority under this Article VIII have been assigned by the Authority to the Assignee under the Assignment Agreement, to which assignment the City hereby consents. Such rights and remedies shall be exercised solely by the Assignee.

ARTICLE IX

PREPAYMENT OF LEASE PAYMENTS

Section 9.01. Security Deposit. Notwithstanding any other provision of this Lease Agreement, the City may on any date secure the payment of the Lease Payments in whole or in

part by depositing with the Authority, or a fiduciary reasonably satisfactory to the Authority and the Assignee, in trust, an amount of cash, which shall be held in a segregated trust or escrow fund under a trust or escrow agreement that is in form and content acceptable to the Authority and the Assignee, which cash so held is either (a) sufficient to pay such Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth in Exhibit B, or (b) invested in whole in non-callable Federal Securities maturing not later than the dates such funds will be required to make Lease Payments or any prepayment in an amount which is sufficient, in the opinion of an independent certified public accountant (which opinion must be in form and substance, and with such an accountant, acceptable to the Authority and the Assignee and addressed and delivered to the Authority and the Assignee), together with interest to accrue thereon and without reinvestment and together with any cash which is so deposited, to pay such Lease Payments when due under Section 4.03(a) or when due on any optional prepayment date under Section 9.02, as the City instructs at the time of said deposit; provided, however, that at or prior to the date on which any such security deposit is established, the City shall deliver to the Authority and the Assignee an opinion of Special Counsel (in form and substance acceptable to the Authority and the Assignee) to the effect that any such security deposit will not adversely affect the excludability of the interest component of Lease Payments from gross income of the Authority and the Assignee for federal income tax purposes. In the event of a security deposit under this Section with respect to all unpaid Lease Payments, (i) the Term of this Lease Agreement shall continue, (ii) all obligations of the City under this Lease Agreement, and all security provided by this Lease Agreement for said obligations, shall thereupon cease and terminate, excepting only (A) the obligation of the City to make, or cause to be made, all of the Lease Payments from such security deposit and, to the extent of any deficiency, as rent payable from other legally available funds of the City, and (B) the release and indemnification obligations of the City under subparagraphs (f) and (g) of Section 7.03, and (iii) under Section 4.05, the Authority's leasehold interest in the Property will vest in the City on the date of said deposit automatically and without further action by the City or the Authority. The City hereby grants a first priority security interest in and the lien on said security deposit and all proceeds thereof in favor of the Assignee. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease Agreement and, notwithstanding anything to the contrary herein, Lease Payments therefrom shall not be subject to abatement under Section 6.03 hereof to the extent payable from the funds held by the Authority or the fiduciary as described in the first sentence of this Section 9.01.

Section 9.02. Optional Prepayment. The Lease Payments may be prepaid at the option of the City prior to maturity as a whole, or in part, in inverse order of maturity of Lease Payments, on any date from any source of funds, at a redemption price of the principal component of the Lease Payments to be prepaid together with accrued interest to the date of prepayment. The City shall give the Authority and the Assignee written notice of its intention to exercise its option to prepay the Lease Payments under this Section 9.02 not less than 20 days in advance of the date of prepayment.

Section 9.03. Mandatory Prepayment From Net Proceeds of Insurance, Eminent Domain. The City shall be obligated to prepay the unpaid principal components of the Lease Payments in whole or in part in such order of prepayment as shall be selected by the City on any date, together with any accrued and unpaid interest, from and to the extent of any proceeds of

insurance award or condemnation award with respect to the Property to be used for such purpose under Section 6.02 on any date.

ARTICLE X

MISCELLANEOUS

Section 10.01. Notices. Any notice, request, complaint, demand or other communication under this Lease Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by facsimile transmission or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, Assignee and the City may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City:
City of Ontario
Attn: Scott Ochoa
City Manager
303 E. "B" Street
Ontario, CA 91762
Facsimile: (909) 395-2005
Telephone: (909) 395-2102
Email: _____

With a copy to:
Best Best & Krieger LLP
Attn: Ruben Duran
2855 East Guasti Road, Suite 400
Ontario, CA 91761
Facsimile: (909) 989-5834
Telephone: (909) 989-8584
E-Mail: ruben.duran@bbklaw.com

If to the Authority:
Ontario Public Financing Authority
Attn: Scott Ochoa
Executive Director
303 E. "B" Street
Ontario, CA 91762
Facsimile: (909) 395 2005
Telephone: (909) 395 2102
Email: sochoa@ontarioca.gov

With a copy to:	Best Best & Krieger LLP Attn: Ruben Duran 2855 East Guasti Road, Suite 400 Ontario, CA 91761 Facsimile: (909) 989-5834 Telephone: (909) 989-8584 E-Mail: ruben.duran@bbklaw.com
If to the Assignee:	SC Ontario Development Company LLC Attn: Bryan Goodman 1156 North Mountain Ave Upland, CA 91785 Facsimile: (909) 946-7537 Telephone: (909) 946-7537 Email: Bryan.Goodman@lewismc.com
With a copy to:	Lewis Management Corp. Attn: W. Bradford Francke 1156 North Mountain Ave Upland, CA 91785 Facsimile: (909) 946-7538 Telephone: (909) 946-7538 Email: brad.francke@lewismc.com

Section 10.02. Binding Effect. This Lease Agreement inures to the benefit of and is binding upon the Authority, the City and their respective successors and assigns.

Section 10.03. Severability. If any provision of this Lease Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

Section 10.04. Net-net-net Lease. This Lease Agreement is a "net-net-net lease" and the City hereby agrees that the Lease Payments are an absolute net return to the Authority or Assignee, free and clear of any expenses, charges or set-offs whatsoever.

Section 10.05. Further Assurances and Corrective Instruments. The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease Agreement or the Assignment Agreement.

Section 10.06. Execution in Counterparts. This Lease Agreement may be executed in several counterparts, each of which is an original and all of which constitutes one and the same instrument.

Section 10.07. Applicable Law. This Lease Agreement is governed by and construed in accordance with the laws of the State.

Section 10.08. Captions. The captions or headings in this Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or section of this Lease Agreement.

Section 10.09. Third Party Beneficiary. The Assignee is hereby made a third party beneficiary hereunder with all rights of a third party beneficiary.

[Signature page follows]

IN WITNESS WHEREOF, the Authority and the City have caused this Lease Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

ONTARIO PUBLIC FINANCING AUTHORITY

By _____
Scott Ochoa, Executive Director

Attest:

_____
Sheila Mautz, Secretary

CITY OF ONTARIO

By _____
Scott Ochoa, City Manager

Attest:

_____
Sheila Mautz, City Clerk

-Signature Page-
Lease Agreement

EXHIBIT A

DESCRIPTION OF THE SITE

EXHIBIT B

SCHEDULE OF LEASE PAYMENTS

[To Be Completed Prior to Closing]

1. The principal amount of Lease Payments to be made by the City hereunder is $_____.

2. The principal and interest components of the Lease Payments are payable in the amounts and on the Lease Payment Dates as follows (assuming that No Event of Default or Event of Taxability has occurred and is continuing):

Lease Payment Date	Principal Component	Interest Component	Total Lease Payment	Annual Debt Service

EXHIBIT C

MEMORANDUM OF LEASE AGREEMENT

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

MEMORANDUM OF LEASE AGREEMENT

This Memorandum of Lease Agreement (this "Memorandum of Lease Agreement"), is entered into as of _____, 2025, by and between the ONTARIO PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority, as lessor (the "Authority"), and the CITY OF ONTARIO, a general law city duly organized and existing under the laws of the State of California, as lessee (the "City"), who agree as follows:

Section 1. The Lease. The City leases from the Authority and the Authority leases to the City, certain real property described in paragraph 2 hereof, and the improvements situated upon said real property, upon the terms and conditions, and for the term, more fully set forth in the Lease Agreement, dated as of _____, 2025, by and between the Authority, as lessor, and the City, as lessee (the "Lease Agreement"), all of the provisions of which are hereby incorporated into this Memorandum of Lease Agreement by reference.

Section 2. Leased Premises; Term. The Authority leases, lets and demises unto the City and the City leases, hires and takes from the Authority, those certain parcels of real property situated in the City of Ontario, State of California, more particularly described in Exhibit A attached hereto and made a part hereof (collectively, the "Site"), and those certain improvements on the Site (the "Facility"). The Lease Agreement is for a term commencing on _____ and ending on _____, or such earlier or later date on which the Lease Payments (as defined in the Lease Agreement) are paid in full or provision has been made for such payment in accordance with the Lease Agreement.

Section 3. Provisions Binding on Successors and Assigns. Subject to the provisions of the Lease Agreement relating to assignment and subletting, the Lease Agreement shall inure to the benefit of and shall be binding upon the Authority and the City and their respective successors and assigns, including the Authority.

Section 4. Purpose of Memorandum. This Memorandum of Lease Agreement is prepared for the purpose of recordation, and it in no way modifies the provisions of the Lease Agreement.

Section 5. Execution. This Memorandum of Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Authority has caused this Memorandum of Lease Agreement to be executed in its corporate name by its duly authorized officers; and the City has caused this Memorandum of Lease Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

ONTARIO PUBLIC FINANCING AUTHORITY

By _____
Scott Ochoa, Executive Director

Attest:

_____
_____, Secretary

CITY OF ONTARIO

By _____
Scott Ochoa, City Manager

Attest:

_____
_____, City Clerk

EXHIBIT D

CERTIFICATE OF ASSIGNEE

$21,829,500
CITY OF ONTARIO
2025 LEASE FINANCING
(PARK PROPERTY)

The undersigned representative of SC Ontario Development Company LLC (the "Assignee"), hereby represents, warrants and certifies to the City of Ontario (the "City") (capitalized terms used herein not otherwise defined have the meanings ascribed to such terms in the Lease Agreement dated as of _____, 2025, (the "Lease Agreement") by and between the City and the Authority) that he is duly authorized to execute and deliver this Certificate on behalf of the Assignee and that:

1. The Assignee has requested from the City all information with respect to the City as it deems necessary to make its decision to enter into the Assignment Agreement. The Assignee has received a copy of such requested information as it deems necessary in order for it to make such decision. The Assignee acknowledges that it has read and understands the matters and terms stated in such documents and materials or such other information as provided by the City.

2. The Assignee is entering into the Assignment Agreement for its own account. The Assignee is entering into the Assignment Agreement not in the capacity of an underwriter, nor with a view to the public distribution of payments received pursuant thereto.

3. The Assignee is aware that the operations of the City involve certain economic variables and risks that could adversely affect the security for the Lease Agreement and the Assignee is able and willing to bear such risks;

4. By execution and delivery of this Certificate, the Assignee understands and agrees that it may assignor otherwise transfer the Lease Payments, only to (i) an affiliate of the Assignee or (ii) to purchasers which are "qualified institutional buyers" as defined in Rule 144Apromulgated under the Securities Act of 1933, as amended, and that is purchasing such Lease Payments for its own account, and which delivers to the City an executed Certificate substantially in the form of Exhibit D attached to the Lease Agreement.

5. The Assignee has made an independent investigation and evaluation of the financial condition and prospects of, and the risks associated with, the Lease Agreement and the City, or has caused such investigation and evaluation to be made by persons it deems competent to do so, and it has not relied upon the City or its employees or consultants for advice as to the merits and risks associated with the Lease Payments. The Assignee has not relied upon the City's legal counsel, financial advisor, placement agent(s), or other consultants to the City for any information, representations or opinions, as of the date rendered or provided therein, in connection with the City's obligations under the Lease Agreement, the City, the Site and Facility Lease, the Lease Agreement or the Lease Payments. The Assignee has sought such accounting, legal and tax advice

as it has considered necessary to make an informed decision with respect to entering into the Assignment Agreement.

6. The Assignee understands that the Lease Agreement has not been registered under the Securities Act of 1933, as amended, and that such registration is not legally required. Additionally, the Lease Agreement has not been registered under, and no qualification for sale has been made, under, the Blue Sky Laws of any State. The Assignee is not acting in the capacity of broker, dealer, municipal securities underwriter, financial advisor, or municipal advisor in connection with the Assignee's entering into the Assignment Agreement.

7. The Assignee understands and agrees that the offering and sale of the Lease Payments are exempt from Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934 ("Rule"), and the City neither makes, nor has made, any representation to the Assignee, or any other party with respect to matters governing by the Rule with respect to the agreements and transaction described herein.

8. The Assignee understands that no official statement, offering memorandum or circular will be issued in connection with the Lease Agreement, and that the Lease Agreement and underlying obligations are not rated by any accredited rating agency.

9. The Assignee understands that neither the members, directors, officers or agents of the City, nor any person executing the Lease Agreement, shall be subject to any personal liability by reason of or in connection with the execution and delivery of the Lease Agreement.

IN WITNESS WHEREOF, the Assignee has caused this Certificate to be executed by its authorized representative as of the ____ day of _____, 2025.

SC ONTARIO DEVELOPMENT COMPANY LLC

By: _____
Authorized Agent

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Best Best & Krieger LLP
Attention: Kim Byrens, Esq.
3390 University Avenue, 5th Floor
Riverside, CA 92501

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

SITE AND FACILITY LEASE

by and between

CITY OF ONTARIO
as Lessor

and

ONTARIO PUBLIC FINANCING AUTHORITY,
as Lessee

Dated as of _____, 2025

SITE AND FACILITY LEASE

THIS SITE AND FACILITY LEASE (this "Site and Facility Lease"), dated as of _____, 2025, is by and between the **CITY OF ONTARIO**, a general law city, duly organized and existing under and by virtue of the laws of the State of California (the "City"), as lessor, and the **ONTARIO PUBLIC FINANCING AUTHORITY**, a joint exercise of powers authority, duly organized and existing under and by virtue of the laws of the State of California (the "Authority"), as lessee;

W I T N E S S E T H :

WHEREAS, the City wishes to acquire certain real property from SC Ontario Development Company LLC ("SC Ontario") consisting of approximately 11.55 net acres commonly described as APN#s: 0218-063-06 and 0218-063-07 and a portion of APN 0218-073-06, situated in the City of Ontario, San Bernardino County, State of California ("Park Area I"), pursuant to a Purchase and Sale Agreement dated _____, 2025 (the "Site PSA"), between the City and SC Ontario, with a portion of the purchase price therefor (in the amount of $21,829,500) to be repaid through the payment of Lease Payments (as hereinafter defined); and

WHEREAS, pursuant to the Site PSA, SC Ontario has dedicated an additional 3.42 acres commonly described on the remaining portion of APN 0218-073-06 and APN 0218-063-06, situated in the City of Ontario, San Bernardino County, State of California ("Park Area II"); and

WHEREAS, the City intends to use Park Area I and Park II for park and recreation facilities known as the Great Park; and

WHEREAS, the City and the Authority desire to finance the acquisition of Park Area I; and

WHEREAS, to finance the cost to acquire Park Area I, pursuant to this certain Site and Facility Lease, the City will lease Park Area I and Park Area II, more particularly described in Exhibit A attached hereto and made a part hereof (collectively, the "Site"), and the improvements thereon (the "Facility" and, with the Site, the "Property"), to the Authority; and

WHEREAS, the Authority proposes to lease the Property back to the City pursuant to a Lease Agreement dated as of _____, 2025 (the "Lease Agreement"); and

WHEREAS, the Site PSA requires the City to cause the portion of the purchase price of the Site that was not paid at the closing, in the amount of $21,829,500, to be paid through a lease-leaseback financing structure pursuant to which (i) the City and Authority enter into this Site and Facility Lease, (ii) the City and Authority would enter into the Lease Agreement (as defined below) pursuant to which the Property would be leased back to the City and the City agree to make lease payments to the Authority in [a principal amount] amount totaling [$21,829,500], and (iii) the Authority would enter into an Assignment Agreement with SC Ontario that, among other things, assigns the City's lease payments to SC Ontario (the "Assignment Agreement"); and

WHEREAS, the Site PSA, this Site and Facility Lease, the Lease Agreement and the Assignment Agreement make up an integrated transaction to enable the City to finance the acquisition of the Site; and

WHEREAS, in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Property during each Rental Period under the Lease, the City agrees to make certain Lease Payments; and

WHEREAS, the City and the Authority agree to mutually cooperate now and hereafter, to the extent possible, in order to sustain the intent of the Lease Agreement and this Site and Facility Lease and the bargain of both parties hereto; and

WHEREAS, the City possesses statutory authority to lease the Property and its governing body has duly authorized the execution and delivery of the Lease Agreement and this Site and Facility Lease; and

NOW THEREFORE, for and in consideration of the premises and covenants and conditions hereinafter contained, the parties agree as follows:

Section 1. Definitions. Capitalized terms used, but not otherwise defined, in this Site and Facility Lease shall have the meanings ascribed to them in the Lease Agreement.

Section 2. Site and Facility Lease. The City hereby leases to the Authority and the Authority hereby leases from the City, on the terms and conditions hereinafter set forth, the Property.

Section 3. Term. The term of this Site and Facility Lease shall commence on _____, 2025, and shall end on _____, unless such term is extended or sooner terminated as hereinafter provided. If, on _____, the aggregate amount of Lease Payments (as defined in and as payable under the Lease Agreement) shall not have been paid by reason of abatement, default or otherwise, or provision shall not have been made for their payment in accordance with the Lease Agreement, then the term of this Site and Facility Lease shall be extended until such Lease Payments shall be fully paid or provision made for such payment, but in no event later than _____. If, prior to _____, all Lease Payments shall be fully paid or provision made for such payment in accordance with the Lease Agreement, the term of this Site and Facility Lease shall end.

Section 4. Rental. The Authority shall pay to the City as and for rental of the Property hereunder, the sum of $1.00, the receipt of which is hereby acknowledged.

Section 5. Purpose. The Authority shall use the Property solely for the purpose of leasing the Property to the City pursuant to the Lease Agreement and for such purposes as may be incidental thereto; provided, however, that in the event of default by the City under the Lease Agreement, the Authority and its assigns may exercise the remedies provided in the Lease Agreement.

Section 6. City's Interest in the Property. The City covenants that it is the owner in fee of the Property.

Section 7. Assignments and Subleases. Unless the City shall be in default under the Lease Agreement, the Authority may not assign its rights under this Site and Facility Lease or sublet the Property, except as provided in the Lease Agreement. If the City is in default under the Lease Agreement, the Authority (including its successors and assigns under the Lease Agreement) may fully and freely assign and sublease the Property or any portion thereof, this Site and Facility Lease and the Lease Agreement. The City agrees that, except with respect to Permitted Encumbrances, it will not mortgage, sell, encumber, assign, transfer or convey the Property or any portion thereof during the term of this Site and Facility Lease.

Section 8. Right of Entry. The City reserves the right for any of its duly authorized representatives to enter upon the Property at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

Section 9. Termination. The Authority agrees, upon the termination of this Site and Facility Lease, to quit and surrender the Property in the same good order and condition as the same were in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and agrees that any permanent improvements and structures existing upon the Site at the time of the termination of this Site and Facility Lease shall remain thereon and title thereto shall vest in the City.

Section 10. Default. In the event the Authority shall be in default in the performance of any obligation on its part to be performed under the terms of this Site and Facility Lease, which default continues for 30 days following notice and demand for correction thereof to the Authority, the City may exercise any and all remedies granted by law, except that no merger of this Site and Facility Lease and of the Lease Agreement shall be deemed to occur as a result thereof and the City shall have no right to terminate this Site and Facility Lease as a remedy for such default. Notwithstanding the foregoing, subject to the provisions of Sections 6.01 and 6.03 and the provisions of Article IX of the Lease Agreement, so long as the Lease Agreement remains in effect, the City will continue to pay the Lease Payments to the Assignee.

In the event of the occurrence of an Event of Default under the Lease Agreement, the Authority or the Assignee may (a) exercise the remedies provided in the Lease Agreement, (b) use the Property for any lawful purpose, subject to any applicable legal limitations or restrictions, and (c) exercise all options provided herein.

Section 11. Quiet Enjoyment. The Authority, at all times during the term of this Site and Facility Lease, shall peaceably and quietly have, hold and enjoy all of the Property subject to the provisions of the Lease Agreement. Subject to any rights the City may have under the Lease Agreement (in the absence of an event of default) to possession and enjoyment of the Property, the City hereby covenants and agrees that it will not take any action to prevent the Authority from having quiet and peaceable possession and enjoyment of the Property during the term hereof and will, at the request of the Authority and at the City's cost, to the extent that it may lawfully do so, join in any legal action in which the Authority asserts its right to such possession and enjoyment.

Section 12. Waiver of Personal Liability. All liabilities under this Site and Facility Lease on the part of the Authority are solely liabilities of the Authority and the City hereby releases each and every director, officer, employee and agent of the Authority of and from any personal or

individual liability under this Site and Facility Lease. No director, officer, employee or agent of the Authority shall at any time or under any circumstances be individually or personally liable under this Site and Facility Lease for anything done or omitted to be done by the Authority hereunder.

Section 13. Taxes. All assessments of any kind or character and all taxes, including possessory interest taxes, levied or assessed upon the Property or the Authority's interest in the Property created by this Site and Facility Lease (including both land and improvements) will be paid by the City in accordance with the Lease Agreement.

Section 14. Eminent Domain. In the event the whole or any part of the Property is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the amount of the then unpaid principal component of the Lease Payments, any then unpaid interest component of the Lease Payments and any premium due with respect to the prepayment of Lease Payments to the date such amounts are remitted to the Authority or its assignee, and, subject to the provisions of the Lease Agreement, the balance of the award, if any, shall be paid to the City. The City hereby waives, to the extent permitted by law, any and all rights that it has or may hereafter have to acquire the interest of the Authority in and to the Property through the eminent domain powers of the City. However, the City hereby agrees, to the extent permitted by law, that the compensation to be paid in any condemnation proceedings brought by or on behalf of the City with respect to the Property shall be in an amount not less than the total unpaid principal component of Lease Payments, the interest component of Lease Payments accrued to the date of payment of all Lease Payments and any premium due with respect to the prepayment of Lease Payments under the Lease Agreement.

Section 15. Use of the Property. The City and the Authority hereby agree that the lease to the Authority of the City's right and interest in the Property pursuant to Section 2 serves the public purposes of the City as an element of the integrated transaction described in the Recitals hereto.

Section 16. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Site and Facility Lease shall, to any extent, be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding, order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site and Facility Lease shall be affected thereby, and each provision of this Site and Facility Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 17. Notices. All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered mail, return receipt requested, postage prepaid, at the addresses set forth in the Lease Agreement, or to such other addresses as the respective parties may from time to time designate by notice in writing.

Section 18. Binding Effect. This Site and Facility Lease shall inure to the benefit of and shall be binding upon the City and the Authority and their respective successors and assigns. The

Assignee is hereby made a third-party beneficiary hereunder with all rights of a third party beneficiary.

Section 19. Amendment. This Site and Facility Lease may not be amended except as permitted under the Lease Agreement.

Section 20. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site and Facility Lease.

Section 21. Applicable Law. This Site and Facility Lease shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and performed in California.

Section 22. No Merger. Neither this Site and Facility Lease, the Lease Agreement nor any provisions hereof or thereof shall be construed to effect a merger of the title of the City to the Property under this Site and Facility Lease and the City's leasehold interest therein under the Lease Agreement.

Section 23. Execution in Counterparts. This Site and Facility Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same instrument.

(Signature page follows)

IN WITNESS WHEREOF, the City and the Authority have caused this Site and Facility Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

ONTARIO PUBLIC FINANCING AUTHORITY

By _____
Scott Ochoa, Executive Director

Attest:

_____
_____, Secretary

CITY OF ONTARIO

By _____
Scott Ochoa, City Manager

Attest:

_____
_____, City Clerk

-Signature Page-
Site and Facility Lease

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 _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) 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(ies), 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 _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION OF THE SITE

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Kim A. Byrens, Esq.
Best Best & Krieger LLP
3390 University Avenue, 5th Floor
Riverside, CA 92501

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

ASSIGNMENT AGREEMENT

by and between the

ONTARIO PUBLIC FINANCING AUTHORITY,

as Assignor

and

SC ONTARIO DEVELOPMENT COMPANY LLC,

as Assignee

Dated as of _____, 2025

ASSIGNMENT AGREEMENT

This Assignment Agreement (as amended and supplemented hereafter, the "Assignment Agreement"), dated as of _____, by and between the ONTARIO PUBLIC FINANCING AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California, as assignor (the "Authority"), and SC ONTARIO DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Assignee (the "Assignee");

W I T N E S S E T H:

WHEREAS, the Authority and the City of Ontario, a general law city organized and existing under and by virtue of the Constitution and laws of the State of California (the "City"), have executed and entered into a Lease Agreement (the "Lease Agreement"), dated as of _____, a memorandum of which is recorded concurrently herewith, whereby the parties have leased certain property (the "Leased Property"), which is described more fully in Exhibit A attached hereto and by this reference incorporated herein;

WHEREAS, under and pursuant to the Lease Agreement, the City is obligated to make scheduled lease payments (the "Lease Payments") to the Authority;

WHEREAS, the Authority desires to assign to the Assignee without recourse all of its rights under and pursuant to the Lease Agreement;

WHEREAS, pursuant to a Purchase and Sale Agreement by and between the City and Assignee dated _____ (the "Site PSA"), the Assignee conveyed a portion of the Leased Property to the City with a portion of the purchase price therefor (in the amount of $21,829,500) to be repaid through the payment of Lease Payments pursuant to the Lease Agreement;

WHEREAS, the Authority and the Assignee are entering into this Assignment Agreement as a part of an integrated financing transition of the City and Authority for the purpose of acquiring a portion of the Leased Property as described in the Site PSA; and

WHEREAS, the Authority hereby certifies that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution of and entering into the Assignment Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Assignment Agreement;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

SECTION 1. Assignment. The Authority, for the City's acquisition of the Leased Property pursuant to the Site PSA and for other good and valuable consideration in hand received, does hereby sell, assign and transfer, without recourse, to the Assignee each and all of its rights under the Lease Agreement, including, without limitation, its right to receive the Lease Payments from the City under the Lease Agreement and its right to exercise such rights and remedies conferred on the Authority under the Lease Agreement as may be necessary to enforce payment of the Lease Payments when due or otherwise to protect its interests in the event of a default by the City, as well as all rights under the Site and Facility Lease (the "Assigned Property"). This assignment is absolute and irrevocable and is presently effective, and all Lease Payments shall be applied and the rights so assigned shall be exercised by the Assignee as provided in the Lease Agreement and Site and Facility Lease. Capitalized terms used but not defined herein have the meanings given to such terms in the Lease Agreement.

SECTION 2. Acceptance. The Assignee hereby accepts the foregoing assignment. Payments of Lease Payments shall be made by the City directly to the Assignee as set forth in a notice of the Assignee to the City and the Authority.

SECTION 3. Absolute Assignment. The above assignment is intended to be an absolute, unconditional and irrevocable assignment to the Assignee and is not intended as a loan by the Assignee to the Authority. Accordingly, in the event of bankruptcy of the Authority, the Assigned Property shall not be part of the Authority's estate. However, if the above assignment is deemed to be a loan by the Assignee to the Authority, then the Authority shall be deemed to have granted to the Assignee, and hereby grants to the Assignee, a continuing first priority security interest in the Assigned Property and all proceeds thereof as collateral security for all obligations of the Authority hereunder and all obligations of the City under the Lease Agreement and this Assignment Agreement shall be deemed a security agreement with respect to such loan.

SECTION 4. Representations of the Authority. The Authority represents and warrants to the Assignee that:

(A) Enforceability of Assignment Agreement. The Authority has the power, and legal right to execute, deliver and perform this Assignment Agreement and this Assignment Agreement is a valid, binding, and enforceable obligation of the Authority, except as such enforceability may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally and by the application of equitable principles; and

(B) Marketable Title. Good and marketable title to the Assigned Property has been duly vested in the Assignee free and clear of any liens, security interests, encumbrances or other claims other than the rights of the City under the Lease Agreement, and the Authority has not assigned or transferred any of the Assigned Property or any interest in the Assigned Property to any party other than the Assignee.

(C) No Defaults. As of the date hereof, the Lease Agreement and the Site and Facility Lease are in full force and effect and the City is not in default of any of the terms set forth therein.

(D) Incorporation By Reference. The Authority hereby makes to the Assignee the same representations and warranties as are set forth by it in the Lease Agreement, which representations and warranties are hereby incorporated herein by reference for the benefit of the Assignee with the same effect as if each and every such representation and warranty were set forth herein in its entirety and were made as of the date hereof.

SECTION 5. Covenants.

(A) Nonimpairment of Lease Agreement. The Authority agrees that it (1) shall not have any right to amend, modify, compromise, release, terminate or modify the terms of the Lease Agreement or the Site and Facility Lease without the Assignee's written consent, which consent may be withheld in the Assignee's sole and absolute discretion, and (2) shall not take any action that may impair the payment of Lease Payments or the validity or enforceability of the Lease Agreement or the Site and Facility Lease.

(B) Lease Payments. If the Authority receives any Lease Payments, then the Authority shall receive such payments in trust for the Assignee and shall immediately deliver the same to the Assignee in the form received, duly endorsed by the Authority for deposit by the Assignee.

(C) Further Assurances. The Authority shall execute and deliver to the Assignee such documents, in form and substance reasonably satisfactory to the Assignee, and the Authority shall take such other actions, as the Assignee may reasonably request from time to time to evidence, perfect, maintain, and enforce the Assignee's rights in the Assigned Property and/or to enforce or exercise the Assignee's rights or remedies under the Lease Agreement.

SECTION 6. Representations of Assignee. The Assignee represents that it is acquiring the interest in the Lease Agreement for its own account. The Assignee will deliver to the City a certificate substantially in the form attached as Exhibit D to the Lease Agreement upon the delivery of the Lease Agreement and the Assignment Agreement. In the event that the Assignee conveys or assigns its interest under the Lease Agreement, it shall cause the subsequent assignee to deliver a certificate in substantially said form to the City.

SECTION 7. California Law, The Assignment Agreement shall be governed by and construed and interpreted in accordance with the law of the State of California.

SECTION 8. Severability. If any agreement, condition, covenant or term thereof or any application hereof shall be held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, all agreements, conditions, covenants and terms hereof and all applications thereof not held invalid, void or enforceable shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 9. Execution in Counterparts. The Assignment Agreement may be executed and entered into in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

(Signature page follows)

IN WITNESS WHEREOF the parties hereto have executed and entered into the Assignment Agreement by their officers thereunto duly authorized as of the day and year first above written.

ONTARIO PUBLIC FINANCING AUTHORITY

By: _____
Scott Ochoa, Executive Director

Attest:

_____
Sheila Mautz, Secretary

SC ONTARIO DEVELOPMENT COMPANY LLC

By: _____

-Signature Page-
Assignment Agreement

EXHIBIT A

[**Description of Leased Property**]

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 _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) 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(ies), 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 _____ (Seal)

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 _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) 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(ies), 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 _____ (Seal)