# CITY OF ONTARIO

## Regular City Council/Housing Authority Meeting
## JULY 2, 2024

*City Hall*
*303 East B Street, Ontario, CA 91764*

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

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

## WELCOME TO A MEETING OF THE ONTARIO CITY COUNCIL

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

Anyone wishing to speak in person during public comment or on a particular item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Clerk will not accept blue slips after that time. To comment by email, submit your comments no later than 4:00 p.m. on the day of the meeting by emailing your name, agenda item you are commenting on and your comments to publiccomments@ontarioca.gov. All comments received by the deadline will be forwarded to the City Council for consideration before action is taken on the matter and will be entered into the record.

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

In accordance with State Law, remarks during public comment are to be limited to subjects within Council's jurisdiction. Remarks on other agenda items will be limited to those items.

Remarks from those seated or standing in the back of the chamber will not permitted. All those wishing to speak including Council and Staff need to be recognized by the Chair before speaking.

## ACCOMODATIONS

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.

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## ORDER OF BUSINESS

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

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## CALL TO ORDER *(OPEN SESSION)*

**ROLL CALL**

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

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## CLOSED SESSION PUBLIC COMMENT

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

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**CLOSED SESSION**

GC 54956.9 (d)(2), CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
One Matter

**ATTACHMENT:** 20240702 Closed Session.docx

**PLEDGE OF ALLEGIANCE**

Mayor pro Tem Porada

**INVOCATION**

Mr. Jeff Paulus, Christ Church Parish

**REPORT ON CLOSED SESSION**

City Attorney

## SPECIAL CEREMONIES

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**ONTARIO 5K REINDEER RUN & RUDOLPH'S DASH CHECK PRESENTATION TO ONTARIO-MONTCLAIR SCHOOLS FOUNDATION**

That the City Council present the Ontario-Montclair Schools Foundation with a check from the proceeds of the 2023 Ontario 5K Reindeer Run & Rudolph's DASH.

## PUBLIC COMMENTS 6:30 P.M.

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

To comment by email, submit your comments by email no later than 4:00 p.m. on the day of the meeting by emailing your name, agenda item you are commenting on and your comment to publiccomments@ontarioca.gov. All Comments received by the deadline will be forwarded to the City Council for consideration before action is taken on the matter and entered into the record. As previously noted -- if you wish to address the Council, fill out one of the blue slips at the rear of the chambers and give it to the City Clerk.

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## 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.

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## 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.

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## CONSENT CALENDAR

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

Each member of the public wishing to address the City Council on items listed on the Consent Calendar will be given a total of 2 minutes.

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**1. APPROVAL OF MINUTES**

Minutes for the regular meetings of the City Council and Housing Authority of June 4, 2024 and approving same as on file in the Records Management Department.

**ATTACHMENT:** 20240604 Meeting Minutes (Not Official Until Approved).docx

**2. BILLS & PAYROLL**

Bills May 31, 2024 through June 20, 2024, and Payroll May 19, 2024 through June 1, 2024.

**3. A CONSTRUCTION CONTRACT WITH ALL AMERICAN ASPHALT FOR THE 2024 FALL PAVEMENT REHABILITATION PROJECT**

That the City Council award a Construction Contract with All American Asphalt of Corona, California, for the 2024 Fall Pavement Rehabilitation Project (Project) in the amount of $4,958,888 plus a ten percent (10%) contingency of $495,888 for a total of $5,454,776 ; and authorize the City Manager, or his designee, to execute said contract and all related documents, and file a notice of completion at the conclusion of all construction activities.

**ATTACHMENT:** 03 - Location Maps.pdf
**ATTACHMENT:** 02 - Contract.pdf

**4. ACCEPT WRITTEN PETITIONS TO CREATE A COMMUNITY FACILITIES DISTRICT; ADOPT A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 52 (SUNDANCE PARK) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES; AND ADOPT A RESOLUTION DECLARING IT NECESSARY TO INCUR BONDED INDEBTEDNESS**

That the City Council consider and:

A. Accept written petitions (on file in the Records Management Department) from BrookCal Ontario LLC, KL LB BUY 1 LLC, Brookfield Row at SP LLC, and Brookfield Homes Southern California LLC ("Landowners"), to create a Community Facilities District, and to waive certain procedural matters, under the Mello-Roos Community Facilities Act of 1982;
B. Adopt a Resolution of Intention to establish Community Facilities District proposed to be named City of Ontario Community Facilities District No. 52 (Sundance Park) and to authorize the levy of a special tax therein, and set a public hearing for the formation of the Community Facilities District as part of the regularly scheduled City Council meeting on Tuesday, August 20, 2024; and
C. Adopt a Resolution Declaring It Necessary for the City of Ontario Community Facilities

District No. 52 (Sundance Park) to Incur Bonded Indebtedness.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT PROPOSED TO BE NAMED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 52 (SUNDANCE PARK) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING IT NECESSARY FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 52 (SUNDANCE PARK) TO INCUR BONDED INDEBTEDNESS.

**ATTACHMENT:** 2024-069 CFD_No._52_Sundance_Park_01_Reso_of_Intention_RESO_RM.docx
**ATTACHMENT:** CFD No. 52 Sundance Park^01A Map,EXH A.pdf
**ATTACHMENT:** CFD No. 52 Sundance Park^01B RMA, EXH C.pdf
**ATTACHMENT:** 2024-070 CFD_No._52_Sundance_Park_02_Reso_to_Incur_Bonded_Indebtedness_RESO_RM.docx

**5. A PROFESSIONAL SERVICES AGREEMENT WITH BUCKNAM INFRASTRUCTURE GROUP INC. FOR THE UPDATE OF THE CITY'S PAVEMENT MANAGEMENT PROGRAM AND SIDEWALK SURVEY**

That the City Council authorize the City Manager, or his designee, to execute a Professional Services Agreement with Bucknam Infrastructure Group Inc., of Oceanside, California, for the update of the City's Pavement Management Program and sidewalk survey, for a total contract amount not-to-exceed $694,500 for up to five (5) years.

**ATTACHMENT:** 24-25 PMP - Professional Services Agreement_Combined.pdf

**6. A RESOLUTION ORDERING THE SUMMARY VACATION OF THE RIGHT-OF-WAY IN A PORTION OF EMORY LANE AND RECONVEYING ANY OF THE CITY'S INTERESTS THEREIN**

That the City Council adopt a Resolution ordering the summary vacation of the right-of-way in a portion of Emory Lane located within Tract Map No. 17564-1, near the northeast corner of Mill Creek Avenue and Chino Avenue, and reconvey any of the City's interest therein and authorize the City Manager, or his designee, to execute the documents necessary to evidence the vacation and the reconveyance of the City's interest.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ORDERING THE SUMMARY VACATION OF RIGHT-OF-WAY IN A PORTION OF EMORY LANE AND RECONVEYING ANY OF THE CITY'S INTEREST THEREIN

**ATTACHMENT:** 20240702 Vacation 323^01 EXH 1.pdf
**ATTACHMENT:** 2024-071 Vacation_323_02_RESO_RM.docx
**ATTACHMENT:** 20240702 Vacation 323^03 RESO EXH A - B.pdf

**7. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING A SPECIAL TAX WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 68 (RICH**

**HAVEN INDUSTRIAL SERVICES)**

That the City Council consider and adopt an Ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 68 (Rich Haven Industrial Services).

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING A SPECIAL TAX WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 68 (RICH HAVEN INDUSTRIAL SERVICES).

**ATTACHMENT:** CFD 68 Rich Haven Industrial Services 01^ORD^RM

**8. A DEVELOPMENT IMPACT FEE CREDIT AGREEMENT (FILE NO. PDIF23-004) BETWEEN THE CITY OF ONTARIO AND LANDSEA HOMES OF CALIFORNIA, LLC, FOR FACILITY CONSTRUCTION ASSOCIATED WITH TRACT MAP 20452 (FILE NO. PMTT21-017), LOCATED ON THE WEST SIDE OF HAVEN AVENUE, 1,300 FEET SOUTH OF RIVERSIDE DRIVE, WITHIN THE WEST HAVEN SPECIFIC PLAN**

That the City Council approve the Development Impact Fee Credit Agreement (File No. PDIF23-004) between the City of Ontario and Landsea Homes of California LLC, for the facility construction associated with Tract Map 20452 (File No. PMTT21-017), located on the west side of Haven Avenue, 1,300 feet south of Riverside Drive, within the Haven Specific Plan, and authorize the City Manager, or his designee, to execute the Agreement.

**ATTACHMENT:** DIF Agreeement - PDIF23-004 - Landsea - TM 20452 Signed 06.05.24.pdf

**9. AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH TILDEN-COIL CONSTRUCTORS, INC. FOR CONSTRUCTION MANAGEMENT MULTI-PRIME SERVICES FOR PHASE 1 OF THE ONTARIO CONVENTION CENTER EXPANSION PROJECT**

That the City Council take the following actions:

A. Authorize the City Manager or his designee to execute Amendment No. 4 to the Professional Services Agreement with Tilden-Coil Constructors, Inc., of Riverside, California, to provide Construction Management Multi-Prime Services for Phase 1 of the Ontario Convention Center Expansion Project in the amount of $3,005,730 for a total not-to-exceed contract amount of $33,049,677; and
B. Authorize the City Manager or his designee to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

**ATTACHMENT:** Tilden-Coil Amendment 4 Rev 5.9.24.pdf

**10. AN AMENDMENT TO THE AGREEMENT WITH CENTRALSQUARE TECHNOLOGIES, LLC., FOR 911 DISPATCH SYSTEM**

That the City Council authorize the City Manager or his designee to execute Amendment No. 2 to the Solutions Agreement with CentralSquare Technologies, LLC., of Lake Mary, Florida, for

the use of Computer-Aided Dispatch (CAD) and Records Management Systems (RMS), used by the Police and Fire Departments to extend the terms for one year with an optional renewal period for two years in the amount not-to-exceed $1,961,717.

**ATTACHMENT:** Amendment 2_CentralSquare Solutiont-6-26-2024.pdf

**11. A DEVELOPMENT IMPACT FEE CREDIT AGREEMENT (FILE NO. PDIF23-002) BETWEEN THE CITY OF ONTARIO AND KL LB BUY 1 LLC, FOR FACILITY CONSTRUCTION ASSOCIATED WITH TRACT MAP 20529 (FILE NO. PMTT22-010), LOCATED 400 FEET SOUTHWEST OF CHINO AVENUE AND MILL CREEK AVENUE, WITHIN THE RICH-HAVEN SPECIFIC PLAN**

That the City Council approve the Development Impact Fee Credit Agreement (File No. PDIF23-002) between the City of Ontario and KL LB BUY 1 LLC, for the facilities construction associated with Tract Map 20529 (PMTT22-010), located 400 feet southwest of Chino Avenue and Mill Creek Avenue, within the Rich-Haven Specific Plan, and authorize the City Manager, or his designee, to execute the Agreement.

**ATTACHMENT:** PDIF23-002 KL LB BUY 1 LLC Signed.pdf

**12. AN ORDINANCE ADOPTING A DEVELOPMENT CODE AMENDMENT ESTABLISHING HISTORIC PRESERVATION - ADAPTIVE REUSE PLANS, FILE NO. PDCA24-002**

That the City Council consider and adopt an Ordinance approving File No. PDCA24-002, a Development Code Amendment revising Table 2.02-1: Reviewing Matrix of Chapter 2 (Administration and Procedures) to include the Fire Marshal as an Approving Authority, and Chapters 4 (Permits Actions and Decision) and 7 (Historic Preservation) to establish Historic Preservation - Adaptive Reuse Plan of the City of Ontario Development Code.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA24-002, A DEVELOPMENT CODE AMENDMENT REVISING TABLE 2.02-1: REVIEWING MATRIX OF CHAPTER 2 (ADMINISTRATION AND PROCEDURES) TO INCLUDE THE FIRE MARSHAL AS AN APPROVING AUTHORITY, AND CHAPTERS 4 (PERMITS ACTIONS AND DECISION) AND 7 (HISTORIC PRESERVATION) TO ESTABLISH HISTORIC PRESERVATION-ADAPTIVE REUSE PLAN OF THE CITY OF ONTARIO DEVELOPMENT CODE, AND MAKING FINDINGS IN SUPPORT THEREOF.

**ATTACHMENT:** File No. PDCA24-002^01 AR Attach A.docx
**ATTACHMENT:** File No. PDCA24-002 02^ORD^RM
**ATTACHMENT:** File No. PDCA24-002^03 Ordinance Attach A- clean.docx
**ATTACHMENT:** 20240618 File No. PDCA24-002 ^PC Back-up.pdf

**13. AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH WINDSONG PRODUCTIONS, LLC. FOR VIDEO PRODUCTION SERVICES**

That the City Council authorize the City Manager, or his designee, to execute Amendment No. 3 to the Professional Services Agreement with Windsong Productions, LLC. to extend the contract term by one year and increase the contract amount by $292,789 to cover the corresponding work for the year. The new not-to-exceed amount for the contract will be $1,107,836.

**ATTACHMENT:** Amendment No. 3 with Scope of Work

**14. A TELECOMMUNICATIONS MASTER CUSTOMER AGREEMENT WITH ZAYO GROUP LLC FOR THE LEASE OF DARK FIBER**

That the City Council authorize a Master Customer Agreement and Service Order, with Zayo Group LLC to establish a dark fiber connection from Ontario, California to One Wilshire in Los Angeles, California, in the amount of $528,780, plus a 10% contingency in the amount of $52,878, for a total-not-to-exceed amount of $581,658; and authorize the City Manager, or his designee, to execute said Agreement and future amendments within the authorization limits.

**ATTACHMENT:** Zayo Group MCA FORM (6-4-24) Final 6.14.24-c1.pdf
**ATTACHMENT:** Zayo - Customer Schedule Dark Fiber Offerings FORM 6.14.24 final-c1.pdf

**15. AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT (FILE NO. PDA21-010) BETWEEN THE CITY OF ONTARIO AND SL ONTARIO DEVELOPMENT COMPANY, LLC**

That the City Council consider and adopt an Ordinance approving a Development Agreement (File No. PDA21-010) between the City of Ontario and SL Ontario Development Company, LLC.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA21-010, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND SL ONTARIO DEVELOPMENT COMPANY LLC, TO ESTABLISH THE TERMS AND CONDITIONS ASSOCIATED WITH TENTATIVE TRACT MAP 20562 (FILE NO. PMTT22-022), A 62.69 ACRE PROPERTY, LOCATED AT THE SOUTHEAST CORNER OF EUCALYPTUS AVENUE AND HAVEN AVENUE, WITHIN PLANNING AREA 32 (MIXED-RESIDENTIAL) AND PLANNING AREA 34 (SCHOOL) OF THE SUBAREA 29 SPECIFIC PLAN. (FILE NO. PSPA21-005), (APNS: 1073-171-04, 1073-171-08, 1073-171-09 AND 1073-171-10).

**ATTACHMENT:** File_No._PDA21-010_SL Ontario Development Co. LLC_01 EXH A&B.pdf
**ATTACHMENT:** File No. PDA21-010 SL Ontario Development Co. LLC 02^ORD^RM
**ATTACHMENT:** File_No._PDA21-010_SL Ontario Development Co._LLC_03_DEV_AGR.doc

**16. STUDENT REPRESENTATIVE AND ALTERNATIVE APPOINTMENTS TO THE RECREATION & PARK COMMISSION FOR FY 2024-2025**

That the City Council confirm Krisha Shah, Ontario resident and student at Colony High School as the Student Representative and Alyssa Marquez, Ontario resident and student at Chaffey High School as the second Student Representative to the Recreation & Parks Commission for the term set to expires on June 30, 2025.

**17. A RESOLUTION APPROVING THE ADMINISTRATIVE POLICY SETTING FORTH THE APPLICATION AND SELECTION PROCESS, TERM, AND DUTIES OF NON-VOTING STUDENT MEMBERS OF THE RECREATION & PARKS COMMISSION**

That the City Council approve the Administrative Policy setting forth the application and

selection process, term, and duties of non-voting student members of the Recreation & Parks Commission.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ADMINISTRATIVE POLICY PERTAINING TO THE SELECTION AND PARTICIPATION OF NON-VOTING STUDENT REPRESENTATIVES ON THE RECREATION & PARKS COMMISSION.

**ATTACHMENT:** Resolution_Administrative_Policy_for_Student_Representative_01^RESO^RM
**ATTACHMENT:** Exhibit A 2024 Student Representative - Commission Process .docx

**18. AN AMENDMENT TO THE GOODS AND SERVICES AGREEMENT WITH LONG BEACH BMW MOTORCYCLES FOR PARTS AND REPAIRS OF POLICE MOTORCYCLES**

That the City Council authorize the City Manager or his designee to execute Amendment No. 5 to the Goods and Services Agreement with Long Beach BMW Motorcycles, of Long, California, for the procurement of parts and repairs for Police BMW Motorcycles in the amount of $50,000, for a total not-to-exceed contract amount of $300,000, and extend the agreement to June 30, 2025.

**ATTACHMENT:** LBBMW_Amendment_5_2024_MR AA.pdf

**19. AN AMENDMENT TO THE GOODS AND SERVICES AGREEMENTS WITH CITRUS MOTORS ONTARIO, INC., MARK CHRISTOPHER CHEVROLET, INC., AND FORD OF UPLAND FOR FORD, GMC, AND CHEVROLET PARTS AND REPAIRS**

That the City Council take the following actions:

A. Authorize the City Manager or his designee to execute Amendment No. 4 to the Goods and Services Agreement with Mark Christopher Chevrolet, Inc., of Ontario, California, for the procurement of GMC and Chevrolet OEM parts in the amount of $100,000, for a total not-to-exceed contract amount of $460,000, and extend the agreement to June 30, 2025, and
B. Authorize the City Manager or his designee to execute Amendment No. 6 to the Goods and Services Agreement with Citrus Motors Ontario, Inc., of Ontario, California, for the procurement of Ford Original Equipment Manufacturer (OEM) parts and repair services in the amount of $300,000, for a total not-to-exceed contract amount of $990,000, and extend the agreement to June 30, 2025; and
C. Authorize the City Manager or his designee to execute Amendment No. 6 to the Goods and Services Agreement with Ford of Upland, of Upland, California, for the procurement of Ford original equipment manufacturer (OEM) parts and repair services in the amount of $130,000, for a total not-to-exceed contract amount of $500,000, and extend the agreement to June 30, 2025.

**ATTACHMENT:** Citrus_Amendment_6_2024_MR.pdf
**ATTACHMENT:** FordofUpland_Amendment_6_2024_MR.pdf
**ATTACHMENT:** Mark Christopher Amenment #4_Revised 2023 Ontario_ Model Amendment 6.25.24 AA.pdf

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

That the City Council authorize the City Manager or his designee to execute Amendment No. 4 to the Goods and Services Agreement with AMREP Manufacturing Company, of Ontario, California, for the procurement of parts and repairs of refuse truck bodies in the amount of $500,000, for a total not-to-exceed contract amount of $2,510,000, and extend the agreement to June 30, 2025.

**ATTACHMENT:** AMREP_Amendment_4_2024_MR AA.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.

Each member of the public wishing to address the City Council on Public Hearing items will be given a total of 2 minutes.

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**21. A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 71 (NEUHOUSE PHASE 2); ADOPTION OF A RESOLUTION DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS; AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES**

That the City Council consider and:

A. Adopt a Resolution of Formation of Community Facilities District No. 71 (Neuhouse Phase 2), proposing that the community facilities district be authorized to levy a special tax and proposing that an appropriations limit of the community facilities district be established;
B. Adopt a Resolution deeming it necessary for the district to incur bonded indebtedness within Community Facilities District No. 71 (Neuhouse Phase 2);
C. Adopt a Resolution calling a special election for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2);
D. Adopt a Resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
E. Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2); and
F. Adopt a Resolution authorizing the execution and delivery of an acquisition and funding agreement with LS-ONTARIO II LLC, a Delaware limited liability company.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 71 (NEUHOUSE PHASE

2), PROPOSING THAT THE COMMUNITY FACILITIES DISTICT BE AUTHORIZED TO LEVY A SPECIAL TAX AND PROPOSING THAT AN APPROPRIATIOINS LIMIT OF THE COMMUNITY FACILITIES DISTICT BE ESTABLISHED.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY FOR THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO.71 (NEUHOUSE PHASE 2) TO INCUR BONDED INDEBTEDNESS.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO.71 (NEUHOUSE PHASE 2)

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

AN ORDINANCE OF THE CITY OF COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING A SPECIAL TAX WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO.71 (NEUHOUSE PHASE 2).

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AND FUNDING AGREEMENT WITH LS-ONTARIO II LLC.

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| **ATTACHMENT:** | 2024-073<br>CFD_71_Neuhouse_Phase_2_01_Reso_of_Formation_RESO_RM.docx |
| **ATTACHMENT:** | CFD 71 Neuhouse Phase 2^01A RMA EXH B.pdf |
| **ATTACHMENT:** | 2024-074<br>CFD_71_Neuhouse_Phase_2_02_Reso_Deeming_Necessity_to_Incur_RESO_RM.docx |
| **ATTACHMENT:** | CFD 71 Neuhouse Phase 2^03 Concurrence of Election Offical.docx |
| **ATTACHMENT:** | 2024-075<br>CFD_71_Neuhouse_Phase_2_04_Reso_Calling_Election_RESO_RM.docx |
| **ATTACHMENT:** | 2024-076<br>CFD_71_Neuhouse_Phase_2_05_Reso_Delcaring_Election_RESO_RM.docx |
| **ATTACHMENT:** | CFD 71 Neuhouse Phase 2 07 Ordinance to Levy Special Tax^ORD^RM |
| **ATTACHMENT:** | 2024-077<br>CFD_71_Neuhouse_Phase_2_08_Reso_Authorizing_Aquisition_Agreement_RESO_RM.docx |

**22. A PUBLIC HEARING TO CONSIDER FILE NO. PUD23-004, A PLANNED UNIT DEVELOPMENT FOR 21.58 ACRES OF LAND GENERALLY LOCATED SOUTH OF E SREET, NORTH OF HOLT BOULEVARD, WEST OF EUCLID AVENUE, EAST OF PALM AVENUE AND THE NORTHERN PORTION OF THE BLOCK BETWEEN FERN AND PALM AVENUES AND C AND D STREETS**

That the City Council take the following actions:

A. Consider and adopt a Resolution approving a Mitigated Negative Declaration in

accordance with the California Environmental Quality Act and adopting a related Mitigation Monitoring and Reporting Program for File No. PUD23-004; and

B. Introduce and waive further reading of an Ordinance approving File No. PUD23-004, the Downtown West Planned Unit Development (PUD), to establish a set of planning and design principles, development regulations and performance standards to govern future development of 21.58 acres, generally located south of E Street, north of Holt Boulevard, west of Euclid Avenue, east of Palm Avenue and the northern portion of the block between Fern and Palm Avenues and C and D Streets, within the LUA-1 (Euclid Avenue Entertainment) of the MU-1 (Downtown Mixed Use) zoning district.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO APPROVING A MITIGATED NEGATIVE DECLARATION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM FOR FILE NO. PUD23-004

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PUD23-004, A PLANNED UNIT DEVELOPMENT TO ESTABLISH PLANNING AND DESIGN PRINCIPLES, DEVELOPMENT REGULATIONS AND PERFORMANCE STANDARDS TO GOVERN FUTURE DEVELOPMENT OF 21.58 ACRES OF LAND, GENERALLY LOCATED SOUTH OF E STREET, NORTH OF HOLT BOULEVARD, WEST OF EUCLID AVENUE, EAST OF PALM AVENUE, AND THE NORTHERN PORTION OF THE BLOCK BETWEEN FERN AND PALM AVENUES AND C AND D STREETS, WITHIN THE LUA-1 (EUCLID AVENUE ENTERTAINMENT) OF THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 1048-566-08, 1048-566-09, 1048-566-10, 1048-566-02, 1048-566-01, 1048-566-03, 1048-566-04, 1048-566-06, 1048-566-07, 1048-561-07, 1048-561-08, 1048-561-09, 1048-561-10, 1048-561-12, 1048-561-13, 1048-562-01, 1048-562-02, 1048-565-01, 1048-565-04, 1048-565-05, 1048-565-06, 1048-566-06, 1048-566-07, 1048-354-04, 1048-354-05, 1048-354-06, 1048-354-07, 1048-354-08, 1048-353-13, 1048-353-14, 1048-354-01, 1048-354-02, 1048-354-03, 1048-565-14, 1048-566-05, 1048-566-11, 1048-561-11, 1048-562-03, 1048-562-06, 1048-562-07, 1048-563-01, 1048-563-02, 1048-563-03, 1048-563-04, 1048-563-05, 1048-576-01, 1048-576-02, 1048-563-07, 1048-563-08, 1048-564-07, 1048-564-11, 1048-564-12, 1048-564-13, 1048-564-14, 1048-565-02, 1048-565-03, 1048-563-06, 1048-563-07, 1048-563-08, 1048-563-09, 1048-563-10, 1048-565-07, 1048-565-08, 1048-565-09, 1048-565-10, 1048-565-11, 1048-565-12, 1048-565-13, 1048-563-11, 1048-564-01, 1048-564-02, 1048-564-03, 1048-564-04, 1048-564-05, 1048-564-06, 1048-564-08, 1048-564-09, 1048-564-10.

**ATTACHMENT:** 20240702 File No. PUD23-004^PC Backup.pdf
**ATTACHMENT:** 2024-078 File_No._PUD23-004_01_CC_Res_-_MND___MMRP_RESO_RM.docx
**ATTACHMENT:** 20240702 File No. PUD23-004^02 RES ATT A - MMRP.docx
**ATTACHMENT:** 20240702 File No. PUD23-004^03 RES ATT A- MND.pdf
**ATTACHMENT:** File No. PUD23-004 05 CC^ORD^RM
**ATTACHMENT:** 20240702 File No. PUD23-004^06 Final CC Draft.pdf

## STAFF MATTERS

City Manager Ochoa

## COUNCIL MATTERS

- **Public Art Program Advisory Commission Appointment**

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

## ADJOURNMENT

**CITY OF ONTARIO**
**CLOSED SESSION REPORT**
City Council // Housing Authority // Other // *(GC 54957.1)*
**July 2, 2024**

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

**STAFF:** City Manager / Executive Director __, City Attorney __

In attendance: Dorst-Porada _, Wapner _, Bowman _, Valencia _, Mayor / Chairman Leon _.

GC 54956.9 (d)(2), CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
One Matter

| No Reportable Action | Continue | Approved |
|---|---|---|
| / / | / / | / / |

Disposition: _____

Reported by:

_____
City Attorney / City Manager / Executive Director

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**SPECIAL CEREMONIES** |
|---|---|
| Department: Recreation & Community Services<br>Prepared By: Danielle Guevara<br>Staff Member Presenting: Nicholas S. Gonzalez, Recreation & Community Services Director<br>Reviewed By: Lacey A Rightmer<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: |

**SUBJECT:** **ONTARIO 5K REINDEER RUN & RUDOLPH'S DASH CHECK PRESENTATION TO ONTARIO-MONTCLAIR SCHOOLS FOUNDATION**

**RECOMMENDATION:** That the City Council present the Ontario-Montclair Schools Foundation with a check from the proceeds of the 2023 Ontario 5K Reindeer Run & Rudolph's DASH.

**THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:**
**Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities**

**FISCAL IMPACT:** The City enters into an agreement annually with the Ontario-Montclair Schools Foundation to split proceeds from this yearly event. As part of that agreement, 75% of the proceeds go to Ontario-Montclair Promise Scholars and 25% of the proceeds go to the City's Empowerment Scholarship program. The adjusted net proceeds for the 2023 event were $106,507.86, which were included in the FY 2023-24 Budget in the General Fund. The total proceeds to the Ontario-Montclair Schools Foundation net of expenses is $79,880.90.

**BACKGROUND & ANALYSIS:** Each year, the Recreation & Community Services Department partners with the Ontario-Montclair Schools Foundation to support and promote the 5K Reindeer Run & Rudolph's DASH event. The Recreation & Community Services Department organizes and executes the event, including seeking sponsors and marketing. The Ontario-Montclair Schools Foundation garners district-wide support, provides volunteers, and assists event with promotion, marketing, and administrative support.

In 2023, the 5K Reindeer Run & Rudolph's DASH brought in a total of 3,902 runners and $57,700 in sponsorship packages.

The Ontario-Montclair Promise Scholars is an award-winning program designed to assist Ontario-Montclair youth by helping prepare them for their journey toward a college education. Ontario-Montclair Promise Scholars utilizes the proceeds from the event to provide college and career curriculum in each K-6 classroom, take field trips to colleges, host parent presentations, put on college fairs, and assist students with college applications and financial aid forms. The City's

Empowerment Scholarship allows Ontario community members from low-income backgrounds to participate in fee-based recreation activities that will enrich their lives. Community members can apply for Empowerment Scholarship funds by visiting the City website www.OntarioCA.gov/Recreation.

The adjusted net proceeds for this event were $106,507.86. Per the agreement between the City of Ontario and Ontario-Montclair Schools Foundation, $79,880.90 will benefit the Promise Scholars program and $26,626.96 will fund the City's Empowerment Scholarships.

**ONTARIO CITY COUNCIL/**
**ONTARIO HOUSING AUTHORITY**
**MINUTES**
**June 4, 2024**
**(Not Official Until Approved)**

## JOINT MEETINGS

The regular meetings of the Ontario City Council and the Housing Authority were held on Tuesday, June 4, 2024 at Ontario City Hall, 303 E. B Street Ontario, California.

## OPEN MEETING CALLED TO ORDER

Mayor Leon called the joint meetings to order at 6:03 p.m.

## ROLL CALL

| | | |
|---|---|---|
| **PRESENT:** | Mayor/Chairman: | Paul S. Leon |
| | Mayor pro Tem/Vice Chair: | Debra Porada |
| | Council/Authority Members: | Alan D. Wapner, Ruben Valencia |
| **ABSENT:** | Council/Authority Members: | Jim W. Bowman |

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 conflicts of interest announced by the City Council.

## 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 and recessed to Closed Session at 6:03 p.m. for discussion of the following:

GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION:
Deanna Maclachlan v. City of Ontario, Superior Court of California, County of San Bernardino, Case No. CIV SB 2304275

GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS:
Property: APN: 0210-205-01; 4000 E. Ontario Center Parkway; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: OTC Lot A Owner, LLC c/o Adept Urban; SMG. Under negotiation: Price and terms of payment.

## OPEN MEETING CALLED TO ORDER

Mayor Leon reconvened the meetings at 6:30 p.m. for the regular session.

## REPORT ON CLOSED SESSION

City Attorney Duran stated there was no reportable action.

## PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Wapner.

## INVOCATION

The invocation was led by Pastor Victor Enoch Zesati of Victory Outreach Ontario Bilingual Church.

## PUBLIC COMMENTS

Assistant City Clerk Isbell announced there was one written public comment:
*Ishmael Alvarez,* regarding complications with reporting potholes on the Ontario App.

Mayor Leon called upon the first speaker:

*Rich Gentry,* regarding RV storage parking.
*Kim Flores,* regarding zoning and potential City property acquisitions.

## SPECIAL CEREMONIES

*TWENTY-FOURTH ANNUAL MODEL COLONY AWARDS*

The City Council presented the 2024 “Model Colony” Awards for Historic Preservation.

## AGENDA REVIEW/ANNOUNCEMENTS

City Manager Ochoa made no announcements.

## CONSENT CALENDAR

Mayor Leon inquired if anyone was interested in speaking to the items on the Consent Calendar.

*Tyler Haskall,* spoke in opposition to Item 15.

Attorney Duran affirmed that should the City choose to authorize Item 15 they would be doing so within the boundaries of the law.

**MOTION:** Moved by Council Member Wapner, seconded by Mayor pro Tem Porada and carried by a unanimous vote 4-0, to approve the Consent Calendar, with Council Member Bowman absent.

**1. BILLS & PAYROLL**

Approved bills May 3, 2024 through May 16, 2024, in the amount of $19,012,379.89, and Payroll April 21, 2024 through May 4, 2024 in the amount of $5,175,735.44.

**2. A PROFESSIONAL SERVICES AGREEMENT WITH RAY KLEIN, INC. DBA PROFESSIONAL CREDIT SERVICE FOR COLLECTION AGENCY SERVICES**

The City Council authorized the City Manager, or his designee, to execute a Professional Services Agreement with Ray Klein Inc., dba Professional Credit Service of Vancouver, Washington, to perform collection agency services for delinquent accounts for a period of three years, with two optional one-year extensions to continue providing collection agency services for various City Agencies.

**3. AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH AXON ENTERPRISE, INC. FOR THE ACQUISITION OF POLICE DEPARTMENT FRONTLINE PATROL EQUIPMENT**

The City Council authorized the City Manager, or his designee, to execute an Amendment to the Professional Services and Equipment Purchase Agreement with Axon Enterprise, Inc., of Scottsdale, Arizona, for the purchase of additional Fleet 3 advanced cameras for additional patrol units for a new total not-to-exceed contract amount of $9,780,670.

**4. AUTHORIZE CHANGE ORDER NO. 3 TO THE CONSTRUCTION CONTRACT WITH MCCARTHY BUILDING COMPANIES, INC. FOR DESIGN-BUILD CONSTRUCTION SERVICES FOR THE CITY HALL PARKING STRUCTURE PROJECT**

The City Council took the following actions:

A. Authorized the City Manager, or his designee, to execute Change Order No. 3 to the Construction Contract with McCarthy Building Companies, Inc., of Newport Beach, California, for design-build construction services for the City Hall Parking Structure Project in the amount of $878,788 for a total not-to-exceed contract amount of $30,857,931; and
B. Authorized the City Manager, or his designee, to execute all documents required for the completion of the project including, but not limited to agreements, assessments, easements, lot line adjustments, reduction of retention accounts, contracts, and contract amendments within the authorization limits, and filing a notice of completion at the conclusion of all construction related activities.

**5. A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF ONTARIO LOCAL GUIDELINES FOR IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The City Council adopted a Resolution approving the 2024 Amendment to the "City of Ontario Local Guidelines for Implementing the California Environmental Quality Act (CEQA)".

**RESOLUTION NO. 2024-035** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING AND ADOPTING LOCAL GUIDELINES FOR IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (PUBLIC RESOURCES CODE §§ 21000 ET SEQ.).

**6. A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 20451**

The City Council adopted a Resolution approving an Improvement Agreement, Improvement Security and Final Tract Map No. 20451 located at the West side of Hamner Avenue, approximately 570 feet north of Eucalyptus Avenue, within the Esperanza Specific Plan.

**RESOLUTION NO. 2024-036** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 20451 LOCATED ON THE WEST SIDE OF HAMNER AVENUE, APPROXIMATELY 570 FEET NORTH OF EUCALYPTUS AVENUE.

**7. A RESOLUTION ADOPTING THE LIST OF PROJECTS FOR FISCAL YEAR 2024-25 FUNDED BY SENATE BILL 1, THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

The City Council adopted a Resolution approving the Fiscal Year 2024-25 Project List for Senate Bill 1 (SB1), the Road Repair and Accountability Act of 2017.

**RESOLUTION NO. 2024-037** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2024-25 FUNDED BY SENATE BILL 1, THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017.

**8. AUTHORIZATION OF THE SALE OF A POLICE HELICOPTER**

The City Council authorized the City Manager, or his designee, to execute the Aircraft Sales Agreement with a buyer of Canada, B.C., (on file with the Records Management Department) for the sale of the City's police helicopter identified by N10NT (Model H125B3) in the amount of $2,435,000 for disposition of this aircraft.

**9. GOODS AND EQUIPMENT PURCHASE AGREEMENTS WITH ALL AMERICAN ASPHALT AND MANHOLE ADJUSTING, INC. FOR THE PROCUREMENT OF ASPHALT MATERIALS**

The City Council authorized the City Manager, or his designee, to execute Maintenance Services Agreements for the procurement of asphalt materials with All American Asphalt, of Corona, California, for a total not-to-exceed contract amount of $5,932,772 for up to five years and Manhole Adjusting, Inc., of Pico Rivera, California, for a total not-to-exceed contract amount of $174,380 for up to five years.

**10. A CONSTRUCTION CONTRACT WITH GRBCON, INC. FOR THE EASEMENT STORM DRAIN REPAIR PROJECT**

The City Council took the following actions:

A. Authorized the City Manager, or his designee, to execute a Construction Contract with GRBCON, Inc., of Baldwin Park, California, for the Easement Storm Drain Repair Project in the amount of $707,191;
B. Authorized a 10% contingency of $70,719 to address any unforeseen issues that may arise during the construction for a total not-to-exceed contract amount of $777,910; and
C. Authorized the City Manager, or his designee, to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts and filing a notice of completion at the conclusion of all construction related activities.

**11. A MAINTENANCE SERVICES AGREEMENT WITH WEST COAST ARBORIST, INC. FOR CITYWIDE TREE MAINTENANCE SERVICES**

The City Council authorized the City Manager, or his designee, to execute a Maintenance Services Agreement for Contract No. PM 2425-15 with West Coast Arborist, Inc., of Anaheim, California, to provide Citywide Tree Maintenance Services for a total contract amount not-to- exceed $11,609,505 for up to five (5) years.

**12. A MAINTENANCE SERVICES AGREEMENT WITH UNITED STORM WATER, INC. FOR CITYWIDE STORM DRAIN MAINTENANCE SERVICES**

The City Council authorized the City Manager, or his designee, to execute a Maintenance Services Agreement for Contract No. SM-2425 with United Storm Water, Inc., of Industry, California, to provide citywide Storm Drain Maintenance Services for a total contract amount not-to-exceed $640,290 for up to three years.

**13. AWARD A CONSTRUCTION CONTRACT TO AWI BUILDERS, INC. FOR THE FIRE ADMINISTRATION BUILDING**

The City Council took the following actions:

A. Rejected S.J. Amoroso Construction Co., LLC's bid for the Fire Administration Building project as being non-responsive, and
B. Authorized the City Manager, or his designee, to execute a Construction Contract with AWI Builders, Inc., of Burbank, California, to provide construction services for the D&C21-001A New Fire Administration Building in the amount of $31,665,595, and
C. Authorized a 15% contingency of $4,749,840, for a total not-to-exceed contract amount of $36,415,435; and
D. Authorized the City Manager, or his designee, to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

**14. AN AMENDMENT TO THE ARCHITECTURAL DESIGN SERVICES AGREEMENT WITH PBK ARCHITECTS, INC. FOR FIRE STATION NO. 1 AND THE FIRE ADMINISTRATION BUILDING**

The City Council authorized the City Manager, or his designee, to execute Amendment No. 2 to the Architectural Design Services Agreement with PBK Architects, Inc., of Rancho Cucamonga, California, to provide additional architectural design of Fire Station No. 1 and Fire Administration Building in the amount of $70,720 for a total not-to-exceed contract amount of $3,759,720 and extend the agreement to June 30, 2026.

**15. A MAINTENANCE SERVICES AGREEMENT WITH CMAX COMMERCIAL MAINTENANCE, INC. FOR CITYWIDE STREET SWEEPING SERVICES**

The City Council authorized the City Manager, or his designee, to execute a Maintenance Services Agreement for Citywide Street Sweeping Services with CMAX Commercial Maintenance, Inc. (CMAX), of Ontario, California, for a total contract amount not-to-exceed $66,412,963 for up to 15 years.

**16. AUTHORIZE THE PURCHASE OF A LIVE FIRE SIMULATOR PROP WITH DRAEGER, INC. FOR THE ONTARIO FIRE DEPARTMENT**

The City Council authorized the City Manager, or his designee, to execute the purchase of a live fire simulation prop from Draeger, Inc., of Telford, PA, in an amount not-to-exceed $728,262.

**17. MAINTENANCE SERVICES AGREEMENTS WITH PRIORITY LANDSCAPE SERVICES, LLC., MERCHANTS LANDSCAPE SERVICES, INC., AND BRIGHTVIEW LANDSCAPE SERVICES, INC., FOR LANDSCAPE MAINTENANCE SERVICES FOR FORMER REDEVELOPMENT SITES, HOUSING AND GAS TAX FUNDED SITES, WATER WELL SITES, AND CERTAIN PARKWAYS, FIRE STATIONS, AND LANDSCAPE MEDIANS IN THE OLD MODEL COLONY**

The City Council took the following actions:

A. Authorized the City Manager, or his designee, to execute a Maintenance Services Agreement for Contract No. PM 2425-03 Former Redevelopment Sites for Landscape Maintenance Services with Priority Landscape Services, LLC., of Anaheim, California, for a total contract amount not-to-exceed $1,066,454 for up to five (5) years, and
B. Authorized the City Manager, or his designee, to execute a Construction Contract with AWI Builders, Inc., of Burbank, California, to provide construction services for the D&C21-001A New Fire Administration Building in the amount of $31,665,595, and
C. Authorized a 15% contingency of $4,749,840, for a total not-to-exceed contract amount of $36,415,435; and
D. Authorized the City Manager, or his designee, to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

**18. A PROFESSIONAL SERVICES AGREEMENT FOR LEGAL CONSULTING SERVICES WITH RICHARD D. JONES DBA JONES MAYER**

The City Council authorized the City Manager, or his designee, to execute a Professional Services Agreement with Richard D. Jones, a Professional Law Corporation, dba Jones Mayer, of Fullerton, CA, for legal consulting services for a total not-to-exceed contract amount of $375,000.

**19. DESIGN SERVICES AGREEMENTS FOR ON-CALL WATER AND SEWER ENGINEERING SERVICES**

The City Council approved the three-year Design Services Agreements with six firms to provide On-Call Water and Sewer Engineering Services in the amount of $200,000 per year for a three-year total not-to-exceed amount of $600,000 for each firm, and authorized the City Manager, or his designee, to execute said Agreements and future amendments within the authorized limits.

**20. PROFESSIONAL SERVICES AGREEMENTS FOR ON-CALL PROJECT**

**MANAGEMENT SERVICES**

The City Council approved three-year Professional Services Agreements with five firms to provide On-Call Project Management Services in the amount of $200,000 per year for a three-year total not-to-exceed amount of $600,000 for each firm; and authorized the City Manager, or his designee, to execute said Agreements and future amendments within the authorized limits.

**21. A CONTINGENCY INCREASE TO THE CONSTRUCTION CONTRACT WITH JAMES FOWLER CO. AND AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH PETRA GEOSCIENCES INC. FOR GEOTECHNICAL AND MATERIAL TESTING SERVICES FOR UT1046 SAN ANTONIO TRANSMISSION WATER MAIN PHASE 2 PROJECT**

A. Authorized the City Manager, or his designee, to increase the Construction Contract contingency with James Fowler Co., of Dallas, Oregon, in the amount of $399,763, increasing the overall construction contingency from 10% ($799,526) to 15% ($1,199,288), for a new total not-to-exceed contract authorization of $9,194,544.
B. Authorized the City Manager, or his designee, to execute Amendment No. 1 to the Professional Services Agreement with Petra Geosciences, Inc., of Costa Mesa, California, to amend the Agreement by $241,269 for a new total not-to-exceed amount of $498,444, and a term from October 29, 2022, to September 30, 2024.

**22. A MAINTENANCE SERVICES AGREEMENT WITH UBICQUIA, INC., FOR SMART CITY STREETLIGHT CONTROL SYSTEM SERVICES**

The City Council authorized the City Manager, or his designee, to execute a Maintenance Services Agreement with Ubicquia, Inc., of Fort Lauderdale, Florida, to provide Smart Streetlight Monitoring Software and Data Retention Services for a total contract amount not- to-exceed $470,000 for up to five (5) years.

**23. AN AMENDMENT TO THE GOODS AND SERVICES AGREEMENT WITH CALIFORNIA PPE RECON. INC. FOR RENTAL AND MAINTENANCE OF PERSONAL PROTECTIVE EQUIPMENT FOR THE ONTARIO FIRE DEPARTMENT**

The City Council authorized the City Manager, or his designee, to execute Amendment No. 1 to the Goods and Services Agreement with California PPE Recon. Inc., of Riverside, California for rental and maintenance of personal protective equipment (PPE) to increase the current contract by $85,000, plus a 10% contingency for a new not to exceed amount of $247,500 per contract year, for a total contract amount not to exceed $1,237,500.

**24. A COST SHARING AGREEMENT WITH CHAFFEY JOINT UNION HIGH SCHOOL**

**DISTRICT FOR SCHOOL RESOURCE OFFICERS**

The City Council authorized the City Manager, or his designee, to execute a Cost Sharing Agreement with the Cha□ey Joint Union High School District for three School Resource Officers for a total revenue amount of $1,381,163.

**25. AN AMENDMENT TO THE DESIGN SERVICES AGREEMENT WITH THIRTIETH STREET ARCHITECTS, INC., FOR THE DOWNTOWN A1 BLOCK PRESERVATION PROJECT DESIGN**

The City Council took the following actions:

A. Authorized the City Manager or his designee to execute Amendment No. 5 to the Design Services Agreement with Thirtieth Street Architects, Inc., of Newport Beach, California, in the amount of $147,300 for a total not-to-exceed $706,600; and
B. Authorized the City Manager or his designee to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

**PUBLIC HEARINGS**

**26. A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 65 (FALLONCREST); ADOPTION OF A RESOLUTION DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS; AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES**

The City Council took the following actions:

A. Adopted a Resolution of Formation of Community Facilities District No. 65 (Falloncrest), proposing that the community facilities district be authorized to levy a special tax and proposing that an appropriations limit of the community facilities district be established;
B. Adopted a Resolution deeming it necessary for the district to incur bonded indebtedness within Community Facilities District No. 65 (Falloncrest);
C. Adopted a Resolution calling a special election for City of Ontario Community Facilities District No. 65 (Falloncrest);
D. Adopted a Resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
E. Introduced and waived further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 65 (Falloncrest); and
F. Adopted a Resolution authorizing the execution and delivery of an acquisition and funding agreement with Lennar Homes of California, LLC, a California limited liability company.

**RESOLUTION NO. 2024-038** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 65 (FALLONCREST), PROPOSING THAT THE COMMUNITY FACILITIES DISTRICT BE AUTHORIZED TO LEVY A SPECIAL TAX AND PROPOSING THAT AN APPROPRIATIONS LIMIT OF THE COMMUNITY FACILITIES DISTRICT BE ESTABLISHED.

**RESOLUTION NO. 2024-039** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 65 (FALLONCREST) TO INCUR BONDED INDEBTEDNESS).

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

Mayor Leon opened the public hearing and inquired if anyone was interested in speaking to the item. Hearing no one, City Clerk Mautz continued the proceedings.

City Clerk Mautz acknowledged the City's compliance with the San Bernardino County Registrar of Voters as well as confirming the report on the establishment of the CFD No. 65 (Falloncrest) has been received.

**MOTION:** Moved by Council Member Wapner, seconded by Mayor pro Tem Porada and carried by a unanimous vote 4-0, with Council Member Bowman absent, to adopt Resolution Nos. 2024-038 and 2024-39.

**RESOLUTION NO. 2024-040** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 65 (FALLONCREST).

**RESOLUTION NO. 2024-041** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN.

City Clerk Mautz acknowledged the City's compliance with the San Bernardino County Registrar of Voters as well as confirming the report on the establishment of the CFD No. 65 (Falloncrest) has been received.

City Clerk Mautz announced the results of the ballots with both ballots being in favor of the action.

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

Mayor Leon inquired whether persons were present who wished to speak to the item. Hearing no one, Mayor Leon entertained council discussion.

**MOTION:** Moved by Mayor pro Tem Porada, seconded by Council Member Wapner and carried by a unanimous vote 4-0, to adopt both Resolution No. 2024-040 and Resolution No. 2024-041, and with Council Member Bowman absent.

**ORDINANCE NO. 3274 (FIRST READING)** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING A SPECIAL TAX WITHIN COMMUNITY FACILITIES DISTRICT NO. 65 (FALLONCREST).

**RESOLUTION NO. 2024-042** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AND FUNDING AGREEMENT WITH LENNAR HOMES OF CALIFORNIA, LLC.

**MOTION:** Moved by Mayor pro Tem Porada, seconded by Council Member Wapner and carried by a unanimous vote 4-0, with Council Member Bowman absent, to introduce Ordinance No. 3274 and to adopt Resolution No. 2024-042.

**27. A PUBLIC HEARING TO CONSIDER ADOPTING A RESOLUTION OF NECESSITY FOR THE ACQUISITION BY EMINENT DOMAIN OF A FEE SIMPLE INTEREST IN CERTAIN REAL PROPERTY LOCATED AT 301 NORTH EUCLID AVENUE FOR THE GRANADA THEATER REVITALIZATION PROJECT**

The City Council conducted a public hearing and adopted a Resolution of Necessity declaring that the acquisition of a fee simple interest in certain real property located at 301 North Euclid Avenue, more particularly described as Assessor Parcel No. 1048-566-07 (the Property), is necessary for the rehabilitation of the Historic Granada Theater.

Associate attorney Mark A. Easter provided an overview of the legal proceedings.

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

Mayor Leon inquired whether persons were present who wished to speak to the item. Hearing no one, Mayor Leon entertained council discussion.

**MOTION:** A vocal roll call was conducted. Moved by Mayor pro Tem Porada, seconded by Council Member Wapner and carried by a unanimous vote 4-0, with Council Member Bowman absent, to adopt Resolution No. 2024-043.

**28. A PUBLIC HEARING TO CONSIDER AN URGENCY ORDINANCE TO IMPLEMENT MULTIPLE-FAMILY RESIDENTIAL AND MIXED-USE RESIDENTIAL OBJECTIVE DESIGN AND DEVELOPMENT STANDARDS, FILE NO. PDCA24-001**

The City Council took the following actions:

A. Considered and waived further reading of an Urgency Ordinance amending the reference document section of the City's Development Code.
B. Considered and adopted a Resolution to implement Objective Development and Design Standards for multiple-family and mixed-use residential development.

**URGENCY ORDINANCE NO. 3275** AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA24-001 AMENDING THE REFERENCE DOCUMENT SECTION OF THE ONTARIO DEVELOPMENT CODE, TO AUTHORIZE OBJECTIVE DEVELOPMENT AND DESIGN STANDARDS FOR MULTIPLE-FAMILY AND MIXED-USE DEVELOPMENT, AND FINDING THE ACTION TO BE EXEMPT FROM CEQA.

**RESOLUTION NO. 2024-044** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA24-001 IMPLEMENTING THE OBJECTIVE DEVELOPMENT AND DESIGN STANDARDS FOR MULTIPLE-FAMILY AND MIXED-USE DEVELOPMENT, AND FINDING THE ACTION TO BE EXEMPT FROM CEQA.

Notice of public hearing was duly given and affidavits of compliance are on file in the Records Management Department. There was one written communication from *Lory Masonis* in opposition to the item.

Mayor Leon inquired whether other persons were present who wished to speak to the item. Hearing no one else, Mayor Leon entertained council discussion.

**MOTION:** Moved by Mayor pro Tem Porada, seconded by Council Member Valencia and carried by a unanimous vote 4-0, with Council Member Bowman absent, to adopt Urgency Ordinance No. 3275 and Resolution No. 2024-044.

**29. A RESOLUTION AUTHORIZING THE ISSUANCE OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES) SPECIAL TAX BONDS, SERIES 2024 AND RELATED MATTERS**

The City Council took the following actions:

A. Considered and adopted a Resolution authorizing the issuance of City of Ontario Community Facilities District No. 35 (Countryside Phase 2 South-Facilities) Special Tax Bonds, Series 2024 (the "Bonds"), in an aggregate principal amount not-to-exceed $12.5 million, authorizing the execution and delivery of an Indenture, a Bond Purchase Agreement, a Continuing Disclosure Agreement and an Amended and Restated Acquisition and Funding Agreement, authorizing the distribution of an O□cial Statement and related actions;

B. Considered and adopted a Resolution of the City of Ontario making a declaration of o□cial intent to reimburse facilities expenditures with bond proceeds and related actions;
C. Authorized the issuance of special tax bonds for public improvements required to facilitate the development of the Countryside Phase 2 South - Facilities project and the Ontario Ranch development;
D. Approved the forms of the Indenture, the Bond Purchase Agreement, the Continuing Disclosure Agreement, an Amended and Restated Acquisition and Funding Agreement, and the Preliminary Official Statement;
E. Authorized a negotiated sale of the special tax bonds to Samuel A. Ramirez & Co., in accordance with the terms of the Bond Purchase Agreement; and
F. Authorized the execution of the Indenture, the Bond Purchase Agreement, the Continuing Disclosure Agreement, a deemed final certification in connection with the Preliminary O□cial Statement, a final O□cial Statement and other documents in connection with the issuance of the bonds by the City Manager or the other specified authorized officers.

**RESOLUTION NO. 2024-045** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE ISSUANCE OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 35 (COUNTRYSIDE PHASE 2 SOUTH-FACILITIES) SPECIAL TAX BONDS, SERIES 2024, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $12,500,000, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE AGREEMENT AND AN AMENDED AND RESTATED ACQUISITION AND FUNDING AGREEMENT, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION THEREWITH AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS.

**RESOLUTION NO. 2024-046** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, MAKING A DECLARATION OF OFFICIAL INTENT TO REIMBURSE FACILITIES EXPENDITURES WITH BOND PROCEEDS AND RELATED ACTIONS.

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

Mayor Leon inquired whether persons were present who wished to speak to the item. Hearing no one, Mayor Leon entertained Council discussion.

**MOTION:** Moved by Mayor pro Tem Porada, seconded by Council Member Valencia and carried by a unanimous vote 4-0, with Council Member Bowman absent, to adopt Resolution Nos. 2024-045 and 2024-046.

**30. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING ARTICLE 22 (VALET PARKING) TO CHAPTER 6**

**(TRAFFIC) OF TITLE 4 (PUBLIC SAFETY) OF THE ONTARIO MUNICIPAL CODE, ESTABLISHING REGULATIONS RELATING TO VALET PARKING**

The City Council introduced an Ordinance adding Article 22 (Valet Parking to Chapter 6 (Traffic) of Title 4 (Public Safety) and amending Section 4-6.1202 of the Ontario Municipal Code, establishing regulations to valet parking.

**ORDINANCE NO. 3276 (FIRST READING)** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING ARTICLE 22 (VALET PARKING) TO CHAPTER 6 (TRAFFIC) OF TITLE 4 (PUBLIC SAFETY) AND AMENDING SECTION 4-6.1202 OF THE ONTARIO MUNICIPAL CODE, ESTABLISHING REGULATIONS RELATING TO VALET PARKING.

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

Mayor Leon inquired whether persons were present who wished to speak to the item. Hearing no one, Mayor Leon entertained council discussion.

**MOTION:** Moved by Mayor pro Tem Porada, seconded by Council Member Wapner and carried by a unanimous vote 4-0, to introduce Ordinance No. 3276, and with Council Member Bowman absent.

**STAFF MATTERS:**

City Manager Ochoa made no announcements.

**COUNCIL MATTERS:**

Council Member Valencia had no comments.

Council Member Wapner had no comments.

Mayor pro Tem Porada thanked the Ontario Police Department and Ontario Fire Department for their collaborative efforts as well as informed the community on upcoming community events.

Mayor Leon thanked the community for the outpour of emotional support directed at his wife and family.

**ADJOURNMENT:**

Mayor Leon adjourned the meetings of the Joint Agencies at 7:26 p.m. and announced the next regular meeting was scheduled for June 18, 2024.

Respectfully submitted,

_____
SHEILA MAUTZ, CITY CLERK/SECRETARY

APPROVED:

_____
PAUL S. LEON, MAYOR

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Community Development<br>Prepared By: Yesenia Lopez<br>Staff Member Presenting: Scott Murphy, Executive Director Community Development<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 3 |

**SUBJECT:** **A CONSTRUCTION CONTRACT WITH ALL AMERICAN ASPHALT FOR THE 2024 FALL PAVEMENT REHABILITATION PROJECT**

**RECOMMENDATION:** That the City Council award a Construction Contract with All American Asphalt of Corona, California, for the 2024 Fall Pavement Rehabilitation Project (Project) in the amount of $4,958,888 plus a ten percent (10%) contingency of $495,888 for a total of $5,454,776 ; and authorize the City Manager, or his designee, to execute said contract and all related documents, and file a notice of completion at the conclusion of all construction activities.

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

**FISCAL IMPACT:** The Fiscal Year 2024-25 Adopted Budget includes appropriations for the construction of the Project in the amount of $6,060,000 from Measure I, Road Maintenance and Rehabilitation Account (RMRA-SB1) and CalRecycle Rubberized Pavement Grant Program. The total recommended expenditure authorization for All American Asphalt consists of $4,958,888 plus a ten percent (10%) contingency of $495,888 for a total of $5,454,776.

**BACKGROUND & ANALYSIS:** The general scope of work to be performed under this Construction Contract consists of grinding and removal of damaged pavement, placement of new asphalt rubber hot mix pavement, placement of concrete pavement, curb ramps, and any appurtenances necessary to complete the improvements as described in the Plans and Specifications. This project will extend the lifespan of the streets by fifteen years. The project locations include Archibald Avenue from 1-10 Freeway to Inland Empire Boulevard (Project No. ST2503); Archibald Avenue from Riverside Drive to Schaefer Avenue (Project No. ST2503); Archibald Avenue from Eucalyptus Avenue to Victoria Street (Project No. ST2503); Francis Street from Hellman Avenue to Archibald Avenue (Project No. ST2504); Hellman Avenue from Mission Boulevard to Francis Street (Project No. ST2506); Philadelphia Street from Haven Avenue to Mission Boulevard (Project No. ST2507); and, Proforma Avenue from Mission Boulevard to Francis Street (Project No. ST2508). A project location map is provided for reference as Exhibit "A".

In April 2024, the City solicited bids for the Project and five bids were received. The following is a summary of the bid results:

| CONTRACTOR | LOCATION | AMOUNT |
|---|---|---|
| All American Asphalt | Corona, CA | $4,958,888 |
| RJ Noble Company | Orange, CA | $5,172,710 |
| Granite Construction Company | Indio, CA | $5,524,425 |
| Hardy & Harper, Inc. | Lake Forest, CA | $5,562,000 |
| Vance Corporation | Bloomington, CA | $5,784,212 |

All American Asphalt submitted the lowest responsive bid and has previously performed similar work for the City of Ontario in a satisfactory manner.

The City was awarded the CalRecycle Grant in December 2023 which promotes the use of rubber from California-generated waste tires in asphalt products. The grant will reimburse construction costs for asphalt-rubber hot mix at a rate of $4/ton.

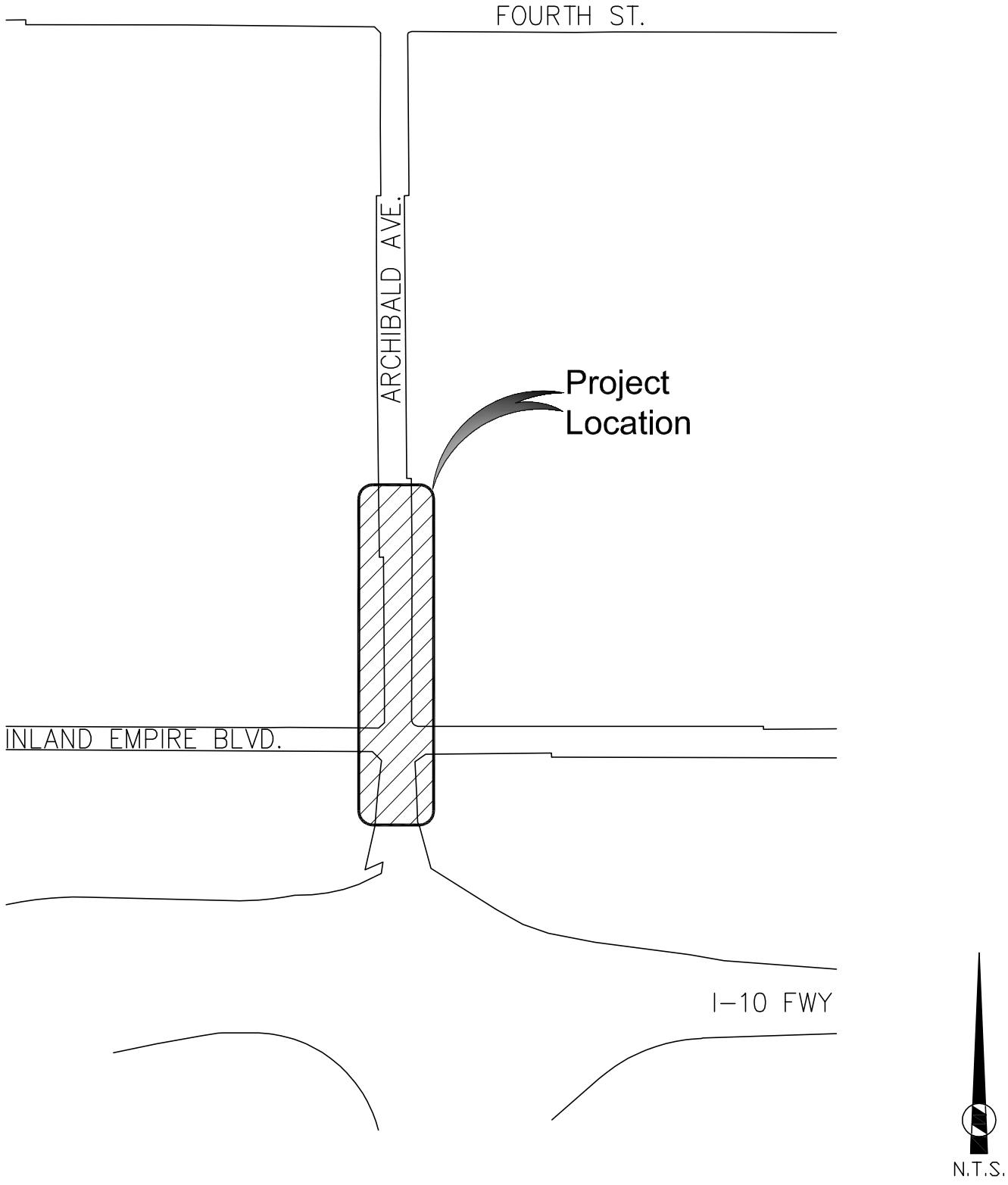
ENVIRONMENTAL REVIEW: The environmental impacts of this project were reviewed and Staff determined that the Project is categorically exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301 (Class 1, Existing Facilities) of the California Environmental Quality Act, whereas the project consists of repair/maintenance to existing streets, sidewalks, gutters, and similar facilities that are typical/necessary for a street rehabilitation/improvements, resulting in negligible and/or no expansion of use beyond what existed at the time of the Lead Agency's determination.

# ARCHIBALD AVENUE

## PAVEMENT REHABILITATION

## PROJECT NO. ST2503

## I-10 FWY. TO 700' N/O INLAND EMPIRE BLVD.

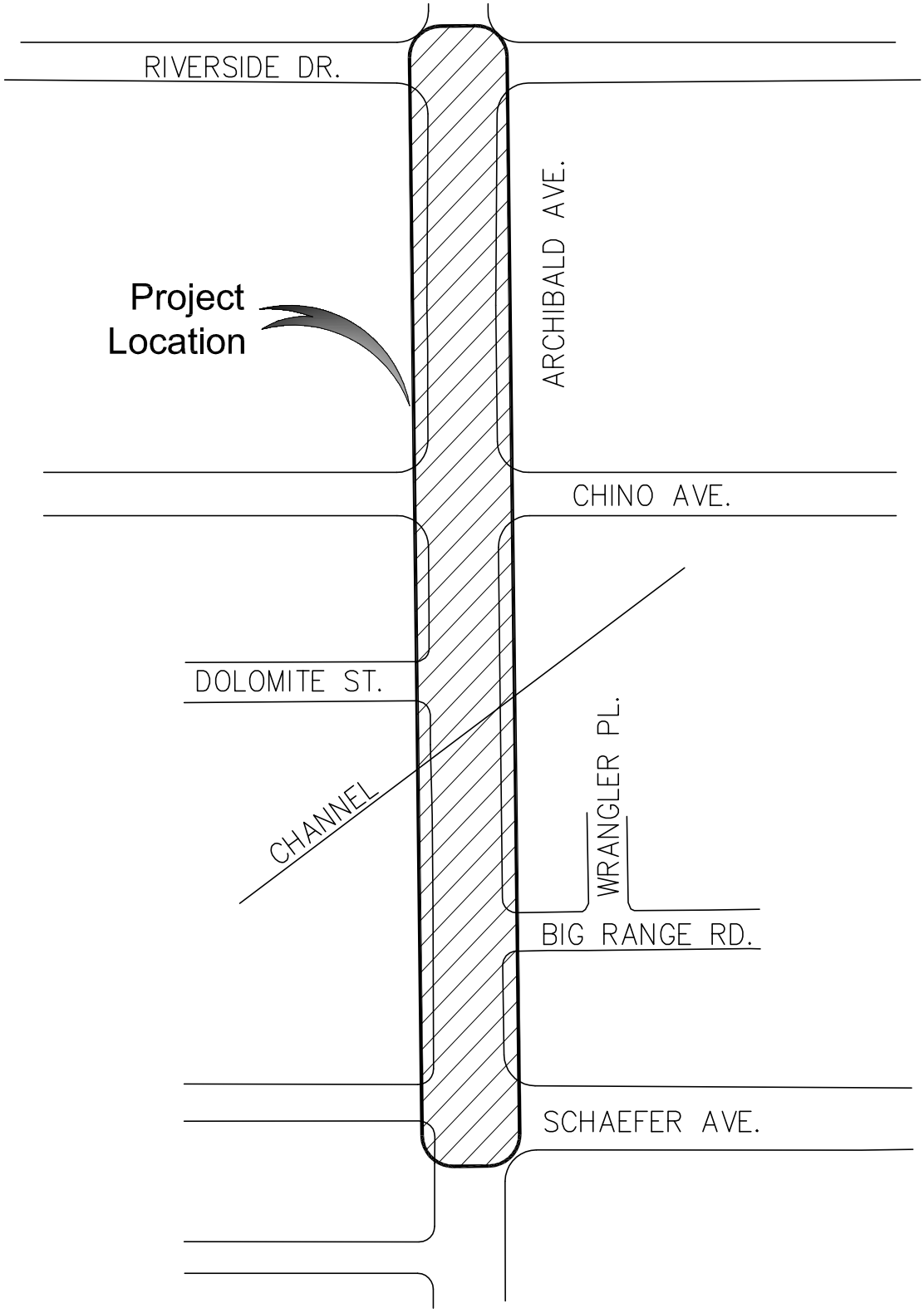


# ARCHIBALD AVENUE

## PAVEMENT REHABILITATION

## PROJECT NO. ST2503

## SCHAEFER AVENUE TO RIVERSIDE DRIVE

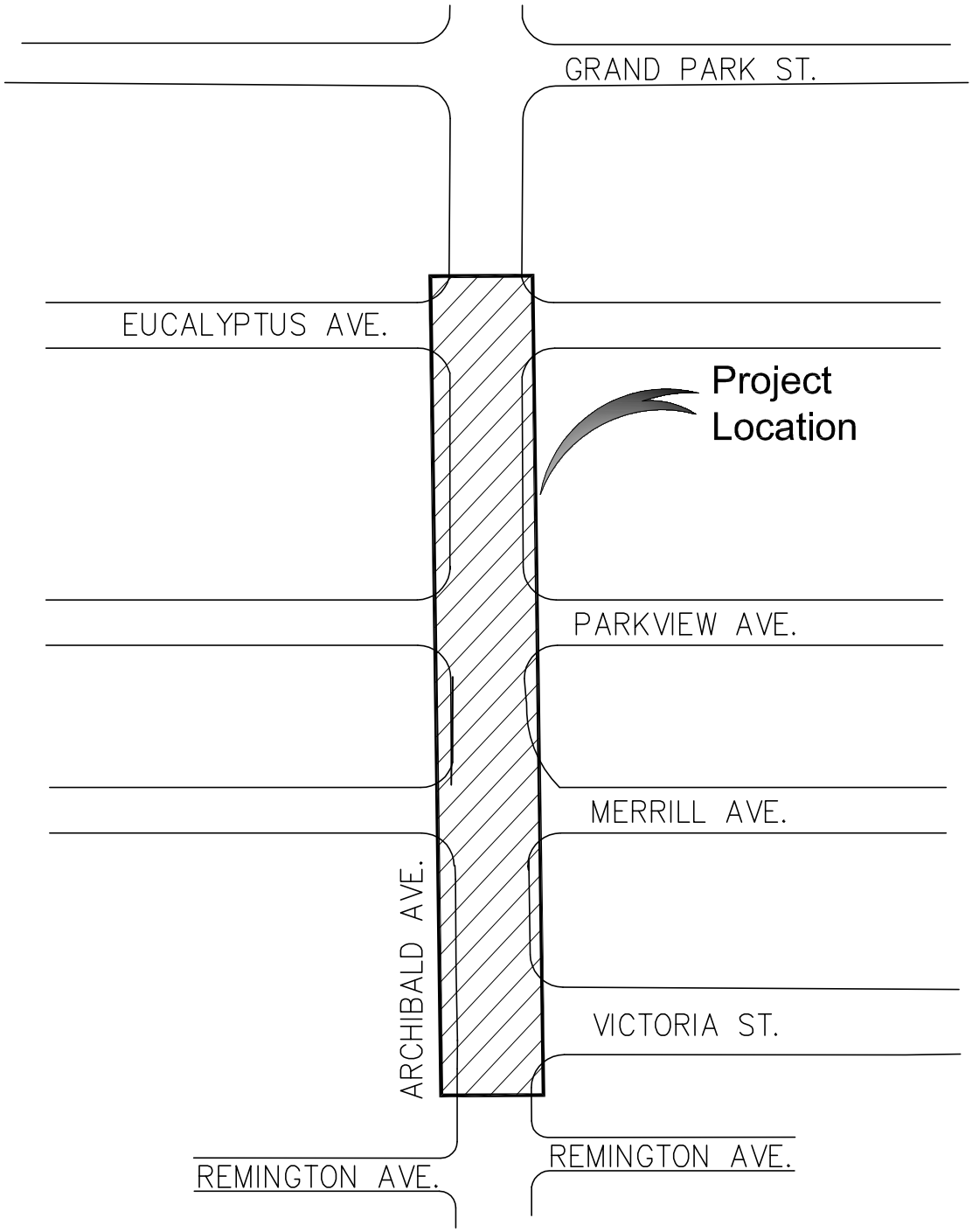


# ARCHIBALD AVENUE

## PAVEMENT REHABILITATION

## PROJECT NO. ST2503

## VICTORIA STREET TO EUCALYPTUS AVENUE



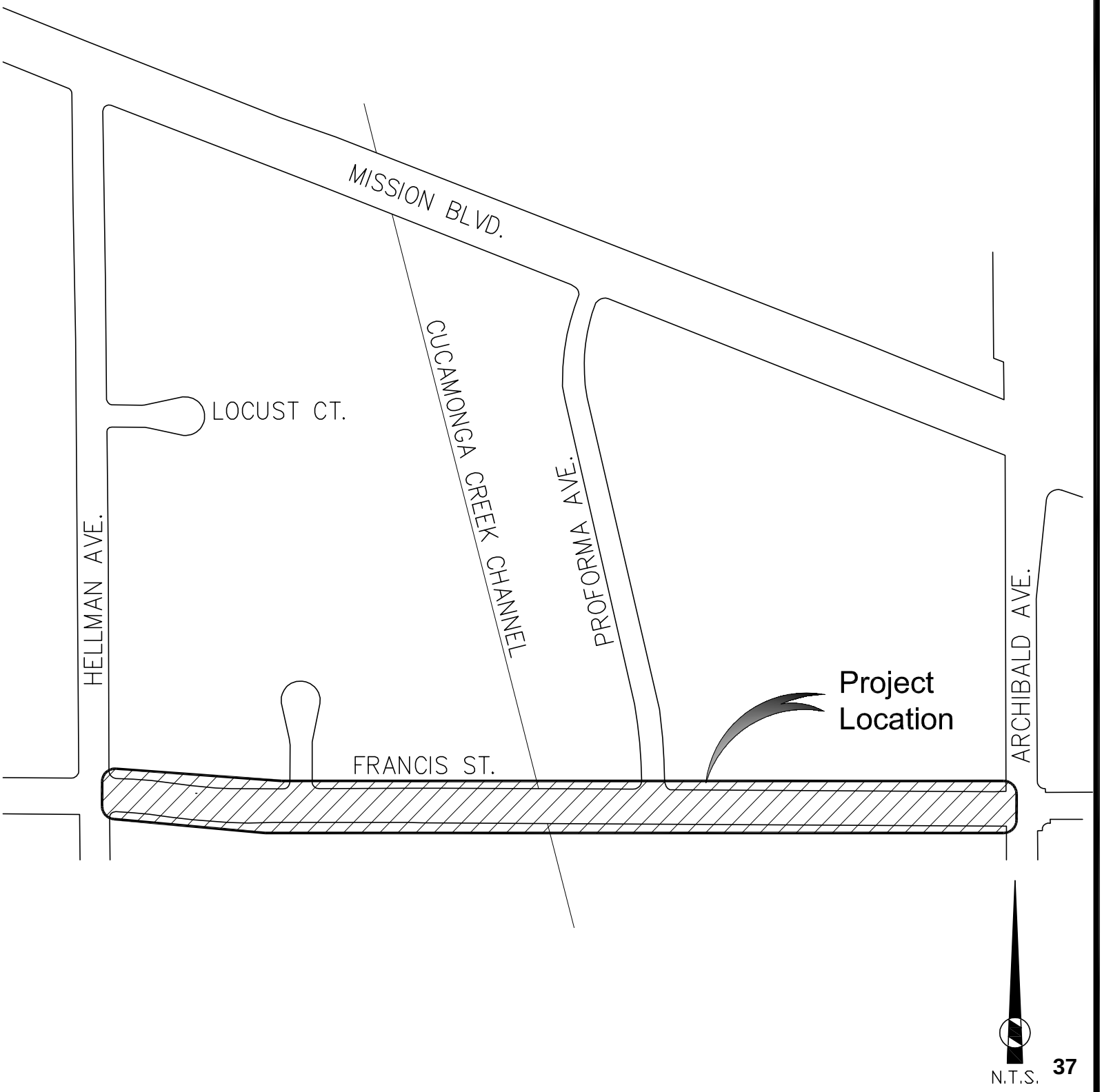

N.T.S.

# FRANCIS STREET

## PAVEMENT REHABILITATION

## Project No. ST2504

## HELLMAN AVENUE TO ARCHIBALD AVENUE

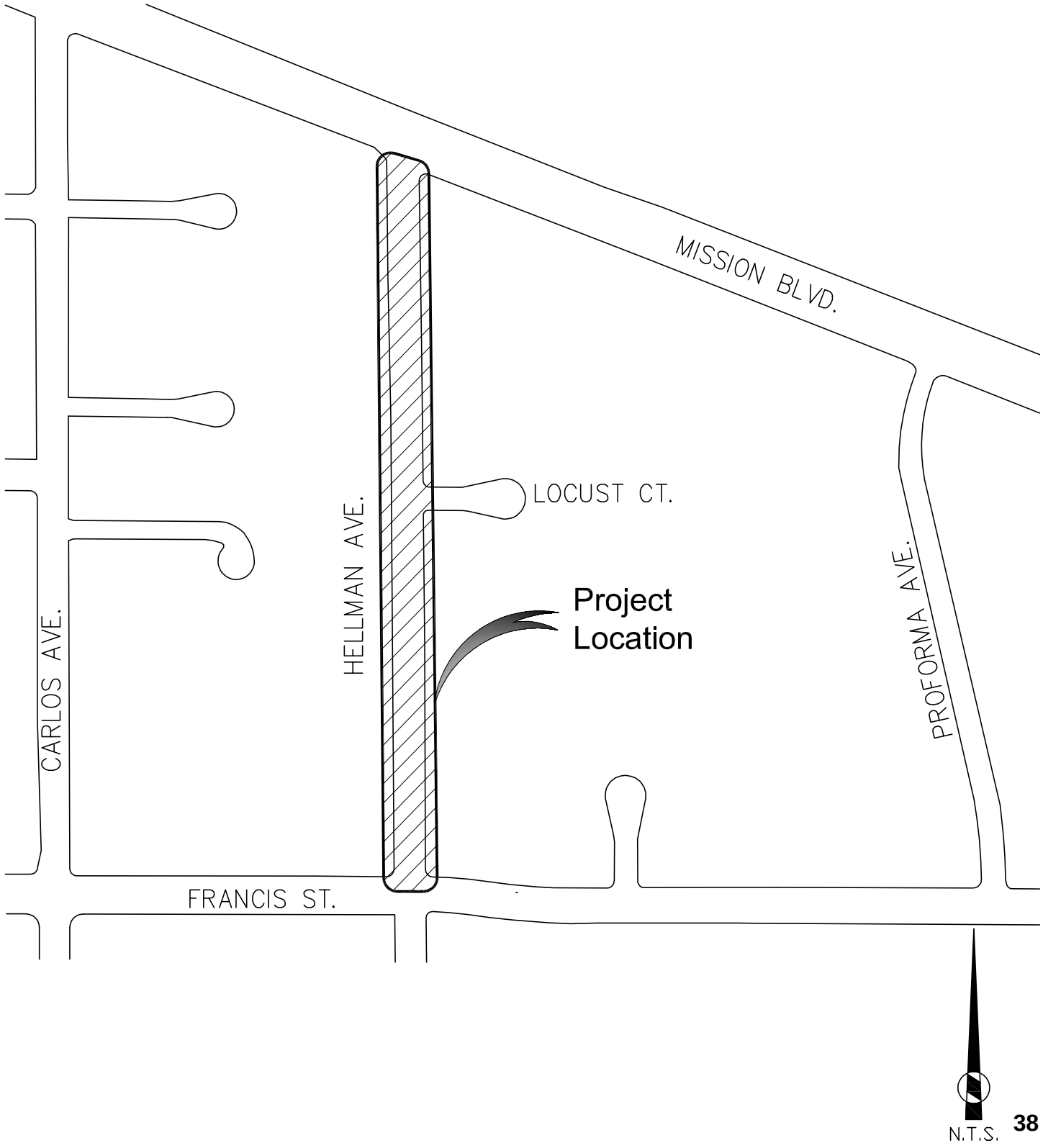


# HELLMAN AVENUE

## PAVEMENT REHABILITATION

## Project No. ST2506

## FRANCIS STREET TO MISSION BOULEVARD

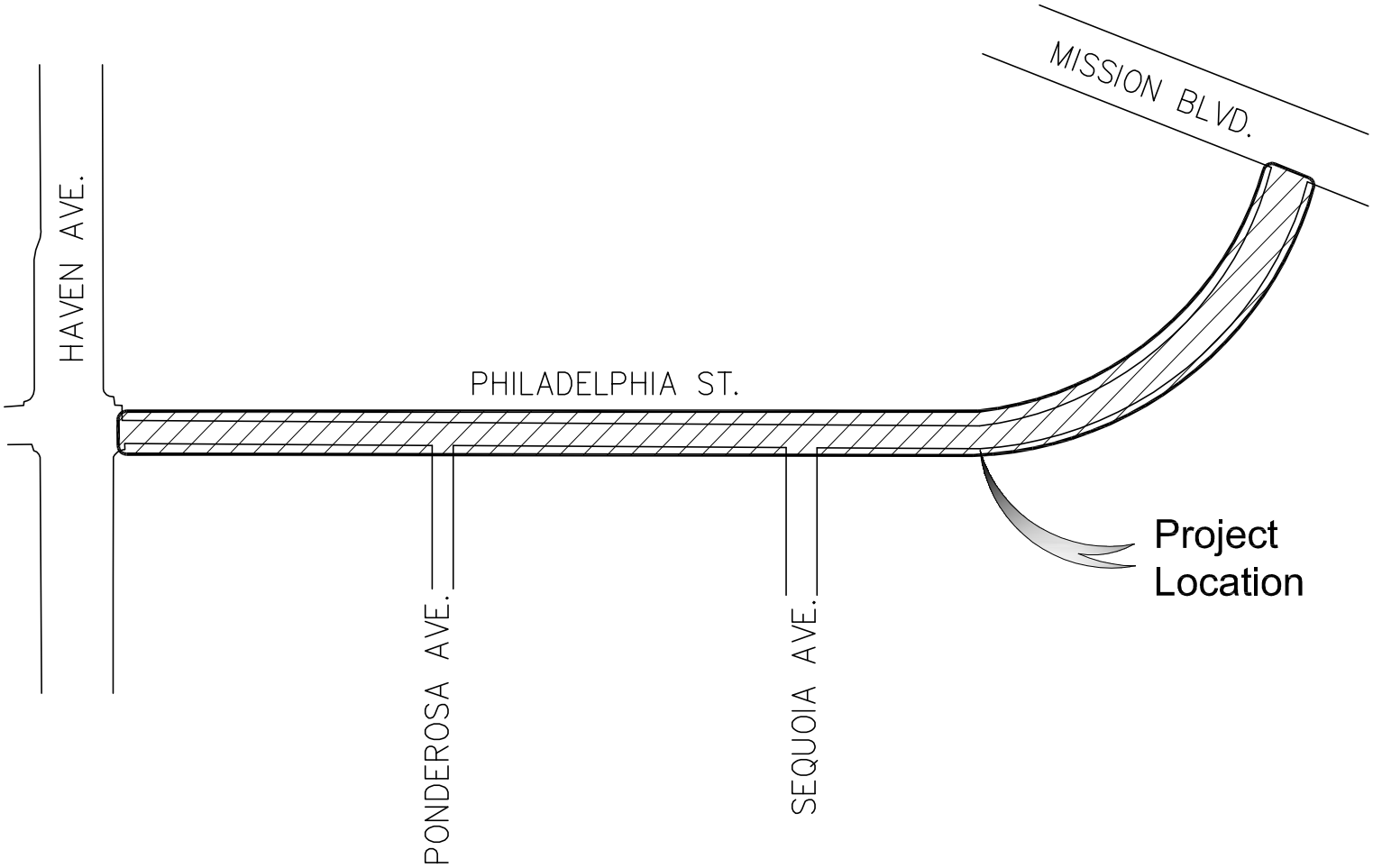


# PHILADELPHIA STREET

## PAVEMENT REHABILITATION

## Project No. ST2507

## HAVEN AVENUE TO MISSION BOULEVARD



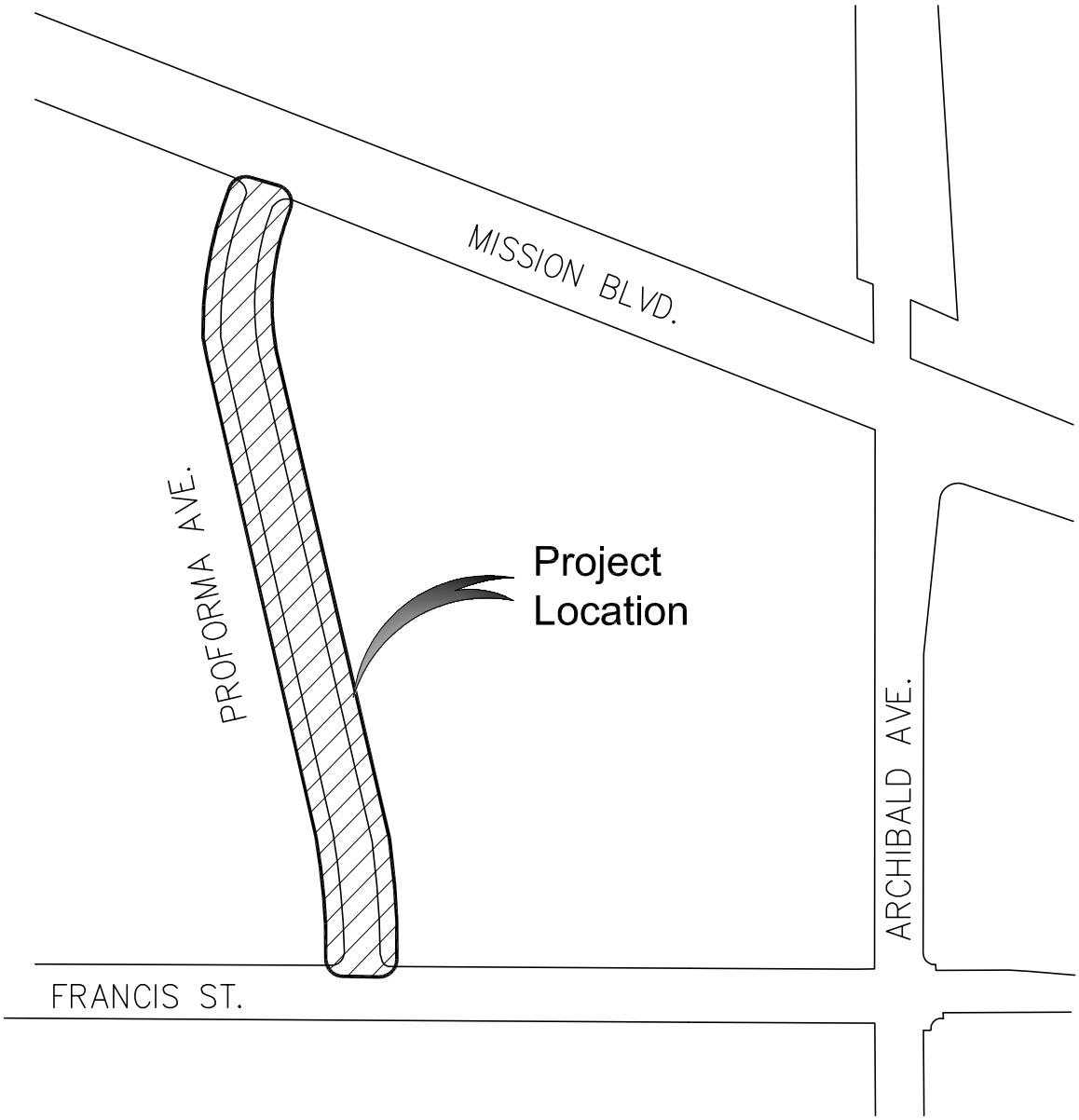

N.T.S.

# PROFORMA AVENUE

## PAVEMENT REHABILITATION

## PROJECT NO. ST2508

## FRANCIS STREET TO MISSION BOULEVARD




N.T.S.

CITY OF ONTARIO
303 EAST B STREET | ONTARIO, CALIFORNIA 91764
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PAUL S. LEON
MAYOR

DEBRA PORADA
MAYOR PRO TEM

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT OCHOA
CITY MANAGER

**SECTION 00500**
**CONTRACT**

THIS CONTRACT is entered as of _____, in the County of San Bernardino, State of California, by and between the City of Ontario, hereinafter called City, and **All American Asphalt** hereinafter called Contractor. The City and the Contractor for the considerations stated herein agree 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:

**2024 FALL PAVEMENT REHABILITATION PROJECT**

**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 **One Hundred Twenty (120) working days** from the commencement date stated in the Notice to Proceed, herein after the Contract Time. By its signature hereunder, Contractor agrees the Contract 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 **Four Million Nine Hundred Fifty-Eight Thousand Eight Hundred Eighty-Eight and 00/100 Dollars ($4,958,888.00),** hereinafter the Contract Price. Payment shall be made as set forth in the General Conditions.

**ARTICLE 4.** **LIQUIDATED DAMAGES**. The Contractor acknowledges that the City will sustain actual damages for each and every day 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, as provided in Government Code section 53069.85, it is agreed that the Contractor will pay the City the sum of **Six Thousand Seven Hundred Dollars**

**($6,700)** for each and every calendar day of delay in completing the Work 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 the Liquidated Damages are 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 Article does not affect the City's rights to other damages or remedies specified in the Contract Documents or allowed by law.

Should Contractor be inexcusably delayed in the performance of the Work, City may deduct Liquidated Damages based on its estimate of when Contractor will achieve Final Completion or other milestones. City need not wait until Final Completion to withhold Liquidated Damages from Contractor.

Liquidated Damages are not a penalty but an agreed upon estimate of the actual damages that would be sustained by the City for delay, including but not limited to loss of revenue, inconvenience to the City and the public, and increased Project administration expenses, such as extra inspection, construction management, staff time and architectural and engineering expenses. Liquidated Damages do not include actual damages the City incurs on account of claims by third parties against the City on account of any delay.

Should money due or to become due to the Contractor be insufficient to cover Liquidated Damages or other offsets due, then Contractor forthwith shall pay the remainder of the assessed liquidated damages to City.

**ARTICLE 5. COMPONENT PARTS OF THE CONTRACT**. The "Contract Documents" include the following documents, each of which is incorporated into this Contract by reference:

- Notice Inviting Bids
- Instructions to Bidders
- Bid Form
- Contractor's Certificate Regarding Workers' Compensation form
- Bid Bond
- List of Subcontractors form
- Contractor Information and Experience Form
- Non-Collusion Declaration form
- Public Works Contractor Registration Certification form
- Iran Contracting Act Certification form
- Contract
- Performance Bond
- Payment Bond
- Environmental documents and approvals (If Applicable)
- General Conditions
- Special Conditions
- Standard Specifications for Public Works Construction (Greenbook), Latest Edition, except Sections 1-8
- Technical Specifications
- Addenda (If Applicable)
- Plans and Drawings

- Approved and fully executed Change Orders
- Applicable Local Agency Standards and Specifications, as last revised
- Federal Requirements
- CalRecycle Rubberized Pavement Grant Program Requirements
- Any other documents contained in or incorporated into the Contract

The Contactor 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. This Contract shall supersede any prior agreement of the parties.

**ARTICLE 6.** **PROVISIONS REQUIRED BY LAW**. 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 Public Contract Code applicable to this Project.

If the Work involves federal funds, the Contractor and all its subcontractors shall comply with all requirements set forth in the attached Federal Requirements.

**ARTICLE 7.** **INDEMNIFICATION**. Contractor shall provide indemnification 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 Clerk's office or may be obtained online at http//www.dir.ca.gov/dlsr. and which must be posted at the job site.

**[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

By: _____

Its: _____

Printed Name: _____

ATTEST:

By: _____
Sheila Mautz, City Clerk

By: _____

Its: _____

Printed Name: _____

APPROVED AS TO FORM:

By: _____
Best Best & Krieger LLP
City Attorney

_____
Contractor's License Number and Classification

_____
DIR Registration Number

**END OF CONTRACT**

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Financial Services<br>Prepared By: Cruz Torres<br>Staff Member Presenting: Armen Harkalyan, Executive Director of Finance<br>Reviewed By: Claudia Hernandez, . .<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 4 |

**SUBJECT:** **ACCEPT WRITTEN PETITIONS TO CREATE A COMMUNITY FACILITIES DISTRICT; ADOPT A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 52 (SUNDANCE PARK) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES; AND ADOPT A RESOLUTION DECLARING IT NECESSARY TO INCUR BONDED INDEBTEDNESS**

**RECOMMENDATION:** That the City Council consider and:

A. Accept written petitions (on file in the Records Management Department) from BrookCal Ontario LLC, KL LB BUY 1 LLC, Brookfield Row at SP LLC, and Brookfield Homes Southern California LLC ("Landowners"), to create a Community Facilities District, and to waive certain procedural matters, under the Mello-Roos Community Facilities Act of 1982;
B. Adopt a Resolution of Intention to establish Community Facilities District proposed to be named City of Ontario Community Facilities District No. 52 (Sundance Park) and to authorize the levy of a special tax therein, and set a public hearing for the formation of the Community Facilities District as part of the regularly scheduled City Council meeting on Tuesday, August 20, 2024; and
C. Adopt a Resolution Declaring It Necessary for the City of Ontario Community Facilities District No. 52 (Sundance Park) to Incur Bonded Indebtedness.

**THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:**
**Operate in a Businesslike Manner**
**Focus Resources in Ontario's Commercial and Residential Neighborhoods**
**Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)**
**Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch**

**FISCAL IMPACT:** The use of Mello-Roos financing in the Sundance Park residential development is projected to generate approximately $379,366 per year, at buildout, to fund administrative fees and municipal services; and approximately $21.4 million in bonds proceeds to be used to fund a

portion of the public infrastructure improvements needed to serve the project. Mello-Roos bonds are not a direct obligation of the City and are paid from special taxes levied on each taxable parcel in the district; therefore, there is no fiscal impact on the General Fund from the issuance of Mello-Roos bonds. City Council approval will be required to process annual special tax levies in future years.

**BACKGROUND & ANALYSIS:** The Mello-Roos Community Facilities Act of 1982 provides local government, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to finance various kinds of public infrastructure facilities and municipal services. Municipal services that may be funded by a community facilities district include: police protection services; fire protection and suppression services; ambulance and paramedic services; maintenance and lighting of parks, parkways, streets, roads, and open space; flood and storm drain protection services; maintenance and operation of fiber optic telecommunications, wireless communication and public safety camera systems and maintenance and operation of any real property or tangible property with an estimated useful life of five or more years that is owned by the governmental entity. Under the Mello-Roos Act, the initial steps in the formation of a community facilities district to finance public improvements and municipal services are to adopt a Resolution declaring the intention to establish a community facilities district, authorize the levy of special taxes, and issue bonds.

In the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony ("First Amended and Restated Construction Agreement") between the City of Ontario and NMC Builders, LLC, the City agreed to cooperate with the members of NMC Builders, LLC in the formation of community facilities districts to assist in the financing of the public improvements included in the agreement. BrookCal Ontario LLC, KL LB BUY 1 LLC, Brookfield Row at SP LLC, and Brookfield Homes Southern California LLC have provided written petitions to the City requesting formation of a community facilities district, along with a deposit pursuant to a Deposit and Reimbursement Agreement dated November 1, 2022, to be used to pay costs incurred in creating the Community Facilities District and the incurrence of bonded indebtedness, and provides for the repayment to BrookCal Ontario LLC from the proceeds from any bonded indebtedness by the Community Facilities District. The Sundance Park project addresses the development of two zones: Zone 1 is approximately 8.98 gross acres located west of Mill Creek Avenue, east of Haven Avenue, south of Chino Avenue, and north of Schaefer Avenue and; Zone 2 is approximately 23.89 gross acres located west of Mill Creek Avenue, east of Haven Avenue, south of Ontario Ranch Road, and north of Edison Avenue. At build-out, the project is expected to include 418 residential units, comprised of 120 townhome units in Zone 1, and 298 units units in Zone 2 (88 single-family and 210 townhomes).

Included, as part of the Resolution of Intention is the proposed Rate and Method of Apportionment of Special Tax for the District. Under the proposed Rate and Method of Apportionment, the portion of the maximum annual special tax rates which will be used to fund debt service payments on the bonds is fixed and will not increase over time. As proposed, the amount of bonds authorized for the District ($85 million) is set intentionally higher than the current estimated bond amount (approximately $21.4 million) in order to allow future City Council, the option, without increasing the amount of the annual special taxes, to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund municipal services. The term and

structure of the Rate and Method of Apportionment of Special Tax for the Sundance Park project is consistent with those of previously adopted Rates and Methods of Apportionment for Ontario Ranch community facilities districts. This ensures that the special tax rates levied on all residential property owners in community facilities districts in Ontario Ranch are developed in a consistent and equivalent manner. In addition, under the provisions of the Mello-Roos Act, to ensure that home buyers are making an informed decision, all residential builders in the Ontario Ranch community facilities districts will be required to disclose the maximum annual special tax amount to each homeowner before entering into a sales contract.

List of infrastructure to be financed:

- Storm Drain System Facilities
- Streets and Traffic Circulation System Facilities
- Water & Recycled Water Facilities
- Sewer System Facilities
- Fiber Optic System Facilities

City Staff has discussed the proposed Rate and Method of Apportionment of Special Tax with the landowners. As proposed, the Resolution of Intention to establish the Community Facilities District and to levy special taxes will set a public hearing date on the formation of the community facilities district for the regularly scheduled City Council meeting on Tuesday, August 20, 2024, to consider the matter.

RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT PROPOSED TO BE NAMED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 52 (SUNDANCE PARK) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX THEREIN.

WHEREAS, Section 53318 of the Mello-Roos Community Facilities Act of 1982 (the "Act") provides that proceedings for the establishment of a community facilities district shall be instituted by a legislative body of a local agency when a petition requesting the institution of the proceedings signed by the owners of not less than 10% of the area of land proposed to be included within the community facilities district and not proposed to be exempt from the special tax, describing the boundaries of the territory that is proposed for inclusion in the area and specifying the type or types of facilities and services to be financed by the community facilities district is filed with the clerk of the legislative body; and

WHEREAS, Section 53318 of the Act further provides that such a petition may not be acted upon until the payment of a fee in an amount that the legislative body determines, within 45 days of receiving such petition, is sufficient to compensate the legislative body for all costs incurred in conducting proceedings to create a community facilities district pursuant to the Act; and

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") has received from each of BrookCal Ontario LLC ("BrookCal Ontario"), Brookfield Row at SP LLC, Brookfield Homes Southern California LLC, and KL LB BUY 1 LLC (collectively, the "Landowners") a written petition (together, the "Petitions"), requesting the City Council to institute proceedings pursuant to the Act to establish a community facilities district (the "Community Facilities District") and to authorize the Community Facilities District to levy a special tax within the Community Facilities District, describing the boundaries of the territory that is proposed for inclusion in the Community Facilities District and specifying the types of facilities and services to be financed by the Community Facilities District; and

WHEREAS, in connection with such request to institute proceedings to establish the Community Facilities District, BrookCal Ontario paid a fee in an amount that the City Council has determined is sufficient to compensate the City Council for all cost incurred in conducting proceedings to create the Community Facilities District pursuant to the Act; and

WHEREAS, the Landowners have represented and warranted to the City Council that the Landowners are the owners of 100% of the area of land proposed to be included within the Community Facilities District and not proposed to be exempt from the special tax; and

WHEREAS, Section 53314.9 of the Act provides that, at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a community facilities district; and

WHEREAS, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative body, with or without interest, under all the following conditions: (a) the proposal to repay the funds is included in both the resolution of intention to establish a community facilities district adopted pursuant to Section 53321 of the Act and in the resolution of formation to establish a community facilities district pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify that if the qualified electors of the community facilities district do not approve the proposed special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds; and

WHEREAS, the City and BrookCal Ontario have entered into the Deposit and Reimbursement Agreement, dated as of November 1, 2022 (the "Deposit Agreement"), which provides for the advancement of funds by BrookCal Ontario to be used to pay costs incurred in creating the Community Facilities District and the incurrence of bonded indebtedness thereby, and provides for the repayment to BrookCal Ontario of such funds advanced, without interest, from the proceeds of any such bonded indebtedness incurred by the Community Facilities District; and

WHEREAS, the City desires to include in this Resolution, in accordance with Section 53314.9 of the Act, the proposal to repay funds pursuant to the Deposit Agreement;

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

SECTION 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

SECTION 2. The City Council hereby finds that the Petitions are signed by the landowners owning the requisite area of land proposed to be included within the Community Facilities District and not proposed to be exempt from the Special Tax.

SECTION 3. The City Council proposes to establish the Community Facilities District under the terms of the Act. The boundaries of the territory proposed for inclusion in the Community Facilities District are described in the map showing the proposed Community Facilities District (the "Boundary Map") on file in the office of the City Clerk of the City (the "City Clerk"), a copy of which is attached hereto as Exhibit A, which boundaries are hereby preliminarily approved and to which map reference is hereby made

for further particulars. The City Clerk is hereby directed to sign the original Boundary Map and record, or cause to be recorded, the Boundary Map with all proper endorsements thereon in the office of the San Bernardino County Recorder within 15 days of the date of adoption of this Resolution, all as required by Section 3111 of the California Streets and Highways Code.

SECTION 4. The name proposed for the Community Facilities District is "City of Ontario Community Facilities District No. 52 (Sundance Park)."

SECTION 5. The public facilities (the "Facilities") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Facilities" on Exhibit B hereto, which is by this reference incorporated herein. Those Facilities proposed to be purchased as completed public facilities are identified under the caption "Facilities to be Purchased" on Exhibit B hereto. The services (the "Services") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Services" on Exhibit B hereto. The incidental expenses proposed to be incurred are identified under the caption "Incidental Expenses" on Exhibit B hereto. All or any portion of the Facilities may be financed through a financing plan, including, but not limited to, a lease, lease-purchase or installment-purchase arrangement.

SECTION 6. The City Council proposes that, except where funds are otherwise available, the Community Facilities District be authorized to annually levy within the Community Facilities District a special tax (the "Special Tax") sufficient to pay for all Facilities and Services, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District. The rate, method of apportionment and manner of collection of the Special Tax in sufficient detail to allow each landowner or resident within the proposed Community Facilities District to estimate the maximum amount that he or she will have to pay, is specified in the Rate and Method of Apportionment of Special Tax (the "Rate and Method") attached hereto as Exhibit C, which is by this reference incorporated herein. The conditions under which the obligation to pay the Special Tax to be levied to pay for Facilities may be prepaid and permanently satisfied are specified in the Rate and Method. The Special Tax will be collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

SECTION 7. The Special Tax may only finance the Services to the extent that they are in addition to those provided in the territory of the Community Facilities District before the Community Facilities District is created. The Services may not supplant services already available within that territory when the Community Facilities District is created. Bonds of the Community Facilities District may not be issued to fund any of the Services.

SECTION 8. The tax year after which no further Special Tax to pay for Facilities shall be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the Special Tax to pay for Facilities in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the Community Facilities District by more than 10% above

the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For purposes of this paragraph, a parcel shall be considered "used for private residential purposes" not later than the date on which an occupancy permit for private residential use is issued. The Special Tax to pay for Services will be levied in perpetuity, as provided in the Rate and Method.

SECTION 9. Pursuant to Section 53344.1 of the Act, the City Council hereby reserves to itself the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the Community Facilities District treasurer in full payment or part payment of any installment of the Special Tax or the interest or penalties thereon that may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

SECTION 10. The City Council hereby fixes Tuesday, August 20, 2024, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the establishment of the Community Facilities District; provided, that, in the event the August 20, 2024 City Council meeting is held via teleconference and/or videoconference only, the means by which the public may observe such public hearing and offer public comment shall be prescribed in the notice and agenda for such City Council meeting.

SECTION 11. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. Publication of said notice shall be completed at least seven days prior to the date herein fixed for said public hearing. Said notice shall contain all of the information prescribed by Section 53322 of the Act.

SECTION 12. The authorization to levy the Special Tax shall be submitted to the qualified electors of the Community Facilities District at a special election. The proposed voting procedure shall be a vote by the landowners in the Community Facilities District conducted by mail or hand-delivered ballots, with each owner having one vote for each acre or portion of an acre such owner owns in the Community Facilities District.

SECTION 13. Each officer of the City who is or will be responsible for providing one or more of the proposed types of Facilities or Services is hereby directed to study, or cause to be studied, the proposed Community Facilities District and, at or before said public hearing, file a report with the City Council containing a brief description of the Facilities and Services by type that will in his or her opinion be required to adequately meet the needs of the Community Facilities District, and his or her estimate of the cost of providing the Facilities and Services. Such officers are hereby also directed to estimate the fair and reasonable cost of the Facilities proposed to be purchased as completed public facilities and of the incidental expenses proposed to be paid. Such report shall be made a part of the record of said public hearing.

SECTION 14. BrookCal Ontario has heretofore advanced certain funds, and may advance additional funds, that have been or may be used to pay costs incurred in connection with the creation of the Community Facilities District and the incurrence of bonded indebtedness thereby. The City Council proposes to repay all or a portion of such funds so advanced, without interest, solely from the proceeds of such bonded indebtedness, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

SECTION 15. All actions heretofore taken by the officers, employees and agents of the City with respect to the establishment of the Community Facilities District, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 16. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things that they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 17. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 2nd day of July 2024.

_____
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. 2024- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 2, 2024 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2024- duly passed and adopted by the Ontario City Council at their regular meeting held July 2, 2024.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

# EXHIBIT A

# BOUNDARY MAP

## EXHIBIT B

## FACILITIES, SERVICES AND INCIDENTAL EXPENSES

### Facilities

The types of public facilities to be financed by the Community Facilities District are street and bridge improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, domestic and recycled water distribution facilities, sewer collection facilities, solid waste facilities, storm drainage facilities, park and recreation facilities and equipment, aquatic facilities and equipment, fire facilities and equipment, police facilities and equipment, library facilities and equipment, fiber optic telecommunication, wireless communication and public safety camera facilities and equipment, general governmental office, administrative and meeting facilities, and land, rights-of-way and easements necessary for any of such facilities.

### Facilities to be Purchased

The types of public facilities to be purchased as completed facilities are street and bridge improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, domestic and recycled water distribution facilities, sewer collection facilities, solid waste facilities, storm drainage facilities, and land, rights-of-way and easements necessary for any of such facilities.

### Services

The types of City services to be financed by the Community Facilities District are police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance and lighting of parks, parkways, streets, roads and open space, flood and storm protection services, maintenance and operation of fiber optic telecommunication, wireless communication and public safety camera systems and maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the City.

### Incidental Expenses

The incidental expenses proposed to be incurred include the following:

(a) the cost of planning and designing public facilities to be financed, including the cost of environmental evaluations of those facilities;

(b) the costs associated with the creation of the Community Facilities District, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District; and

(c) any other expenses incidental to the construction, completion, and inspection of the authorized work.

# EXHIBIT C

# RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

SHEET 1 OF 3

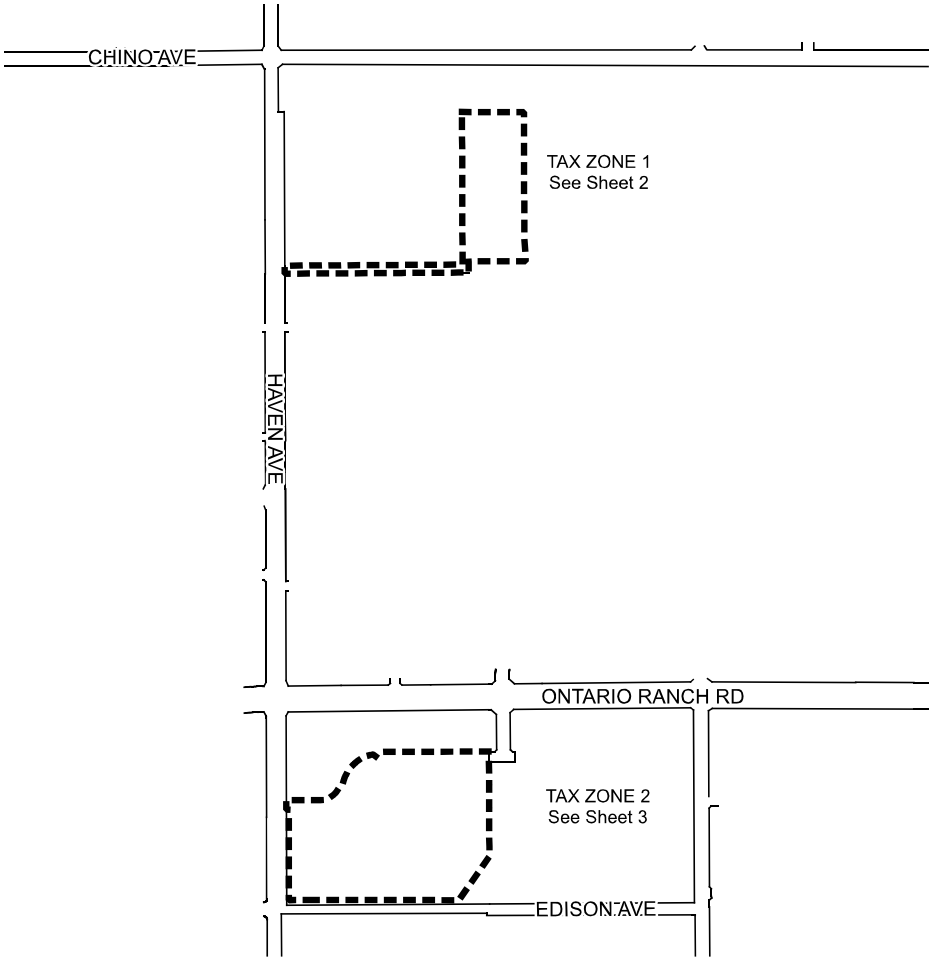
PROPOSED BOUNDARIES OF

# CITY OF ONTARIO
# COMMUNITY FACILITIES DISTRICT NO. 52
# (SUNDANCE PARK)

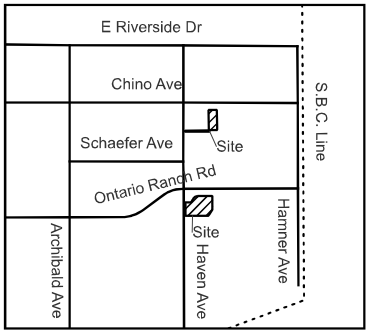
SAN BERNARDINO COUNTY, STATE OF CALIFORNIA

N

OVERVIEW MAP




VICINITY MAP




LEGEND

City of Ontario Community Facilities District No. 52 (Sundance Park)

(1) Filed in the office of the Clerk of the City of Ontario this _____ day of_____, 2024.

_____
Sheila Mautz,
Clerk of the City of Ontario, California

(2) I hereby certify that the within map showing the proposed boundaries of City of Ontario Community Facilities District No. 52 (Sundance Park), San Bernardino County, State of California, was approved by the City Council of the City of Ontario at a regular meeting thereof, held on the _____ day of _____, 2024, by its Resolution No. _____.

_____
Sheila Mautz,
Clerk of the City of Ontario, California

CITY OF ONTARIO INCORPORATED DECEMBER 1891 CALIFORNIA

San Bernardino County Recorder's Certificate

This map has been filed under Document Number _____, this _____ day of _____, 2024, at _____.m, in Book _____ of Maps of Assessment and Community Facilities Districts at page _____, in the office of the County Recorder in San Bernardino County, State of California, at the request of the City of Ontario in the amount of $_____.

Chris Wilhite
Assessor-Recorder
San Bernardino County

By: _____
Deputy Recorder

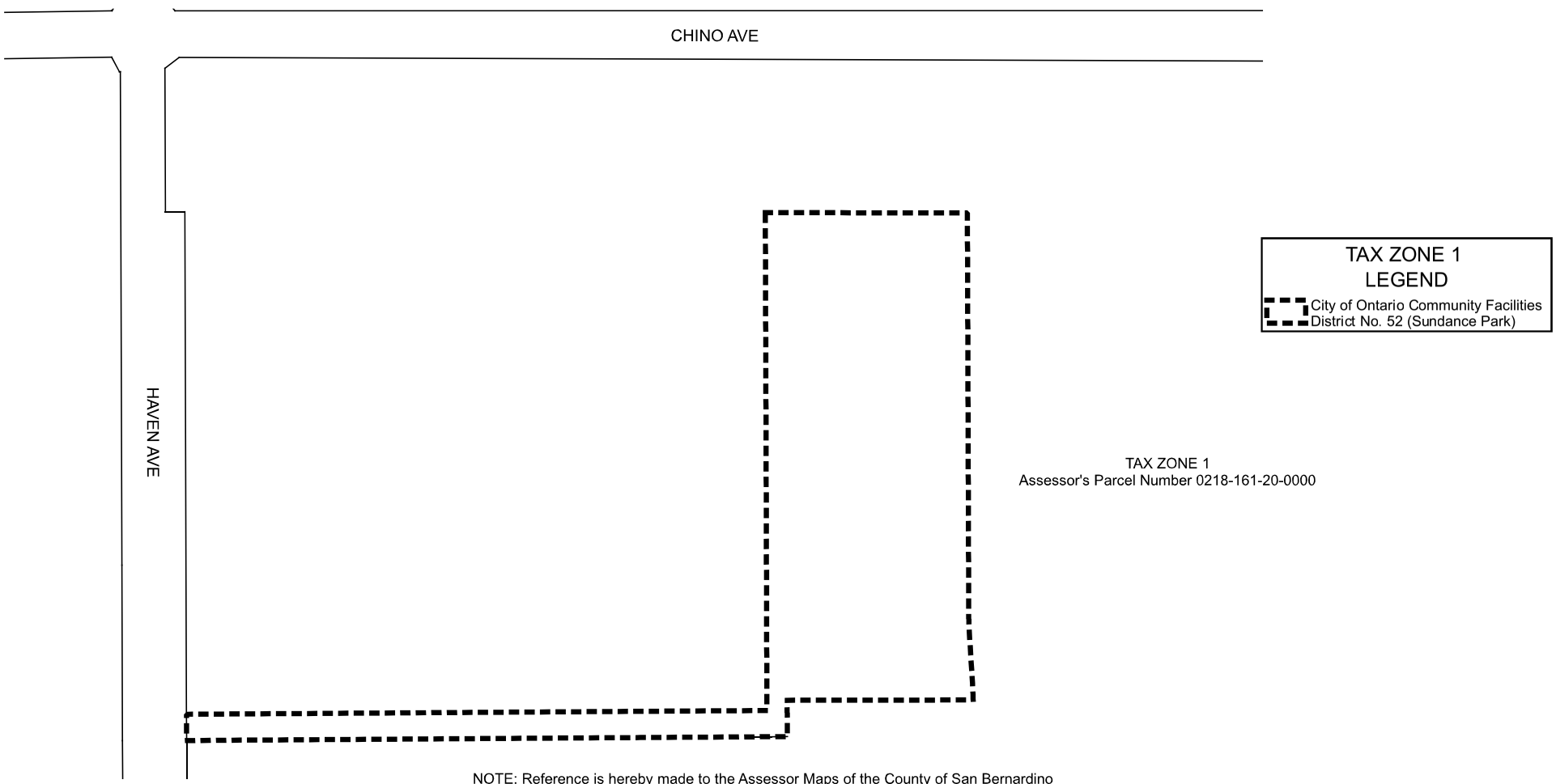
GCG
GOODWIN CONSULTING GROUP

SHEET 2 OF 3

PROPOSED BOUNDARIES OF

# CITY OF ONTARIO
# COMMUNITY FACILITIES DISTRICT NO. 52
# (SUNDANCE PARK)

SAN BERNARDINO COUNTY, STATE OF CALIFORNIA




NOTE: Reference is hereby made to the Assessor Maps of the County of San Bernardino for a description of the lines and dimensions of any parcels shown hereon.

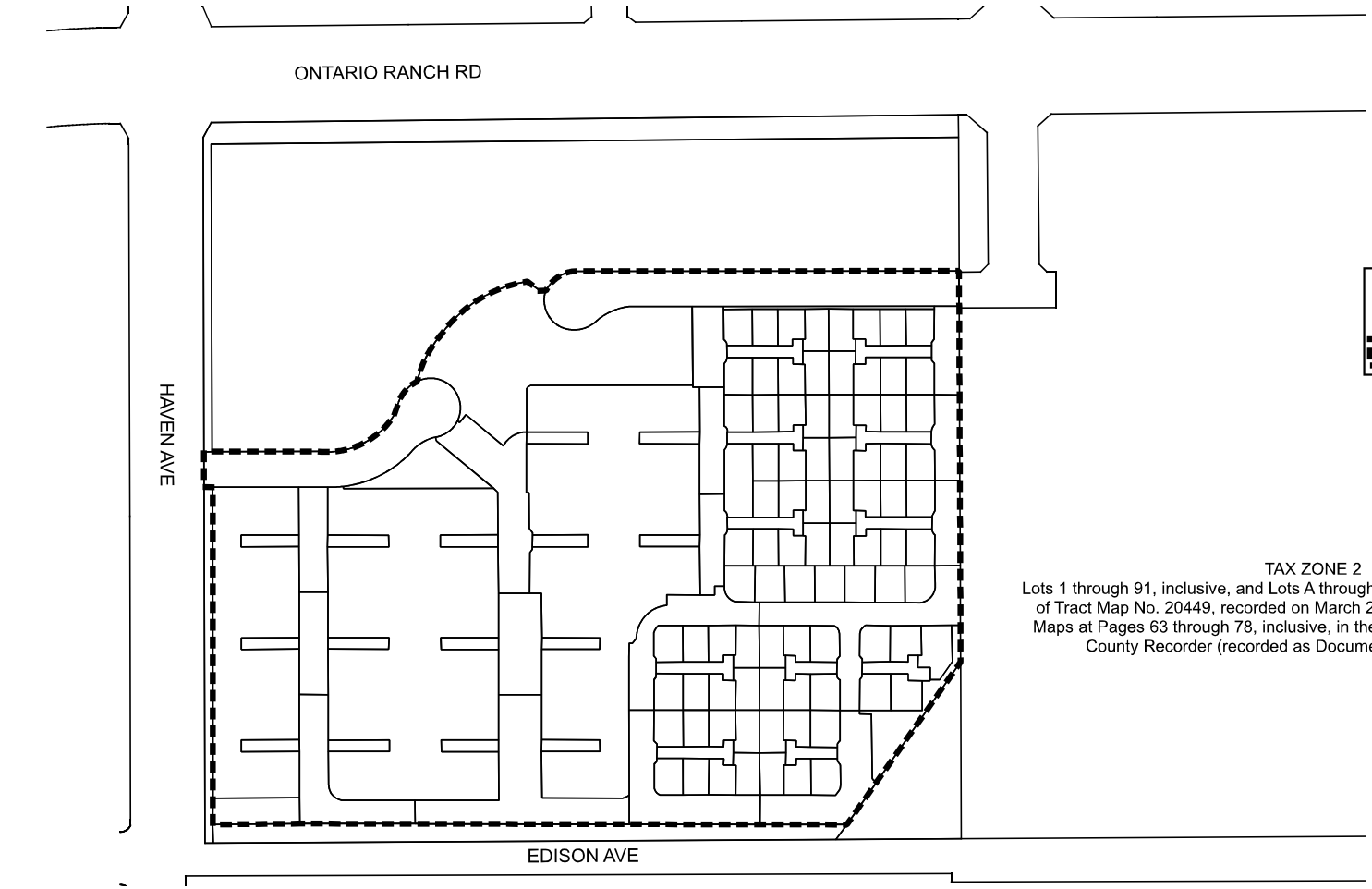
GCG
GOODWIN CONSULTING GROUP

SHEET 3 OF 3

PROPOSED BOUNDARIES OF

# CITY OF ONTARIO
# COMMUNITY FACILITIES DISTRICT NO. 52
# (SUNDANCE PARK)

SAN BERNARDINO COUNTY, STATE OF CALIFORNIA




TAX ZONE 2
LEGEND

City of Ontario Community Facilities District No. 52 (Sundance Park)

TAX ZONE 2
Lots 1 through 91, inclusive, and Lots A through X and Z through AX, inclusive, of Tract Map No. 20449, recorded on March 28, 2024, in Book 367 of Tract Maps at Pages 63 through 78, inclusive, in the Office of the San Bernardino County Recorder (recorded as Document No. 2024-0070122)

GCG
GOODWIN CONSULTING GROUP

# CITY OF ONTARIO
# COMMUNITY FACILITIES DISTRICT NO. 52
# (SUNDANCE PARK)

## RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

---

Special Taxes shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 52 (Sundance Park) ("CFD No. 52") and collected each Fiscal Year, commencing in Fiscal Year 2024-25, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 52, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

## A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

**"Acre"** or **"Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Subdivision Map, parcel map, condominium plan, or other recorded County map.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code.

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of CFD No. 52: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 52 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City or CFD No. 52 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 52 of complying with City, CFD No. 52, or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 52 related to the analysis and reduction, if any, of the Special Tax A on Single Family Property in accordance with Section C.1 herein; the costs of the City or CFD No. 52 related to an appeal of the Special Tax; the costs associated with the release of funds from any escrow account; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead relating to CFD No. 52; and amounts estimated or advanced by the City or CFD No. 52 for any other administrative purposes of the CFD, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Assessor's Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

**"Assessor's Parcel Map"** means an official map of the Assessor of the County designating parcels by Assessor's Parcel Number.

**"Assessor's Parcel Number"** means, with respect to an Assessor's Parcel, that number assigned to such Assessor's Parcel by the County for purposes of identification.

**"Assigned Special Tax A"** means the Special Tax A for each Land Use Class of Developed Property, as determined in accordance with Section C.1.a.2 below.

**"Backup Special Tax A"** means the Special Tax A for each Land Use Class of Developed Property, as determined in accordance with Section C.1.a.3 below.

**"Bonds"** means any bonds or other debt (as defined in Section 53317(d) of the Act) issued by CFD No. 52 under the Act and payable from Special Tax A.

**"Buildable Lot"** means an individual lot, within a Final Subdivision Map or an area expected by CFD No. 52 to become Final Mapped Property, such as the area within a Tentative Tract Map, for which a building permit may be issued without further subdivision of such lot.

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

**"CFD No. 27"** means City of Ontario Community Facilities District No. 27 (New Haven Services).

**"CFD No. 52"** means City of Ontario Community Facilities District No. 52 (Sundance Park).

**"City"** means the City of Ontario, California.

**"City Council"** means the City Council of the City, acting as the legislative body of CFD No. 52.

**"Contractual Impositions"** means (a) a voluntary contractual assessment established and levied on an Assessor's Parcel pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.10 *et seq.*), as amended from time to time, (b) a special tax established and levied on an Assessor's Parcel pursuant to Section 53328.1 of the California Government Code and related provisions of the Act, as amended from time to time, and (c) any other fee, charge, tax, or assessment established and levied on an individual Assessor's Parcel pursuant to a contractual agreement or other voluntary consent by the owner thereof (e.g., property owner association assessments).

**"County"** means the County of San Bernardino.

**"Designated Buildable Lot"** means a Buildable Lot for which a building permit has not been issued by the City as of the date of calculation of the Backup Special Tax A.

**"Developed Property"** means for each Fiscal Year, all Taxable Property, exclusive of Final Mapped Property, Taxable Property Owner Association Property, and Taxable Public Property, for which a building permit or other applicable permit for new construction was issued after January 1, 2023, and before May 1 of the prior Fiscal Year.

**"Expected Residential Lot Count"** means 120 Buildable Lots of Single Family Property in Tax Zone 1 and 298 Buildable Lots of Single Family Property in Tax Zone 2, or, as determined by the CFD Administrator, the number of Buildable Lots of Single Family Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

**"Facilities"** means the public facilities authorized to be financed, in whole or in part, by CFD No. 52.

**"Final Mapped Property"** means, for each Fiscal Year, all Taxable Property, exclusive of Developed Property, Taxable Property Owner Association Property, and Taxable Public Property, which as of January 1 of the previous Fiscal Year was located within a Final Subdivision Map. The term Final Mapped Property shall include any parcel map or Final Subdivision Map, or portion thereof, that creates individual lots for which a building permit may be issued, including Parcels that are designated as a remainder Parcel (i.e., one where the size, location, etc., precludes any further subdivision or taxable use).

**"Final Subdivision Map"** means a final tract map, parcel map, or lot line adjustment approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or a condominium plan recorded pursuant to California Civil Code Section 4285 that, in either case, creates individual lots for which building permits may be issued without further subdivision.

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

**"Gated Community Attached Dwelling Unit"** means, with respect to Special Tax B, a Unit within any residential building containing two or more dwelling units (including attached condominiums, townhouses, duplexes, triplexes, and apartments) within a gated community that, within such community, is primarily served by private interior streets.

**"Indenture"** means the indenture, fiscal agent agreement, resolution, or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time.

**"Land Use Class"** means any of the classes listed in Tables 1, 2, and 3 below.

**"Lower Income Household Welfare Exemption Property"** means, for each Fiscal Year, an Assessor's Parcel within the boundaries of CFD No. 52 that is subject to a welfare exemption under subdivision (g) of Section 214 of the California Revenue and Taxation Code (or any successor statute), as indicated in the most recent County assessor's roll finalized prior to such Fiscal Year.

**"Maximum Special Tax A"** means, with respect to an Assessor's Parcel of Taxable Property, the Maximum Special Tax A determined in accordance with Section C.1 below that can be levied in any Fiscal Year on such Assessor's Parcel of Taxable Property.

**"Maximum Special Tax B"** means, with respect to an Assessor's Parcel of Taxable Property, the Maximum Special Tax B determined in accordance with Section C.2 below that can be levied in any Fiscal Year on such Assessor's Parcel of Taxable Property.

**"Minimum Sale Price"** means the minimum price at which Units of a given Land Use Class have sold or are expected to be sold in a normal marketing environment and shall not include prices for such Units that are sold at a discount to expected sales prices for the purpose of stimulating the initial sales activity with respect to such Land Use Class.

**"Multiple Family Dwelling Unit"** means, with respect to Special Tax B, a Unit within any residential building containing two or more dwelling units, including attached condominiums, townhomes, duplexes, triplexes, and apartments, but excluding Gated Community Attached Dwelling Units.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property for which a building permit was issued by the City permitting the construction of one or more non-residential structures or facilities.

**"Other Residential Property"** means, with respect to Special Tax A, all Assessor's Parcels of Developed Property for which a building permit was issued by the City for purposes of constructing Units, excluding Single Family Attached Property and Single Family Detached Property.

**"Outstanding Bonds"** means all Bonds which are outstanding under and in accordance with the provisions of the Indenture.

**"Price Point Consultant"** means any consultant or firm of such consultants selected by CFD No. 52 that (a) has substantial experience in performing price point studies for residential units within community facilities districts established under the Act or otherwise estimating or confirming pricing for residential units in such community facilities districts, (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of residential units in such community facilities districts, (c) is in fact independent and not under the control of CFD No. 52 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 52, (ii) the City, (iii) any owner of real property in CFD No. 52, or (iv) any real property in CFD No. 52, and (e) is not connected with CFD No. 52 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 52 or the City.

**"Price Point Study"** means a price point study or a letter updating a previous price point study prepared by the Price Point Consultant pursuant to Section C herein.

**"Property Owner Association Property"** means, for each Fiscal Year, any property within the boundaries of CFD No. 52 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

**"Proportionately"** means (a) for Developed Property in the first step of Section D.1 below, that the ratio of the actual Special Tax A levy to the Maximum Special Tax A is equal for all Assessor's Parcels of Developed Property; however, for Developed Property in the fourth step of Section D.1 below, Proportionately means that the amount of the increase above the Assigned Special Tax A, if necessary, is equal for all Assessor's Parcels of Developed Property, except that if the Backup Special Tax A limits the increase on any Assessor's Parcel(s), then the amount of the increase shall be equal for the remaining Assessor's Parcels; (b) with respect to Special Tax B, that the ratio of the actual Special Tax B levy to the Maximum Special Tax B is equal for all Assessor's Parcels of Developed Property; (c) for Final Mapped Property, that the ratio of the actual Special Tax A levy to the Maximum Special Tax A is equal for all Assessor's Parcels of Final Mapped Property; (d) for Undeveloped Property, that the ratio of the actual Special Tax A levy to the Maximum Special Tax A is equal for all Assessor's Parcels of Undeveloped Property; (e) for Taxable Property Owner Association Property, that the ratio of the actual Special Tax A levy to the Maximum Special Tax A is equal for all Assessor's Parcels of Taxable Property Owner Association Property; and (f) for Taxable Public Property, that the ratio of the actual Special Tax A levy to the Maximum Special Tax A is equal for all Assessor's Parcels of Taxable Public Property.

**"Public Property"** means, for each Fiscal Year, property within the boundaries of CFD No. 52 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public or utility right-of-way that makes impractical its use for any purpose other than that set forth in such easement; provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

**"Rate and Method of Apportionment"** means this Rate and Method of Apportionment of Special Tax.

**"Residential Floor Area"** means all of the Square Footage of living area within the perimeter of a Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor's Parcel, or as set forth in other official records maintained by the City's Building Department or other appropriate means selected by CFD No. 52. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor's Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

**"Residential Property"** means, for each Fiscal Year, an Assessor's Parcel for which a building permit for new construction of one or more Units was issued after January 1, 2023, and before May 1 of the prior Fiscal Year.

**"Services"** means the services authorized to be financed, in whole or in part, by CFD No. 52.

**"Single Family Attached Property"** means all Assessor's Parcels of Developed Property for which a building permit or use permit was issued for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor's Parcel Numbers assigned to them (except for a duplex unit, which may share an Assessor's Parcel with another duplex unit), and may be purchased by individual homebuyers (which shall still be the case even if the Units are purchased and subsequently offered for rent by the owner of the Unit), including such residential structures within a condominium project as defined in Civil Code Section 4125.

**"Single Family Detached Dwelling Unit"** means, with respect to Special Tax B, a Unit of Single Family Detached Property.

**"Single Family Detached Property"** means all Assessor's Parcels of Developed Property for which a building permit was issued for construction of a Unit, on one legal lot, that does not share a common wall with another Unit.

**"Single Family Property"** means all Assessor's Parcels of Single Family Attached Property and Single Family Detached Property.

**"Special Taxes"** means, collectively, Special Tax A and Special Tax B.

**"Special Tax A"** means the special tax authorized by the qualified electors of CFD No. 52 to be levied within the boundaries of CFD No. 52 to pay for Facilities and Services.

**"Special Tax A Requirement"** means for any Fiscal Year that amount required, after taking into account available amounts held in the funds and accounts established under the Indenture, for CFD No. 52 to: (i) pay debt service on all Outstanding Bonds which is due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay a pro rata share of Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax A levy on Final Mapped Property or Undeveloped Property; and (vi) provide an amount equal to Special Tax A delinquencies based on the historical delinquency rate for Special Tax A as determined by the CFD Administrator.

**"Special Tax B"** means the special tax authorized by the qualified electors of CFD No. 52 to be levied within the boundaries of CFD No. 52 to pay for Services.

**"Special Tax B Requirement"** means for any Fiscal Year that amount required, after taking into account available amounts in any funds and accounts established to pay for Services, to pay the cost of Services, a pro rata share of Administrative Expenses, and an amount equal to Special Tax B delinquencies based on the historical delinquency rate for Special Tax B as determined by the CFD Administrator.

**"Square Footage"** or **"Sq. Ft."** means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City's Building Department or other appropriate means selected by CFD No. 52, issued for construction of Residential Property or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

**"State"** means the State of California.

**"Taxable Property"** means, for each Fiscal Year, all of the Assessor's Parcels within the boundaries of CFD No. 52 that are not exempt from the Special Taxes pursuant to law or Section E below.

**"Taxable Property Owner Association Property"** means, for each Fiscal Year, all Assessor's Parcels of Property Owner Association Property that are not exempt from the Special Taxes pursuant to Section E below.

**"Taxable Public Property"** means, for each Fiscal Year, all Assessor's Parcels of Public Property that are not exempt from the Special Taxes pursuant to law or Section E below.

**"Tax Zone"** means a mutually exclusive geographic area, within which particular Special Taxes may be levied pursuant to this Rate and Method of Apportionment. Attachment 1 identifies the two Tax Zones in CFD No. 52.

**"Tax Zone 1"** means the geographic area designated in Attachment 1 of this Rate and Method of Apportionment as Tax Zone 1, is consistent with the boundaries of TTM 20529, and was commonly referred to as the Tilden project at the time of formation of CFD No. 52.

**"Tax Zone 2"** means the geographic area designated in Attachment 1 of this Rate and Method of Apportionment as Tax Zone 2, is consistent with the boundary of TTM 20449, and was commonly referred to as the Sundance Park project at the time of formation of CFD No. 52.

**"Tentative Tract Map"** means a map: (i) showing a proposed subdivision of an Assessor's Parcel(s) and the conditions pertaining thereto; (ii) that may or may not be based on a detailed survey; and (iii) that is not recorded by the County to create legal lots.

**"Total Tax Burden"** means, for a Unit within a Land Use Class, for the Fiscal Year in which the Total Tax Burden is being calculated, the sum of (a) the Assigned Special Tax A for such Land Use Class for such Fiscal Year, plus (b) with respect to Tax Zone 1, the Special Tax B for such Land Use Class for such Fiscal Year, and with respect to Tax

Zone 2, the Special Tax of CFD No. 27 for such Land Use Class for such Fiscal Year, plus (c) the *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities districts, and any other governmental fees, charges (other than fees or charges for services such as sewer and trash), taxes, and assessments (which do not include Contractual Impositions) collected by the County on *ad valorem* tax bills, plus (d) property owner association assessments (but excluding the refuse collection portion of such assessments), and that the CFD Administrator estimates would be levied or imposed on such Unit in such Fiscal Year if the residential dwelling unit thereon or therein had been completed and sold, and was subject to such fees, charges, taxes, and assessments in such Fiscal Year.

**"Trustee"** means the trustee or fiscal agent under the Indenture.

**"TTM 20449"** means Tentative Tract Map No. 20449, the area of which is located within CFD No. 52.

**"TTM 20529"** means Tentative Tract Map No. 20529, the area of which is located within CFD No. 52.

**"Undeveloped Property"** means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Final Mapped Property, Taxable Public Property, or Taxable Property Owner Association Property.

**"Unit"** means an individual single-family detached or attached home, townhome, condominium, apartment, or other residential dwelling unit, including each separate living area within a half-plex, duplex, triplex, fourplex, or other residential structure.

## B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2024-25, all Taxable Property within CFD No. 52 shall be identified as within Tax Zone 1 or Tax Zone 2, and then classified as Developed Property, Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property, and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below.

Assessor's Parcels of Developed Property shall be further classified as: Single Family Property (and further classified as Single Family Attached Property or Single Family Detached Property, as needed) or Other Residential Property (for Special Tax A); Single Family Detached Dwelling Unit, Multiple Family Dwelling Unit, or Gated Community Attached Dwelling Unit (for Special Tax B); or Non-Residential Property. For Special Tax A, Assessor's Parcels of Single Family Property in Tax Zone 1 shall be assigned to Land Use Classes 1 through 5, and Single Family Property in Tax Zone 2 shall be assigned to Land Use Classes 8 through 20, as listed in Tables 1 and 2 below based on the Residential Floor Area of the Units on such Assessor's Parcels. Also for Special Tax A, Other Residential Property and Non-Residential Property shall be assigned to Land Use Classes 6 and 7, respectively, in Tax Zone 1, and to Land Use Classes 21 and 22 in Tax Zone 2.

## C. MAXIMUM SPECIAL TAX

### 1. Special Tax A

At least 30 days prior to the issuance of Bonds, the Assigned Special Tax A on Developed Property (set forth in Tables 1 and 2 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At such time, CFD No. 52 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class.

If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden, excluding property owner association assessments, applicable to Units within one or more Land Use Classes of Single Family Property to be constructed within CFD No. 52 exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax A shall be reduced to the extent necessary to cause the Total Tax Burden, excluding property owner association assessments, that shall apply to Units within such Land Use Class(es) not to exceed 1.95% of the Minimum Sale Price of such Units.

Each Assigned Special Tax A reduction for a Land Use Class shall be calculated by the CFD Administrator separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Special Tax A, the Backup Special Tax A shall also be reduced by the CFD Administrator based on the percentage reduction in Maximum Special Tax A revenues within the Tentative Tract Map area(s) where the Assigned Special Tax A reductions occurred. Upon determining the reductions, if any, in the Assigned Special Tax A and Backup Special Tax A required pursuant to this Section C, the CFD Administrator shall complete the Certificate of Modification of Special Tax substantially in the form attached hereto as Exhibit A (the "Certificate of Modification"), shall execute such completed Certificate of Modification, and shall deliver such executed Certificate of Modification to CFD No. 52. Upon receipt thereof, if in satisfactory form, CFD No. 52 shall execute such Certificate of Modification. The reduced Assigned Special Tax A and Backup Special Tax A specified in such Certificate of Modification shall become effective upon the execution of such Certificate of Modification by CFD No. 52.

The Special Tax A reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien, which CFD No. 52 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 52. The reductions in this section apply to Single Family Property, but not to Other Residential Property or Non-Residential Property.

### *a. Developed Property*

1) *Maximum Special Tax A*

The Maximum Special Tax A that may be levied in any Fiscal Year for each Assessor's Parcel classified as Developed Property shall be the greater of (i) the amount derived by application of the Assigned Special Tax A or (ii) the amount derived by application of the Backup Special Tax A. The Maximum Special Tax A shall not increase in future years, other than as calculated pursuant to Section C.1.a.3 below.

2) *Assigned Special Tax A*

The Assigned Special Tax A that may be levied in any Fiscal Year for each Land Use Class is shown below in Tables 1 and 2.

**TABLE 1**
**TAX ZONE 1**
**ASSIGNED SPECIAL TAX A – DEVELOPED PROPERTY**

| Land Use Class | Description | Residential Floor Area (Square Footage) | Assigned Special Tax A |
|---|---|---|---|
| 1 | Single Family Property | < 1,601 | $4,255 per Unit |
| 2 | Single Family Property | 1,601 – 1,800 | $4,409 per Unit |
| 3 | Single Family Property | 1,801 – 2,000 | $4,589 per Unit |
| 4 | Single Family Property | 2,001 – 2,200 | $5,016 per Unit |
| 5 | Single Family Property | > 2,200 | $5,097 per Unit |
| 6 | Other Residential Property | | $116,395 per Acre |
| 7 | Non-Residential Property | | $116,395 per Acre |

**TABLE 2**
**TAX ZONE 2**
**ASSIGNED SPECIAL TAX A – DEVELOPED PROPERTY**

| Land Use Class | Description | Residential Floor Area (Square Footage) | Assigned Special Tax A |
|---|---|---|---|
| 8 | Single Family Attached Property | < 801 | $2,992 per Unit |
| 9 | Single Family Attached Property | 801 – 1,000 | $3,117 per Unit |
| 10 | Single Family Attached Property | 1,001 – 1,200 | $3,626 per Unit |
| 11 | Single Family Attached Property | 1,201 – 1,400 | $3,786 per Unit |
| 12 | Single Family Attached Property | 1,401 – 1,600 | $4,024 per Unit |
| 13 | Single Family Attached Property | 1,601 – 1,800 | $4,384 per Unit |
| 14 | Single Family Attached Property | 1,801 – 2,000 | $4,608 per Unit |
| 15 | Single Family Attached Property | > 2,000 | $4,819 per Unit |
| 16 | Single Family Detached Property | < 1,801 | $4,708 per Unit |
| 17 | Single Family Detached Property | 1,801 – 2,000 | $4,988 per Unit |
| 18 | Single Family Detached Property | 2,001 – 2,200 | $5,482 per Unit |
| 19 | Single Family Detached Property | 2,201 – 2,400 | $5,954 per Unit |
| 20 | Single Family Detached Property | > 2,400 | $6,038 per Unit |
| 21 | Other Residential Property | | $116,962 per Acre |
| 22 | Non-Residential Property | | $116,962 per Acre |

3) *Backup Special Tax A*

The Backup Special Tax A shall be $4,522 per Unit for Single Family Property in Tax Zone 1 and, in Tax Zone 2, shall be $4,075 per Unit of Single Family Attached Property and $5,342 per Unit of Single Family Detached Property. However, if the Expected Residential Lot Count of Single Family Property does not equal 120 in Tax Zone 1 and 298 in Tax Zone 2, and the City has not issued Bonds, then the Backup Special Tax A for Designated Buildable Lots of Single Family Property in each Tax Zone shall be calculated according to the following formulas:

Tax Zone 1 = $542,632 ÷ Expected Residential Lot Count in Tax Zone 1 for Single Family Property

| | | |
|---|---|---|
| Tax Zone 2 | = | $855,810 ÷ Expected Residential Lot Count in Tax Zone 2 for Single Family Attached Property, and $470,098 ÷ Expected Residential Lot Count in Tax Zone 2 for Single Family Detached Property |

If any portion of a Final Subdivision Map, or any area expected by CFD No. 52 to become Final Mapped Property – such as the area within TTM 20449, TTM 20529, or any other Tentative Tract Map – changes any time after the City has issued Bonds, causing an adjustment to the number of Designated Buildable Lots, then the Backup Special Tax A for all Designated Buildable Lots of Single Family Property subject to the change shall be calculated according to the following steps:

***Step 1:*** Determine the total Backup Special Tax A that could have been collected from Designated Buildable Lots of Single Family Property within the applicable Tax Zone, prior to the Final Subdivision Map or expected Final Mapped Property change.

***Step 2:*** Divide the amount determined in Step 1 by the number of Designated Buildable Lots of Single Family Property that exists in the applicable Tax Zone after the Final Subdivision Map or expected Final Mapped Property change.

***Step 3:*** Apply the amount determined in Step 2 as the Backup Special Tax A per Unit for Single Family Property in the applicable Tax Zone.

***The Backup Special Tax A for an Assessor's Parcel shall not change once an Assessor's Parcel is classified as Developed Property.***

***b. Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property***

The Maximum Special Tax A for Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property shall be $116,395 per Acre in Tax Zone 1 and $116,962 per Acre in Tax Zone 2, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

## 2. Special Tax B

The Maximum Special Tax B for each Assessor's Parcel classified as Developed Property in Tax Zone 1 shall be determined by reference to Table 3 below.

**TABLE 3**
**MAXIMUM SPECIAL TAX B – DEVELOPED PROPERTY**

| Land Use Class | Maximum Special Tax B Fiscal Year 2024-25 |
|---|---|
| **Residential Property** | |
| Single Family Detached Dwelling Unit | $1,501.46 per Unit |
| Multiple Family Dwelling Unit | $1,301.51 per Unit |
| Gated Community Attached Dwelling Unit | $1,091.38 per Unit |
| **Non-Residential Property** | $0.273800 per Sq. Ft. |

On January 1 of each Fiscal Year, commencing January 1, 2025, the Maximum Special Tax B to be applied in the next Fiscal Year shall be subject to an automatic increase at a rate equal to 4.0% of the amount in effect for the prior Fiscal Year.

## 3. Multiple Land Use Classes on an Assessor's Parcel

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax A levied on such Assessor's Parcel shall be the sum of the Maximum Special Tax A for all Units of Single Family Property and Acres of Other Residential Property and Non-Residential Property (based on the pro rata share of Square Footage between Other Residential Property and Non-Residential Property, according to the applicable building permits, Final Subdivision Map, parcel map, condominium plan, or other recorded County map) located on that Assessor's Parcel. The Maximum Special Tax B levied on such Assessor's Parcel in Tax Zone 1 shall be the sum of the Maximum Special Tax B for all Units of Residential Property and all Square Footage of Non-Residential Property (based on the applicable building permits, Final Subdivision Map, parcel map, condominium plan, or other recorded County map) located on that Assessor's Parcel in Tax Zone 1.

## 4. Developed Property Special Tax Obligation

Once an Assessor's Parcel has been taxed in any Fiscal Year as Developed Property, the Assessor's Parcel shall continue to be taxed as Developed Property regardless of changes to or expiration of the original building permit, and regardless of revisions to or destruction of the structure that was, or was expected to be, constructed pursuant to the original building permit.

## D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

### 1. Special Tax A

Each Fiscal Year, beginning with Fiscal Year 2024-25, the CFD Administrator shall determine the Special Tax A Requirement for such Fiscal Year. The Special Tax A shall then be levied as follows:

***First:*** If needed to satisfy the Special Tax A Requirement, Special Tax A shall be levied Proportionately on each Assessor's Parcel of Developed Property up to 100% of the applicable Assigned Special Tax A;

***Second:*** If additional monies are needed to satisfy the Special Tax A Requirement after the first step has been completed, then Special Tax A shall be levied Proportionately on each Assessor's Parcel of Final Mapped Property up to 100% of the Maximum Special Tax A for Final Mapped Property;

***Third:*** If additional monies are needed to satisfy the Special Tax A Requirement after the first two steps have been completed, then Special Tax A shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property up to 100% of the Maximum Special Tax A for Undeveloped Property;

***Fourth***: If additional monies are needed to satisfy the Special Tax A Requirement after the first three steps have been completed, then the levy of Special Tax A on each Assessor's Parcel of Developed Property whose Maximum Special Tax A is determined through the application of the Backup Special Tax A shall be increased Proportionately from the Assigned Special Tax A up to the Maximum Special Tax A for each such Assessor's Parcel;

***Fifth:*** If additional monies are needed to satisfy the Special Tax A Requirement after the first four steps have been completed, then Special Tax A shall be levied Proportionately on each Assessor's Parcel of Taxable Property Owner Association Property up to the Maximum Special Tax A for Taxable Property Owner Association Property;

***Sixth:*** If additional monies are needed to satisfy the Special Tax A Requirement after the first five steps have been completed, then Special Tax A shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property up to the Maximum Special Tax A for Taxable Public Property.

Notwithstanding the above, under no circumstances shall Special Tax A levied in any Fiscal Year on any Assessor's Parcel of Single Family Property or Other Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 52 by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults.

### 2. Special Tax B

Each Fiscal Year, beginning with Fiscal Year 2024-25, the CFD Administrator shall determine the Special Tax B Requirement. The Special Tax B shall then be levied Proportionately on each Assessor's Parcel of Developed Property in Tax Zone 1 up to 100% of the applicable Maximum Special Tax B for such Assessor's Parcel, until the Special Tax B Requirement is satisfied. However, the Special Tax B levied in any Fiscal Year shall not increase by more than 4.0% of the amount of the Special Tax B levied in the prior Fiscal Year.

## E. EXEMPTIONS

In Tax Zone 1, no Special Tax shall be levied on up to 0.17 Acres of Public Property and up to 3.63 Acres of Property Owner Association Property. In Tax Zone 2, no Special Tax shall be levied on up to 1.53 Acres of Public Property and up to 8.46 Acres of Property Owner Association Property. Tax-exempt status in each Tax Zone will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property.

Property Owner Association Property or Public Property that is not exempt from the Special Tax A under this section shall be subject to the levy of Special Tax A and shall be taxed Proportionately as part of the fifth or sixth step, respectively, in Section D above, up to 100% of the applicable Maximum Special Tax A for Taxable Property Owner Association Property and Taxable Public Property. No Special Tax A shall be levied in any Fiscal Year on Assessor's Parcels that have fully prepaid the Special Tax A obligation pursuant to the formula set forth in Section H.

No Special Tax shall be levied on Lower Income Household Welfare Exemption Property; provided, however, that if, in any Fiscal Year, applicable law does not require that Lower Income Household Welfare Exemption Property be exempt from some portion, or all, of the Special Tax, such portion, or all, of the Special Tax shall be levied on such property in accordance with this Rate and Method of Apportionment based on the Land Use Class to which the Assessor's Parcel is assigned.

## F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 52 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent decision shall be final and binding on all interested parties. If the decision of the CFD Administrator or subsequent decision by the City Council requires the Special Tax to be modified or changed in favor of the property owner, then the CFD Administrator shall determine if sufficient Special Tax revenue is available to make a cash refund. If a cash refund cannot be made, then an adjustment shall be made to credit future Special Tax levy(ies).

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

## G. MANNER OF COLLECTION

The Special Taxes shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the Special Taxes may be collected in such other manner as the City Council shall determine, including direct billing of affected property owners.

## H. PREPAYMENT OF SPECIAL TAX A

The following definitions apply to this Section H:

**"CFD Public Facilities"** means $23,817,000 for each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 52.

**"Expenditures Fund"** means funds or accounts, regardless of their names, that are established to hold moneys that are available to acquire or construct Facilities and to fund Services.

**"Future Facilities Costs"** means the CFD Public Facilities minus (i) Facilities and Services costs previously paid from the Expenditures Fund during the Prepayment Period in which the prepayment is being made, (ii) moneys currently on deposit in the Expenditures Fund from deposits made during the Prepayment Period in which the prepayment is being made, and (iii) moneys currently on deposit in an escrow fund that are expected to be available to finance Facilities costs. In no event shall the amount of Future Facilities Costs be less than zero.

**"Prepayment Period"** means one of three periods of time during which a Special Tax prepayment may be made.

**"Prepayment Period 1"** means July 1, 2024, through June 30, 2058.

**"Prepayment Period 2"** means July 1, 2058, through June 30, 2091.

**"Prepayment Period 3"** means July 1, 2091, through June 30, 2125.

*Only Special Tax A may be prepaid; Special Tax B shall continue to be levied on an annual basis on all Developed Property in Tax Zone 1 of CFD No. 52.*

**1. Prepayment in Full**

The obligation of an Assessor's Parcel to pay the Special Tax A may be prepaid as described herein, provided that a prepayment may be made only for Assessor's Parcels for which a building permit for new construction was issued after January 1, 2023, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax A obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge a fee for providing this service. Prepayment in any six month period must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

The Special Tax A Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

| | |
|---|---|
| Bond Redemption Amount | |
| plus | Redemption Premium |
| plus | Future Facilities Amount |
| plus | Defeasance Amount |
| plus | Administrative Fees and Expenses |
| less | Reserve Fund Credit |
| Total | Prepayment Amount |

As of the proposed date of prepayment, the Special Tax A Prepayment Amount (defined below) shall be calculated by the CFD Administrator as follows:

**Paragraph No.**

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel, and determine the Prepayment Period for the proposed prepayment.

2. Compute the Assigned Special Tax A and Backup Special Tax A for the Assessor's Parcel to be prepaid based on the Developed Property Special Tax A which is, or could be, charged in the current Fiscal Year. For Assessor's Parcels of Final Mapped Property (for which a building permit has been issued but which is not yet classified as Developed Property) to be prepaid, compute the Assigned Special Tax A and Backup Special Tax A for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.

3. (a) Divide the Assigned Special Tax A computed pursuant to Paragraph 2 by the total estimated Assigned Special Tax A for CFD No. 52 based on the Developed Property Special Tax A which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 52, excluding any Assessor's Parcels which have been prepaid, and

   (b) Divide the Backup Special Tax A computed pursuant to Paragraph 2 by the estimated total Backup Special Tax A at buildout of CFD No. 52, excluding any Assessor's Parcels which have been prepaid.

4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").

5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").

6. Compute the Future Facilities Costs for the applicable Prepayment Period.

7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").

8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.

9. Determine the Special Tax A levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.

10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".

11. Verify the administrative fees and expenses of CFD No. 52, including the costs to compute the prepayment, the costs to invest the prepayment proceeds, the costs to redeem Bonds, and the costs to record any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").

12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement on the prepayment date or the redemption date.

13. The Special Tax A prepayment is equal to the sum of the amounts computed pursuant to Paragraphs 4, 5, 7, 10, and 11, less the amount computed pursuant to Paragraph 12 (the "Prepayment Amount").

14. From the Prepayment Amount, the amounts computed pursuant to Paragraphs 4, 5, 10, and 12 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to Paragraph 7 shall be deposited into the Expenditures Fund. The amount computed pursuant to Paragraph 11 shall be retained by CFD No. 52.

The Special Tax A Prepayment Amount may be sufficient to redeem other than a $5,000 increment of Bonds. In such cases, the increment above $5,000, or integral multiple thereof, will be retained in the appropriate fund established under the Indenture to be used with the next prepayment of Bonds or to make debt service payments.

As a result of the payment of the current Fiscal Year's Special Tax A levy as determined under Paragraph 9 (above), the CFD Administrator shall remove the current Fiscal Year's Special Tax A levy for such Assessor's Parcel from the County tax rolls. With respect to any Assessor's Parcel that is prepaid during Prepayment Period 3, the CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act to indicate that Special Tax A has been prepaid and that the obligation of such Assessor's Parcel to pay Special Tax A shall cease.

With respect to Special Tax A for any Assessor's Parcel that is prepaid during Prepayment Period 1 or Prepayment Period 2, the obligation of such Assessor's Parcel to pay Special Tax A shall be tolled, or suspended, through the end of such Prepayment Period, but shall resume in the first Fiscal Year of the subsequent Prepayment Period. The CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act to indicate that Special Tax A has been satisfied for the remainder of the applicable Prepayment Period but has not been permanently satisfied and the obligation to pay Special Tax A will resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the prepayment was made. Once the obligation of an Assessor's Parcel to pay Special Tax A resumes, Special Tax A for the then applicable Prepayment Period may be prepaid.

Notwithstanding the foregoing, no Special Tax A prepayment shall be allowed unless the amount of Maximum Special Tax A that may be levied on Taxable Property within CFD No. 52 (after excluding 1.70 Acres of Public Property and 12.09 Acres of Property Owner Association Property) both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

**2. Prepayment in Part**

The Special Tax A on an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2023, may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1, except that a partial prepayment shall be calculated by the CFD Administrator according to the following formula:

$$PP = (PF - AE) \times \% + AE.$$

The terms above have the following meaning:

PP = the partial prepayment
PF = the Prepayment Amount (full prepayment) for Special Tax A calculated according to Section H.1
AE = the Administrative Fees and Expenses determined pursuant to paragraph 11 above
% = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying Special Tax A

The Special Tax A partial prepayment amount must be sufficient to redeem at least a $5,000 increment of Bonds.

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay Special Tax A and the percentage by which Special Tax A shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of Special Tax A for an Assessor's Parcel within thirty (30) days of the request and may charge a fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute the remitted prepayment funds according to Section H.1, and (ii) indicate in the records of CFD No. 52 that there has been a partial prepayment of Special Tax A and that a portion of Special Tax A with respect to such Assessor's Parcel, equal to the outstanding percentage (100% - "%", as defined above) of the Maximum Special Tax A, shall continue to be levied on such Assessor's Parcel pursuant to Section D during the Prepayment Period in which the partial prepayment is made.

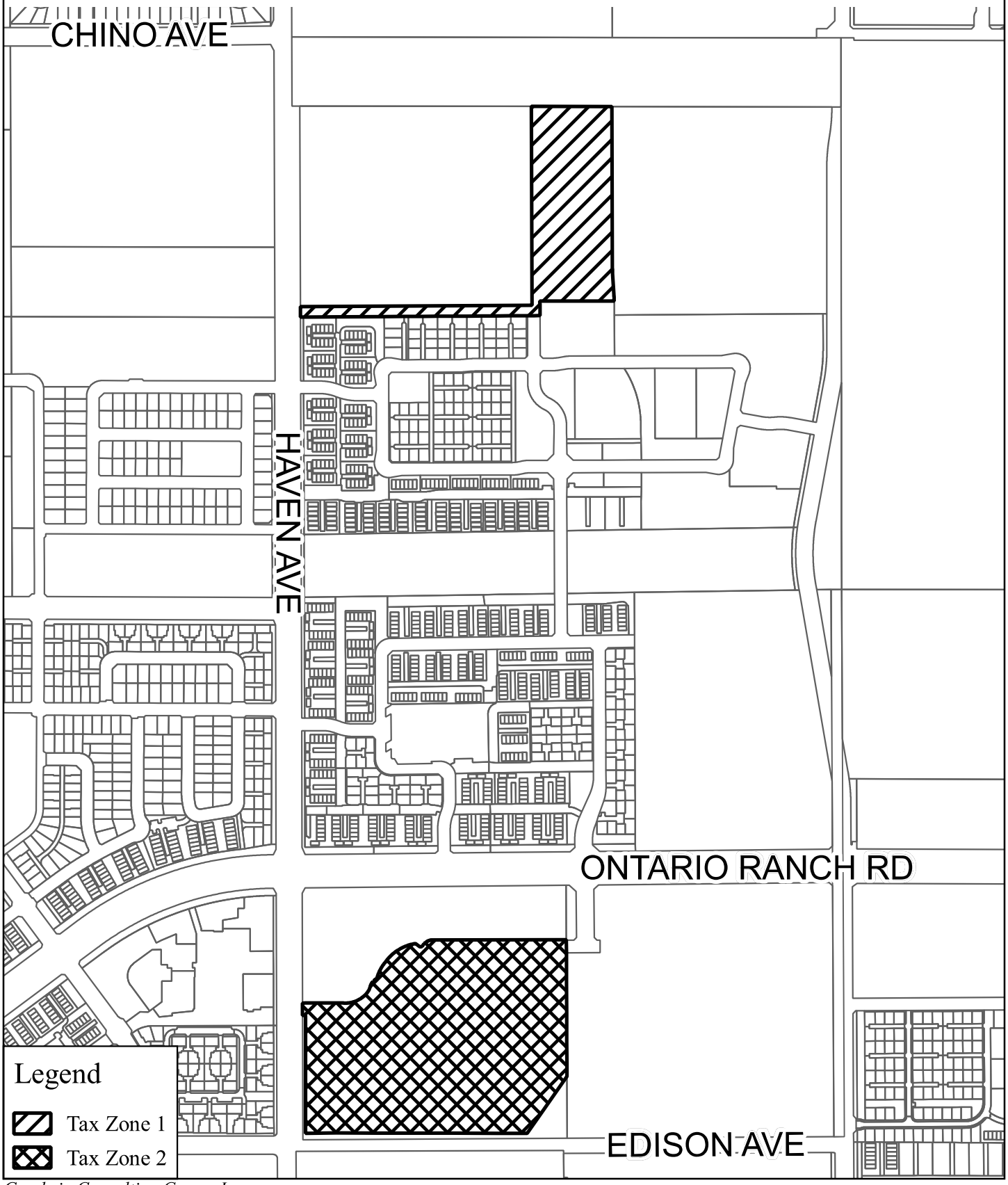
For partial prepayments made during Prepayment Period 1 or Prepayment Period 2, the full amount of Special Tax A shall resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the partial prepayment was made. Once the obligation of an Assessor's Parcel to pay Special Tax A resumes, Special Tax A for the then applicable Prepayment Period may be prepaid.

## I. TERM OF SPECIAL TAX

The Fiscal Year after which no further Special Tax A shall be levied or collected is Fiscal Year 2124-2125, except that Special Tax A that was lawfully levied in or before such Fiscal Year and that remains delinquent may be collected in subsequent years. Special Tax B shall continue to be levied indefinitely on an annual basis on all Developed Property in Tax Zone 1 of CFD No. 52.

Attachment 1
City of Ontario
CFD No. 52 (Sundance Park)

Identification of Tax Zones




*Goodwin Consulting Group, Inc.*

**EXHIBIT A**

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX A**
**(PAGE 1 OF 3)**

**CITY OF ONTARIO AND CFD NO. 52 CERTIFICATE**

1. Pursuant to Section C.1 of the Rate and Method of Apportionment of Special Tax (the "Rate and Method") for City of Ontario Community Facilities District No. 52 (Sundance Park) ("CFD No. 52"), the Assigned Special Tax A and the Backup Special Tax A for Developed Property within CFD No. 52 has been modified.

    a. The information in Tables 1 and 2 relating to Assigned Special Tax A for Developed Property within CFD No. 52, as stated in Section C.1.a.2 of the Rate and Method of Apportionment, has been modified as follows:

**TABLE 1**
**TAX ZONE 1**
**ASSIGNED SPECIAL TAX A – DEVELOPED PROPERTY**

| Land Use Class | Description | Residential Floor Area (Square Footage) | Assigned Special Tax A |
|---|---|---|---|
| 1 | Single Family Property | < 1,601 | $[ ] per Unit |
| 2 | Single Family Property | 1,601 – 1,800 | $[ ] per Unit |
| 3 | Single Family Property | 1,801 – 2,000 | $[ ] per Unit |
| 4 | Single Family Property | 2,001 – 2,200 | $[ ] per Unit |
| 5 | Single Family Property | > 2,200 | $[ ] per Unit |
| 6 | Other Residential Property | | $[ ] per Acre |
| 7 | Non-Residential Property | | $[ ] per Acre |

**EXHIBIT A**

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX A**
**(PAGE 2 OF 3)**

**TABLE 2**
**TAX ZONE 2**
**ASSIGNED SPECIAL TAX A – DEVELOPED PROPERTY**

| Land Use Class | Description | Residential Floor Area (Square Footage) | Assigned Special Tax A |
|---|---|---|---|
| 8 | Single Family Attached Property | < 801 | $[ ] per Unit |
| 9 | Single Family Attached Property | 801 – 1,000 | $[ ] per Unit |
| 10 | Single Family Attached Property | 1,001 – 1,200 | $[ ] per Unit |
| 11 | Single Family Attached Property | 1,201 – 1,400 | $[ ] per Unit |
| 12 | Single Family Attached Property | 1,401 – 1,600 | $[ ] per Unit |
| 13 | Single Family Attached Property | 1,601 – 1,800 | $[ ] per Unit |
| 14 | Single Family Attached Property | 1,801 – 2,000 | $[ ] per Unit |
| 15 | Single Family Attached Property | > 2,000 | $[ ] per Unit |
| 16 | Single Family Detached Property | < 1,801 | $[ ] per Unit |
| 17 | Single Family Detached Property | 1,801 – 2,000 | $[ ] per Unit |
| 18 | Single Family Detached Property | 2,001 – 2,200 | $[ ] per Unit |
| 19 | Single Family Detached Property | 2,201 – 2,400 | $[ ] per Unit |
| 20 | Single Family Detached Property | > 2,400 | $[ ] per Unit |
| 21 | Other Residential Property | | $[ ] per Acre |
| 22 | Non-Residential Property | | $[ ] per Acre |

b. The Backup Special Tax for Developed Property, as stated in Section C.1.a.3, shall be modified as follows:

> The Backup Special Tax A shall be $[ ] per Unit for Single Family Property in Tax Zone 1 and, in Tax Zone 2, shall be $[ ] per Unit of Single Family Attached Property and $[ ] per Unit of Single Family Detached Property. However, if the Expected Residential Lot Count of Single Family Property does not equal 120 in Tax Zone 1 and 298 in Tax Zone 2, and the City has not issued Bonds, then the Backup Special Tax A for Designated Buildable Lots of Single Family Property in each Tax Zone shall be calculated according to the following formulas:

**EXHIBIT A**

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX A**
**(PAGE 3 OF 3)**

| | | |
|---|---|---|
| Tax Zone 1 | = | $[ ] ÷ Expected Residential Lot Count in Tax Zone 1 for Single Family Property |
| Tax Zone 2 | = | $[ ] ÷ Expected Residential Lot Count in Tax Zone 2 for Single Family Attached Property, and $[ ] ÷ Expected Residential Lot Count in Tax Zone 2 for Single Family Detached Property |

2. The Special Tax A for Developed Property may only be modified prior to the first issuance of CFD No. 52 Bonds.

3. Upon execution of this certificate by CFD No. 52, CFD No. 52 shall cause an amended notice of Special Tax lien for CFD No. 52 to be recorded reflecting the modifications set forth herein.

Capitalized undefined terms used herein have the meanings ascribed thereto in the Rate and Method. The modifications set forth in this Certificate have been calculated by the CFD Administrator in accordance with the Rate and Method.

GOODWIN CONSULTING GROUP, INC.
CFD ADMINISTRATOR

By:_____ Date:_____

The undersigned acknowledges receipt of this Certificate and of the modification of the Assigned Special Tax A and Backup Special Tax A for Developed Property as set forth in this Certificate.

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 52
(SUNDANCE PARK)

By:_____ Date:_____

RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING IT NECESSARY FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 52 (SUNDANCE PARK) TO INCUR BONDED INDEBTEDNESS.

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), has this date adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District Proposed to be Named City of Ontario Community Facilities District No. 52 (Sundance Park) and to Authorize the Levy of a Special Tax Therein," stating its intention to establish City of Ontario Community Facilities District No. 52 (Sundance Park) (the "Community Facilities District") and to authorize the Community Facilities District to levy a special tax within the Community Facilities District for the purpose of financing certain public facilities (the "Facilities") and services; and

WHEREAS, the City Council deems it necessary for the Community Facilities District to incur bonded indebtedness;

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

SECTION 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

SECTION 2. The City Council declares it necessary for the Community Facilities District to incur bonded indebtedness.

SECTION 3. The proposed debt will be incurred for the purpose of financing the costs of the Facilities, including all costs and estimated costs incidental to, or connected with, the accomplishment of said purpose, including, but not limited to, such costs and estimated costs as are described in Section 53345.3 of the Act.

SECTION 4. The maximum amount of the proposed debt is $85,000,000.

SECTION 5. The City Council hereby fixes Tuesday, August 20, 2024, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the proposed debt authorization; provided, that, in the event the August 20, 2024 City Council meeting is held via teleconference and/or videoconference only, the means by which the public may observe such public hearing and offer public comment shall be prescribed in the notice and agenda for such City Council meeting.

SECTION 6. The City Clerk of the City is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. Publication of said notice shall be completed at least seven days prior to the date herein fixed for said public hearing. Said notice shall contain all of the information prescribed by Section 53346 of the Act.

SECTION 7. All actions heretofore taken by the officers, employees and agents of the City with respect to the incurrence of bonded indebtedness by the Community Facilities District, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 8. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things that they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 9. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 2nd day of July 2024.

_____
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. 2024- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 2, 2024 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2024- duly passed and adopted by the Ontario City Council at their regular meeting held July 2, 2024.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Community Development<br>Prepared By: Brittney Bartter<br>Staff Member Presenting: Scott Murphy, Executive Director Community Development<br>Reviewed By: Tricia Maruki, Khoi Do<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 5 |

**SUBJECT:** **A PROFESSIONAL SERVICES AGREEMENT WITH BUCKNAM INFRASTRUCTURE GROUP INC. FOR THE UPDATE OF THE CITY'S PAVEMENT MANAGEMENT PROGRAM AND SIDEWALK SURVEY**

**RECOMMENDATION:** That the City Council authorize the City Manager, or his designee, to execute a Professional Services Agreement with Bucknam Infrastructure Group Inc., of Oceanside, California, for the update of the City's Pavement Management Program and sidewalk survey, for a total contract amount not-to-exceed $694,500 for up to five (5) years.

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

**FISCAL IMPACT:** The Fiscal Year 2024-25 Adopted Budget includes appropriations for the Pavement Management Program in the amount of $65,000 from Gas Tax, and $89,000 for the sidewalk survey from Park Facilities General Fund. The estimated annual amount is $138,900, for a total contract not-to-exceed amount of $416,700 over the three year term. Two (2) one-year extensions may be exercised at the City's sole discretion for an additional contract amount of $277,800. The total not-to-exceed contract amount $694,500 over five years. Appropriations for future fiscal years will be included in the respective fiscal years' budgets for City Council consideration and approval.

**BACKGROUND & ANALYSIS:** The City developed its Pavement Management Program (PMP) utilizing MicroPAVER software to help identify and prioritize projects/maintenance on its street network and also to provide budget planning information for the Capital Improvements Program. In coordination with the Public Works Department, additional surveys of the sidewalks, curbs, and gutters will be performed to identify and assist in the planning of the scheduled maintenance of these improvements. The City maintains approximately 570 miles of streets and alleys, in addition to curb, gutter, and sidewalk.

In March 2024, the City solicited proposals for the PMP update and received one proposal. A selection team of City Staff reviewed the proposal utilizing a qualifications-based selection process and recommends Bucknam Infrastructure Group, Inc., based on the quality of their proposal, engineering expertise, and capability to perform the scope of work.

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

PAUL S. LEON
MAYOR

DEBRA PORADA
MAYOR PRO TEM

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT OCHOA
CITY MANAGER

# CITY OF ONTARIO
# PROFESSIONAL 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 **Bucknam Infrastructure Group, Inc**., a corporation, with its principal place of business at **3548 Seagate Way, Suite 230, Oceanside, CA 92056** ("Consultant"). City and Consultant are sometimes individually referred to herein as "Party" and collectively as "Parties."

## 2. RECITALS.

### 2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing **pavement management program** services to public clients, is licensed in the State of California, and is familiar with the plans of City.

### 2.2 Project.

City desires to engage Consultant to render such professional services for the **Pavement Management Program Update** project ("Project") as set forth in this Agreement.

## 3. TERMS.

### 3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant 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 professional pavement management program consulting 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 **July 1st, 2024 – June 29th, 2027,** 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 **two (2)** additional one-year terms. 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 Compensation.**

3.2.1 Compensation. Consultant 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 Hundred Thirty-Eight Thousand Nine Hundred Dollars ($138,900.00) annually for a total not-to-exceed amount of Four Hundred Sixteen Thousand Seven Hundred Dollars ($416,700.00) for the three-year term,** for the duration of the contract without written approval of the City Council or City Manager, as applicable. **The two (2) one-year terms may be added at the sole discretion of the City for an additional amount not to exceed Two Hundred Seventy-Seven Thousand Eight Hundred Dollars ($277,800.00), for a total of Six Hundred Ninety-Four Thousand Five Hundred Dollars ($694,500) over five years.** 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. Consultant shall submit to City a monthly invoice which indicates work completed and hours of Services rendered by Consultant. The invoice shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the invoice. City shall, within 30 days of receiving such invoice, review the invoice and pay all non-disputed and approved charges. If the City disputes any of Consultant's fees, the City shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth therein. Payment shall not constitute acceptance of any Services completed by Consultant. The making of final payment shall not constitute a waiver of any claims by the City for any reason whatsoever.

3.2.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City, or included in Exhibit "C" of this Agreement.

3.2.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant 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. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the City.

### 3.3 Responsibilities of Consultant.

3.3.1 Independent Contractor; Control and Payment of Subordinates. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Any personnel performing the Services on behalf of Consultant shall not be employees of City and shall at all times be under Consultant's exclusive direction and control. Neither City, or any of its officials, officers, directors, employees or agents shall have control over the conduct of Consultant or any of Consultants officers, employees or agents, except as set forth in this Agreement. Consultant 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. Consultant 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. Consultant shall perform the Services in a prompt and timely manner and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services expeditiously. Upon request of City, Consultant 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 Consultant shall be subject to the approval of City.

3.3.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows: Peter Bucknam.

3.3.5 City's Representative. The City hereby designates Khoi Do, City Engineer, or his/her designee, to act as its representative in all matters pertaining to the administration and performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for review and approval of all products submitted by Consultant but not the authority to enlarge the Scope of Services or change the total compensation due to Consultant under this Agreement. The City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Scope of Services or change the Consultant's total compensation subject to the provisions contained in this Agreement. Consultant shall not accept direction or orders from any person other than the City Manager, City's Representative or his/her designee.

3.3.6 Consultant's Representative. Consultant hereby designates Peter Bucknam, or his/her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his/her 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.

3.3.7 Coordination of Services. Consultant 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.

3.3.8 Standard of Care; Performance of Employees. Consultant 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. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Consultant 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 Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its subconsultants 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 Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.3.9 Period of Performance.

3.3.9.1 Consultant shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Consultant shall also 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 separately agreed upon in writing by the City and Consultant ("Performance Milestones"). Consultant agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such Performance Milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage.

3.3.9.2 Neither City nor Consultant 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 Consultant and its subcontractors, 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.

3.3.9.3 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 Consultant 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.

3.3.10 Laws and Regulations; Employee/Labor Certification.

3.3.10.1 Compliance with Laws. Consultant 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. Consultant shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for the City to terminate the Agreement for cause.

3.3.10.2 Employment Eligibility; Consultant. Consultant certifies 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 subconsultants and sub-subconsultants to comply with the same. Consultant certifies 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.

3.3.10.3 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, 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. Consultant 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.

3.3.10.4 Air Quality. To the extent applicable, Consultant 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 South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Consultant shall indemnify City against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

3.3.10.5 Water Quality Management and Compliance. Consultant shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Services including, without limitation, all applicable provisions of the City's

ordinances regulating water quality and storm water; the Federal Water Pollution Control Act (33 U.S.C. § 1251, *et seq.*); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 *et seq*.); and any and all regulations, policies, or permits issued pursuant to any such authority. Consultant must additionally comply with the lawful requirements of the City, and any other municipality, drainage district, or other local agency with jurisdiction over the location where the Services are to be conducted, regulating water quality and storm water discharges. City may seek damages from Consultant for delay in completing the Services caused by Consultant's failure to comply with the laws, regulations and policies described in this Section, or any other relevant water quality law, regulation, or policy.

3.3.10.6 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant 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.

3.3.11 Insurance.

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

3.3.11.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement for work to be performed hereunder, and without limiting the indemnity provisions of the Agreement, the Consultant, in partial performance of its obligations under such Agreement, shall procure and maintain in full force and effect during the term of the Agreement the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

(A) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, or the exact equivalent, with limits of not less than $2,000,000 per occurrence and no less than $4,000,000 in the general aggregate. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions (1) limiting coverage for contractual liability; (2) excluding coverage for claims or suits by one insured against another (cross-liability); (3) products/completed operations liability; or (4) containing any other exclusion(s) contrary to the terms or purposes of this Agreement.

(B) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 00 01 covering "Any Auto" (Symbol 1), or the exact equivalent, covering bodily injury and property damage for all activities with limits of not less than $2,000,000 combined limit for each occurrence.

(C) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than $1,000,000 per accident for bodily injury and disease.

(D) Professional Liability (Errors & Omissions): Professional Liability insurance or Errors & Omissions insurance appropriate to Consultant's profession with limits of not less than $2,000,000. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.). If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least five (5) years from termination or expiration of this Agreement.

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

(A) Commercial General Liability: (1) Additional Insured: The City, its officials, officers, employees, agents, and volunteers shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement. Additional Insured Endorsements shall not (1) be restricted to "ongoing operations"; (2) exclude "contractual liability"; (3) restrict coverage to "sole" liability of Consultant; or (4) contain any other exclusions contrary to the terms or purposes of this Agreement. For all policies of Commercial General Liability insurance, Consultant shall provide endorsements in the form of ISO CG 20 10 10 01 and 20 37 10 01 (or endorsements providing the exact same coverage) to effectuate this requirement. (2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(B) Automobile Liability: (1) Additional Insured: 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 Vendor or for which the Vendor is responsible. (2) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(C) Professional Liability (Errors & Omissions): 1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium. (2) This insurance shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and include a provision establishing the insurer's duty to defend.

(D) Workers' Compensation: (1) Cancellation: Required insurance policies shall not be canceled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium. (2) Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the City, its officials, officers, employees, agents, and volunteers.

3.3.11.4 Primary and Non-Contributing Insurance. All policies of Commercial General Liability and Automobile Liability insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the City, its officials, officers, employees, agents, or volunteers shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

3.3.11.5 Waiver of Subrogation. All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

3.3.11.6 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the City and shall protect the City, its officials, officers, employees, agents, and volunteers in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

3.3.11.7 Evidence of Insurance. The Consultant, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates on forms approved by the City, together with all endorsements affecting each policy. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for approval. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15 days) prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Consultant 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.

3.3.11.8 Acceptability of Insurers. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to transact business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

3.3.11.9 Enforcement of Agreement Provisions (non estoppel). Consultant acknowledges and agrees that actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligation on the City nor does it waive any rights hereunder.

3.3.11.10 Requirements Not Limiting. 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.

3.3.11.11 Additional Insurance Provisions

(A) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(B) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(C) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(D) Neither the City nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

(E) 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 Consultant from liability in excess of such coverage, nor shall it limit the Consultant'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 Agreement or law.

(F) Consultant shall report to the City, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.3.11.12 Insurance for Subconsultants. Consultant shall include all subconsultants engaged in any work for Consultant relating to this Agreement as additional insureds under the Consultant's policies, or the Consultant shall be responsible for causing subconsultants to purchase the appropriate insurance in compliance with the terms of these Insurance Requirements, including adding the City, its officials, officers, employees, agents, and volunteers as additional insureds to the subconsultant's policies. All policies of Commercial General Liability insurance provided by Consultant's subconsultants performing work relating to this Agreement shall be endorsed to name the City, its officials, officers, employees, agents and volunteers as additional insureds using endorsement form ISO CG 20 38 04 13 or an endorsement providing equivalent coverage. Consultant shall not allow any subconsultant to commence work on any subcontract relating to this Agreement until it has received satisfactory evidence of subconsultant's compliance with all insurance requirements under this Agreement, to the extent applicable. The Consultant shall provide satisfactory evidence of compliance with this section upon request of the City.

### 3.4 Labor Code Requirements.

3.4.1 Prevailing Wages. Consultant 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, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant 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 Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify and hold the City, its officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.4.2 Registration/DIR Compliance. If the Services are being performed on a public works project of over $25,000 when the project is for construction, alteration, demolition, installation, or repair work, or a public works project of over $15,000 when the project is for maintenance work, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations (“DIR”). Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants.

3.4.3 Compliance Monitoring. This Project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR. Any stop orders issued by the DIR against Consultant or any subconsultant that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant 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 DIR against Consultant or any subconsultant.

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.

3.5.1.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof,

at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those Services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant 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.

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

3.5.1.3 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 To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses except such loss or damage caused by the sole negligence or willful misconduct of the City. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

3.6.2 If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

**3.7 General Provisions.**

3.7.1 Accounting Records. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant 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. Consultant 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 Consultants. Consultant 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 Consultant is in compliance with the California Labor Code, Consultant shall only utilize its employees to provide the Services. Consultant 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. Consultant represents and warrants that all personnel who perform the Services on Consultant's behalf are Consultant's employees, and that Consultant 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. Consultant 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 Consultant to use a Subcontractor, Consultant 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:

| | |
|---|---|
| Consultant: | BUCKNAM INFRASTRUCTURE GROUP, INC.<br>3548 SEAGATE WAY, SUITE 230<br>OCEANSIDE, CA. 92056<br>ATTN: PETER BUCKNAM |
| City: | City of Ontario<br>303 East "B" Street<br>Ontario, CA 91764<br>ATTN: KHOI DO, CITY ENGINEER |

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 Ownership of Materials and Confidentiality.

3.7.4.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data

magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). All Documents & Data shall be and remain the property of City, and shall not be used in whole or in substantial part by Consultant on other projects without the City's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to City reproducible copies of all Documents & Data, in a form and amount required by City. City reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by City at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to City upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to City any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all Documents & Data on file for a minimum of fifteen (15) years following completion of the Project, and shall make copies available to City upon the payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify City and provide City with the opportunity to obtain the documents.

3.7.4.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by the City.

3.7.4.3 Right to Use. City shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at City's sole risk. If City uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the City upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.7.4.4 Indemnification. Consultant 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, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by City of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.7.4.5 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written

information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.7.4.6 Confidential Information. The City shall refrain from releasing Consultant's proprietary information ("Proprietary Information") unless the City's legal counsel determines that the release of the Proprietary Information is required by the California Public Records Act or other applicable state or federal law, or order of a court of competent jurisdiction, in which case the City shall notify Consultant of its intention to release Proprietary Information. Consultant shall have five (5) working days after receipt of the release notice to give City written notice of Consultant's objection to the City's release of Proprietary Information. Consultant shall indemnify, defend and hold harmless the City, and its officers, directors, employees, and agents from and against all liability, loss, cost or expense (including attorney's fees) arising out of a legal action brought to compel the release of Proprietary Information. City shall not release the Proprietary Information after receipt of an objection notice unless either: (1) Consultant fails to fully indemnify, defend (with City's choice of legal counsel), and hold City harmless from any legal action brought to compel such release; and/or (2) a final and non-appealable order by a court of competent jurisdiction requires that City release such information.

3.7.5 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.

3.7.6 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.

3.7.7 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 costs of such action.

3.7.8 Governing Law. 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, Consultant 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 Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the City.

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

3.7.10 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

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

3.7.12 Assignment or Transfer. Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Consultant shall not subcontract any portion of the Services required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.7.13 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 Consultant include all personnel, employees, agents, and subconsultants of Consultant, 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.

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

3.7.15 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.

3.7.16 No Third-Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.7.17 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.

3.7.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Consultant 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 Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants 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.

3.7.19 Authority to Enter Agreement. Consultant 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.

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

3.7.21 Survival. All rights and obligations hereunder that by their nature are to continue after any expiration or termination of this Agreement, including, but not limited to, the indemnification obligations, shall survive any such expiration or termination.

**SIGNATURES ON NEXT PAGE**

**SIGNATURE PAGE TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND BUCKNAM INFRASTRUCTURE GROUP, INC.**

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on 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

**BUCKNAM INFRASTRUCTURE GROUP, INC.**

By:_____

Its:_____

Printed Name:_____

By:_____

Its:_____

Printed Name:_____

# EXHIBIT "A"
# SCOPE OF SERVICES

## EXHIBIT "A"

## PROPOSED SCOPE OF SERVICES

### PROJECT DESCRIPTION

The City of Ontario is seeking proposals from qualified firms to prepare yearly updates to the City's existing Pavement Management Program (PMP) using MicroPAVER version 7.1 (latest version), or equivalent software, and develop a comprehensive improvement program for the pavement network. The pavement network consists of approximately 563.3 section miles. The network consists of 255.6 section miles of Arterial/Collector streets, 286.2 section miles of Local streets and 21.5 section miles of Alleys. Each year, at least one-half (50%) of the Arterial/Collector streets shall be surveyed, one-quarter (25%) of the Local streets will be surveyed and one-half (50%) of the Alleys will be surveyed. Assume Euclid Avenue will be relinquished by FY2024-25 and shall be surveyed in its entirety on the first year and the report shall be updated to include pavement maintenance recommendations.

Additionally, as an optional task to be exercised at the sole discretion of the City, the firm shall conduct an inspection to provide a comprehensive improvement program for sidewalk, curb/curb & gutter (including rock curb), drive approaches and curb ramps. Said improvements are organized within a grid system (64 grids total). The firm shall conduct inspections for approximately twelve (12) grids per year and the grids shall be determined by the City.

This contract will be for the duration of three (3) years, with the City's option of renewing for two (2) consecutive one (1) year terms, which shall be provided under the general direction of the City Manager or his or her designee.

### SCOPE OF WORK

The proposal shall include a task for the Pavement Management Program and an optional task for the sidewalk condition survey. Each task's services and schedule will operate separately from each other, as described herein.

### TASK A – PAVEMENT MANAGEMENT PROGRAM

Task A shall commence at the beginning of each fiscal year and the services shall include, at a minimum, the following:

- Updating MicroPAVER with yearly inspections, work history and budgetary data;
- Generating Pavement Condition Index (PCI) rating for each street segment;
- Verifying and updating centerline and metric data;
- Developing slurry/cape seal and overlay maintenance schedules based on existing capital funding and tracking backlog of pavement maintenance needs;

- Utilizing the City's existing funding to generate a baseline five (5) year Capital Improvement Program; and • Recommending alternative budgets to demonstrate returnon-investments.

**CITY'S RESPONSIBILITIES**

- Provide awarded Proposer with record information.
- Provide general direction; review and provide comments on draft reports.

**CONSULTANT'S RESPONSIBILITIES**

- Provide City with monthly progress reports and invoices.
- All technical and administrative tasks associated with the Scope of Work as identified below.

**Task A1 – Administration**

Task A1.1 – Management and Administration

The Consultant shall monitor project progress and maintain project files. Other responsibilities include supervising and reviewing the inspection process for conformance with the latest ASTM D6433 guidelines. The Consultant shall meet with City staff to kick off the project, review schedule, budget, review and prepare project documents, propose project goals, format deliverables, provide progress payment requests and clarify responsibility of each party.

Task A1.2 – Update Maintenance & Rehabilitation History

Review all maintenance and rehabilitation activities conducted by the City since the last PMP Update. Update the City's database to include all street segments that have been rehabilitated since the last update. Review work history for Euclid Avenue and update database.

**Task A2 – Field Survey**

Task A2.1 – Pavement Condition Surveys

Inspect at least one-half of Arterial/Collector street segments defined within the City's MicroPAVER database, one-quarter of Local street segments, and one-half of Alley segments. Assume Euclid Avenue will be relinquished by FY2024-25 and shall be surveyed in its entirety on the first year. Euclid Avenue limits begin south of the I-10 freeway to Merrill Avenue; note that south of Riverside Avenue, only the northbound lanes fall within City of Ontario's jurisdiction. All data collection and inspections must be

performed by qualified and trained personnel. Data for each segment shall include, but not limited to, roadway classification, roadway width, length, true area, pavement type and Pavement Condition Index (PCI). Consultant shall perform a variance PCI analysis between the last inspection and inspections to be completed and provide a variance PCI report. Consultant shall coordinate with City staff to correct the database/inspections as necessary; corrections/changes to the database shall not be made without prior City staff approval.

The collected data shall be used in the analysis and determination of the pavement condition following the latest ASTM D6433 guidelines and shall be performed by qualified and trained personnel. A quality control program shall be implemented to ensure consistent pavement analysis. Proof of MicroPAVER certifications required.

**Task A3 – Budgetary Analysis and Report**

Task A3.1 – Budgetary Analysis

Forecast future PCI values for each segment and create multiple five-year budget scenarios for each network utilizing the MicroPAVER software. These scenarios will include, at a minimum, a forecast based on the City's existing budget, a forecast to maintain the current weighted PCI and a recommended forecast based upon the previous studies. Unit costs associated to most recent construction bids shall be incorporated in the cost estimate and shall consider inflation in future projections. The Consultant shall coordinate with City staff to develop the five-year maintenance and rehabilitation strategies (including but not limited to selecting segments, treatment type, costs, and year of implementation). Treatment types include slurry seal, cape seal, grind and overlay and reconstruction. The five-year budget scenarios should incorporate the use of the six City work zones. Consultant shall maintain a report of deferred maintenance.

Task A3.2 – Final Pavement Management Report

Prepare a draft and subsequent Final Pavement Management Program Report with required submittal items annually. The report shall include, without limitation, the methods, findings and recommendations, which shall be presented in a single comprehensive document for City staff review and approval. The draft report shall be submitted for review by November of each year.

**DELIVERABLES**

1. Two (2) hardcopies and one (1) digital copy in PDF, Word and Excel format of all PMP reports/spreadsheets. Report shall include the following:

- Executive Summary
- Explanation of methodology utilized for field survey and budget analysis
- Work history of completed street maintenance, rehabilitation and reconstruction
- Current PCI's by segment
- Projected annual street maintenance recommendations for five years
- Deferred maintenance analyses and explanation of impact
- Map exhibits

2. One digital copy of the GIS project (.shp, .mxd)
3. Full support with integrating report results with City GIS department.

## OPTIONAL: TASK B – SIDEWALK CONDITION SURVEY

The City reserves the right to incorporate Optional Task B on any given Contract year and does not guarantee awarding these services.

The services provided by the Proposer shall include, at a minimum, the following:

- Surveying streets, sidewalk, curb ramps, drive approaches and curb/curb & gutter (including rock curb) on a yearly rotation-basis and documenting distress attributes.
- Providing suggested repairs on sidewalk, curb ramps, drive approaches and curb/curb & gutter (including rock curb); and
- Utilizing the City's existing funding to generate a baseline five (5) year Capital Improvement Program.

### CITY'S RESPONSIBILITIES

- Provide awarded Proposer with record information.
- Provide general direction; review and provide comments on draft surveys.

### CONSULTANT'S RESPONSIBILITIES

- Provide City with monthly progress reports and invoices.
- All technical and administrative tasks associated with the Scope of Work as identified below.

### Task B1 – Administration

Task B1.1 – Management and Administration

The Consultant shall monitor project progress and maintain project files. Other responsibilities include supervising and reviewing the inspection process. Consultant shall meet with City staff to kick off the project, review schedule, budget, review and prepare project documents, propose project goals, format deliverables, provide progress payment requests and clarify responsibility of each party.

Task B1.2 – Update Maintenance & Rehabilitation History

Update the City's database to include all repairs and reconstruction of sidewalk, curb/curb & gutter (including rock curb), drive approaches and curb ramps since the last update. City staff will provide a list of all sidewalk, curb/curb & gutter (including rock curb), drive approaches and curb ramps repaired and reconstructed since the last update.

**Task B2 – Field Survey**

Task B2.1 – Sidewalk Condition Survey

Inspect sidewalk, curb/curb & gutter (including rock curb), drive approaches and curb ramps within existing grid areas; a total of approximately twelve (12) grids shall be inspected each year. The City will provide the grid areas to be inspected each year. All data collection and inspections must be performed by qualified and trained personnel. Data for each segment shall include, but not limited to, asset type (sidewalk, curb/curb & gutter, rock curb, drive approach or curb ramp), surface type, distress type, length and width of distress, vertical displacement (if applicable), number of slabs, existing utility box within area, comments to describe items of note, address, section ID, close to sensitive areas (school, park, retail center, church, etc.), suggested repair and approximate size of repairs.

**Task B3 – Budgetary Analysis and Report**

Task B3.1 – Budgetary Analysis

Provide a cost estimate for recommended repairs for each sidewalk, curb/curb & gutter (including rock curb), drive approach and curb ramp item. Unit costs associated to most recent construction bids shall be incorporated in the cost estimate and shall consider inflation in future projections. The Consultant shall coordinate with City staff to develop a five-year repair strategy for distressed areas. The five-year budget scenarios should incorporate the use of the City grids as determined by the City.

Task B3.2 – Final Pavement Management Report

Prepare a draft and subsequent Final Report with required submittal items annually. The report shall include, without limitation, the methods, findings and recommendations, which shall be presented in a single comprehensive document for City staff review and approval.

**DELIVERABLES**

1. One (1) digital copy in PDF, Word and Excel format of all reports/spreadsheets. Report shall include the following:

    - Executive Summary
    - Explanation of methodology utilized for field survey and budget analysis
    - Work history of completed repairs • Repair recommendations for sidewalk, curb/curb & gutter (including rock curb), drive approaches and curb ramps
    - Projected repair recommendations for five years • Map exhibits

## 1) Project Implementation

### TASK 1.1: Project Kickoff

The first step in updating a successful pavement management program truly resides in frequent communication and timely scheduled data updates. For the City of Ontario, it will be essential to establish, up front, the Public Works department PMP priorities. A Project Kickoff meeting will be set to discuss and review in detail the expectations of the project, technical ASTM D6433 management approach, section ID / GIS management, annual ASTM survey areas, CIP & zone work history/scheduled improvements, MicroPAVER/MyRoads® use, quality control, project deliverables and the review of schedule.

**Deliverable: Meeting minutes, revised project schedule (if necessary)**

### TASK 1.2: Project Status Meetings - Quality Control Program

**Status Meetings and Progress Reports**

- Minimum of three (3) meetings during the project (kickoff, field, and status meetings)

**Quality Control (QC)**

Prior to the data assessment and survey, Bucknam will submit our Quality Control Plan to the City for review and discussion. We will use a statistical sampling approach for measuring the quality of our field technician's work. In this manner, 10 percent of the original annual surveys will be re-surveyed by an independent survey crew, supervised by a field supervisor, and the results will be compared to the original surveys (3.6 miles of arterial/local QC). Quality control checks will be throughout the survey schedule. PCI variance reporting will be performed where previous PCI data will be compared to newly inspected 2024 PCI data; if PCI's vary more than ten (10) points per year Bucknam staff will assess the potential cause through unrecorded work history, accelerated pavement deterioration, etc. This will ensure that all system and analysis settings as well as City recommendations and standards are being followed. Our surveys follow the accepted ASTM D6433 procedure requirements. A copy of the QA/QC plan utilized by our staff during the project will be submitted along with the PMP firm/staff qualification documents. Our staff attends the OCTA PMP Distress Training Classes held each year, 2011 - 2023.

**In February 2023 our staff was acknowledged as "qualified inspectors and firm" to prepare PMP's compliant with the OCTA Countywide Pavement Management Guidelines (this certification/compliance runs through June 2025).**

**Additionally, due to our extensive 25-yr SoCal PMP experience Bucknam was selected by the Orange County Transportation Authority (OCTA) in 2022 to perform a 10-year Pavement Management Plan analysis on <u>ALL</u> 35 Orange County local agencies PMP's. Essentially, a Countywide Pavement Management Plan!**

## 2) Client Satisfaction

### TASK 2.1: Project Deliverables

Shown throughout our Scope of Work, each Task is summarized with project deliverables. Client satisfaction will derive from frequent communication with the Project Manager and key staff members from the Public Works department. Project success is created by delivering on three main factors, 1)

Adherence to scope tasks and deliverables; 2) Performing to the standard set by the Project Schedule; and 3) Controlling costs. Our Project Manager will follow each of these factors throughout the duration of the project. **Deliverable: Project Status Updates, as stated in Task 1.2**

## *3) Scope of Work (Major Tasks)*

### *TASK 3.1: Update Maintenance and Rehabilitation Activities*

The City will provide Bucknam a complete listing of all major work (overlay, slurry, etc.) in hard copy/digital format for updating specific section work histories and PCI ratings. Bucknam will review all maintenance / rehabilitation projects completed and scheduled by the City since the last work history data provided in November, 2023. Our staff will enter the necessary work history updates into your MicroPAVER database. **Deliverable: Update PMP data, Work History report**

### *TASK 3.2: Pavement Condition Surveys*

First and foremost, the assessment of the City's pavement segmentation is one of the key priorities for this project. Once the pavement segmentation has been assessed and verified, the necessary annual miles of Arterial / Collector, Local, and Alley inspections will be performed (approx. 211/yr). Our surveying methods will be conducted by remaining consistent with ASTM D6433 AC/PCC sampling guidelines:

1. **Walking** - All sections are surveyed through "two-pass test" walking methodologies. AC/PCC distress types will be collected based upon actual surface conditions and physical characteristics of the segment. We will use one (1) surveyor for the duration of the inspections.

   All sample locations are observed through walking surveys; samples areas will cover a minimum of 20% of the total section area and will be 2,500 SF +/- 1,000 SF in size. According to the City's RFP the following pavement sections are to be surveyed for the upcoming FY 2024-25 PMP update:

   - The inspection of approximately 128 miles of Arterial / Collector segments;
   - 72 miles of Local segments;
   - 11 miles of Alley segments; 211 miles total per year; and
   - City maintained sections of Euclid Avenue will be incorporated into the network and surveyed during the FY 2024-25 efforts.

   All electronic data is transferred to the master MicroPAVER account at the end of each day and reviewed at our office for quality control and management.

***Roadway Verification Survey -*** A listing of the field attribute data that is updated/verified during the survey for the pavement management database is listed below:

2. **Field Attribute Data (updated and/or verified)**

   - Street Name, from/to, indicating the assigned limits of the section
   - Historical PCI tracking from previous inspections and 2024 PCI inspections
   - Segment rank, length, width, and total area of the section

3. **Conditional data will be evaluated for all street segments and will include:**

- MicroPAVER 20 AC & 19 PCC distresses by type, severity and sample area
- Sampling/conditional data pulled typically from edge-of-pavement
- PCI ratings (0-100), taking into account the distress types, severity and extent

4. **Present Network Performance Status / Section Distress PCI Reporting**

Once inspections are completed, we will generate a draft Pavement Condition Index (PCI) Report for City staff to review. Our submittal will include:

- Street centerline miles, lane miles, and pavement areas
- Current street network Pavement Condition Index ratings
- Pavement segment tabular listing for the entire street network

**Deliverable: Citywide PCI Reports (65% and 100% status PCI reports), PCI Variance report**

## *DEVELOP RECOMMENDED IMPROVEMENT PROGRAM*

## *TASK 3.3: Maintenance and Rehabilitation Assessment / Priorities*

We will assist the City in developing the most cost-effective preventative maintenance and rehabilitation strategies necessary to achieve the desired level of serviceability. Initially, Bucknam will assess overall condition trends and perform an performance predication model; this will lead to Bucknam meeting with the City to discuss and strategize maintenance activities that are currently being used by the City. Based on the City's current AC & PCC applications and other maintenance practices used we will conduct an historical and prospective analysis on the conditional and financial impact these practices have on the network.

We will establish/update the Ontario MicroPAVER maintenance "decision tree" that will be used to generate pavement recommendations that match current fiscal year maintenance approaches/City practices. This will be accomplished by assessing/updating the unique and individual PCI targets and PCI ranges.

All maintenance practices/unit costs will be integrated into the PMP and will be derived from the most recent construction bids for pavement rehabilitation. We will account for inflation rates when long-term revenue projections are made. Our Project Manager and Principal will work closely with the City in defining repair and rehabilitation strategies for each fiscal year. Once the repair/rehabilitation strategies have been defined, the identification of a seven year Forecasted Maintenance schedule will be generated.

Multiple five (5)-yr budget scenarios, performed by Bucknam, will be identified on the basis of several criteria:

- Assessment and review of the City's Pavement CIP / maintenance budget(s), unit costs
- Present pavement conditions; desired levels of service and available resources
- Strategies for segment selection, treatment type, projected costs and fiscal year schedule
    - Treatment types include slurry/cape seal, conventional and non-structural grind/AC overlays and reconstructions
- Alternative arterial/collector program not restricted by geographic areas
- Assessment and recommendations for alternative schedules

- Budgetary recommendations that satisfy City schedules / projections (Current Funding, Maintain PCI and Improve PCI)
- Local "Neighborhood/District" fiscal year reporting/improvement scheduling
- Projected / Forecasted PCI's per section

**Our staff will also recommend updates to the City's arterial/residential six (6) maintenance zones approach. We will focus on projecting budgets and maintenance recommendations for all streets within maintenance districts.**

The primary emphasis of this task is to maximize the scheduling of street maintenance using the most cost-effective strategies available and taking into account a life-cycle cost analysis. **Draft Final Report will be submitted for review by November of each year.**

## *TASK 3.4: Citywide CIP / County Compliance Budget Reports*

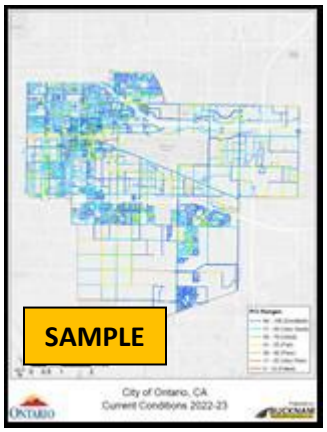
We will deliver the Final Report to the City which will be essential for staff reference and use as well as presented in a way that is beneficial for elected officials/upper management.

The report will be prepared in a format that uses the information delivered by MicroPAVER in conjunction with the information and analysis performed by our team. The report will provide the City with information on:

- Identify present performance status of the entire network (section by section) as well as historical PCI performance;
- Current inventory and pavement conditions indices (PCI) for all road classes;
- Projected / feasible annual rehabilitation programs for street maintenance for a 5-yr period (Forecast Maintenance Reports FY 2025-2030) that show the largest return on investment and acceptable levels of service;
    - This will include a minimum of three (3) total scenarios;
- Modeling and comparison of budget scenarios typically include:
    - Current / Actual budget 5-year projection (citywide approach)
    - Identification of annual funding to maintain current PCI after 5-years
    - Increase current PCI within 5-years
- Strategies and recommendations for the City's CIP/maintenance programs and procedures, including a preventative maintenance schedule;
- Final PCI and Forecast Maintenance & Rehabilitation (FMR) locations will be published within the Ontario MyRoads® web-portal;
- A detailed breakdown of deferred maintenance (backlog);
- Draft and Final PMP report will be submitted every by November of each year; and
- Full support with integrating report results with City GIS department.

**Deliverable: Two (2) hardcopies and one (1) digital copy of the Final Pavement PMP Report (.pdf), will be sent to the City. Bucknam will also provide final digital copies of the project related Office and GIS files.**

## *TASK 3.5: PMP – GIS Mapping*




As an enhancement and proactive approach to this project, our staff will update the existing Pavement-GIS link between the pavement database and the dedicated PMP-GIS layer; utilized by Bucknam to create drive maps, generate client GIS map deliverables and publication within MyRoads® and the City's GIS Enterprise. The maps described below will be incorporated into the City's Final PMP reports and deliverables:

- PCI values for every section
- Work History identifications
- 5-yr Arterial / Local Rehabilitation and Slurry Seal Programs
- Functional classification maps

Our staff will coordinate all project deliveries with the Public Works and the GIS division to ensure that the most current and accurate PMP-GIS maps are delivered to the City.

**Deliverable: Complete GIS files/themes based on list above (project .mxd/shapefiles).**

## *TASK 3.6: Ontario MyRoads® PMP Web-Portal*

**Ontario MyRoads® PMP Web-Portal** – Bucknam's proprietary MyRoads® is a great match for the Ontario PMP today and the future. **Our application brings your PMP data to life within a dynamic PMP dashboard!** Bucknam now provides all our PMP clients with a unique and agency driven "MyRoads®" web-portal that provides instantaneous access to your pavement management database. **Bucknam has shown the 2023 Ontario MyRoads® account actively working below!**

This "dashboard" allows users to toggle through individual sections via GIS Lasso map selections, zone queries, rank selection and PCI ranges to review all section metrics, latest/previous inspections, work histories and filtered PCI reports. To cap it off, your selections/queries also generate preliminary engineering costs estimations for slurry, overlay and reconstruction projects and provides you with the predictive PCI as if the work is complete.

This tool will be accessed by City staff simply through a Username/Password methodology. As annual changes are made to the Ontario PMP and SMP databases the MyRoads® dataset will be updated reflect work histories, PCI inspections, sidewalk distress locations and section changes.

## *OPTIONAL SERVICES*

## *TASK 3.7: Sidewalk Condition Survey / Management Program*

In 2023, Bucknam performed a Sidewalk Condition Survey Pilot Study through the Ontario Municipal Utilities Company (Mr. Tim Masot). **This project places Bucknam in the unique position to expand our pilot study methodologies and deliverables that currently match the scope items within the City RFP.**

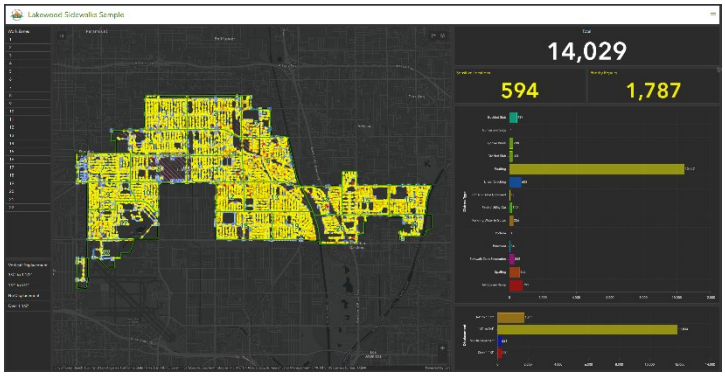
We currently have all Sidewalk GIS layer & 64 grid locations in-hand and can immediately work with Public Works/OMUC staff in scheduling the requested sidewalk distress inspections / reporting efforts for the annual twelve (12) grid approach. Additionally, Bucknam staff has recently worked with OMUC staff in identifying the potential twelve (12) grid locations for FY 2024-25 (right). Our annual inspections will provide a comprehensive improvement program based on the following efforts:

| Grid | Sidewalk Miles | Street CL Miles |
|---|---|---|
| 1 | 10.5 | 6.0 |
| 2 | 11.2 | 6.8 |
| 3 | 9.8 | 5.7 |
| 17 | 5.6 | 3.0 |
| 18 | 5.8 | 4.1 |
| 19 | 7.2 | 4.1 |
| 29 | 18.4 | 11.6 |
| 30 | 18.2 | 9.0 |
| 31 | 30.6 | 20.5 |
| 40 | 20.6 | 9.6 |
| 41 | 23.3 | 11.3 |
| 42 | 27.0 | 14.7 |
| | 188.3 | 106.4 |

- Sidewalk locations/types, curb ramps, drive approaches, and curb/gutter (including rock curb)
  - Survey on a yearly rotation-basis and document distress attributes defined by the City
- Provide suggested repairs on sidewalk, curb ramps, drive approaches, and curb/gutters
- Utilizing the City's existing funding to generate a baseline five (5) year CIP (identical to our approach to the City's PMP)

Our annual project administration tasks will mirror those shown above for the PMP services. These services include:

- Sidewalk Management Program (SMP) Project Administration
- Update Maintenance & Rehabilitation Work History
- Sidewalk Condition Survey
  - Bucknam will recommend and verify survey locations and field attributes to be collected prior to survey (i.e., surface type, distress location, vertical displacement limits/ranges, # of slabs, sensitive area, etc.)
- SMP Budgetary Analysis Report
  - Draft and Final reporting that includes:
    - Cost estimations for each sidewalk distress by location based on unit cost evaluation / verification
  - Work with City to prepare and recommend five (5) year strategic maint./repair schedule
  - Annual Final report will include:
    - Executive summary, methodologies used, work history of completed repairs
    - Repair recommendations for sidewalk locations/distresses
  - GIS Map Atlas Book / Map Exhibits demonstrating distress locations, FMR location recommendations for a five (5) year schedule




Additionally, Bucknam will access the City's ArcGIS Online account with the provided username and password. A SMP Dashboard will be designed and built to allow the City staff to access and query the sidewalk assets in a dynamic and highly responsive user interface. Users will be able to filter the data by Work Zones, Data Attributes (such as Sidewalk Distresses with Vertical Displacement > 1 1/2"), and user defined project areas. Above is a screenshot of the sample Lakewood Dashboard built to demonstrate the 14,000+ Sidewalk Distresses.

**Deliverable: One (1) digital copy in PDF, Word and Excel of all reports/spreadsheets**

## *TASK 3.8: AC/PCC AI – True Area Segment Calculation*

First and foremost, the assessment of the City's pavement segmentation is one of the key priorities for this project. With three years between major inspections, it will be essential to verify that all Arterial, Collector and Local segmentation is up-to-date and that section SF quantities are verified, accurate and reliable. This will be completed by utilizing cloud-based learning technology (AI) to correctly quantify square footages for each pavement section. We provide the AI with the City of Ontario's most recent aerial image; in doing so, all AC and PCC pavement "true" areas are calculated. These calculations are possible due to the AI's inherent working knowledge of how to recognize define pavement segmentation, edge of pavement and surface / asphalt types.

This ability will allow Bucknam to obtain the necessary true area, quality control, measurements for all Ontario PMP segments as well as perform segment SF variance reports. This will in turn create accurate total centerlines / square footages for the defined Ontario PMP networks as well as for each unique pavement segment. We will review/assess new and/or missing streets previously excluded from the last PMP update and create the necessary segmentation within the Ontario PMP database.

This effort will be performed on an annual basis that matches the PMP survey schedule shown above or can simply follow a 33% completion rate based on the baseline three-year contract.

## EXHIBIT "B"
## SCHEDULE OF SERVICES

- Project Kick-off July/August, 2024
- Work History / PMP Data Assessment August, 2024
- Pavement Condition Surveys (211 miles/yr + Euclid) August - October, 2024
- PMP Maint. – CIP Schedule – Budget Review September - October, 2024
- Draft 2024 Ontario PMP Report October, 2024
- Delivery of Final 2024 Ontario PMP Report October, 2024
- Final PMP Data Deliveries November, 2024
- Annual PMP efforts will match this schedule every year

- Optional Sidewalk Management Program services will match the above schedule/deliverables.

# EXHIBIT "C"
# COMPENSATION

## *Fee Proposal*

Task Items 1 through 3 can be accomplished on a **time and materials, not-to-exceed basis** in accordance with the standard hourly rate schedule attached. Bucknam will utilize the hourly rates shown for the extent of the contract. We have included our fee schedule below for the City consideration; our fee schedule below demonstrates the annual breakdown of PMP and SMP project tasks and fees.

| | Description | Principal | Project Manager | GIS Manager | Field Technician(s) | Admin | Total by Task |
|---|---|---|---|---|---|---|---|
| | **Base Fee** | $295/hr | $215/hr | $165/hr | $108/hr | $100/hr | |
| **Task 1** | **Kick-off Meeting PMP Services** | | | | | | |
| Task 1.1 | Project Kick-off | | 2 | | 1 | | $538 |
| Task 1.2 | Project Status Meetings - Quality Control Program | | 2 | 1 | 30 | | $3,835 |
| **Task 2** | **Client Satisfaction** | | | | | | |
| Task 2.1 | Project Deliverables | | 4 | 1 | 2 | 1 | $1,341 |
| **Task 3** | **Scope of Work** | | | | | | |
| Task 3.1 | **Update Maintenance & Rehabilitation Activities** | | | | | | |
| | Pavement Work History Data Entry | | 1 | | 10 | | $1,295 |
| Task 3.2 | **Pavement Condition Surveys** | | | | | | |
| | **Arterial/Collector, Local, and Alley Street Survey** | | | | | | |
| | 2024 Survey (approx. 211 miles/yr - Walking) | | 4 | 1 | 272 | | $30,401 |
| Task 3.3 | **Maintenance & Rehabilitation Assessment / Priorities** | | 3 | | | | $645 |
| Task 3.4 | **Final Citywide CIP / County Compliance Reports** | 1 | 26 | 2 | | 1 | $6,315 |
| Task 3.5 | **PMP - GIS Mapping** | | 3 | 8 | | | $1,965 |
| Task 3.6 | **Ontario MyRoads® PMP Web-Portal** | | | | | | $550 |
| | | | | | | | |
| | Reimbursables (mileage, printing, materials) | | | | | | $3,015 |
| | All deliverables will become property of the City of Ontario | | | | | | |
| | **All Tasks are negotiable** | | | | | | |
| | | | | | | | |
| | **Total Hours per Staff** | 1 | 45 | 5 | 315 | 2 | |
| | **Total Base Fee** | $ 295 | $ 9,030 | $ 825 | $ 34,020 | $ 200 | ***$49,900*** |
| | **Optional Services** | | | | | | |
| Task 3.7 | **Sidewalk Condition Survey** | | | | | | |
| | - Includes survey, GIS, budgetary modeling, reporting, reimbursables | (Surveying 12 grids each year; approx. 190 sidewalk miles/yr) | | | | | $89,000/yr |
| Task 3.8 | **AC/PCC AI True Area Segment Calculation** | (Costs represent completing 33% of the City per year; 188 miles) | | | | | $9,850 |
| | | | | | | | |
| | Additional services outside of this contract will be negotiated with the City where we will use the Standard Hourly Rate Schedule | | | | | | |
| | | | | | | | |
| | ***Notes / Assumptions:** | | | | | | |
| | Bucknam will utilize the shown hourly rates for the extent of the contract | | | | | | |
| | Task 3.1 - Bucknam assumes City has a current MicroPAVER license | | | | | | |
| | Task 3.4 - Draft reporting and Final reporting will be submitted by November | | | | | | |
| | Task 3.5 - Bucknam assumes City has a current ESRI GIS Enterprise license | | | | | | |

Should the City desire to increase the service level above the hours outlined above for the Task items 1 through 3 or require other services not described herein, a fee adjustment would be negotiated and mutually agreed upon by both parties.

## Standard Hourly Rate Schedule

| Category | Rate |
|---|---|
| Principal | $ 295 |
| Senior Project Manager | 215 |
| Pavement Management Project Manager | 215 |
| Management Analyst | 180 |
| Project Engineer / Planner | 170 |
| Sr. Engineer / GIS Manager / Sr. Inspector | 165 |
| Assistant Engineer / Sr. Technician / GIS Analyst | 155 |
| CADD Operator | 120 |
| Field Technician | 108 |
| Administrative Assistant | 100 |
| Clerical / Word Processing | 95 |

Reimbursables

| | |
|---|---|
| Mileage | $0.77/mile |
| Subconsultant Services | Cost + 15% |
| Reproduction | Cost + 15% |
| Travel & Subsistence | Cost + 15% |
| Fees & Permits | Cost + 15% |
| Computer Services (External) | Cost + 15% |

Rates Effective 1/1/24

BUCKNAM INFRASTRUCTURE GROUP, INC
3548 Seagate Way, Suite 230
Oceanside, CA 92056
T: (760) 216-6529
www.bucknam-inc.com

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Engineering<br>Prepared By: Jeffrey Tang<br>Staff Member Presenting: Scott Murphy, Executive Director Community Development<br>Reviewed By: Raymond Lee, Khoi Do<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 6 |

**SUBJECT:** **A RESOLUTION ORDERING THE SUMMARY VACATION OF THE RIGHT-OF-WAY IN A PORTION OF EMORY LANE AND RECONVEYING ANY OF THE CITY'S INTERESTS THEREIN**

**RECOMMENDATION:** That the City Council adopt a Resolution ordering the summary vacation of the right-of-way in a portion of Emory Lane located within Tract Map No. 17564-1, near the northeast corner of Mill Creek Avenue and Chino Avenue, and reconvey any of the City's interest therein and authorize the City Manager, or his designee, to execute the documents necessary to evidence the vacation and the reconveyance of the City's interest.

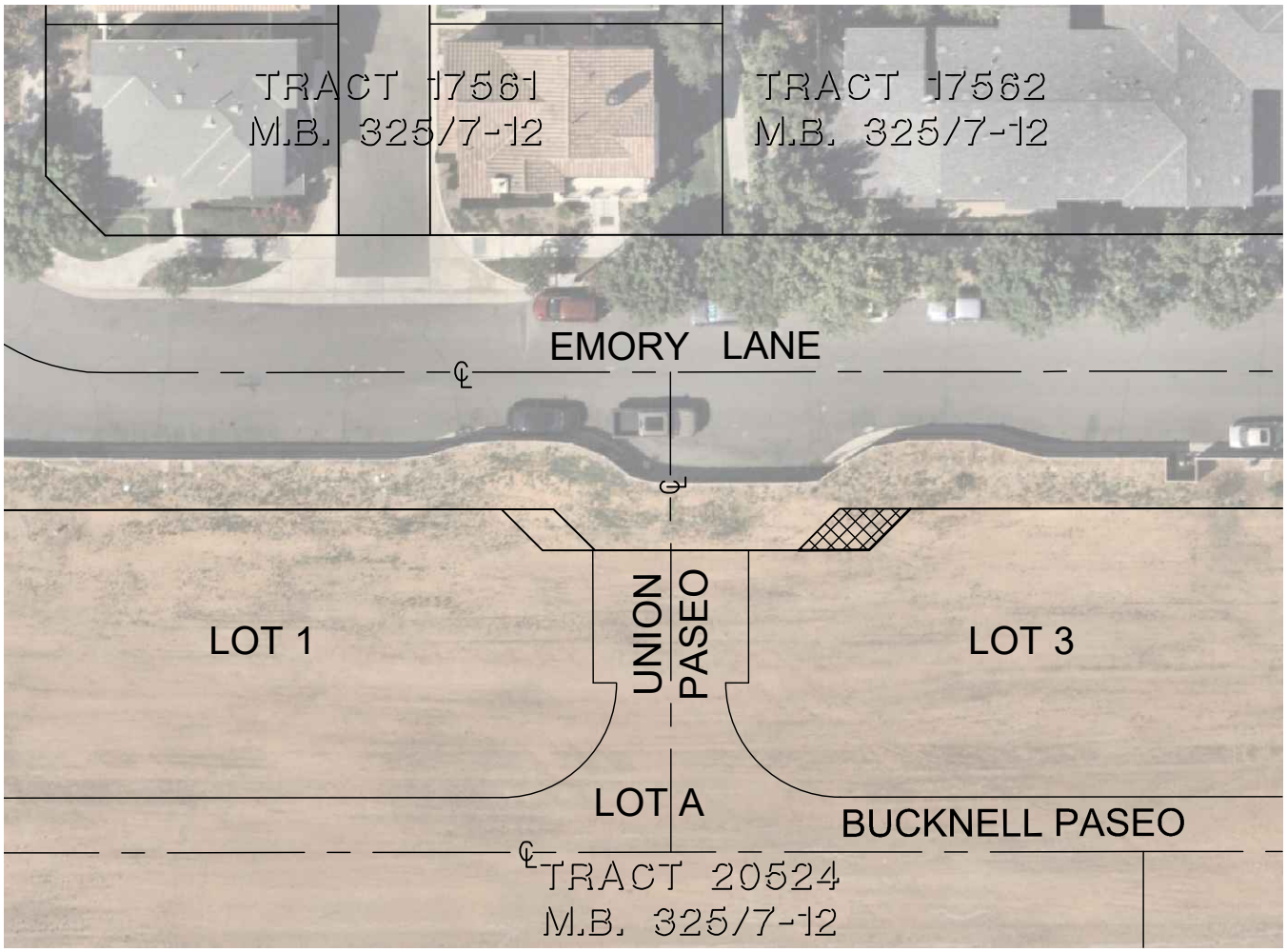
**THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:**
**Invest in the Growth and Evolution of the City's Economy**
**Focus Resources in Ontario's Commercial and Residential Neighborhoods**
**Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)**
**Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch**

**FISCAL IMPACT:** There is not a direct fiscal impact associated with this action. The Developer has paid the applicable processing fees to defray any City cost to process this request.

**BACKGROUND & ANALYSIS:** The applicant, Brookfield Homes, has requested that the City vacate existing right-of-way, as shown on Exhibit 1, to facilitate the development of the area. The right-of-way is not needed for any present of future street purposes. There are currently no existing public utilities within the right-of-way and the right-of-way is determined to be excess.

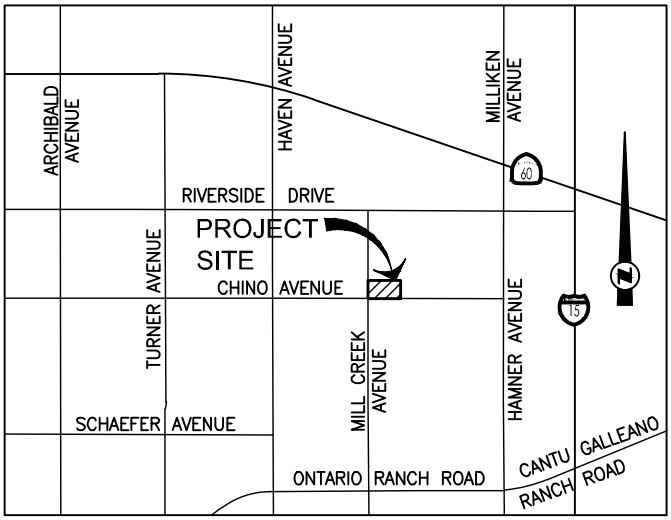
Section 8334(a) of the California Streets and Highways Code authorizes the City to summarily vacate (by Resolution with no public hearing) any excess right-of-way of street or highway not required for street of highway purposes.

This summary vacation meets the California Government Code, Streets and Highways Code, Ontario Municipal Code, and has been reviewed and approved by the City Engineer.

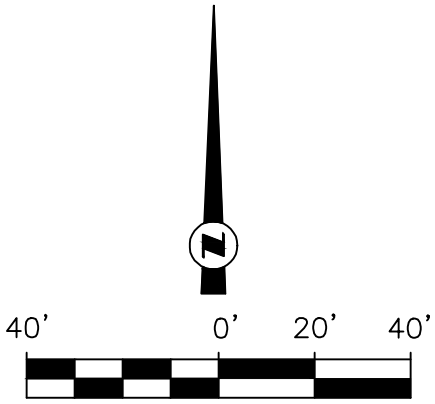



## LEGEND

AREA TO BE VACATED – 139 SQUARE FEET




VICINITY MAP
N.T.S.




SCALE: 1" = 40'

**X ENGINEERING & CONSULTING, INC.**
6 Hutton Centre Drive, Suite 650
Santa Ana, California 92707
949.522.7100 | xengineeringinc.com

# EXHIBIT 1

RIGHT-OF-WAY VACATION
ONTARIO, CA

P:\145\001\Exhibits\Final Eng\145-001 Right-of-Way Vacation.dwg May 23, 2024 8:30 AM

RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ORDERING THE SUMMARY VACATION OF RIGHT-OF-WAY IN A PORTION OF EMORY LANE AND RECONVEYING ANY OF THE CITY'S INTEREST THEREIN.

WHEREAS, the City Council of the City of Ontario, California, pursuant to Division 9, Part 3, Chapter 4, of the Streets and Highways Code, may summarily vacate an easement under certain conditions specified therein; and

WHEREAS, right-of-way in a portion of Emory Lane within Tract Map No. 17564-1, shown on a map recorded June 5, 2007 as Document No. 2007-0337638, of Official Records in the Office of the County Recorder of San Bernardino County, is not needed for any present or future street or public utility or other municipal purposes and is determined to be excess;

WHEREAS, 8334(a) of the California Streets and Highways Code authorizes the City to summarily vacate (by Resolution with no public hearing) an excess right-of-way of a street or highway not required for street or highway purposes;

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

1. That the above recitals are true and correct.

2. That title to the above-described said properties, more specifically described in Exhibit "A" and depicted on Exhibit "B" attached hereto, shall be vacated.

3. That the City Clerk of the City of Ontario, California, shall cause a copy of this Resolution to be recorded in the office of the County Recorder of San Bernardino County, California.

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 July 2024.

_____

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. 2024- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 2, 2024 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2024- duly passed and adopted by the Ontario City Council at their regular meeting held July 2, 2024.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

# EXHIBIT "A"
# VACATION V-323
# LEGAL DESCRIPTION

**PARCEL "A":**

REAL PROPERTY IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA.

BEING A PORTION OF EMORY LANE AS DEDICATED, IN FEE, ON TRACT MAP NO. 17564-1, IN THE CITY OF ONTARIO, FILED IN BOOK 328 OF MAPS, AT PAGES 89 THROUGH 92, INCLUSIVE, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE SOUTHWEST CORNER OF THAT PORTION OF "EMORY LANE" AS DEDICATED, IN FEE, TO THE CITY OF ONTARIO ON SAID TRACT MAP NO. 17564-1;

**THENCE,** ALONG THE SOUTHERLY LINE OF SAID EMORY LANE, NORTH 89°55'18" EAST 14.56 FEET TO THE **TRUE POINT OF BEGINNING;**

**THENCE,** CONTINUING ALONG THE SOUTHERLY LINE OF SAID EMORY LANE, NORTH 89°55'18" EAST 15.44 FEET;

**THENCE,** NORTH 44°55'18" EAST 12.73 FEET, TO A LINE PARALLEL WITH AND DISTANT NORTHERLY, 9.00 FEET FROM SAID SOUTHERLY LINE;

**THENCE,** ALONG SAID PARALLEL LINE, SOUTH 89°55'18" WEST 15.44 FEET;

**THENCE,** SOUTH 44°55'18" WEST 12.73 FEET TO THE **TRUE POINT OF BEGINNING.**

CONTAINING: 138.9 SQUARE FEET

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS AND RIGHTS OF WAY OF RECORD, IF ANY.

PREPARED BY ME OR UNDER MY DIRECTION:

05/22/2024

LICENSED LAND SURVEYOR
GERALD R. ANDERSON
L.S. 4400
STATE OF CALIFORNIA

GERALD R. ANDERSON, LS 4400
EXPIRES: 09 / 30 / 2025
XLD-047

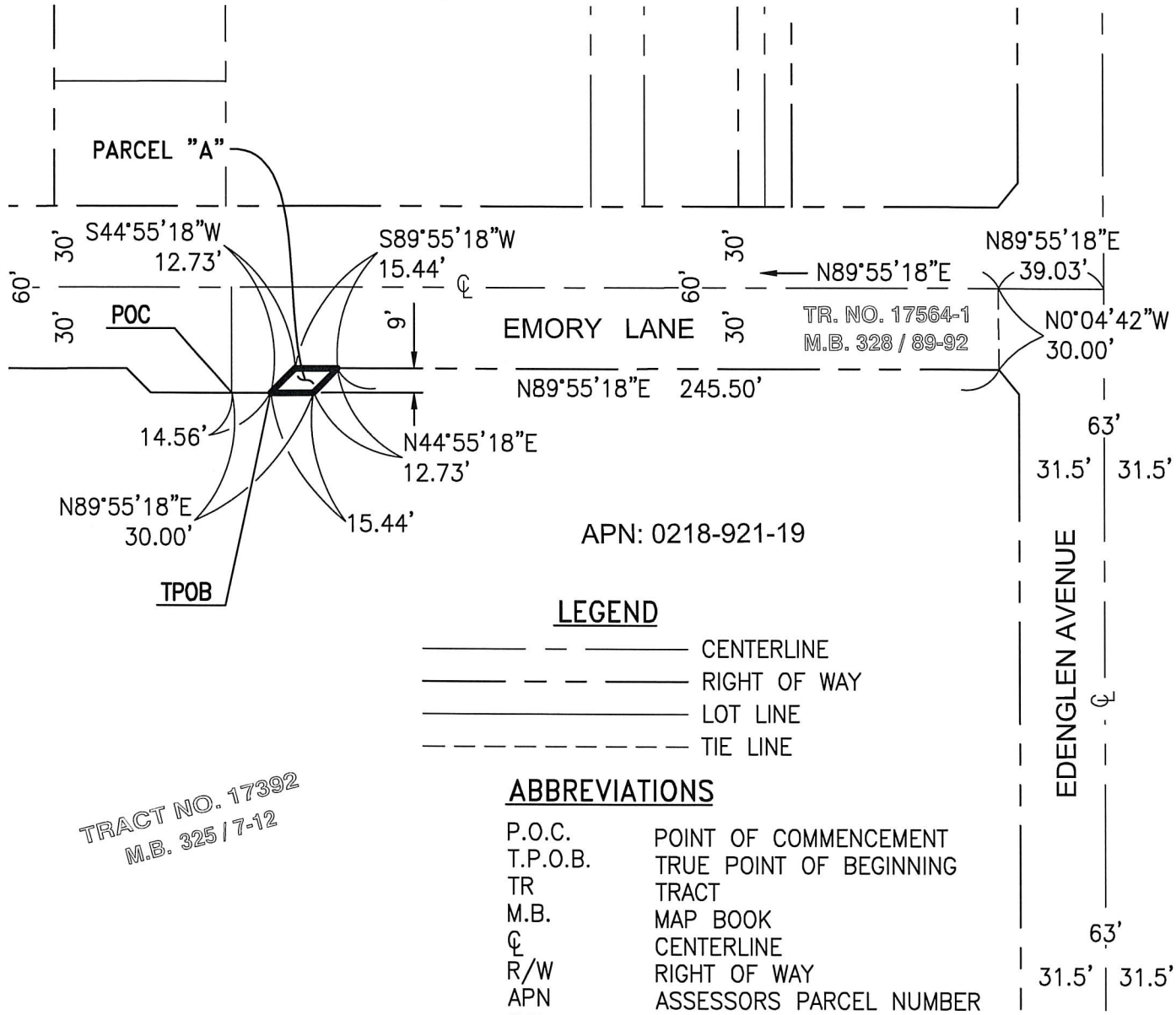


VACANT LAND
ONTARIO, CA

SCALE: 1"=60'

# EXHIBIT "B"
## VACATION V-323
### (PLAT)

THIS PLAT IS BASED ON TRACT NO. 17564-1 FILED IN M.B. 328 / 89-92 RECORD DATA




## LEGEND

- CENTERLINE
- RIGHT OF WAY
- LOT LINE
- TIE LINE

## ABBREVIATIONS

| | |
|---|---|
| P.O.C. | POINT OF COMMENCEMENT |
| T.P.O.B. | TRUE POINT OF BEGINNING |
| TR | TRACT |
| M.B. | MAP BOOK |
| ℄ | CENTERLINE |
| R/W | RIGHT OF WAY |
| APN | ASSESSORS PARCEL NUMBER |
| S.F. | SQUARE FEET |
| AC. | ACRES |

PARCEL "A" AREA: 138.9 S.F. / 0.003 AC.

VACANT LAND,
ONTARIO, CA

LICENSED LAND SURVEYOR
GERALD R. ANDERSON
L.S. 4400
STATE OF CALIFORNIA

05/22/2024

GERALD R. ANDERSON, LS 4400


**X ENGINEERING & CONSULTING, INC.**
6 Hutton Centre Drive, Suite 650
Santa Ana, California 92707
949.522.7100 | xengineeringinc.com


JN 145-002 XLD-047

SHEET 1 OF 1

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Financial Services<br>Prepared By: Stephanie Castro<br>Staff Member Presenting: Armen Harkalyan, Executive Director of Finance<br>Reviewed By: Claudia Hernandez<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 7 |

**SUBJECT:** **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING A SPECIAL TAX WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 68 (RICH HAVEN INDUSTRIAL SERVICES)**

**RECOMMENDATION:** That the City Council consider and adopt an Ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 68 (Rich Haven Industrial Services).

**THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:**
**Operate in a Businesslike Manner**
**Focus Resources in Ontario's Commercial and Residential Neighborhoods**
**Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch**

**FISCAL IMPACT:** The use of Mello-Roos financing in the Rich Haven Industrial Services development is projected to generate approximately $251,085 per year, at buildout, to fund administrative fees and municipal services. City Council approval will be required to process annual special tax levies in future years.

**BACKGROUND & ANALYSIS:** The Mello-Roos Community Facilities Act of 1982 (the Act) provides local government, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to fund municipal services.

At a public hearing conducted by the City Council on June 18, 2024, the City Council adopted a Resolution of Formation of Community Facilities District 68 (Rich Haven Industrial Services); authorized the levy of a special tax; established an appropriations limit of the Community Facilities District; and called a special election for the Community Facilities District. On that date, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act. Adoption of the proposed ordinance to authorize the levy of special taxes within the Community Facilities District will conclude the formation process for City of Ontario Community Facilities District No. 68 (Rich Haven Industrial

Services).

The Rich Haven Industrial Services project addresses the development of approximately 52.97 gross acres located generally south of Schaefer Avenue, north of Ontario Ranch Road, west of Hamner Avenue, and east of Mill Creek Avenue. At buildout, the project is expected to include 1,003,918 square feet of industrial space.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING A SPECIAL TAX WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 68 (RICH HAVEN INDUSTRIAL SERVICES)

WHEREAS, on May 7, 2024, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District Proposed to be Named City of Ontario Community Facilities District No. 68 (Rich Haven Industrial Services) and to Authorize the Levy of a Special Tax Therein" stating its intention to establish City of Ontario Community Facilities District No. 68 (Rich Haven Industrial Services) (the "Community Facilities District") and to authorize the Community Facilities District to levy a special tax (the "Special Tax") within the Community Facilities District for the purpose of financing certain services (the "Services"); and

WHEREAS, on June 18, 2024, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of City of Ontario Community Facilities District No. 68 (Rich Haven Industrial Services), Proposing that the Community Facilities District Be Authorized to Levy a Special Tax and Proposing that an Appropriations Limit of the Community Facilities District Be Established" (the "Resolution of Formation") and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 68 (Rich Haven Industrial Services)," which resolutions established the Community Facilities District, proposed that the Community Facilities District be authorized to levy the Special Tax within the Community Facilities District, proposed that an appropriations limit of the Community Facilities District be established and called a special election to submit to the qualified electors of the Community Facilities District the combined ballot proposition to authorize the Community Facilities District to levy the Special Tax and to establish the appropriations limit of the Community Facilities District; and

WHEREAS, on June 18, 2024, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act; and

WHEREAS, the City Council is the legislative body of the Community Facilities District;

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

**Section 1.** The City Council hereby authorizes and levies the Special Tax within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method"). The Special Tax is hereby levied commencing in fiscal year 2024-25 and in each fiscal year thereafter until the last fiscal year in which the Special Tax is authorized to be levied pursuant to the Rate and Method.

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

**Section 3.** The Special Tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method.

**Section 4.** The proceeds of the Special Tax shall only be used to pay, in whole or in part, the cost of providing the Services and incidental expenses pursuant to the Act.

**Section 5.** The Special Tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

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

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

PASSED, APPROVED, AND ADOPTED this 2nd day of July, 2024.

_____

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 June 18, 2024 and adopted at the regular meeting held July 2, 2024 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 July 2, 2024 and that Summaries of the Ordinance were published on _____ and _____, in the Inland Valley Daily Bulletin newspaper.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Development Administration<br>Prepared By: Jessica Ban<br>Staff Member Presenting: Scott Murphy, Executive Director Community Development<br>Reviewed By: Matthew Hernandez, Scott Murphy<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 8 |

**SUBJECT:** **A DEVELOPMENT IMPACT FEE CREDIT AGREEMENT (FILE NO. PDIF23-004) BETWEEN THE CITY OF ONTARIO AND LANDSEA HOMES OF CALIFORNIA, LLC, FOR FACILITY CONSTRUCTION ASSOCIATED WITH TRACT MAP 20452 (FILE NO. PMTT21-017), LOCATED ON THE WEST SIDE OF HAVEN AVENUE, 1,300 FEET SOUTH OF RIVERSIDE DRIVE, WITHIN THE WEST HAVEN SPECIFIC PLAN**

**RECOMMENDATION:** That the City Council approve the Development Impact Fee Credit Agreement (File No. PDIF23-004) between the City of Ontario and Landsea Homes of California LLC, for the facility construction associated with Tract Map 20452 (File No. PMTT21-017), located on the west side of Haven Avenue, 1,300 feet south of Riverside Drive, within the Haven Specific Plan, and authorize the City Manager, or his designee, to execute the Agreement.

**THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:**
**Invest in the Growth and Evolution of the City's Economy**
**Operate in a Businesslike Manner**
**Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)**
**Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch**

**FISCAL IMPACT:** Approval of the proposed Development Impact Fee (DIF) Credit Agreement (File No. PDIF23-004) will not result in any fiscal impact to the City's General Fund. The project's Development Agreement (File No. PDA21-008) and related conditions require Landsea Homes of California LLC ("Developer") to construct DIF program infrastructure with estimated costs of $263,162. The proposed DIF Credit Agreement defines the amount of DIF credit that the Developer may be eligible to receive for construction of the improvement. The DIF credit that the Developer will receive upon completion of the improvement may be exchanged for a refund of the DIF fees paid by the Developer (up to the Developer's maximum DIF obligation) in the respective DIF category.

**BACKGROUND & ANALYSIS:** On August 15, 2023, the City Council approved the Development Agreement (File No. PDA21-008) between the City of Ontario and JH Bray LLC and HCW Lathrop Investors LLC, the original owners for Tract Map 20452. On August 22, 2023, the Development Agreement was assigned to the Developer and included the construction of necessary infrastructure to serve the project development.

In accordance with the Development Agreement and related conditions, the Developer is required to construct DIF Program infrastructure to serve TM 20452. Improvement includes installation of storm drain facilities in Honeysuckle Avenue and fiber facilities in Haven Avenue.

Pursuant to the City's adopted DIF Credit and/or Reimbursement policies, construction of DIF Program facilities requires the Developer and the City to enter into a DIF Credit and/or Reimbursement Agreement, which specifies the infrastructure to be constructed by the Developer and includes an estimate of the maximum DIF credit that may be applied in the applicable Regional/Local DIF categories. These infrastructure improvements are within the Ontario Ranch storm drain and fiber optics system categories. Since the maximum eligible costs in the Agreement for the required infrastructure exceeds the Developer’s DIF obligation, the Developer is eligible to receive DIF Credit under the proposed Agreement.

The proposed Agreement complies with the City's DIF policies and conforms with the approved Development Plan and associated COA. Under the provisions of the City's DIF Program, the City Manager is authorized to execute this Agreement upon approval by the City Council.

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

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

Space above this line for Recorder's Use
Exempt from Fees Per Gov. Code § 6103

# File No. PDIF23-004

# DEVELOPMENT IMPACT FEE CREDIT AGREEMENT

# FOR FACILITY CONSTRUCTION

**By and Between**

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

**and**

**Landsea Homes of California LLC,**
a Delaware limited liability company

**_____, 2024**

**San Bernardino County, California**

46700.10300\34006733.2

**DEVELOPMENT IMPACT FEE CREDIT AGREEMENT FOR FACILITY CONSTRUCTION BY AND BETWEEN THE CITY OF ONTARIO AND Landsea Homes of California LLC (FILE NO. PDIF23-004)**

This DEVELOPMENT IMPACT FEE CREDIT AGREEMENT ("Agreement"), entered into this _____ day of _____, 2024, between the CITY OF ONTARIO, a California municipal corporation, hereinafter referred to as the "City," and Landsea Homes of California LLC, a Delaware limited liability company, hereinafter referred to as the "Developer."

## RECITALS

A. Developer is the owner and developer of property located within the City, which property has received development approvals from the City, including the West Haven Specific Plan ("Specific Plan") and Tract Map No. 20452 (the "Tract Map"). A legal description of the property is attached hereto as Exhibit 1 and incorporated herein by reference (the "Property"). A map of the Property is attached hereto as Exhibit 2 and incorporated herein by reference.

B. As a condition of the development approvals for the Property, including the Specific Plan and Tract Map approvals, the Developer is required to construct those public improvements identified on Exhibit 3, consisting of certain master planned public infrastructure and improvements, (hereinafter referred to collectively as the "Improvements"). The estimated costs for the design and construction of the Improvements are set forth in Exhibit 4. Both Exhibits 3 and 4 are attached hereto and incorporated herein by reference.

C. On July 1, 2003, City Ordinance No. 2779 was adopted establishing certain development impact fees ("DIF Fees") to be paid as a condition to the issuance of certain entitlements within the City. Section 7 of Ordinance 2779 authorizes the City Manager, when he or she determines that the public interest would be served by such an agreement, to execute agreements on behalf of the City with applicants in order to provide a credit to the applicant against certain DIF Fees in exchange for the applicant's construction and dedication of public improvements, upon reasonable terms and conditions as may be determined on a case by case basis and subject to City Council approval.

D. City and the previous owner of the Property have previously entered into a statutory development agreement (File No. PDA21-008), pursuant to Section 65864, et seq., of the Government Code, ("Development Agreement") and such Development Agreement has been assigned to Developer and Developer has assumed all rights, responsibilities and obligations of the Development Agreement, including the design and construction of the Improvements identified in Exhibit 3 and such Improvements are included in the City's Development Impact Fee (DIF) Program as a project, or a portion of a project and eligible for credit against DIF Fees.

E. City and Developer have agreed that the costs to design and construct the Improvements shall be eligible for DIF Credit in accordance with the City's Ontario Ranch DIF Credit policies as contained in the City's DIF Program and Ordinance Nos. 2779 and 2780, and Resolution Nos. 2003-39, 2003-070, 2005-005, 2005-099, 2007-023, 2007-150, 2008-036, 2011-011, 2012-092, 2015-008, 2017-102, 2019-135, 2022-133, and 2023-036.

## AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and the mutual promises contained herein, it is agreed as follows:

1. Definitions. For purposes of this Agreement, the terms below shall be defined as follows:

"Acceptable Title" means title to land or an interest therein required for the operation of an Improvement, in form acceptable to the City Manager, free and clear of all liens, taxes, assessments, leases, easements and encumbrances, whether or not recorded, but subject to any exceptions determined by the City Manager as not materially interfering with the actual or intended use of the land or interest therein required for the operation of an Improvement. Notwithstanding the foregoing, an irrevocable offer of dedication may constitute "Acceptable Title."

"Acceptance Date" means the earlier of (i) the date the City Manager or his or her designee takes final action, in writing, to accept dedication or transfer of an Improvement or (ii) the date determined pursuant to Section 3 below.

"Bid Documents" means all designs, bid documents, construction plans and specifications, system layout drawings and other construction documents and permits relating to an Improvement.

"Certificate of DIF Credit" means a City certificate for the issuance of DIF Credit to Developer in the form attached hereto as Exhibit 5.

"City DIF Program and Policies" means Ordinance Nos. 2779 and 2780 and Resolution Nos. 2003-39, 2003-070, and 2019-135, as may be amended from time to time.

"City Manager" means the City Manager of the City or his or her designee.

"City Engineer" means the City's City Engineer or his or her designee.

"Completed", "Complete" and "Completion" with respect to an Improvement means that such Improvement has been completed in accordance with its Bid Documents, including any final "punch list" items, as approved in writing by the City Engineer, which approval shall not be unreasonably withheld, and that such Improvement is Usable. Notwithstanding the foregoing, if an Improvement which Developer is obligated to construct pursuant to the applicable conditions of approval for a portion of the Property

is only a portion of a larger work of improvement, then a determination of "Completed" or "Completion" with respect to that Improvement shall be made only as to that Improvement and not with respect to the larger work of improvement of which it is a portion.

"Credit Request" means a document, substantially in the form of Exhibit 6, to be used by Developer in requesting DIF Credits with respect to one or more Improvements.

"Days" shall mean business days unless otherwise stated.

"Developer Contract" means a contract between the Developer and a qualified contractor awarded for the construction of the Improvements at the direction of Developer.

"Development Agreement" has the meaning set forth in Recital D above.

"DIF" or "Development Impact Fees" or "DIF Fees" means the development impact fees imposed within the Ontario Ranch area pursuant to City Ordinance Nos. 2779 and 2780 and City Resolution Nos. 2003-39, 2003-070, 2005-005, 2005-099, 2007-023, 2007-150, 2008-036, 2011-011, 2012-092, 2015-008, 2017-102, 2019-135, 2022-133, and 2023-036, and any subsequent City ordinances and resolutions lawfully adopted by the City Council to update or modify such development impact fees.

"DIF Credit" means credits earned against the payment of DIFs pursuant to this Agreement.

"DIF Obligation" means the amount of Developer's total obligation for Development Impact Fees in either the Regional or Local Adjacent portion of a DIF category for the Property. Developer's DIF Obligation amounts for each DIF Category shall be as provided in Exhibit 4.

"DIF Program" means the Development Impact Fee Program and the capital improvement projects and public infrastructure identified in the Development Impact Fee Program, adopted and amended by the City from time to time.

"Effective Date" means the date set forth in the first paragraph of this Agreement.

"Eligible Cost" means the substantiated cost of an Improvement to be used in calculating DIF Credit amounts, which costs may include: (i) the costs for the construction (including grading) of such Improvement, (ii) costs directly related to the construction and/or acquisition of the Improvement, such as costs of payment, performance and/or maintenance bonds, the professional costs of material testing, and insurance costs (including costs of any title insurance required); (iii) the cost of acquiring any real property or interest therein in order to construct or operate the Improvement, (iv) the fees paid to the City and any other governmental agencies for, and all other costs incurred in connection with, obtaining permits, licenses or other governmental approvals for such Improvement, (v) the costs incurred in preparing Bid Documents and the related

costs of geotechnical and environmental evaluations of the Improvement, (vi) costs of construction and project management, administration and supervision (but only up to five percent (5%) of the costs described in clause (i) above) incurred for the construction of such Improvement, (vii) professional costs associated with such Improvement, such as design, engineering, accounting, inspection, construction staking, and similar professional services including legal services related to the review of construction contracts. The maximum amount of Eligible Costs described in clauses (v) through (vii) shall be limited to a total of fifteen percent (15%) of the costs described in clause (i).

"Improvement" or "Improvements" means the public improvements required to support the development of the Property as described in Exhibit 3 to the extent required by the applicable conditions of approval.

"Program Cost" or "DIF Program Cost" means the estimated cost of an Improvement identified in the "Nexus Study" referenced in City Resolution No. 2022-133 as it may be modified, supplemented or superseded from time to time. The Program Cost to be applied shall be the Program Cost in effect at the time the Improvement is Completed.

"Usable" shall mean that, with respect to any particular Improvement, the Improvement is actually usable for its intended purposes, and includes, for water Improvements connection to the applicable water supply, for sewer Improvements connection to an applicable disposal system, and for recycled water Improvements connection to a treated water supply and distribution system. Notwithstanding the foregoing, if an Improvement which Developer is obligated to construct pursuant to the applicable conditions of approval for a portion of the Property is only a portion of a larger work of improvement, then a determination of whether that Improvement is "Usable" shall be made only with respect to that Improvement and not with respect to the larger work of improvement of which it is a portion.

2. Construction and Funding of Improvements by Developer. Developer shall commence the Improvements in accordance with the terms of the Development Agreement and individual Tract Maps, including any extension thereof. Upon commencement of the Improvement(s), Developer agrees to proceed expeditiously with the construction of the Improvement(s) under the terms herein. For the purposes of this Agreement, commencement of the Improvements shall mean when Developer receives the first permit from City for grading of the Property. If Developer is unable or unwilling to proceed with, and Complete, the construction of the Improvement(s) for any reason, and subject to the provisions in Section 17 below, Developer shall be considered to be in default of this Agreement. City and Developer agree that Developer shall award, or cause to be awarded, all contracts for the construction of the Improvements and that this Agreement as necessary to assure the timely and satisfactory Completion of such Improvements. The Developer shall perform all of its obligations hereunder and shall conduct all operations with respect to the construction of the Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted

practices appropriate to the activities undertaken. The Developer shall not be relieved of its obligation to construct the Improvements and cause title to the Improvements to be conveyed to the City even if the DIF Credit Amount is less than the actual cost of the Improvements.

3. Inspection and Acceptance of Completed Improvement by City. City shall make or shall cause to be made periodic site inspections of Developer's construction work. The Acceptance Date for each Improvement constructed by Developer shall occur not later than twenty (20) Days following the last to occur of the following:

(a) the City Engineer's determination that the Improvement is Complete;

(b) the City Manager's determination that Acceptable Title with respect to the Improvement is available for acceptance;

(c) Developer's provision of one (1) set of "as-built" or record drawings or plans for the Improvement, certified and reflecting the condition of the Improvement as constructed; and

(d) Developer's provision of such evidence or proof as the City Manager shall require that all persons, firms and corporations supplying work, labor, materials, supplies and equipment to the construction of the Improvement have been paid and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation. Alternatively, rather than await the expiration of the time for the recording of claims of liens, Developer may elect to provide a title insurance policy or other security acceptable to the City Manager guaranteeing that no such claims of liens will be recorded or become a lien upon any of the real property required for the Improvement.

4. Conveyance of Acceptable Title to City. Acceptable Title to all property on, in or over which, the Improvement will be located, shall, prior to and as a condition precedent to the City's acceptance of any Improvement, be conveyed to City by way of an irrevocable offer of dedication of such property on the Tract Map or by a separate recorded instrument, and such conveyance of interest has been approved by the City as being a sufficient interest therein to permit the City to properly own, operate and maintain such Improvement. Developer agrees to assist the City in obtaining such documents as are required to obtain Acceptable Title. Completion of the transfer of Acceptable Title shall be evidenced by recordation of the acceptance thereof by the City Manager or his designee.

5. Maintenance and Warranties to be provided to City. Developer shall maintain the Improvement in good and safe condition until the Acceptance Date of the Improvement. Prior to the Acceptance Date, Developer shall, at its sole cost and expense, be responsible for performing any required maintenance on the Improvement. On or before the Acceptance Date of the Improvement, Developer shall assign to the City all of Developer's rights in any warranties, guarantees, maintenance obligations or other evidence of contingent obligations of third persons with respect to such Improvement. After the Acceptance Date, City shall be solely responsible for maintenance of the

Improvement. With respect to the Improvement, Developer shall warrant that the Improvement is free from defects in materials and construction defects (and shall correct or cause to be corrected any such defects at Developer's expense) for a period of one year from the Acceptance Date thereof (the "Warranty Period") and Developer shall provide a bond reasonably acceptable in form and substance to the City for such period and such purpose to insure that such defects that appear within said period will be repaired, replaced or corrected by Developer, at its own cost and expense, to the reasonable satisfaction of the City Manager. During the Warranty Period, Developer shall continue to repair, replace or correct any such defects within thirty (30) Days after written notice thereof by the City Manager to Developer, and shall complete such repairs, replacement or correction as soon as practicable. Any warranties, guarantees or other evidences of contingent obligations of third persons with respect to the Improvement shall be delivered to the City Manager, in writing, as part of the transfer of title.

6. Issuance of DIF Credit to Developer. Developer shall receive DIF Credits based upon the verified Eligible Costs of the Improvement (or accepted portion of the Improvement). Issued DIF Credits shall specify the DIF Credit infrastructure category and whether the DIF Credit is for construction of a Regional or Local Adjacent DIF Program Improvement.

7. Limitations on the Issuance of DIF Credit to Developer upon Completion of an Improvement. The amount of DIF Credit to be issued by City shall be limited to the amount of the DIF Program Costs for the Improvement (or accepted portion of the Improvement). The DIF Program Costs identified in the City's DIF Program shall be subject to change, from time to time, as part of the continuing update of the City's DIF Program. The DIF Program Costs for the Improvement (or accepted portion of the Improvement) shall be those in effect at the time the DIF Credit Request is submitted to the City.

(a) To the extent that NMC Builders LLC incurred the costs for the design of the Improvements, Developer agrees that the DIF Credit, up to ten (10%) of the DIF Program Costs, for such design cost portion of the Improvements shall be issued to NMC Builders LLC.

(b) The DIF Credit that the Developer will receive upon Completion of the Improvements may be exchanged for a refund of DIF that was paid by the Developer (up to the Developer's maximum DIF obligation) in the respective DIF category.

8. Issuance of a DIF Credit Certificate. When an Improvement is Complete, Developer shall submit a DIF Credit Request to City with all supporting documentation evidencing the total actual Eligible Costs of the Improvement at the time of submittal. The City Manager or designee shall determine the completeness of the DIF Credit Request and notify Developer of whether the DIF Credit Request is considered complete or if additional information is needed from Developer. Once the DIF Credit Request is considered complete, the City Manager or designee shall use his or her best efforts to determine the total actual Eligible Costs of the Improvements and provide Developer with

a Certificate of DIF Credit within twenty (20) Days following receipt of the completed DIF Credit Request.

9. DIF Program Modifications. The estimated cost in the City's DIF Program for DIF Improvements (or defined portions of DIF Improvements) as listed in Exhibit 4 and Developer's total DIF Obligation amount may be modified from time to time based on modifications to the City's DIF Program.

10. Assignment of DIF Credits. Developer shall have the right to transfer or assign DIF Credits provided for herein, to any person, partnership, limited liability company, joint venture, firm or corporation; provided, however, that any such sale, transfer or assignment shall only be made in strict compliance with the following:

(a) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, Developer (i) shall notify the City Manager, in writing, of such sale, transfer or assignment and (ii) shall provide the City with an executed agreement, by purchaser, transferee or assignee that identifies the amount of DIF Credits transferred.

(b) Except for the limited assignment above of DIF Credits, any assignment by Developer of any of the obligations of Developer under this Agreement (a "DIF Improvement Assignment") with regards to the Improvements listed in Exhibit 4, shall identify the Improvements that are the subject of the Assignment Agreement and require the written approval of the City Manager, which approval shall not be unreasonably withheld so long as adequate security as determined by City in its sole discretion, is in place to secure the Completion of the subject Improvements and any DIF Improvement Assignment not made in strict compliance with the foregoing conditions (other than a transfer under Section 23 below) shall, unless such obligations are performed by Developer when required by this Agreement notwithstanding such assignment, constitute a default by Developer and City shall have no further obligations with regard to acceptance of Certificates of DIF Credit issued to Developer, including any DIF Credit assigned or transferred by Developer.

(c) If Developer enters into a DIF Improvement Assignment with a successor in interest with respect to all or a part of the Property (a "Successor Developer") in accordance with Section 10(b) and the Successor Developer obtains DIF Credit pursuant to this Agreement upon its completion of the Improvements identified in the DIF Improvement Assignment, then

(i) such Successor Developer shall have the right to sell, transfer or assign to Developer, and Developer shall have the right to acquire from such Successor Developer, all or a portion of such DIF Credit by complying only with Section 10(b) above, and

(ii) Developer shall have the right to sell, transfer or assign all or a portion of such DIF Credit to other Successor Developers who acquire other portions of the Property by complying only with Section 10(b) above, if the sale, transfer or

assignment of such DIF Credit occurs concurrently with the conveyance of another portion of the Property to the other Successor Developer.

11. Additional Documents/Actions. The City Manager is authorized to approve and execute any documents and to take any actions necessary to effectuate the purposes of this Agreement.

12. Integration. This Agreement reflects the complete understanding of the parties with respect to the subject matter hereof. In all other respects, the parties hereto re-affirm and ratify all other provisions of the Development Agreement.

13. Prevailing Wages. Developer is aware of the requirements of California Labor Code Section 1720, et seq. (as amended by Stats 2001 ch. 938 § 2 (S.B. 975)), and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq. (collectively, the "Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. The Bid Documents and each Developer's Contract shall require all contractors for the construction of Improvements to pay prevailing wages in accordance with the applicable provisions of the Labor Code. Developer 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 Developer's principal place of business and at the project site. Developer shall defend, indemnify and hold the City, its officials, officers, employees, agents, contractors and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

14. Default and Force Majeure.

(a) Default. Failure or delay by Developer or City to perform any of its obligations under this Agreement constitutes a default by such party under this Agreement. The party alleged to be in default shall have thirty (30) days after the date of the written notice by the other party to commence to cure such default. The party alleged to be in default shall diligently pursue such cure to completion within thirty (30) days or a reasonable timeframe if such default cannot be reasonably cured within thirty (30) days, as established in the written notice provided by the party asserting the default. If the party alleged to be in default has not cured its default within the cure period set forth therein, the defaulting party shall be deemed in breach. Any failure or delay in giving such notice or in asserting any rights and remedies as to any default shall not constitute a waiver of any default, nor shall it change the time of default, nor shall it deprive the party not in default of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any of its rights or remedies. If any default by Developer is not cured within the time period provided by the City, City shall be entitled to terminate this Agreement in its entirety and thereafter, the City shall be under no obligation to perform any of City's obligations hereunder, including, but not limited to, the issuance of DIF Credits that Developer may claim.

(b) Force Majeure. Notwithstanding the provisions contained in the foregoing paragraph, performance by either party hereunder shall not be deemed to be in default where delay or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, epidemics, quarantine restrictions, freight embargoes, public transportation stoppage, governmental restrictions or priority, litigation brought by a third party, unusually severe weather, reasonably unforeseeable property conditions, acts of the other party, acts or failure to act of the other party or any other public or governmental agency or entity, or any causes beyond the control or without the failure of the party claiming an extension of time to perform (a "Force Majeure Event"). An extension of time for any such cause (an "Excusable Delay") shall be for the time period of the delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of knowledge of the commencement of the cause or from the date of the notice if provided after such thirty-day period. Notwithstanding the foregoing, none of the foregoing events shall constitute an Excusable Delay unless and until the party claiming such delay and interference delivers to the other party written notice describing the event, its cause, when and how such party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Any party claiming an Excusable Delay shall make a good faith effort to deliver such written notice within thirty (30) days after it obtains actual knowledge of the event. Times of performance under this Agreement may also be extended in writing by City and Developer. The Parties hereto expressly acknowledge and agree that changes in either general economic conditions or changes in the economic assumptions of any of them (unless such conditions were caused by a Force Majeure Event) that may have provided a basis for entering into this Agreement and that occur at any time after the execution of this Agreement are not Force Majeure Events and do not provide any Party with grounds for asserting the existence of a delay in the performance of any covenant or undertaking that may arise under this Agreement. Each Party expressly assumes the risk that changes in general economic conditions or changes in such economic assumptions relating to the terms and covenants of this Agreement could impose an inconvenience or hardship on the continued performance of such Party under this Agreement, but that such inconvenience or hardship is not a Force Majeure Event and does not excuse the performance by such Party of its obligations under this Agreement. Without limiting the nature of the foregoing, the parties agree that the inability of Developer to obtain a satisfactory commitment from a construction lender for the improvement of the Property or to satisfy any other condition of this Agreement relating to the development of the Property shall not be deemed to be a Force Majeure Event or otherwise provide grounds for the assertion of the existence of a delay under this Section 14.

15. Licenses and Permits. The Developer shall secure (or shall cause to be secured) any and all permits that may be required by the City or any other governmental agency affected by the construction of the Improvements. The Developer shall be responsible for paying all applicable fees and charges to the City to obtain any land use entitlements and permits that are necessary to construct the Improvements.

16. Indemnification. The Developer agrees to protect, indemnify, defend and hold the City, and its respective officers, employees and agents, and each of them,

harmless from and against any and all claims, losses, expenses, suits, actions, decrees, judgments, awards, attorney's fees, and court costs (collectively "Damages") that the City, or its respective officers, employees and agents, or any combination thereof, may suffer or that may be sought against or recovered or obtained from the City, or its respective officers, employees or agents, or any combination thereof, as a result of or by reason of or arising out of or in consequence of (a) the acquisition, construction, or installation of the Improvements; (b) the untruth or inaccuracy of any representation or warranty made by the Developer in this Agreement or in any certifications delivered by the Developer hereunder; or (c) any act or omission of the Developer or any of its subcontractors, or their respective officers, employees or agents, in connection with the Improvements. If the Developer fails to do so, the City shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental costs of such defense, including any reasonable attorneys' fees or court costs, to and recover the same from the Developer. Notwithstanding the foregoing, neither the City nor its respective officers, employees, or agents shall be indemnified, defended or held harmless against such Damages to the extent that such Damages have been caused by their sole active negligence or sole willful misconduct. The parties acknowledge and agree that the Developer shall be released from the indemnity, defense and hold harmless obligations set forth herein upon the acceptance of the Improvements by the City and completion of the Warranty Period for such Improvements.

17. Developer as a Private Developer. In performing under this Agreement, it is mutually understood that the Developer is acting as a private developer, and not as an agent of the City. The City shall have no responsibility for payment to any contractor, subcontractor or supplier of the Developer. Accordingly, this Agreement does not constitute a debt or liability of the City. The City shall not be obligated to advance any of its own funds or any other costs incurred in connection with the Project. No member, official or employee of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Developer or its successors, or on any obligations under the terms of this Agreement.

18. Other Obligations. Nothing contained herein shall be construed as affecting the Developer's respective duty to perform its respective obligations under other agreements, land use regulations or subdivision requirements relating to the development of the Property, which obligations are and shall remain independent of the Developer's rights and obligations, and the City's rights and obligations, under this Agreement; provided, however, that the Developer shall use its reasonable and diligent efforts to perform each and every covenant to be performed by it under any lien or encumbrance, instrument, declaration, covenant, condition, restriction, license, order, or other agreement, the nonperformance of which could reasonably be expected to materially and adversely affect the design, acquisition, construction and installation of the Improvements. This Agreement is not, and shall not be construed as, a statutory development agreement as authorized by Government Code sections 65864 et seq., and this Agreement shall not be interpreted as limiting the authority of the City to adopt and amend regulations concerning permitted uses of property, the density or intensity of use,

the maximum height and size of proposed buildings, provisions for the reservation or dedication of land or the payment of impact fees for public purposes.

19. Binding on Successors and Assigns. Except as set forth in Section 10 or Section 23 hereof, neither this Agreement nor the duties and obligations of the Developer hereunder may be assigned to any person or legal entity other than an affiliate of the Developer without the written consent of the City, which consent shall not be unreasonably withheld or delayed. Neither this Agreement nor the duties and obligations of the City hereunder may be assigned to any person or legal entity, without the written consent of the Developer, which consent shall not be unreasonably withheld or delayed. The agreements and covenants included herein shall be binding on and inure to the benefit of any partners, permitted and accepted assigns, and successors-in-interest of the parties hereto.

20. Amendments. This Agreement can only be amended by an instrument in writing executed and delivered by the City and the Developer.

21. Waivers. No waiver of, or consent with respect to, any provision of this Agreement by a party hereto shall in any event be effective unless the same shall be in writing and signed by such party, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

22. No Third Party Beneficiaries. No person or entity, other than the City, shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City and the Developer (and their respective successors and assigns), any rights, remedies, obligations or liabilities under or by reason of this Agreement.

23. Mortgagee Protection. The parties hereto agree that this Agreement shall not prevent or limit Developer, at Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. Developer shall have the right to encumber and assign its rights and interests hereunder to the lenders providing such financing as security for such financing without the consent of the City and without complying with Section 10 hereof. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Developer and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. A mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust on the Property made in good faith and for value, unless otherwise required by law.

(b) The mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which mortgagee has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by Developer in the performance of Developer's obligations under this Agreement.

(c) If City timely receives a request from a mortgagee requesting a copy of any notice of default given to Developer under the terms of this Agreement, City shall provide a copy of that notice to the mortgagee within ten (10) days following the sending of the notice of default to Developer. The mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no mortgagee shall have an obligation or duty under this Agreement to perform any of Developer's obligations or other affirmative covenants of Developer hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by Developer is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any mortgagee in possession shall be subject to the provisions of Section 10 of this Agreement.

24. Notices. Any written notice, statement, demand, consent approval, authorization, offer, designation, request or other communication to be given hereunder shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

**If to CITY:**
Scott Ochoa, City Manager
City of Ontario
303 East "B" Street
Ontario, CA 91764

**with a copy to:**
Ruben Duran, City Attorney
Best Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

**If to DEVELOPER:**

Tom Baine, Shannon Whittaker
Landsea Homes of California LLC
7525 Irvine Center Drive, Suite 200
Irvine, California 92618
Phone: 949-345-8093

**With a copy to (legal counsel, if applicable):**

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered

to the party to whom it is addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, or telecopy, upon the sender's receipt of an appropriate answerback or other written acknowledgment, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with courier charges prepaid, 24 hours after delivery to said overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

25. Jurisdiction and Venue. City and the Developer (a) agree that any suit action or other legal proceeding arising out of or relating to this Agreement shall be brought in state or local court in the County of San Bernardino or in the Courts of the United States of America in the district in which the City is located, (b) consent to the jurisdiction of each such court in any suit, action or proceeding, and (c) waive any objection that it may have to the laying of venue or any suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Each of the City and the Developer agrees that a final and non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

26. Attorneys' Fees. If any action is instituted to interpret or enforce any of the provisions of this Agreement, the prevailing party in such action shall be entitled to recover from the other party thereto reasonable attorney's fees and costs of such suit (including both prejudgment and post judgment fees and costs) as determined by the court as part of the judgment.

27. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

28. Usage of Words. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

29. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

30. Incorporation by Reference. The following Exhibits attached hereto and the Recitals of this Agreement are hereby incorporated by reference as though fully set forth herein:

Exhibit 1 – Legal Description of Property
Exhibit 2 – Map of Property
Exhibit 3 – Description of Improvements
Exhibit 4 – Estimated Costs of Improvements
Exhibit 5 – Form of Certificate of Regional or Local Adjacent DIF Credit
Exhibit 6 – Form of DIF Credit Request
Exhibit 7 – Not applicable

Exhibit 8 – Form of DIF Improvement Assignment

[*Signatures On Next Page*]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the respective dates set forth below.

**"CITY"**

**CITY OF ONTARIO**, a California municipal corporation

Dated: _____ By: _____
Scott Ochoa, City Manager

**ATTEST:**

By: _____
City Clerk

**APPROVED AS TO FORM:**
BEST BEST & KRIEGER, LLP

By: _____
City Attorney

**"DEVELOPER"**

Landsea Homes of California, LLC
a Delaware limited liability company

Dated: JUNE 3, 2024

By: _____

Name: SHANNON WHITTAKER

Its: AVP



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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 ORANGE

On this 3RD day of JUNE, 2024 before me, TERRI L. PILIGIAN, Notary Public, personally appeared SHANNON WHITTAKER, 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.

TERRI L. PILIGIAN
Notary Public - California
Orange County
Commission # 2437606
My Comm. Expires Feb 9, 2027

Signature: Terri L. Piligian (Seal)

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| 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 SAN BERNARDINO

On this ___ day of _____, 2024 before me, _____, 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 1

## Legal Description of Property

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 2 SOUTH, RANGE 7 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER GOVERNMENT SURVEY.

SAVING AND EXCEPTING THEREFROM ALL STATE AND COUNTY HIGHWAYS.

APN: 0218-151-10-0-000

## Exhibit 2

## Map of Property

Exhibit 2

46700.10300\34006733.2

## Exhibit 3

### Description of Improvements

DIF Eligible Facilities: The DIF Eligible Facilities consist of the following Components and Segments; provided, however, that each such Segment described below shall constitute a Segment for purposes of this Agreement only if such Segment was constructed by or on behalf of the Developer.

| **Storm Drain Facilities** | | | | | |
|---|---|---|---|---|---|
| **Project** | **DIF Category** | **DIF Program Project No.** | **DIF Project Description** | **Segment Description** | **Project Scope/Length [LF]** |
| TM20452 | Local Adjacent Storm Drain | SD-025 | Turner Avenue, Riverside to Countyline Channel | 42-inch storm drain main in Honeysuckle Avenue from existing 42" SD main in the southerly tract (TM 18026) to a junction structure to connect to the proposed in-tract SD improvements to serve this project | 663 |
| **Fiber Optic Communications Facilities** | | | | | |
| **Project** | **DIF Category** | **DIF Program Project No.** | **DIF Project Description** | **Segment Description** | **Project Scope/Length [LF]** |
| TM20452 | Local Adjacent Fiber | FO-004 | Distribution Network - Major Streets Conduit System | Fiber Optic conduit in Haven Avenue | 708 |

# Exhibit 4

## Estimated Costs of Improvements

| Storm Drain Facilities | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Project | DIF Category | DIF Program Project No. | DIF Project Description | Segment Description | Project Scope/Length (LF) | Total DIF Project Costs | Segment Cost Percentage | Estimated Eligible Costs |
| TM20452 | Local Adjacent Storm Drain | SD-025 | Turner Avenue, Riverside to Countyline Channel | 42-inch storm drain main in Honeysuckle Avenue from existing 42" SD main in the southerly tract (TM 18026) to a junction structure to connect to the proposed in-tract SD improvements to serve this project | 663 | $ 1,635,875 | 14.30% | $ 233,858 |
| | | | | | | | | |
| | | | | | | | Subtotal Local Adjacent Storm Drain Facilities | $ 233,858 |
| **Fiber Optic Communications Facilities** | | | | | | | | |
| Project | DIF Category | DIF Program Project No. | DIF Project Description | Segment Description | Project Scope/Length (LF) | Total DIF Project Costs | Segment Cost Percentage | Estimated Eligible Costs |
| TM20452 | Local Adjacent Fiber | FO-004 | Distribution Network - Major Streets Conduit System | Fiber Optic conduit in Haven Avenue | 708 | $11,602,083 | 0.25% | $ 29,304 |
| | | | | | | | Subtotal Local Adjacent Fiber Optic Communications | $ 29,304 |

Exhibit 5

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**Exhibit 5**

**FORM OF CERTIFICATE OF REGIONAL OR LOCAL ADJACENT DIF CREDIT**

Pursuant to Section 6 of the Development Impact Fee Credit Agreement for Facility Construction by and between the City of Ontario and Landsea Homes of California LLC dated _____, 2024, the terms and definitions of which are hereby incorporated herein by this reference and hereinafter called the "Agreement" , the City of Ontario hereby certifies that Developer is entitled to the following amount and nature of DIF Credits:

Amount of Credit: $_____
Infrastructure Category of DIF: _____
Local Adjacent or Regional Category of DIF: _____

_____
Scott Ochoa, City Manager

Dated: _____

## Exhibit 6

## FORM OF DIF CREDIT REQUEST

The undersigned (the "Developer"), hereby requests DIF Credits in the DIF categories and amounts specified in Attachment 1 hereto. In connection with this Credit Request, the undersigned hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized officer or representative of the Developer, qualified to execute this Credit Request on behalf of the Developer and is knowledgeable as to the matters set forth herein.

2. All costs of the Improvements for which credit is requested hereby are Eligible Costs (as defined in the DIF Credit Agreement) and have not been inflated in any respect. The Eligible Costs for which credit is requested have not been the subject of any prior credit request submitted to the City.

3. Supporting documentation (such as the applicable Developer Contract, third party invoices, lien releases and cancelled checks or other evidence of payment) is attached with respect to each cost for which credit is requested.

4. The Improvement for which credit is requested was constructed in accordance with the requirements of the DIF Credit Agreement.

5. Please issue a Certificate of DIF Credit to the Developer in the amount requested.

I declare under penalty of perjury that the above representations and warranties are true and connect.

| DEVELOPER | CITY |
|---|---|
| Landsea Homes of California LLC | Credit Request Approved |
| By: _____<br>Authorized Representative of Developer | By: _____<br>Scott Ochoa, City Manager |
| Date: _____ | Date: _____ |

ATTACHMENT 1

SUMMARY OF IMPROVEMENTS AND REQUESTED DIF CREDITS

| Improvement | Eligible Costs/Contract Amount | DIF Credit Requested |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

**[List here all Improvements for which credit is requested, and attach support documentation]**

Exhibit 6

46700.10300\34006733.2

**Exhibit 8**

**FORM OF ASSIGNMENT, SALE, OR TRANSFER OF DIF CREDIT**

**FROM _____ to _____**

This Sale or Transfer of DIF Credit ("DIF Credit Transfer") is entered into as of _____, 20__, between _____, a _____ _____"Transferor") and_____ ("Transferee").

A. NMC Builders, LLC is a limited liability company formed under the laws of the state of California, the business affairs of which are governed by that certain Amended and Restated Limited Liability Company Agreement of NMC Builders, LLC dated as of March 31, 2005, as amended ("NMC Agreement").

B. Transferor is a Member of the NMC Builders, LLC.

C. Pursuant to that certain Certificate of DIF Credit (the "Certificate") issued by the City of Ontario to NMC Builders, LLC, dated _____, an amount of DIF Credit was made available to the Transferor for use in the eastern portion of the New Model Colony. A copy of the Certificate is DIF Credit issued to NMC Builders, LLC by CITY is attached hereto and incorporated herein as Exhibit "C-2".

D. Transferee is owner of real property within the eastern portion of the New Model Colony of the City of Ontario and further described as Tract Map No. _____ . (or other description of the property).

E. Pursuant to the terms of this DIF Credit Assignment, Transferee desires to receive from the Transferor, a share of the DIF Credit issued to Transferor by NMC Builders LLC.

For good, valuable and sufficient consideration received, the receipt of which is hereby acknowledged, the Transferor and Transferee hereby agree as follows:

1. TRANSFER

The Transferor hereby assigns, transfers and conveys to Transferee the DIF Credit of (add more rows as needed):

| DIF Credit Category | DIF Certificate No. | DIF Credit Amount |
|---|---|---|
| | | |

2. ACCEPTANCE

Transferee hereby accepts and assumes DIF Credit as listed above. Transferee and CITY shall track DIF Credit as it is redeemed, and the remaining balance to be used, by completing, dating and initialing Exhibit "D-3" attached hereto and incorporated herein. The original Exhibit "C-2" shall not be removed from this Transfer Agreement.

3. EFFECTIVE DATE.

This Transfer Agreement shall become effective as of the date first above written.

4. TRANSFEROR'S REPRESENTATIONS AND WARRANTIES.

The Transferor makes the following representations and warranties, which representations and warranties shall survive this DIF Credit Transfer:

The Transferor has the full power and authority to enter into this DIF Credit Transfer.

The execution, delivery and performance of this DIF Credit Transfer will not result in any violation or default under its organizational documents or any instruments to which the Transferor is a party.

From and after the date of this DIF Credit Transfer, the Transferor shall have no further rights, title or interest in or to the DIF Credit.

5. TRANSFEREE'S REPRESENTATION AND WARRANTIES.

Transferee makes the following representations and warranties, which representations and warranties shall survive this Transfer:

Transferee is the owner of Tract No. _____ (or other property description) in the eastern portion of the New Model Colony, City of Ontario.

Transferee has the full power and authority to enter into this DIF Credit Transfer.

This DIF Credit Transfer, when executed, shall constitute a valid and legal obligation binding as to Transferee.

6. NOTICES.

All notices, consents, waivers and other communications under this DIF Credit Transfer must be in writing and will be deemed to have been duly given when (a) delivered by hand (with written confirmation of receipt), (b) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses set forth below (or to such other addresses as a party may designate by notice to the other parties); (c) when received by the addresses as confirmed by a confirmation receipt, if sent by facsimile to the appropriate facsimile number

designated below (or to such other facsimile number as the parties may designate by notice to the other parties).

If to the Transferor: Entity Name: _____
Address: _____
_____
Attention: _____
Phone: _____
Email: _____

If to Transferee: Entity Name: _____
Address: _____
_____
Attention: _____
Phone: (___) _____
Email: _____

7. GENERAL PROVISIONS.

Severability. In the event that the application of any of the provisions of this DIF Credit Transfer are held to be unenforceable or invalid, the validity and enforceability of other applications of that provision and of the remaining provisions shall not be affected.

Counterparts. This DIF Credit Transfer may be executed in counterparts.

Entire Agreement. This DIF Credit Transfer contains the entire final understanding of and between the parties and supersedes any prior written or oral agreements between them respecting the subject matter of this DIF Credit Transfer. There are no representations, agreements, arrangements or understandings, oral or written, between the parties that are not fully set forth herein.

Construction. Every covenant, term and provision of this DIF Credit Transfer shall be construed simply according to its fair meaning and not strictly for or against any party.

No Modifications. No supplement, modifications or amendment to this DIF Credit Transfer shall be binding unless executed in writing by both parties.

Further Assurances. The Transferor and Transferee each agree to execute such other documents and perform such other acts as may be necessary or desirable to effectuate this DIF Credit Transfer.

Effect of NMC Agreement and Certificate. This DIF Credit Transfer Agreement is, and shall remain, subject to the terms and conditions of the DIF Credit Certificate and the NMC Agreement, as may be amended by the parties thereto from time to time.

No Third Party Beneficiaries. This DIF Credit Transfer Agreement is made and entered into for the sole protection and benefit of the parties hereto, the City of Ontario,

and their respective successors and assigns. No other person or entity shall have any right of action based upon any provision of this DIF Credit Transfer Agreement.

IN WITNESS WHEREOF, the Transferor and Transferee have duly executed this DIF Credit Transfer as of the date first written above.

TRANSFEROR:

Entity Name (NMC Builders Member) a _____

By: _____

By: _____

TRANSFEREE:

Entity Name _____ a _____

By: _____

By: _____

**(All Signatures must be notarized)**

Exhibit 8

46700.10300\34006733.2

**EXHIBIT "C-2" to Transfer of DIF Credit**

**(Certificate of DIF Credit)**

*(Original DIF Credit Certificate issued by City must be attached).*

**EXHIBIT "D-3" to Transfer of DIF Credit**

**Available DIF Credit Reconciliation**

**DIF Credit Category** _____

**Assigned to:** _____**(NMC Member)**

**Date Assigned to NMC Member:** _____

**Transferee:** _____

**Date Transferred:** _____

| Starting DIF Credit Balance | Amount Redeemed | Date | Remaining DIF Credit Balance | City's Initials | Transferee's Initials |
|---|---|---|---|---|---|
| | | | | | |
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Exhibit 8

46700.10300\34006733.2

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Public Works<br>Prepared By: Daniel P Beers<br>Staff Member Presenting: Tito Haes, Executive Director Public Works<br>Reviewed By: Andrea Ampig, Bonnie Tam<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 9 |

**SUBJECT:** **AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH TILDEN-COIL CONSTRUCTORS, INC. FOR CONSTRUCTION MANAGEMENT MULTI-PRIME SERVICES FOR PHASE 1 OF THE ONTARIO CONVENTION CENTER EXPANSION PROJECT**

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

A. Authorize the City Manager or his designee to execute Amendment No. 4 to the Professional Services Agreement with Tilden-Coil Constructors, Inc., of Riverside, California, to provide Construction Management Multi-Prime Services for Phase 1 of the Ontario Convention Center Expansion Project in the amount of $3,005,730 for a total not-to-exceed contract amount of $33,049,677; and
B. Authorize the City Manager or his designee to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

**THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:**
**Invest in the Growth and Evolution of the City's Economy**

**FISCAL IMPACT:** The recommended Amendment No. 4 for Tilden-Coil Constructors, Inc. is in an amount of $3,005,730 for a new total not-to-exceed contract amount of $33,049,677. If approved, appropriations will be included in future Annual Budgets to City Council within Capital Projects-Measure Q Fund for approval as needed for Construction management Multi-Prime Services.

**BACKGROUND & ANALYSIS:** HMC Architects is currently working on the design of the Convention Center Expansion Project which will consist of four separate projects; (1) an expansion and remodel to an existing convention center, (2) a new parking structure on an existing office building site, (3) a road closure with a new exterior plaza and event space, and (4) a new pedestrian bridge connecting the new parking structure to a new hotel across Holt Blvd. The expansion of the existing convention center includes an addition of approximately 275,000 SF with two new exhibit halls, two new small

ballrooms, thirteen new meeting rooms, new main lobby, new café, two secondary lobbies, and a new administration suite. The remodel of the existing convention center includes a heavy remodel of the existing meeting rooms, an expansion and heavy remodel of the existing ballrooms, an expansion and heavy remodel of the existing kitchen, and a light to moderate remodel of all other spaces. The new parking structure will be approximately 650,000 SF and five-stories, providing approximately 2,000 new parking spaces, including 600 EV stations. The new plaza will be approximately 200,000 SF and includes an event plaza, demonstration garden, public art and sculpture garden. The new pedestrian bridge is approximately 275'-0" long and 12'-0" wide. The bridge will have stairs and an elevator at the hotel, and connect to the 2nd floor of the parking structure to utilize the stairs and elevator in the structure.

On April 16, 2024, the City Council authorized Amendment No. 3 to the Professional Services Agreement with Tilden-Coil Constructors, Inc. for Construction Management Multi-Prime Services for the Ontario Sports Complex. The proposed Amendment No. 4 will incorporate Construction Management Multi-Prime Services for Phase 1 of the Ontario Convention Center Expansion Project. The proposal for Multi-Prime Services with Tilden-Coil Constructors, Inc. consists of pre-construction services including schematic planning, construction plans, specifications, cost estimates, bidding support, and management oversight for Phase 1 of the Ontario Convention Center Expansion Project.

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

PAUL S. LEON
MAYOR

DEBRA PORADA
MAYOR PRO TEM

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT OCHOA
CITY MANAGER

**AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND TILDEN-COIL CONSTRUCTORS, INC.**

**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 **Tilden-Coil Constructors, Inc.**, a 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 April 4, 2023. ("Agreement").

2.2 Amendment Purpose. The City and Consultant desire to amend the Agreement to revise the scope of services and include construction management services for Ontario Convention Center Expansion and increase the not to exceed compensation amount by Three Million Five Thousand and Seven Hundred Thirty Dollars ($3,005,730) for a total not to exceed amount of Thirty-Three Million Forty-Nine Thousand and Six Hundred Seventy-Seven Dollars ($33,049,677). The Parties have heretofore entered into that Amendment No. 1 dated August 15, 2023, Amendment No. 2 dated March 5, 2024 and Amendment No. 3 dated April 16, 2024.

2.3 Amendment Authority. This Amendment No. 4 is authorized pursuant to Section 3.7.14 of the Agreement.

**3. Terms.**

3.1 Amendment. Section 3.1.1 and 3.2.1 of the Agreement is hereby amended in its entirety to read as follows:

"3. 1. 1 General Scope of Services. Consultant 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 professional architectural and related consulting services necessary for the Project (" Services"). The Services are more particularly described in Attachment "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.

"Section 3.2.1 Compensation. Consultant 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 **Thirty-Three Million Forty-Nine Thousand and Six Hundred Seventy-Seven Dollars ($33,049,677)** ("Total Compensation") 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.

Exhibit C is hereby deleted in its entirety and replaced with Attachment A attached hereto and incorporated herein by reference.

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. 4 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. 4 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND TILDEN-COIL CONSTRUCTORS, INC.**

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 4 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

**TILDEN-COIL CONSTRUCTORS, INC.**

By:_____

Its:_____

Printed Name:_____

By:_____

Its:_____

Printed Name:_____

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

Tilden-Coil CONSTRUCTORS™
Building with Integrity Since 1938

April 3, 2024

Tito Haes, Executive Director Public Works
City of Ontario
1333 S. Bon View
Ontario, CA 91761

**Re: Proposal for CM Multi-Prime Services for the Ontario Convention Center Expansion project – Phase 1 Preconstruction Services**

Dear Tito,

We are pleased to present our fee proposal to provide CM Multi-Prime services for the Ontario Convention Center Expansion project. It is exciting to anticipate the impact this new project will have on the community!

This proposal is to provide preconstruction phase services with the intent that construction phases services will be assigned under a subsequent proposal upon approval by the City.

Our Fee structure, outlined below, is in alignment with on-call rates submitted in February 2023. Our understanding of the scope of the project is as follows:

**Ontario Convention Center Expansion.** The project is currently in the schematic design phase by HMC Architects and will consist of four separate projects; (1) an expansion and remodel to an existing convention center, (2) a new parking structure on an existing office building site, (3) a road closure with a new exterior plaza and event space, and (4) a new pedestrian bridge connecting the new parking structure to a new hotel across Holt Blvd. Construction activities shall be phased to allow the convention center to continue operating during construction. Construction activities shall be coordinated with the operator of the convention center to ensure a minimal impact to daily operations. Total construction duration of all projects in the complete Project has been communicated to be 32 months.

The expansion of the existing convention center includes an addition of approximately 275,000 SF with two new exhibit halls, two new small ballrooms, thirteen new meeting rooms, new main lobby, new café, two secondary lobbies, and a new administration suite. The remodel of the existing convention center includes a heavy remodel of the existing meeting rooms, an expansion and heavy remodel of the existing ballrooms, an expansion and heavy remodel of the existing kitchen, and a light to moderate remodel of all other spaces. The construction budget for the expansion is approximately $300 million.

The new parking structure will be approximately 650,000 SF and five-stories, providing approximately 2,000 new parking spaces including 600 EV stations. The construction budget for the parking structure is approximately $130 million.

The new plaza will be approximately 200,000 SF and includes an event plaza, demonstration garden, public art and sculpture garden. The construction budget for the new plaza is approximately $6 million.

The new pedestrian bridge is approximately 275'-0" long and 12'-0" wide. The bridge will have stairs and an elevator at the hotel, and connect to the 2nd floor of the parking structure to utilize the stairs and elevator in the structure. The construction budget for the pedestrian bridge is not yet determined and a rough order of magnitude of $6 million is currently being used to calculate CM Fees.

**Total CM Compensation**

| | |
|---|---|
| Current Construction Budget: | $442,000,000 |
| CM Fee (3.85%): | $17,017,000 |
| 1. Preconstruction: | $453,180 |
| 2. 15% of CM Fee: | $2,552,550 |
| 3. Total (1+2) | $3,005,730 |

**Preconstruction Services**

Preconstructions Services is based on a design/preconstruction duration identified in the attachment to this proposal. The preconstruction services amount shall be billed in equal monthly installments throughout the preconstruction phase. Preconstruction Services include the following for each phase of work/separate project:

- Management Oversight and Support, Meetings, Design Coordination
- Estimating (Schematic Design, Design Development, Construction Documents)
- Prepare Trade Scope Packages
- Bidding Support Services
- Value Engineering
- Constructability Review
- Scheduling & Logistics Planning
- Building Information Modeling (Clash Detection, Utility Modeling)
- Laser scanning and 3D modeling of existing conditions for design coordination

**CM Fee**

CM Fee shall be calculated on the anticipated cost of construction and shall be adjusted based upon the actual cost of construction using the fee percentage of 3.85%. Fifteen Percent (15%) of the CM Fee shall be paid during the design/preconstruction phase of the project and Eighty-Five Percent (85%) shall be paid during the construction phase of the project.

We look forward to continuing our relationship with the City of Ontario. Please do not hesitate to contact me with any questions.

Sincerely

Jason Howarth
*Project Executive*
**Tilden-Coil Constructors**
*Building with Integrity Since 1938*
P: 951.684.5901 Ext. 209

Tilden-Coil CONSTRUCTORS™
Building with Integrity Since 1938

# Tilden-Coil Constructors, Inc.
# Billable Rates Ontario Convention Center Expansion

Rates include escalation through ***July 2028*** and shall be subject to adjustment annually in alignment with the consumer price index for the area.

| Position | Hourly Rate |
|---|---|
| Project Executive | $187.00 |
| Production Director | $187.00 |
| Safety Officer | $139.00 |
| Sr. Project Manager | $156.00 |
| Sr. Superintendent | $156.00 |
| Project Manager | $139.00 |
| Assistant Project Manager | $129.00 |
| Superintendent | $139.00 |
| Area/Assistant Superintendent | $127.00 |
| Scheduler | $158.00 |
| BIM Manager | $175.00 |
| BIM Specialist | $151.00 |
| BIM Technician | $135.00 |
| TCC Survey | $151.00 |
| Preconstruction Manager | $136.00 |
| Sr. Project Engineer | $124.00 |
| Project Engineer | $113.00 |
| Estimator | $106.00 |
| Preconstruction Coordinator | $64.00 |
| Labor Compliance Coordinator | $72.00 |
| Accountant | $108.00 |
| Sr. Project Administrator | $79.00 |
| Project Administrator | $70.00 |
| Project Engineer Intern | $43.00 |
| Field Labor | $103.00 |

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Information Technology<br>Prepared By: Samantha Robles<br>Staff Member Presenting: Colin Fernandes, Executive Director Information Technology<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 10 |

**SUBJECT: AN AMENDMENT TO THE AGREEMENT WITH CENTRALSQUARE TECHNOLOGIES, LLC., FOR 911 DISPATCH SYSTEM**

**RECOMMENDATION:** That the City Council authorize the City Manager or his designee to execute Amendment No. 2 to the Solutions Agreement with CentralSquare Technologies, LLC., of Lake Mary, Florida, for the use of Computer-Aided Dispatch (CAD) and Records Management Systems (RMS), used by the Police and Fire Departments to extend the terms for one year with an optional renewal period for two years in the amount not-to-exceed $1,961,717.

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

**FISCAL IMPACT:** The Fiscal Year 2024-25 Adopted Budget includes appropriations from the Information Technology Fund for annual support services for CentralSquare, LLC. The annual licensing and support cost for year one was $313,202, and for year two was $328,863, and the cost of $50,700 was a one-time service fee plus a $50,000 contingency for training and conversion support for a total contract amount not-to-exceed $742,765.

The proposed Amendment term to the Solutions Agreement will be for one additional year, with an optional renewal period for two years, and increases the authorized contract amount by $1,218,952, which includes $348,762 for year one, $366,200 for year two, $384,510 for year three, a one-time fee for $8,580 and a 10% contingency fee in the amount of $110,900 for a total not-to-exceed contract amount of $1,961,717. The fixed billing rates specified in the current Agreement will determine the amount charged for services and reflect the actual services provided. If approved, appropriations will be added to the future years' budgets consistent with the annual budget adoption process.

**BACKGROUND & ANALYSIS:** The City's Police and Fire Departments use a Computer-Aided Dispatch (CAD) to receive 911 calls and coordinate responses. The system provides software tools for the City's dispatchers and the software used in the City's Police vehicles. In addition to the CAD system, the Police Department uses CentralSquare's Records Management System (RMS) to document law enforcement reports, manage cases, and compile crime statistics for reporting to

state and federal authorities.

In 2004, the City of Ontario implemented the CAD and RMS systems developed by Tiburon. Since then, Tiburon has undergone several acquisitions and is currently owned by CentralSquare. The version of the software the City uses presently is becoming obsolete and is not getting new features to keep it up-to-date and on par with newer software available in the marketplace.

In 2023, recognizing the need for an updated solution, City Staff initiated a Request for Proposal (RFP) process. This comprehensive process was designed to solicit and evaluate new software options to replace the existing CAD and RMS systems. After a thorough review, a new software solution was selected, and Staff is currently working on implementing these new systems. Implementing the new CAD and RMS systems is a significant undertaking that involves extensive planning, configuration, training, and testing to ensure a seamless transition. The project is expected to be completed by late Spring of 2026.

Given the projected timeline, it is essential to maintain the current systems until the new ones are fully operational. Therefore, Staff requests to renew and extend the existing licensing and support Agreement with CentralSquare for a one-year renewal with an optional two-year renewal period in the amount not to exceed $1,961,717. This extension will ensure that the City's emergency services continue to function without interruption, providing reliable support to the community while the transition is underway.

**AMENDMENT #2 TO THE CENTRALSQUARE SOLUTIONS AGREEMENT**

This Amendment (the "Amendment") amends the CentralSquare Solutions Agreement entered into by and between CentralSquare Technologies, LLC ("CentralSquare") and Ontario Police Department, CA ("Customer") with an Effective Date of **July 18th, 2023**, as amended by Amendment #1 dated August 29, 2023 (the "Agreement") expressly as provided for in this Amendment.

WHEREAS, Customer and CentralSquare desire to amend the Agreement to include additional software maintenance items and extend the term of the Agreement.

The Execution Date of this Amendment is the latest date shown on the signature page of this Amendment.

Customer and CentralSquare, intending to be legally bound, agree as follows:

1. Defined Terms. Except as otherwise set forth herein, each defined term in the Agreement has the meaning ascribed to that term in the Agreement when the term is used in this Amendment.

2. Amendment to and Modification of the Agreement.

The Agreement is amended and modified as follows:

a. To add annual software maintenance for Standard USDD Station Alert Interface and to add annual subscription fee for TC CAD Tablet Command Interface to Exhibit 1, as provided in Attachment 1.
b. The Term shall be extended from July 18, 2024, to July 17, 2025.
c. Customer shall have the option to renew the Agreement automatically for no more than two (2) successive additional one-year terms, unless earlier terminated by advance written notice as provided in the Agreement.

3. Integration Provision. Except as expressly modified by this Amendment, the Agreement shall remain in full force and effect. As of the Execution Date, the Agreement, as further amended by this Amendment constitutes the entire understanding of the parties as regards the subject matter hereof and cannot be modified except by written agreement of the parties.

| **CentralSquare Technologies, LLC** | **Ontario Police Department, CA** |
|---|---|
| BY: _____ | BY: _____ |
| PRINT NAME: _____ | PRINT NAME: _____ |
| PRINT TITLE: _____ | PRINT TITLE: _____ |
| DATE SIGNED: _____ | DATE SIGNED: _____ |

**ATTACHMENT 1**

**Solutions(s) and Services Fee Schedule**

| Ontario Police Department, CA | | Y1 | Optional Y2 | Optional Y3 |
|---|---|---|---|---|
| Product Name | Qty | 7/18/2024 - 7/17/2025 | 7/18/2025 - 7/17/2026 | 7/18/2026 - 7/17/2027 |
| TC CAD ASAP Interface Annual Subscription Annual Subscription Fe | 1 | $224,802.67 | $236,042.80 | $247,844.94 |
| E124617 Annual Maintenance Fee | 1 | $7,898.09 | $8,292.99 | $8,707.64 |
| Escrow Annual Maintenance Fee | 1 | $0.00 | $0.00 | $0.00 |
| GCT Annual Maintenance Fee | 1 | $3,276.75 | $3,440.59 | $3,612.62 |
| LawRECORDS Annual Maintenance Fee | 1 | $69,115.90 | $72,571.70 | $76,200.28 |
| MSS Annual Maintenance Fee | 1 | $0.00 | $0.00 | $0.00 |
| 911 Mapping Annual Maintenance Fee | 1 | $0.00 | $0.00 | $0.00 |
| ARS/MobileCOM Annual Maintenance Fee | 1 | $13,834.14 | $14,525.85 | $15,252.14 |
| Automated Vehicle Location (AVL) Annual Maintenance Fee | 1 | $0.00 | $0.00 | $0.00 |
| CARS Data Warehouse Annual Maintenance Fee | 1 | $0.00 | $0.00 | $0.00 |
| CommandCAD Annual Maintenance Fee | 1 | $0.00 | $0.00 | $0.00 |
| Coplogic (TB) Annual Maintenance Fee | 1 | $10,039.35 | $10,541.32 | $11,068.38 |
| Standard USDD Station Alert Interface Annual Maintenance Fee | 1 | $5,094.43 | $5,349.15 | $5,616.61 |
| Total | | **$334,061.33** | **$350,764.40** | **$368,302.62** |

| Product Name | Qty | 3/18/2025 - 3/17/2026 | 3/18/2026 - 3/17/2027 | 3/18/2027 - 3/17/2028 |
|---|---|---|---|---|
| TC CAD Tablet Command Interface (OP) Annual Subscription Fee | 1 | $14,700.00 | $15,435.00 | $16,206.75 |
| Total | | **$14,700.00** | **$15,435.00** | **$16,206.75** |

**Payment Terms:**

a. If applicable, License Fees are due on the Delivery Date.
b. If applicable, Support & Maintenance Fees are due annually beginning prior to the first anniversary of the Delivery Date and annually thereafter.
c. If applicable, Annual Subscription Fees are due on the Delivery Date, and annually thereafter on the anniversary of the Delivery Date.
d. Annual Software Maintenance Fees and Annual Subscription Fees shall increase by 5% year over year.
e. If applicable, non-subscription Hardware Fees are due on the Effective Date.
f. If applicable, Third-Party Fees are due on the Effective Date.
g. If applicable, Travel expenses shall be due as incurred, invoiced on a monthly basis for the travel expenses incurred in the preceding month.

**Invoice Terms:**

CentralSquare shall provide an invoice for the items in the schedule above no less than thirty (30) days prior to the due date.

**ANCILLARY FEES**

a. Customer is responsible for paying all taxes relating to this Agreement. Applicable tax amounts (if any) are not included in the fees set forth in this Agreement. If Customer is exempt from the payment of any such taxes, Customer must provide CentralSquare valid proof of exemption; otherwise, CentralSquare will invoice Customer and Customer will pay to CentralSquare all such tax amounts.
b. To the extent allowable by law, if Customer fails to make any payment when due, then CentralSquare may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly, or, if lower, the highest rate permitted under applicable law; and if such failure continues for 90 days following written notice thereof, CentralSquare may suspend performance or access until past due amounts have been paid.

# Summary of Services

### Project: Ontario Police, CA: Change Order:TotalCOMMAND Rehost – Add Webquery

The parties mutually agree and acknowledge this Summary of Services is a high-level overview of the project requested, not a detailed requirements or design of solution.

### Project Scheduling

Parties agree a schedule will be provided for services within sixty (60) days from the execution of the above quote number.

### Change Requests

The parties may request a change to this summary of services, to increase hours or deliverables, through a written request to the CentralSquare project manager or resource.

### Professional Services

Throughout the course of the project, CentralSquare will use several types of services (defined herein) to complete the necessary steps for successful deployment of the contracted services. The overall services aligned to implementation include Project Management, Consulting Services, Technical Services, Data Conversion Services, Training Services, and in some cases, Installation Services.

### Business Hours

All project services will be performed during normal business hours, defined as 8:00-5:00 PM Eastern Time. If Client desires to perform the services outside of these hours, additional fees will apply.

### CentralSquare Connectivity to On-Premise Systems

The BeyondTrust/Bomgar and/or SecureLink remote support solutions shall be the method of remote access to on-premises customer systems and/or data. These solutions meet all requirements as contained in Section 5.5.6 of the FBI CJIS Security Policy (Remote Access). Use of either of these solutions enable customer agencies to remain CJIS compliant for purposes of FBI and/or state regulatory agency audits.

In addition to the above, the PSJ ProSuite application utilizes SSH connectivity to maintain a persistent connection to the appliance/s. The 911 application utilizes Kaseya for application and/or support needs. These solutions are only utilized for these specific applications in addition to Bomgar and/or SecureLink.

### Services Scope of Project

The project includes the following scope of services.

The following Servers will be rehosted from their current Operating Systems and SQL Server Versions to the latest supported Operating Systems and SQL Server versions for the products.

**Server List:**

PD-RMS-TST – WebQuery Server - - PD-RMS-TST also currently hosts the TRN RMS environment, but this will not be moved to the New server and will be retained on the PD-RMS-TST server.

High Level Overview:

CentralSquare Technical Services will validate all servers and migrate servers and services and lead the Go Live event.

CentralSquare RMS\Web Engineering will rehost the WebQuery application, deploy all necessary known patches to these specific applications, and be on Standby for the Go Live Event. CentralSquare engineering will install the Edge Compatible WebQuery and update the TC RMS system to point to the new Edge Browser on the rehosted server.

### Project Order of Events

- Hardware\Virtual Specification review – aided by a sizing spreadsheet, DBA database growth projection.
- Server deployment by Client.
- Server verification by Technical Services Engineer.
- Installation of CentralSquare software (Technical Services Engineer, Records Engineer).
- Testing and validation of CentralSquare software.
- Add to Scheduled Go Live event.
- Go Live preparation.
- Go Live

### Assumptions and Client Responsibilities

- Implementation will be carried out remotely during CentralSquare's regular business hours unless specifically noted in Services Scope. Services are proposed for delivery during normal business hours. To ensure the success of every project and availability of support resources from Central Square and various third-party vendors, which vary from site to site, certain limitations are imposed, and a specific definition of business hours is defined. Services outside of normal business hours shall be scheduled between the hours of 5pm EST Monday and be completed no later than 5pm EST Thursday and incur additional costs. Delivery of all services will be scheduled to avoid all Client, Central Square and/or nationally recognized holidays.
- Client to supply hardware, virtualization software, Operating System licensing, SQL Server licensing and licensing of any other third-party hardware or software not specifically listed in the quote or Services Scope.
- Client to install hardware, create virtual machines and install Operating Systems unless specified as a CentralSquare or partner responsibility in the quote or Services Scope.
- Client will maintain remote connectivity to the site through CentralSquare's preferred remote connectivity solution.
- CentralSquare staff will be permitted console access to all servers.
- CentralSquare staff will be permitted SQL administrator access to all database instances.
- Client will adhere to minimum specifications and disk space recommendations and guidelines as documented in the Minimum Specifications guidelines, VMWare Guidelines and the client-specific specifications documented by the CentralSquare project team as a project artefact.
- Client to ensure any client-installed third-party software (for example utilities for backups, antivirus) are certified to operate on the new operating system.
- The client will be responsible for any physical connections to the servers such as serial interface connections.
- Client will adhere to CAD Network guidelines document regarding Firewalling, Backups and Antivirus on new servers.
- During the staging process no new builds or configuration changes are recommended in any environment to be rehosted. If necessary, changes are to be coordinated through the Project Manager as well as Client Support. Some changes may require a Change Order to the project.
- Any Software client and\or reports installation\reconfiguration, if needed, to be carried out by client
- Client provides File Maintenance administrator access for any CAD installation.

- Clients will ensure CAD Operators and Passwords desired in use for servers are documented and available for the installation team.
- It is assumed the server names and IP addresses of the old servers will be maintained for the new servers at the point of Go Live.
- The client is responsible for bringing the old servers online for the rest of the Go Live week on different IP addresses\machine names for reference purposes (and any potential roll back). After this period, they can be decommissioned.
- Does not include a production DR failover test unless specified in the Purchase Order.
- The client is responsible for the migration of any customized SSRS reports and associated custom data sources from the old server to the new server. The client is responsible for re-implementing customized security ACLs on SSRS Report directories.
- Reported defects must first be verified not to be an issue in their current production environment before they will be corrected as part of the re-hosting effort.  Any defects found that also exist in the current production environment will be resolved based on terms and conditions in the existing maintenance agreement.

CENTRALSQUARE

# Change Order

**Quote prepared on:**
February 15, 2024
**Quote prepared by:**
Jill Zimmerman
jill.zimmerman@centralsquare.com

**Quote #:** Q-167954
**Primary Quoted Solution:** Tiburon
**Quote expires on:** August 13, 2024
**Change Order in reference to:** Q-134897

**Quote prepared for:**
Albert Ilizaliturri
Ontario Police Department
2500 S Archibald Ave
Ontario, CA 91761
9093952092

Thank you for your interest in CentralSquare. CentralSquare provides software that powers over 8,000 communities. More about our products can be found at www.centralsquare.com.

## WHAT SERVICES ARE INCLUDED?

| | DESCRIPTION | TOTAL |
|---|---|---|
| 1. | Public Safety Development Services - Fixed Fee | 5,460.00 |
| 2. | Public Safety Project Management Services - Fixed Fee | 1,560.00 |
| 3. | Public Safety Technical Services - Fixed Fee | 1,560.00 |
| | **Services Total** | 8,580.00 USD |

## QUOTE SUMMARY

| | |
|---|---|
| **Services Subtotal** | 8,580.00 USD |
| **Quote Subtotal** | 8,580.00 USD |

CENTRALSQUARE

# Change Order

**Quote prepared on:**
February 15, 2024
**Quote prepared by:**
Jill Zimmerman
jill.zimmerman@centralsquare.com

| | |
|---|---|
| **Quote Total** | **8,580.00 USD** |

## WHAT ARE THE RECURRING FEES?

| TYPE | AMOUNT |
|---|---|
| FIRST YEAR MAINTENANCE TOTAL | 0.00 |
| FIRST YEAR SUBSCRIPTION TOTAL | 0.00 |
| FIRST YEAR RECURRING SERVICES TOTAL | 0.00 |

The amount totals for Maintenance and/or Subscription on this quote include only the first year of software use and maintenance.

Annual Maintenance and Subscriptions renewals shall be due on the anniversary of the Delivery Date*. Annual Maintenance and Subscription Fees are subject to increase as outlined in the Master Agreement.

*Delivery Date: For on-premise Solutions, Delivery shall be when CentralSquare delivers to Customer the initial copies of the Solutions outlined above by whichever the following applies and occurs first (a) electronic delivery, by posting it on CentralSquare's network for downloading, or similar suitable electronic file transfer method, or (b) physical shipment, such as on a disc or other suitable media transfer method, or (c) installation, or (d) delivery of managed services server. Physical shipment is on FOB - CentralSquare's shipping point, and electronic delivery is at the time CentralSquare provides Customer with access to download the Solutions. For cloud-based Solutions Delivery shall be whichever the following applies and occurs first when Authorized Users have (a) received log-in access to the Solution or any module of the Solution or (b) received access to the Solution via a URL.

## BILLING INFORMATION

Fees will be payable within 30 days of invoicing.

Please note that the Unit Price shown above has been rounded to the nearest two decimal places for display purposes only. The actual price may include as many as five decimal places. For example, an actual price of $21.37656 will be shown as a Unit Price of $21.38. The Total for this quote has been calculated using the actual prices for the product and/or service, rather than the Unit Price displayed above.

Prices shown do not include any taxes that may apply. Any such taxes are the responsibility of Customer. This is not an invoice.

**Quote prepared on:**
February 15, 2024
**Quote prepared by:**
Jill Zimmerman
jill.zimmerman@centralsquare.com

For customers based in the United States or Canada, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer on the Quote Form.

## PAYMENT TERMS

**License Fees & Annual Subscriptions**
- 100% Due Upon Contract Execution

**Contract Startup**
- 100% Due Upon Contract Execution

**Hardware & Third-Party Software**
- 100% Due Upon Contract Execution

**Services**
- Fixed Fee: 100% Due Upon Completion of Services
- Time & Material: Due as Incurred

**Third-Party Services**
- Fixed Fee: 50% Due Upon Contract Execution; 50% Due Upon Completion
- Time & Material: Due As Incurred

**Travel & Living Expenses**
- Due as Incurred

## PURCHASE ORDER INFORMATION

Is a Purchase Order (PO) required for the purchase or payment of the products on this Quote Form? (Customer to complete)

Yes [ ]  No [ ]

Customer's purchase order terms will be governed by the parties' existing mutually executed agreement, or in the absence of such, are void and will have no legal effect.

PO Number: _____

Initials: _____

CENTRALSQUARE

# Change Order

**Quote prepared on:**
February 15, 2024
**Quote prepared by:**
Jill Zimmerman
jill.zimmerman@centralsquare.com

**Ontario Police Department**

Signature: _____

Name: _____

Date: _____

Title: _____

CENTRALSQUARE

# Change Order

**Quote prepared on:**
February 15, 2024
**Quote prepared by:**
Jill Zimmerman
jill.zimmerman@centralsquare.com

**Quote #:** Q-167954
**Primary Quoted Solution:** Tiburon
**Quote expires on:** August 13, 2024
**Change Order in reference to:** Q-134897

**Quote prepared for:**
Albert Ilizaliturri
Ontario Police Department
2500 S Archibald Ave
Ontario, CA 91761
9093952092

Thank you for your interest in CentralSquare. CentralSquare provides software that powers over 8,000 communities. More about our products can be found at www.centralsquare.com.

## WHAT SERVICES ARE INCLUDED?

| | DESCRIPTION | TOTAL |
|---|---|---|
| 1. | Public Safety Development Services - Fixed Fee | 5,460.00 |
| 2. | Public Safety Project Management Services - Fixed Fee | 1,560.00 |
| 3. | Public Safety Technical Services - Fixed Fee | 1,560.00 |
| | **Services Total** | 8,580.00 USD |

## QUOTE SUMMARY

| | |
|---|---|
| **Services Subtotal** | 8,580.00 USD |
| **Quote Subtotal** | 8,580.00 USD |

CENTRALSQUARE

# Change Order

**Quote prepared on:**
February 15, 2024
**Quote prepared by:**
Jill Zimmerman
jill.zimmerman@centralsquare.com

| | |
|---|---|
| **Quote Total** | **8,580.00 USD** |

## WHAT ARE THE RECURRING FEES?

| TYPE | AMOUNT |
|---|---|
| FIRST YEAR MAINTENANCE TOTAL | 0.00 |
| FIRST YEAR SUBSCRIPTION TOTAL | 0.00 |
| FIRST YEAR RECURRING SERVICES TOTAL | 0.00 |

The amount totals for Maintenance and/or Subscription on this quote include only the first year of software use and maintenance.

Annual Maintenance and Subscriptions renewals shall be due on the anniversary of the Delivery Date*. Annual Maintenance and Subscription Fees are subject to increase as outlined in the Master Agreement.

*Delivery Date: For on-premise Solutions, Delivery shall be when CentralSquare delivers to Customer the initial copies of the Solutions outlined above by whichever the following applies and occurs first (a) electronic delivery, by posting it on CentralSquare's network for downloading, or similar suitable electronic file transfer method, or (b) physical shipment, such as on a disc or other suitable media transfer method, or (c) installation, or (d) delivery of managed services server. Physical shipment is on FOB - CentralSquare's shipping point, and electronic delivery is at the time CentralSquare provides Customer with access to download the Solutions. For cloud-based Solutions Delivery shall be whichever the following applies and occurs first when Authorized Users have (a) received log-in access to the Solution or any module of the Solution or (b) received access to the Solution via a URL.

## BILLING INFORMATION

Fees will be payable within 30 days of invoicing.

Please note that the Unit Price shown above has been rounded to the nearest two decimal places for display purposes only. The actual price may include as many as five decimal places. For example, an actual price of $21.37656 will be shown as a Unit Price of $21.38. The Total for this quote has been calculated using the actual prices for the product and/or service, rather than the Unit Price displayed above.

Prices shown do not include any taxes that may apply. Any such taxes are the responsibility of Customer. This is not an invoice.

**Quote prepared on:**
February 15, 2024
**Quote prepared by:**
Jill Zimmerman
jill.zimmerman@centralsquare.com

For customers based in the United States or Canada, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer on the Quote Form.

## PAYMENT TERMS

**License Fees & Annual Subscriptions**
- 100% Due Upon Contract Execution

**Contract Startup**
- 100% Due Upon Contract Execution

**Hardware & Third-Party Software**
- 100% Due Upon Contract Execution

**Services**
- Fixed Fee: 100% Due Upon Completion of Services
- Time & Material: Due as Incurred

**Third-Party Services**
- Fixed Fee: 50% Due Upon Contract Execution; 50% Due Upon Completion
- Time & Material: Due As Incurred

**Travel & Living Expenses**
- Due as Incurred

## PURCHASE ORDER INFORMATION

Is a Purchase Order (PO) required for the purchase or payment of the products on this Quote Form? (Customer to complete)

Yes [ ]  No [ ]

Customer's purchase order terms will be governed by the parties' existing mutually executed agreement, or in the absence of such, are void and will have no legal effect.

PO Number: _____

Initials: _____

CENTRALSQUARE

# Change Order

**Quote prepared on:**
February 15, 2024
**Quote prepared by:**
Jill Zimmerman
jill.zimmerman@centralsquare.com

**Ontario Police Department**

Signature: _____

Name: _____

Date: _____

Title: _____

## ATTACHMENT 2

## Amendment #1 to the CentralSquare Solutions Agreement

# AMENDMENT #1 TO THE CENTRALSQUARE SOLUTIONS AGREEMENT

This Amendment (the "Amendment") amends the CentralSquare Solutions Agreement entered into by and between CentralSquare Technologies, LLC ("CentralSquare") and Ontario Police Department, CA ("Customer") with an Effective Date of **July 18th, 2023** (the "Agreement") expressly as provided for in this Amendment.

WHEREAS, the Ontario Police Department would like to purchase TotalCOMMAND Rehost Services as seen in Attachment 1.

The Execution Date of this Amendment is the latest date shown on the signature page of this Amendment.

Customer and CentralSquare, intending to be legally bound, agree as follows:

1. Defined Terms. Except as otherwise set forth herein, each defined term in the Agreement has the meaning ascribed to that term in the Agreement when the term is used in this Amendment.

2. Amendment to and Modification of the Agreement.

The Agreement is amended and modified as follows:

- The TotalCOMMAND Rehost will be added to the CentralSquare Solutions Agreement (found in Attachment 2) for the services and costs set forth in Attachment 1. The costs for the TotalCOMMAND Rehost will be due in accordance with the Payment Schedule set forth below:
    - **Payment Schedule**:

      **Services**

      50% due upon execution of this Amendment

      50% due upon completion of Services

3. Integration Provision. Except as expressly modified by this Amendment, the Agreement shall remain in full force and effect. As of the Execution Date, the Agreement, as further amended by this Amendment constitutes the entire understanding of the parties as regards the subject matter hereof and cannot be modified except by written agreement of the parties.

**CentralSquare Technologies, LLC**

DocuSigned by:

BY: Ron Anderson

D0E45FA2938A4EB...

PRINT NAME: Ron Anderson

PRINT TITLE: Chief Sales Officer

DATE SIGNED: 8/29/2023

**Ontario Police Department, CA**

DocuSigned by:

BY: Darlene M. Sanchez

4EBBC94B1E164B1...

PRINT NAME: Darlene M. Sanchez

PRINT TITLE: Assistant City Manager

DATE SIGNED: 8/29/2023

**ATTACHMENT 1**

**Quote and Summary of Services**

**Quote #:** Q-134897
**Primary Quoted Solution:** Tiburon
**Quote expires on:** August 31, 2023

**Quote prepared for:**
Jordan Villwock
Ontario Police Department
2500 S Archibald Ave
Ontario, CA 91761
9093952092

Thank you for your interest in CentralSquare. CentralSquare provides software that powers over 8,000 communities. More about our products can be found at www.centralsquare.com.

## WHAT SERVICES ARE INCLUDED?

| | DESCRIPTION | TOTAL |
|---|---|---|
| 1. | Public Safety Development Services - Fixed Fee | 9,360.00 |
| 2. | Public Safety Project Management Services - Fixed Fee | 8,580.00 |
| 3. | Public Safety Technical Services - Fixed Fee | 32,760.00 |
| | **Services Total** | 50,700.00 USD |

## QUOTE SUMMARY

| | |
|---|---|
| **Services Subtotal** | 50,700.00 USD |
| **Quote Subtotal** | 50,700.00 USD |

| | |
|---|---|
| **Quote Total** | **50,700.00 USD** |

## WHAT ARE THE RECURRING FEES?

| TYPE | AMOUNT |
|---|---|
| FIRST YEAR MAINTENANCE TOTAL | 0.00 |
| FIRST YEAR SUBSCRIPTION TOTAL | 0.00 |

The amount totals for Maintenance and/or Subscription on this quote include only the first year of software use and maintenance. Renewal invoices will include this total plus any applicable uplift amount as outlined in the relevant purchase agreement.

This Quote is not intended to constitute a binding agreement. The terms herein shall only be effective once incorporated into a definitive written agreement with CentralSquare Technologies (including its subsidiaries) containing other customary commercial terms and signed by authorized representatives of both parties.

## BILLING INFORMATION

Fees will be payable within 30 days of invoicing.

Please note that the Unit Price shown above has been rounded to the nearest two decimal places for display purposes only. The actual price may include as many as five decimal places. For example, an actual price of $21.37656 will be shown as a Unit Price of $21.38. The Total for this quote has been calculated using the actual prices for the product and/or service, rather than the Unit Price displayed above.

Prices shown do not include any taxes that may apply. Any such taxes are the responsibility of Customer. This is not an invoice.

For customers based in the United States or Canada, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer on the Quote Form.

## PURCHASE ORDER INFORMATION

Is a Purchase Order (PO) required for the purchase or payment of the products on this Quote Form? (Customer to complete) Yes [ ] No [ ]

Customer's purchase order terms will be governed by the parties' existing mutually executed agreement, or in the absence of such, are void and will have no legal effect.

PO Number: _____

Initials: _____

DocuSign Envelope ID: 37EC6F8D-BE53-4722-9191-F5AF3C2BA7EC

# Summary of Services

## Project: Ontario Police, CA, TotalCOMMAND Rehost.

The parties mutually agree and acknowledge this Summary of Services is a high-level overview of the project requested, not a detailed requirements or design of solution.

## Project Scheduling

Parties agree a schedule will be provided for services within sixty (60) days from the execution of the above quote number.

## Change Requests

The parties may request a change to this summary of services, to increase hours or deliverables, through a written request to the CentralSquare project manager or resource.

## Services Scope of Project

The project includes the following scope of services.

The following Servers will be rehosted from their current Operating Systems and SQL Server Versions to the latest supported Operating Systems and SQL Server versions for the products.

**Note** for Disaster Recovery SQL Server protected systems the SQL Server version of Production must match the SQL Server version of the DR site.

**Note:** In some cases, SQL Server versions must match between certain server groups – example of these being SQL Replication partners, SQL Server versions per product across installed instances (i.e. Production and Test must match for refresh purposes), SQL Server versions for integrated products within a product line, SQL Cluster nodes:

| Server Name | Applications |
|---|---|
| ont-pdcadmss01 | CommandCAD, 911 Map, RfmtDESIGNER, Paging I/F, State Interface |
| ont-pdcadapp01 | CommandCAD, 911 Map |
| PD-caddb | File Maintenance, LVS- Test |
| PD-CADDBCL | CAD Database Server |
| TESTCAD11271 | CommandCAD, 911 Map, RfmtDESIGNER - TEST |
| PD-WHdb | 911 Map, Distribution |
| PD-CADFM | File Maintenance, LVS |
| CADSITE2 | CommandCAD, File Maintenance, 911 Map, AMR Interface PAMR printer - SITE 2 |

| | |
|---|---|
| ONT-PDCADMAP | MapSetup |
| PD-WHDBCL | Data Warehouse |

High Level Overview:

CentralSquare Technical Services will validate all servers and migrate all other servers and services and lead the Go Live event.

CentralSquare DBA will migrate databases, logins, jobs, and additional database instance configuration.

Neither RMS nor WebQuery will be rehosted in this project. To allow for CentralSquare and the Ontario Police Department to test CAD on the rehosted servers (Preproduction), a copy of the current production WebQuery application will be installed on the current WebQuery production server with the configuration pointed to the new CAD environment, and unit test to confirm connectivity. WebQuery testing will be remotely supported. During cutover, it is assumed the new CAD server IP addresses will be updated to be the same as the current CAD production servers, allowing the existing WebQuery application to connect as it currently does. After the Ontario Police Department is live on the new servers and stable, the duplicated WebQuery environment will be removed.

The CAD interfaces team will remotely support the installation team should they encounter any issues rehosting or the client report any issues during testing or cutover.

Prior to the rehost, Ontario Police Department must upgrade their existing CAD application from 2.9.1.23.88 to the latest available 2.9.2 version as the 2.9.1 version is not compatible to run on the Windows Server 2022 Operating System. There is no cost for upgrading the application version. The client must reach out to CST Support to request an upgrade and promote the new version into production after testing.

After the rehost is completed Ontario Police Department can request a 2.10 version upgrade following the same process.

Project Order of Play:

- Internal Kickoff Meeting, Project Review
- Project Assignments, Staff clearances and site connectivity verification
- Client Kick off meeting (to include Technical Services Engineer, Interface Engineer, DBA, Records Engineer, or managers)
- Development of schedule and timeline
- Hardware\Virtual Specification review – aided by a sizing spreadsheet, DBA database growth projection
- Server deployment by Client
- Server verification by Technical Services Engineer
- Installation of SQL Server (either CentralSquare or CentralSquare to provide documentation and verification)
- DBA review, verification, and modification of SQL installation.
- Migration of databases (from backups, for staging). Timing of database migration.
- Migration of SQL Users, jobs

- Installation of CentralSquare software and interfaces (Technical Services Engineer, Records Engineer, Interface Engineer)
- Testing and validation of CentralSquare software
- Testing of CentralSquare interfaces if supported by Client and third party.
- WebQuery Testing
- Schedule Go Live event.
- Go Live preparation.
- Go Live:
    - Log off users, Database in Read only mode
    - Final backup
    - Shut down\disable database server SQL instance
    - Migrate and restore database(s)
    - Rename and Re-IP Database server and SQL instance
    - DBA validation, configure and run backup
    - Database server brought into operation
    - Rename and Re-IP old server and bring online
    - On each additional server, shutdown of applications\services to prevent logins or configuration changes, rename and re-IP of servers, bring new server online and test application sand interfaces in turn.
    - Bring each old server up on different names and IP addresses (for reference purposes)
    - Troubleshoot any issues
    - After Client sanction, shut down old machines. Client to decommission.

## Assumptions and Client Responsibilities

- The current WebQuery server has sufficient disk space and memory to allow for a second instance (copy) to be installed and run.
- Implementation will be carried out remotely during CentralSquare's regular business hours unless specifically noted in Services Scope. Services are proposed for delivery during normal business hours. To ensure the success of every project and availability of support resources from Central Square and various third party vendors, which vary from site to site, certain limitations are imposed, and a specific definition of business hours is defined. For the purpose of scheduling such activities, business hours are defined as 9am-5pm EST, Monday thru Friday, excluding holidays. Services outside of normal business hours shall be scheduled between the hours of 5pm EST Monday and be completed no later than 5pm EST Thursday and incurs additional costs. Delivery of all services will be scheduled to avoid all client, Central Square and/or nationally recognized holidays.
- Client to supply hardware, virtualization software, Operating System licensing, SQL Server licensing and licensing of any other third party hardware or software not specifically listed in the quote or Services Scope.
- Client to install hardware, create virtual machines and install Operating Systems unless specified as a CentralSquare or partner responsibility in the quote or Services Scope.
- Customer installs SQL server per CentralSquare guidelines or provides SQL Media and license key for CentralSquare installation.
- Client will maintain remote connectivity to the site either through CentralSquare's preferred remote connectivity solution, or a mutually agreed upon alternative.
- CentralSquare staff will be permitted console access to all servers.
- CentralSquare staff will be permitted SQL administrator access to all database instances.

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- Client will adhere to minimum specifications and disk space recommendations and guidelines as documented in the Minimum Specifications guidelines, VMWare Guidelines and the client-specific specifications documented by the CentralSquare project team as a project artefact.
- Client to ensure any client-installed third party software (for example utilities for backups, antivirus) are certified to operate on the new operating system.
- Client will be responsible for any physical connections to the servers such as serial interface connections.
- Client will adhere to CAD Network guidelines document regarding Firewalling, Backups and Antivirus on new servers.
- Client will ensure NICs conform to CAD Network Guidelines and appropriate ports are open for CAD join operation and communication with database, and client connection to distribution points.
- During the staging process no new builds or configuration changes are recommended in any environment to be rehosted. If necessary, changes are to be coordinated through the Project Manager as well as Client Support. Some changes may require a Change Order to the project.
- Any Software client and\or reports installation\reconfiguration, if needed, to be carried out by client
- Third party interface network access to new SQL databases the responsibility of the client. Client to notify third party vendors of the server move to line up support as necessary.
- Client is responsible for setting up Printer drivers for printers on the servers where they are required.
- Client provides File Maintenance administrator access for any CAD installation.
- Client will ensure CAD Operators and Passwords desired in use for servers are documented and available for the installation team.
- It is assumed the server names and IP addresses of the old servers will be maintained for the new servers at the point of Go Live.
- Client is responsible for bringing the old servers online for the rest of the Go Live week on a different IP addresses\machine names for reference purposes (and any potential roll back). After this period, they can be decommissioned.
- Does not include a production DR failover test unless specified in the Purchase Order.
- Client will assist with any network copy operations for database migrates.
- If Oracle is the database platform the Oracle client installation and reconfiguration, if needed, will be carried out by the Client.
- Client is responsible for the migration of any customized SSRS reports and associated custom data sources from the old server to the new server. Client is responsible for re-implementing customized security ACLs on SSRS Report directories.
- Reported defects must first be verified not to be an issue in their current production environment before they will be corrected as part of the re hosting effort. Any defects found that also exist in the current production environment will be resolved based on terms and conditions in the existing maintenance agreement.

## Project Management

Even in smaller, less complex projects, there needs to be a point of contact and someone driving a project to successful completion. CentralSquare's Implementation Methodology ensures a project has the right amount of oversight needed to successfully complete the work, no more no less. A CentralSquare Project Manager will be your point of contact for the scoped work with you to develop a timeline to meet your needs, drive the timeline to completion, work to resolve any issues that may arise during the life of the project, all while keeping you up to date so you have the peace of mind your project is on track for a successful completion.

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## Professional Services

Throughout the course of the project, CentralSquare will use several types of services (defined herein) to complete the necessary steps for successful deployment of the contracted services. The overall services aligned to implementation include Consulting Services, Technical Services, Data Conversion Services, Training Services, and in some cases, Installation Services.

# ATTACHMENT 3

## CentralSquare Solutions Agreement

## CentralSquare Solutions Agreement

This CentralSquare Solutions Agreement (the "**Agreement**"), effective as of July 18, 2023 (the "**Effective Date**"), is entered into between **CentralSquare Technologies, LLC**, a Delaware Limited Liability Company with its principal place of business in Lake Mary, FL ("**CentralSquare**") and the **Ontario Police Department, CA** ("**Customer**"), together with CentralSquare, the "**Parties**", and each, a "**Party**".

**WHEREAS**, CentralSquare licenses and gives access to certain software applications ("**Solutions**") to its customers and also provides maintenance, support, migration, installation and other professional services; and

**WHEREAS**, Customer desires to license and/or gain access to certain Solutions and receive professional services described herein, and CentralSquare desires to grant and provide Customer license and access to such offerings as well as to provide support and maintenance, subject to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by the signatures of their duly authorized representative below, the Parties intending to be legally bound, agree to all of the following provisions and exhibits of this Agreement:

| CentralSquare Technologies, LLC | Ontario Police Department |
|---|---|
| 1000 Business Center Dr.<br>Lake Mary, FL 32746 | 2500 S. Archibald Ave.<br>Ontario, CA 91761 |
| By: DocuSigned by: Ron A. Anderson 875BF1AD774045B... | By: |
| Print Name: Ron A. Anderson | Print Name: |
| Print Title: Chief Sales Officer | Print Title: |
| Date Signed: 6/28/2023 | Date Signed: |

**Solution: Public Safety & Justice – Tiburon PSJ / PSJ Enterprise**

**Term.**

Initial Term. The Initial Term of this Agreement shall be in effect for one (1) year from July 18, 2023, to July 17, 2024, unless terminated earlier pursuant to any of the Agreement's express provisions (the "**Initial Term**").

Renewal Term. The **Customer** shall have the option to renew for an additional successive one (1) year term unless earlier terminated pursuant to any of the Agreement's provisions (a "**Renewal Term**" and, collectively, with the Initial Term, the "**Term**").

Non-Renewal. Either Party may elect to end renewal of the Agreement by issuing a notice of non-renewal, in writing, to the other Party six (6) months prior to the expiration of the Agreement term.

**Fees.**

In consideration of the rights and services granted by CentralSquare to Customer under this Agreement, Customer shall make payments to CentralSquare pursuant to the amounts and payment terms outlined in Exhibit 1 (the Solutions(s) and Services Fee Schedule).

All invoices shall be billed and paid in U.S dollars (USD) and in accordance with the terms set forth in Exhibit 1. If Customer delays an invoice payment for any reason, Customer shall promptly notify CentralSquare in writing the reasons for such delay. Unless otherwise agreed by both Parties, CentralSquare may apply any payment received to any delinquent amount outstanding.

## Standard Terms and Conditions

1. **Definitions**. Capitalized terms not otherwise defined in this Agreement have the meanings set forth below:

   1.1. "**Affiliate**" means any other Entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Entity.

   1.2. "**Authorized User**" means Customer's employees, consultants, contractors, and agents who are authorized by Customer to access and use the Solutions pursuant to this Agreement, and for whom access to the Solutions has been purchased.

   1.3. "**Baseline Solution**" means the version of a Solution updated from time to time pursuant to CentralSquare's warranty services and maintenance, but without any other modification.

   1.4. "**CentralSquare Systems**" means the information technology infrastructure used by or on behalf of CentralSquare to deliver the Solutions, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by CentralSquare or through the use of third-party services.

   1.5. "**Customer Data**" means information, data, and content, in any form or medium, collected, downloaded, or otherwise received, directly or indirectly from Customer, an Authorized User or end-users by or through the Solutions, provided the data is not personally identifiable and not identifiable to Customer.

   1.6. "**Customer Systems**" means the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated by Customer or through the third-party services.

   1.7. "**Defect**" means a material deviation between the Baseline Solution and its Documentation, for which Customer has given CentralSquare sufficient information to enable CentralSquare to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under CentralSquare's control. Further, with regard to any custom modification, Defect means a material deviation between the custom modification and the CentralSquare generated specification and Documentation for such custom modification, and for which Defect Customer has given CentralSquare sufficient information to enable CentralSquare to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under CentralSquare's control.

   1.8. **"Delivery"** means:

      1.8.1. For on-premise Solutions, Delivery shall be when CentralSquare delivers to Customer the initial copies of the Solutions outlined in Exhibit 1 by whichever the following applies and occurs first (a) electronic delivery, by posting it on CentralSquare's network for downloading, or similar suitable electronic file transfer method, or (b) physical shipment, such as on a disc or other suitable media transfer method, or (c) installation, or (d) delivery of managed services server. Physical shipment is on FOB - CentralSquare's shipping point, and electronic delivery is at the time CentralSquare provides Customer with access to download the Solutions.

      1.8.2. For cloud-based Solutions Delivery shall be whichever the following applies and occurs first when Authorized Users have (a) received log-in access to the Solution or any module of the Solution or (b) received access to the Solution via a URL.

   1.9. "**Documentation**" means any manuals, instructions, or other documents or materials that CentralSquare provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Solution(s), including any aspect of its installation, configuration, integration, operation, use, support, or maintenance.

   1.10. "**Entity**" means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other organization.

   1.11. **"Hardware"** means any equipment, computer systems, servers, storage devices, peripherals, and any other tangible assets purchased under this Agreement.

   1.12. "**Intellectual Property Rights**" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

   1.13. "**Managed Services Hardware**" means any equipment, computer systems, servers, peripherals, and any other tangible asset purchased as a subscription under this Agreement.

   1.14. "**Maintenance**" means optimization, error correction, modifications, and Updates (defined herein) to CentralSquare Solutions to correct any known Defects and improve performance. Maintenance will be provided for each Solution, the hours and details of which are described in Exhibit 2 (Maintenance & Support) or Exhibit 8 (Managed Services Provisions) if applicable.

   1.15. "**New or Major Releases**" means new versions of a Baseline Solution (e.g., version 4.0, 5.0 etc.) not provided as part of Maintenance.

   1.16. "**Personal Information**" means any information that does or can identify a specific individual or by or from which a specific individual may be identified, contacted, or located. Personal Information includes all "nonpublic personal information" as defined under the Gramm-Leach-Bliley Act, "protected health information" as defined under the Health and Insurance

Portability and Accountability Act of 1996, "Personal Data" as defined in the EU General Data Protection Regulation (GDPR 2018), "Personal Information" as defined under the Children's Online Privacy Protection Act of 1998, and all rules and regulations issued under any of the foregoing.

**1.17.** "**Professional Services**" means configuration, installation, implementation, development work, training or consulting services including custom modification programming, support relating to custom modifications, on-site support services, assistance with data transfers, system restarts and reinstallations provided by CentralSquare.

**1.18.** "**Software**" means the software program(s) (in object code format only) identified on Exhibit 1 (Solution(s) and Services Fee Schedule). The term "Software" excludes any Third-Party Software.

**1.19.** **"Software Version"** means the base or core version of the Solution Software that contains significant new features and significant fixes and is available to the Customer. The nomenclature used for updates and upgrades consists of major, minor, build, and fix and these correspond to the following digit locations of a release, a,b,c,d. An example of which would be 7.4.1.3, where the 7 refers to the major release, the 4 refers to the minor release, the 1 refers to the build, and the 3 refers to a fix.

**1.20.** "**Solutions**" means the software, Documentation, development work, CentralSquare Systems and any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, software, technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, provided or used by CentralSquare or any Subcontractor in connection with Professional Services or Support Services rendered under this Agreement.

**1.21.** **"Support Services"** means Maintenance, Enhancements, implementation of New Releases, and general support efforts to respond to incidents reported by Customer in accordance with Exhibit 2 (Maintenance & Support) and Exhibit 8 (Managed Services Provisions), if applicable.

**1.22.** "**Third-Party Materials**" means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, related services, equipment, or components of or relating to the Solutions that are not proprietary to CentralSquare.

**2. License, Access, and Title.**

**2.1.** License Grant. For any Solution designated as a "license" on Exhibit 1, Customer is granted a perpetual (unless terminated as provided herein), nontransferable, nonexclusive right and license to use the Software for Customer's own internal use for the applications described in the Statement of Work, in the applicable environment (e.g., production, test, training, or disaster recovery system) and in the quantity set forth in Exhibit 1. Additional software licenses purchased after the execution of this Agreement shall also be licensed in accordance with the provisions of this section. Customer shall not use, copy, rent, lease, sell, sublicense, modify, create derivative works from/of, or transfer any software, or permit others to do said acts, except as provided in this Agreement. Any such unauthorized use shall be void and may result in immediate and automatic termination of the applicable license. In such event, Customer shall not be entitled to a refund of any license fees paid. Notwithstanding, Customer shall be entitled to use software at the applicable designated location for the purpose of the application(s) described in the Statement of Work to provide services for itself and other Affiliate governmental agencies/entities, provided that the Software is installed and operated at only one physical location. The Software license granted in this Agreement or in connection with it are for object code only and do not include a license or any rights to source code whatsoever.

**2.2.** Access Grant. For any Solution designated as a "subscription" on Exhibit 1, so long as subscription fees are paid and current, (unless terminated as provided herein), Customer is granted a nontransferable, nonexclusive right to use the software for the Customer's own internal use for the applications described in the Statement of Work, in the applicable environment (e.g., production, test, training, or disaster recovery system) and in the quantity set forth in Exhibit 1. Additional CentralSquare software subscriptions purchased after the execution of this Agreement shall also be accessed in accordance with the provisions of this section. Customer shall not use, copy, rent, lease, sell, sublicense, modify, create derivative works from/of, or transfer any software, or permit others to do said acts, except as provided in this Agreement. Any such unauthorized use shall be void and may result in immediate and automatic termination of the applicable access. In such event, Customer shall not be entitled to a refund of any subscription fees paid. Notwithstanding, Customer shall be entitled to use software at the applicable designated location for the purpose of the application(s) described in the Statement of Work to provide services for itself and other Affiliate governmental agencies/entities. The subscription access granted in this Agreement or in connection with it are for object code only and do not include a license or any rights to source code whatsoever.

**2.3.** Documentation License. CentralSquare hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use the Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Solutions.

**2.4.** Hardware. Subject to the terms and conditions of this Agreement, CentralSquare agrees to deliver, through hardware vendors, the Hardware itemized on Exhibit 1. The risk of loss or damage will pass to Customer upon the date of delivery to the Customer specified facility. Upon delivery and full satisfaction of the Hardware payment obligations, Hardware shall be deemed accepted and Customer will acquire good and clear title to Hardware. All Hardware manufacturer warranties will be passed through to Customer. CentralSquare expressly disclaims, and Customer hereby expressly waives all other Hardware warranties, express or implied, without limitation, warranties of merchantability and fitness for a particular purpose.

**2.5.** Managed Services Hardware. Subject to the terms and conditions of this Agreement, CentralSquare agrees to deliver the Managed Services Hardware itemized on Exhibit 1. So long as the applicable subscription fees are paid and current, Customer shall maintain a limited right in possessory interest in the Managed Services Hardware. No title in the Managed Services Hardware will pass to Customer at any time or for any reason. Customer agrees to maintain adequate insurance against fire,

theft, or other loss for the Managed Services Hardware full insurable value. CentralSquare shall coordinate any defect or warranty claims in accordance with Exhibit 8.

**2.6.** Reservation of Rights. Nothing in this Agreement grants any right, title, or interest in or to any Intellectual Property Rights in or relating to the Solutions, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in the Solutions, and the Third-Party Materials are and will remain with CentralSquare and the respective rights holders.

**3. Use Restrictions.** Authorized Users shall not:

**3.1.** copy, modify, or create derivative works or improvements of the Solutions, or rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Solutions to any Entity, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service;

**3.2.** reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Solutions, in whole or in part;

**3.3.** bypass or breach any security device or protection used by Solutions or access or use the Solutions other than by an Authorized User through the use of his or her own then valid access;

**3.4.** input, upload, transmit, or otherwise provide to or through the CentralSquare Systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any harmful code (any software, hardware, device, or other technology, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede any (i) computer, software firmware, hardware, system or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data processed thereby; or (b) prevent Customer or any Authorized User from accessing or using the Solutions as intended by this Agreement;

**3.5.** damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the CentralSquare Systems, or CentralSquare's provision of services to any third-party, in whole or in part;

**3.6.** remove, delete, alter, or obscure any trademarks, specifications, Documentation, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Documentation or Solutions, including any copy thereof;

**3.7.** access or use the Solutions in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third-party, or that violates any applicable law;

**3.8.** access or use the Solutions for purposes of competitive analysis of the Solutions, the development, provision, or use of a competing software service or product or any other purpose that is to CentralSquare's detriment or commercial disadvantage or otherwise access or use the Solutions beyond the scope of the authorization granted in Section 2.

**4. Audit.**

**4.1.** CentralSquare shall have the right to audit Customer's use of the Software to monitor compliance with this Agreement. Customer shall permit CentralSquare and its directors, officers, employees, and agents to have on-site access at Customer's premises (or remote access as the case may be) during normal business hours to such systems, books, and records for the purpose of verifying license counts, access counts, and overall compliance with this Agreement. Customer shall render reasonable cooperation to CentralSquare as requested. If as a result of any audit or inspection CentralSquare substantiates a deficiency or non-compliance, Customer shall promptly reimburse CentralSquare for all its costs and expenses incurred to conduct such audit or inspection and be required to pay for any delinquencies in compliance.

**5. Customer Obligations.**

**5.1.** Customer Systems and Cooperation. Customer shall at all times during the Term: (a) set up, maintain, and operate in good repair all Customer Systems on or through which the Solutions are accessed or used; (b) provide CentralSquare Personnel with such access to Customer's premises and Customer Systems as is necessary for CentralSquare to perform the Support Services in accordance with the Support Standards and specifications and if required by CentralSquare, remote access in accordance with Exhibit 3 (CentralSquare Access Management Policy); and (c) provide all cooperation as CentralSquare may reasonably request to enable CentralSquare to exercise its rights and perform its obligations under this Agreement.

**5.2.** Effect of Customer Failure or Delay. CentralSquare is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement.

**5.3.** Corrective Action and Notice. If Customer becomes aware of any actual or threatened activity prohibited by Section 6, Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Solutions and permanently erasing from their systems and destroying any data to which any of them gained unauthorized access); and (b) notify CentralSquare of any such actual or threatened activity.

**5.4.** Maintaining Current Versions of CentralSquare Solutions. In accordance with Exhibit 2 (Maintenance & Support) and Exhibit 8 (Managed Services Provisions) if applicable, Customer shall install and/or use any New or Major Release within one year of being made available by CentralSquare to mitigate a performance problem, ineligibility for Support Services, or an infringement claim.

6. **Professional Services**.

6.1. Compliance with Customer Policies. While CentralSquare personnel are performing services at Customer's site, CentralSquare personnel will comply with Customer's reasonable procedures and site policies that are generally applicable to Customer's other suppliers providing similar services and that have been provided to CentralSquare in writing or in advance.

6.2. Contributed Material. In the process of CentralSquare's performing Professional Services, Customer may, from time to time, provide CentralSquare with designs, plans, or specifications, improvements, works or other material for inclusion in, or making modifications to, the Solutions, the Documentation or any other deliverables ("**Contributed Material**"). Customer grants to CentralSquare a nonexclusive, irrevocable, perpetual, transferable right, without the payment of any royalties or other compensation of any kind and without the right of attribution, for CentralSquare, CentralSquare's Affiliates and CentralSquare's licensees to make, use, sell and create derivative works of the Contributed Material.

7. **Confidentiality**.

7.1. Nondisclosure. The Parties agree, unless otherwise provided in this Agreement or required by law, not to use or make each other's Confidential Information available to any third party for any purpose other than as necessary to perform under this Agreement. "Confidential Information" means the Solution(s), Software, and customizations in any embodiment, and either Party's technical and business information relating to inventions or software, research and development, future product specifications, engineering processes, costs, profit or margin information, marketing and future business plans as well as any and all internal Customer and employee information, and any information exchanged by the Parties that is clearly marked with a confidential, private or proprietary legend or which, by its nature, is commonly understood to be confidential.

7.2. Confidential Information shall be designated as confidential at the time of disclosure and if disclosed orally, shall be reduced to writing within ten (10) business days. The recipient shall protect the Confidential Information from disclosure by using the same degree of care, but no less than a reasonable degree of care, that it uses to protect its own confidential information of a like nature to prevent its unauthorized use, dissemination or publication by its employees or agents. Customer further agrees that it will not allow any form or variation of the Software to enter the public domain. Both Parties acknowledge that any breach of its obligations with respect to Confidential Information may cause the other irreparable injury for which there are inadequate remedies at law and that the non-disclosing Party shall be entitled to equitable relief in addition to all other remedies available to it. Customer shall not disclose the results of any performance or functionality tests of the Software to any third party without CentralSquare's prior written approval.

7.3. Exceptions. A Party's Confidential Information shall not include information that: (a) is or becomes publicly available through no act or omission of the recipient; (b) was in the recipient's lawful possession prior to the disclosure and was not obtained by the recipient either directly or indirectly from the disclosing Party; (c) is lawfully disclosed to the recipient by a third party without restriction on recipient's disclosure, and where recipient was not aware that the information was the confidential information of discloser; (d) is independently developed by the recipient without violation of this Agreement; or (e) is required to be disclosed by law.

8. **Security**.

8.1. CentralSquare will implement commercially reasonable administrative, technical and physical safeguards designed to ensure the security and confidentiality of Customer Data, protect against any anticipated threats or hazards to the security or integrity of Customer Data, and protect against unauthorized access or use of Customer Data. CentralSquare will review and test such safeguards on no less than an annual basis.

8.2. Customer shall maintain, in connection with the operation or use of the Solutions, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, authentication, non-repudiation, virus detection and eradication.

8.3. To the extent that Authorized Users are permitted to have access to the Solutions, Customer shall maintain agreements with such Authorized Users that adequately protect the confidentiality and Intellectual Property Rights of CentralSquare in the Solutions and Documentation and disclaim any liability or responsibility of CentralSquare with respect to such Authorized Users.

9. **Personal Data**. If CentralSquare processes or otherwise has access to any personal data or Personal Information on Customer's behalf when performing CentralSquare's obligations under this Agreement, then:

9.1. Customer shall be the data controller (where "**data controller**" means an entity which alone or jointly with others determines purposes for which and the manner in which any personal data are, or are to be, processed) and CentralSquare shall be a data processor (where "**data processor**" means an entity which processes the data only on behalf of the data controller and not for any purposes of its own);

9.2. Customer shall ensure that it has obtained all necessary consents and it is entitled to transfer the relevant personal data or Personal Information to CentralSquare so that CentralSquare may lawfully use, process and transfer the personal data and Personal Information in accordance with this Agreement on Customer's behalf, which may include CentralSquare processing and transferring the relevant personal data or Personal Information outside the country where Customer and the Authorized Users are located in order for CentralSquare to provide the Solutions and perform its other obligations under this Agreement; and

9.3. CentralSquare shall process personal data and information only in accordance with lawful and reasonable written instructions given by Customer and as set out in and in accordance with the terms of this Agreement; and

**9.4.** CentralSquare shall take reasonable steps to ensure that its employees, agents and contractors who may have access to Personal Information are persons who need to know / access the relevant Personal Information for valid business reasons; and

**9.5.** each Party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data and Personal Information or its accidental loss, destruction or damage so that, having regard to the state of technological development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the personal data and personal information and the nature of the personal data and Personal Information being protected. If necessary, the Parties will cooperate to document these measures taken.

**10. Representations and Warranties.**

**10.1.** Intellectual Property Warranty. CentralSquare represents and warrants that (a) it is the sole and exclusive owner of (or has the right to license) the software; (b) it has full and sufficient right, title and authority to grant the rights and/or licenses granted under this Agreement; (c) the software does not contain any materials developed by a third party used by CentralSquare except pursuant to a license agreement; and (d) the software does not infringe any patent, or copyright.

**10.2.** Intellectual Property Remedy. In the event that any third party asserts a claim of infringement against the Customer relating to the software contained in this Agreement, CentralSquare shall indemnify and defend the Customer pursuant to section 13.1 of this Agreement. In the case of any such claim of infringement, CentralSquare shall either, at its option, (1) procure for Customer the right to continue using the software; or (2) replace or modify the software so that that it becomes non-infringing, but equivalent in functionality and performance.

**10.3.** Software Warranty. CentralSquare warrants to Customer that: (i) for a period of one year from the Effective Date (the "Warranty Period") the Software will substantially conform in all material respects to the specifications set forth in the Documentation, when installed, operated and used as recommended in the Documentation and in accordance with this Agreement; and (ii) at the time of delivery the Software does not contain any virus or other malicious code.

**10.4.** Software Remedy. If, during the Warranty Period a warranty defect is confirmed in the Software, CentralSquare shall, at its option, reinstall the Software or correct the Defects. Defects that occur in the Software after the Warranty Period will be corrected pursuant to Exhibit 2 (Maintenance & Support) and Exhibit 8 (Managed Services Provisions), if applicable.

**10.5.** Services Warranty. CentralSquare warrants that the Professional Services delivered will substantially conform to the deliverables specified in the applicable statement of work and that all Professional Services will be performed in a professional and workmanlike manner consistent with industry standards for similar work. If Professional Services do not substantially conform to the deliverables, Customer shall notify CentralSquare of such non-conformance in writing, within 10 days from completion of Professional Service, and CentralSquare shall promptly repair the non-conforming deliverables.

**10.6. Disclaimer of Warranty. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH ABOVE, CENTRALSQUARE MAKES NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, WITH REGARD TO THE INTELLECTUAL PROPERTY, SOFTWARE, PROFESSIONAL SERVICES, AND/OR ANY OTHER MATTER RELATING TO THIS AGREEMENT, AND THAT CENTRALSQUARE DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE, AND SPECIFICALLY DISCLAIMS IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR TITLE. FURTHER, CENTRALSQUARE EXPRESSLY DOES NOT WARRANT THAT A SOLUTION, ANY CUSTOM MODIFICATION OR ANY IMPROVEMENTS WILL BE USABLE BY CUSTOMER IF THE SOLUTION OR CUSTOM MODIFICATION HAS BEEN MODIFIED BY ANYONE OTHER THAN CENTRALSQUARE PERSONNEL, OR WILL BE ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION OR WILL BE COMPATIBLE WITH ANY HARDWARE OR SOFTWARE EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THE DOCUMENTATION. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS-IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY. THIS AGREEMENT DOES NOT AMEND, OR MODIFY CENTRALSQUARE'S WARRANTY UNDER ANY AGREEMENT OR ANY CONDITIONS, LIMITATIONS, OR RESTRICTIONS THEREOF.**

**11. Notices.** All notices and other communications required or permitted under this Agreement must be in writing and will be deemed given when delivered personally, sent by United States registered or certified mail, return receipt requested; transmitted by facsimile or email confirmed by United States first class mail, or sent by overnight courier. Notices must be sent to a Party at its address shown below, or to such other place as the Party may subsequently designate for its receipt of notices in writing by the other Party.

If to CentralSquare:

**CentralSquare Technologies, LLC**
**1000 Business Center Dr.**
**Lake Mary, FL 32746**
**Phone: 407-304-3235**
**Attention: Legal/Contracts**

If to Customer:

**Ontario Police Department**
**2500 S. Archibald Ave.**

**Ontario, CA 91761**
**Phone: 909-3952291**
**email:** Robles@ontarioca.gov
**Attention: Samantha Robles**

**12. Force Majeure.**

Neither Party shall be responsible for failure to fulfill its obligations hereunder, or be liable for damages resulting from delay in performance as a result of war, fire, strike, riot or insurrection, natural disaster, pandemic or epidemic, delay of carriers, governmental order or regulation, complete or partial shutdown of plant, unavailability of equipment, software, or services from suppliers, default of a subcontractor or vendor to the Party if such default arises out of causes beyond the reasonable control of such subcontractor or vendor, the acts or omissions of the other Party, or its officers, directors, employees, agents, contractors, or elected officials, and/or other occurrences beyond the Party's reasonable control ("Excusable Delay" hereunder). In the event of such Excusable Delay, performance shall be extended on a day for day basis or as otherwise reasonably necessary to compensate for such delay.

**13. Indemnification.**

**13.1.** CentralSquare Indemnification. CentralSquare shall indemnify, defend, and hold harmless Customer from any and all Claims or liability, including attorneys' fees and costs, brought by a third party, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising solely from a wrongful or negligent act, error or omission of CentralSquare, its employees, agents, contractors, or any subcontractor as a result of CentralSquare's or any subcontractor's performance pursuant to this Agreement; however, CentralSquare shall not be required to indemnify Customer for any claims caused to the extent of the negligence or wrongful act of Customer, its employees, agents, or contractors. Notwithstanding anything to the contrary in the foregoing, if a Claim, or liability results from or is contributed to by the actions or omissions of Customer, or its employees, agents or contractors, CentralSquare's obligations under this provision shall be reduced to the extent of such actions or omissions based upon the principle of comparative fault.

**13.2.** Customer Indemnification. To the extent allowable by law, Customer shall indemnify, defend, and hold harmless CentralSquare from any and all Claims or liability, including attorneys' fees and costs, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising solely from a wrongful or negligent act, error or omission of Customer, its employees, agents, contractors, or any subcontractor as a result of Customer's or any subcontractor's performance pursuant to this Agreement; however, Customer shall not be required to indemnify CentralSquare for any Claims or actions caused to the extent of the negligence or wrongful act of CentralSquare, its employees, agents, or contractors. Notwithstanding anything to the contrary in the foregoing, if a Claim or liability results from or is contributed to by the actions or omissions of CentralSquare, or its employees, agents or contractors, Customer's obligations under this provision shall be reduced to the extent of such actions or omissions based upon the principle of comparative fault.

**13.3.** "**Claim**" in this Section 13 means any claim, cause of action, demand, lawsuit, dispute, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or other, whether at law, in equity, or otherwise.

**14. Termination.**

**14.1.** Either Party may terminate this Agreement for a material breach in accordance with this subsection. In such event, the disputing Party shall deliver written notice of its intent to terminate along with a description in reasonable detail of the problems for which the disputing Party is invoking its right to terminate and the specific requirement within this Agreement or any exhibit or schedule hereto that the disputing Party is relying upon. Following such notice, the Parties shall commence dispute resolution procedures in accordance with the dispute resolution procedure pursuant to Section 17.

**14.2.** CentralSquare shall have the right to terminate this Agreement based on Customer's failure to pay undisputed amounts due under this Agreement more than ninety (90) days after delivery of written notice of non-payment.

**14.3.** Customer shall have the right to terminate if the proper appropriation of funds for the continuation of this Agreement is not available for any fiscal year after the first fiscal year during the Term, then this Agreement may be terminated. To affect the termination of this Agreement, Customer shall, within forty-five (45) days following the beginning of the fiscal year for which the proper appropriation is not available, provide CentralSquare with written notice of the failure to obtain the proper appropriation of funds. Such notice shall be accompanied by the payment of all sums then owed CentralSquare under this Agreement, if any.

**14.4.** Customer may also terminate for convenience, in whole or in part, at any time by providing thirty (30) days written notice. Should Customer terminate for convenience during any twelve (12) month term, CentralSquare shall provide a pro-rated refund for any on-premise subscription asset designated on Exhibit 1, with "(OP)". Should Customer terminate for convenience, in whole or in part, any cloud-hosted subscription asset, no pre-paid fees shall be returned, or pro-rated refund be given, for any remaining months on the then current term. Should Customer terminate for convenience, in whole or in part, any third-party asset, no pre-paid fees shall be returned, or pro-rated refund be given, for any remaining months on the then current term.

**15. Effect of Termination or Expiration.** On the expiration or earlier termination of this Agreement:

**15.1.** All rights, licenses, and authorizations granted to Customer hereunder will immediately terminate and Customer shall immediately cease all use of CentralSquare's Confidential Information and the Solutions, and within thirty (30) days deliver to CentralSquare, or at CentralSquare's request destroy and erase CentralSquare's Confidential Information from all systems Customer directly or indirectly controls; and

**15.2.** All licenses, access or subscription fees, services rendered but unpaid, and any amounts due by Customer to CentralSquare of any kind shall become immediately payable and due no later than thirty (30) days after the effective date of the termination or expiration, including anything that accrues within those thirty (30) days.

**15.3.** The provisions set forth in the following sections, and any other right or obligation of the Parties in this Agreement that, by its nature (including but not limited to: Use Restrictions, Confidential Information, Warranty Disclaimers, Indemnifications, & Limitations of Liability), will survive any expiration or termination of this Agreement.

**15.4.** In the event that Customer terminates this Agreement or cancels any portions of a project (as may be set forth in a Statement of Work) prior to Go Live (which shall be defined as "first use of a Solution or module of a Solution in a production environment, unless otherwise agreed by the Parties in a statement of work"), Customer shall pay for all Professional Services actually performed by CentralSquare on a time and materials basis, regardless of the payment terms in Exhibit 1.

**15.5.** Return of Customer Data. If Customer requests in writing at least ten (10) days prior to the effective date of expiration or earlier termination of this Agreement, CentralSquare shall within sixty (60) days following such expiration or termination, deliver to Customer in CentralSquare's standard format the then most recent version of Customer Data maintained by CentralSquare, provided that Customer has at that time paid all Fees then outstanding and any amounts payable after or as a result of such expiration or termination.

**15.6.** Deconversion. In the event of (i) expiration or earlier termination of this Agreement, or (ii) Customer no longer purchasing certain Solutions (including those indicated to be Third-Party Materials), if Customer requests assistance in the transfer of Customer Data to a different vendor's applications ("Deconversion"), CentralSquare will provide reasonable assistance. CentralSquare and Customer will negotiate in good faith to establish the relative roles and responsibilities of CentralSquare and Customer in effecting Deconversion, as well as the appropriate date for completion. CentralSquare shall be entitled to receive compensation for any additional consultation, services, software, and documentation required for Deconversion on a time and materials basis at CentralSquare's then standard rates.

**15.7.** Termination of this Agreement shall not relieve either Party of any other obligation incurred one to the other prior to termination.

**16. Assignment**. Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either Party without the prior written consent of the other Party, which consent will not be unreasonably withheld; provided however, that in the event of a merger or acquisition of all or substantially all of CentralSquare's assets, CentralSquare may assign this Agreement to an entity ready, willing and able to perform CentralSquare's executory obligations hereunder.

**17. Dispute Resolution.** Any dispute, controversy or claim arising out of or relating to this Agreement (each, a "Dispute"), including the breach, termination, or validity thereof, shall be resolved as follows:

**17.1.** Good Faith Negotiations. The Parties agree to send written notice to the other Party of any Dispute ("Dispute Notice"). After the other Party receives the Dispute Notice, the Parties agree to undertake good faith negotiations to resolve the Dispute. Each Party shall be responsible for its associated travel and other related costs.

**17.2.** Escalation to Mediation. If the Parties cannot resolve any Dispute through good faith negotiations, the dispute will be escalated to non-binding mediation, with the Parties acting in good faith to select a mediator and establishing the mediation process. The Parties agree the mediator's fees and expenses, and the mediator's costs incidental to the mediation, will be shared equally between the Parties. The Parties shall bear their own fees, expenses, and costs.

**17.3.** Confidential Mediation. The Parties further agree all written or oral offers, promises, conduct, and statements made in the course of the mediation are confidential, privileged, and inadmissible for any purpose in any litigation, arbitration or other proceeding involving the Parties. However, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

**17.4.** Litigation. If the Parties cannot resolve a Dispute through mediation, then once an impasse is declared by the mediator either Party may pursue litigation in a court of competent jurisdiction.

**18. Waiver/Severability**. The failure of any Party to enforce any of the provisions hereof will not be construed to be a waiver of the right of such Party thereafter to enforce such provisions. If any provision of this Agreement is found to be unenforceable, that provision will be enforced to the maximum extent possible, and the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

**19. LIABILITY. NOTWITHSTANDING ANY PROVISION WITHIN THIS AGREEMENT TO THE CONTRARY, AND REGARDLESS OF THE NUMBER OF LOSSES, WHETHER IN CONTRACT, EQUITY, STATUTE, TORT, NEGLIGENCE, OR OTHERWISE:**

**19.1. NEITHER PARTY SHALL HAVE LIABILITY TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, LIQUIDATED, OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO, REPLACEMENT COSTS, AND NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR LOSSES OF PROFIT, REVENUE, INCOME, BUSINESS, ANTICIPATED SAVINGS, DATA, AND REPUTATION, AND MORE GENERALLY, ANY LOSSES OF AN ECONOMIC OR FINANCIAL NATURE, REGARDLESS OF WHETHER SUCH LOSSES MAY BE DEEMED AS CONSEQUENTIAL OR ARISING DIRECTLY AND NATURALLY FROM THE INCIDENT GIVING RISE TO THE CLAIM, AND REGARDLESS OF WHETHER SUCH LOSSES ARE FORESEEABLE OR WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES; AND**

**19.2. CENTRALSQUARE'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT(S) ACTUALLY PAID BY CUSTOMER TO CENTRALSQUARE HEREUNDER FOR THE LAST TWELVE (12) MONTHS PRIOR TO THE DATE THE CLAIM AROSE.**

**20. Insurance.** During the term of this Agreement, CentralSquare shall maintain insurance coverage covering its operations in

accordance with Exhibit 4 (Certificate of Insurance (Evidence of Coverage)). Upon request by Customer, CentralSquare shall include Customer as an additional insured on applicable insurance policies provided under this Agreement. CentralSquare shall provide proof of current coverage during the term of this Agreement.

21. **Third-Party Materials.** CentralSquare may, from time to time, include third parties to perform services, provide software, or provide equipment. Customer acknowledges and agrees CentralSquare provides front-line support services for these Third-Party Materials, but these third parties assume all responsibility and liability in connection with the Third-Party Materials. CentralSquare is not authorized to make any representations or warranties that are binding upon the third-party or to engage in any other acts that are binding upon the third-party, except specifically that CentralSquare is authorized to represent third-party fees and to accept payment of such amounts from Customer on behalf of the third-party for as long as such third-party authorizes CentralSquare to do so. As a condition precedent to installing or accessing certain Third-Party Materials, Customer may be required to execute a click-through, shrink-wrap End User License Agreement ("EULA") or similar agreement provided by the Third-Party Materials provider. If mapping information is supplied with the CentralSquare Software, CentralSquare makes no representation or warranty as to the completeness or accuracy of the mapping data provided with the CentralSquare Software. The completeness or accuracy of such data is solely dependent on the information supplied by the Customer or the mapping database vendor to CentralSquare. All third-party materials are provided "as-is" and any representation or warranty concerning them is strictly between Customer and the third-party.

22. **Subcontractors**. CentralSquare may from time to time, in its discretion, engage third parties to perform services on its behalf including but not limited to Professional Services, Support Services, and/or provide software (each, a "Subcontractor"). CentralSquare shall be fully responsible for the acts of all subcontractors to the same extent it is responsible for the acts of its own employees.

23. **Entire Agreement**. This Agreement, and any Exhibits specifically incorporated therein by reference, constitute the entire agreement between the Parties with respect to the subject matter. These documents supersede and merge all previous and contemporaneous proposals of sale, communications, representations, understandings and agreements, whether oral or written, between the Parties with respect to the subject hereof.

24. **Amendment**. Either Party may, at any time during the term, request in writing changes to this agreement. The Parties shall evaluate and, if agreed, implement all such requested changes. No requested changes will be effective unless and until memorialized in either a CentralSquare issued add-on quote signed by Customer, or a written change order or amendment to this Agreement signed by both Parties.

25. **No Third-Party Beneficiaries**. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person any legal or equitable right, benefit, or remedy of any nature under or by reason of this Agreement.

26. **Counterparts**. This Agreement, and any amendments hereto, may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. The Agreement (and any amendments) shall be considered properly executed by a Party if executed by that Party and transmitted by facsimile or other electronic means such as DocuSign, Tagged Image Format Files (TIFF), or Portable Document Format (PDF).

27. **Material Adverse Change**. If any law, regulation, applicable standard, process, OEM requirement is changed or comes into force after the Effective Date, including but not limited to PCI standards or Americans with Disabilities Act compliance (collectively, a "Material Adverse Change"), which is not explicitly addressed within this Agreement and results in *significant extra* costs for either Party in relation to the performance of this Agreement, both Parties shall promptly meet, discuss in good faith, and agree upon reducing the technical, operational, and/or commercial impact of such Material Adverse Change.

28. **Cooperative Purchases**. This Agreement may be used by Customer Affiliates. CentralSquare has agreed to offer similar services to other Affiliates under the same terms and conditions as stated herein except that the Fees may be negotiated between CentralSquare and other Affiliates based on the specific revenue expectations, agency reimbursed costs, and other Affiliate requirements. The Customer will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchases by such Affiliates. CentralSquare and the Affiliate will enter into any such arrangement with an amendment to this Agreement.

29. **Order of Precedence**.

**29.1.** In the event of any conflict or inconsistency between this Agreement, the Exhibits, or any purchase order, then the following priority shall prevail:

29.1.1. The main body of this Agreement and any associated amendments, statements of work (including Exhibit 5 (Statement of Work)), or change orders and then the attached Exhibits to this Agreement in the order in which they appear.

**29.2.** Customer's purchase terms and conditions or CentralSquare's sales terms and conditions are not applicable and shall have no force or effect, whether referenced in any document in relation to this Agreement.

**29.3.** Incorporated Exhibits to this Agreement:

**Exhibit 1**: Solution(s) and Services Fee Schedule

**Exhibit 2:** Maintenance & Support

**Exhibit 3**: CentralSquare Access Management Policy

**Exhibit 4**: Certificate of Insurance (Evidence of Coverage)

**Exhibit 5**: Statement of Work

**Exhibit 6**: Using/Accessing Agency Guidelines (if applicable)

**Exhibit 7**: Service Level Commitments (Intentionally Omitted)

**Exhibit 8**: Managed Services Provisions (Intentionally Omitted

**Exhibit 9**: Third-Party Terms and Conditions (if applicable)

**EXHIBIT 1**
**Solutions(s) and Services Fee Schedule**

(See Next Page)

CENTRALSQUARE

**Renewal Order prepared by:**
Paola Ceballos
paola.ceballos@centralsquare.com

**Renewal Order #:** Q-134579
**Start Date:** July 18, 2023
**End Date:** July 17, 2024
**Billing Frequency:** Yearly
**Subsidiary:** Tritech Software Systems

**Renewal Order prepared for:**
Choon Vu Lam, Principal IT Analyst
Ontario Police Department
2500 S Archibald Ave
Ontario, CA 91761
(909) 395-2092

Thank you for your continued business. We at CentralSquare appreciate and value our relationship and look forward to serving you in the future. CentralSquare provides software that powers over 8,000 communities. More information about all of our products can be found at www.centralsquare.com.

## WHAT SOFTWARE IS INCLUDED?

| | PRODUCT NAME | QUANTITY | TOTAL |
|---|---|---|---|
| 1. | 911 Mapping Annual Maintenance Fee | 1 | 0.00 USD |
| 2. | ARS/MobileCOM Annual Maintenance Fee - Field reporting | 1 | 13,175.37 USD |
| 3. | Automated Vehicle Location (AVL) Annual Maintenance Fee | 1 | 0.00 USD |
| 4. | CARS Data Warehouse Annual Maintenance Fee | 1 | 0.00 USD |
| 5. | CommandCAD Annual Maintenance Fee | 1 | 0.00 USD |
| 6. | Coplogic (TB) Annual Maintenance Fee | 1 | 9,561.29 USD |
| 7. | E124617 Annual Maintenance Fee - Crossroads Custom Enhancement | 1 | 7,521.99 USD |
| 8. | Escrow Annual Maintenance Fee | 1 | 0.00 USD |
| 9. | GCT Annual Maintenance Fee - Geographic Conversion Tool | 1 | 3,120.71 USD |
| 10. | LawRECORDS Annual Maintenance Fee | 1 | 65,824.67 USD |
| 11. | MSS Annual Maintenance Fee | 1 | 0.00 USD |
| 12. | TC CAD/Mobile | 1 | 214,097.78 USD |

**Renewal Order Total:** 313,301.81 USD

**Billing Information**

Fees will be payable within 30 days of invoicing.

Please note that the Unit Price shown above has been rounded to the nearest two decimal places for display purposes only. The actual price may include as many as five decimal places. For example, an actual price of $21.37656 will be shown as a

CENTRALSQUARE

**Renewal Order prepared by:**
Paola Ceballos
paola.ceballos@centralsquare.com

Unit Price of $21.38. The Total for this quote has been calculated using the actual prices for the product and/or service, rather than the Unit Price displayed above.

Prices shown do not include any taxes that may apply. Any such taxes are the responsibility of the Customer. This is not an invoice.

For customers based in the United States or Canada, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer on the Renewal Order Form.

**Payment Terms:**

a. If applicable, License Fees are due on the Delivery Date.
b. If applicable, Support & Maintenance Fees are due annually beginning prior to the first anniversary of the Delivery Date and annually thereafter.
c. If applicable, Annual Subscription Fees are due on the Delivery Date, and annually thereafter on the anniversary of the Delivery Date.
d. Annual Software Maintenance Fees and Annual Subscription Fees shall increase by 5% year over year.
e. If applicable, non-subscription Hardware Fees are due on the Effective Date.
f. If applicable, Third-Party Fees are due on the Effective Date.
g. If applicable, Travel expenses shall be due as incurred, invoiced on a monthly basis for the travel expenses incurred in the preceding month.

**Invoice Terms:**

CentralSquare shall provide an invoice for the items in the schedule above no less than thirty (30) days prior to the due date.

**ANCILLARY FEES**

a. Customer is responsible for paying all taxes relating to this Agreement. Applicable tax amounts (if any) are not included in the fees set forth in this Agreement. If Customer is exempt from the payment of any such taxes, Customer must provide CentralSquare valid proof of exemption; otherwise, CentralSquare will invoice Customer and Customer will pay to CentralSquare all such tax amounts.
b. To the extent allowable by law, if Customer fails to make any payment when due, then CentralSquare may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly, or, if lower, the highest rate permitted under applicable law; and if such failure continues for 90 days following written notice thereof, CentralSquare may suspend performance or access until past due amounts have been paid.

**EXHIBIT 2**
**Maintenance & Support**

This Maintenance & Support Exhibit describes support and maintenance relating to technical support that CentralSquare will provide to Customer during the Term of the Agreement.

1. **Product Updates and Releases**
   1.1. Software Version. "Software Version" means the base or core version of the Software that contains significant new features and significant fixes and is available to the Customer. Software Versions may occur as the Software architecture changes or as new technologies are developed. The nomenclature used for updates and upgrades consists of major, minor, build, and fix and these correspond to the following digit locations of a release, a,b,c,d. An example of which would be 7.4.1.3, where the 7 refers to the major release, the 4 refers to the minor release, the 1 refers to the build, and the 3 refers to a fix. All Software Versions are provided and included as part of this Agreement.
   1.2. Updates. From time to time CentralSquare may develop permanent fixes or solutions to known problems or bugs in the Software and incorporate them in a formal "Update" to the Software. If Customer is receiving technical support from CentralSquare on the general release date for an Update, CentralSquare will provide the Customer with the Update and related Documentation at no extra charge. Updates for custom configurations will be agreed upon by the Parties and outlined in a Statement of Work or Change Order.
   1.3. Releases. Customer shall agree to install and/or use any New or Major Release within one year of being made available by CentralSquare to avoid or mitigate a performance problem, ineligibility for Support and Maintenance Services or infringement claim. All modifications, revisions and updates to the Software shall be furnished by means of new Releases of the Software and shall be accompanied by updates to the Documentation whenever CentralSquare determines, in its sole discretion, that such updates are necessary.
2. **Support**
   2.1. CentralSquare shall provide to Customer support via toll-free phone number *833-278-7877 or via the CentralSquare Support Portal via* . CentralSquare shall provide to Customer, commercially reasonable efforts in solving errors reported by the Customer as well as making available an online support portal. Customer shall provide to CentralSquare reasonably detailed documentation and explanation, together with underlying data, to substantiate errors and to assist CentralSquare in its efforts to diagnose, reproduce and correct the error. Should either Party not be able to locate the error root cause and Customer and CentralSquare agree that on-site services are necessary to diagnose or resolve the problem CentralSquare shall provide a travel estimate and estimated hours in order to diagnose the reported error.
   2.2. If after traveling onsite to diagnose a reported error and such reported error did not, in fact, exist or was not attributable to a defect in the Software provided by CentralSquare or an act or omission of CentralSquare, then Customer shall pay for CentralSquare's investigation, travel, and related services in accordance with provided estimate. Customer must provide CentralSquare with such facilities, equipment and support as are reasonably necessary for CentralSquare to perform its obligations under this Amendment, including remote access in accordance with the Remote Access Policy.
   2.3. Online Portal
3. **Online Support**
   Online support is available via https://support.centralsquare.com/s/contact-us, offering Customer the ability to resolve its own problems with access to CentralSquare's most current information. Customer will need to enter its designated username and password to gain access to the technical support areas on CentralSquare's website. CentralSquare's technical support areas allow Customer to: (i) search an up-to-date knowledge base of technical support information, technical tips, and featured functions; and (ii) access answers to frequently asked questions (FAQ).
4. **Exclusions from Technical Support Services**
   CentralSquare shall have no support obligations to provide Support or Maintenance for Solutions that are not kept current to one version prior to the then current version of the Solution. CentralSquare shall have no support obligations with respect to any third-party hardware or software product not licensed or sold to Customer by CentralSquare ("Nonqualified Product"). Customer shall be solely responsible for the compatibility and functioning of Nonqualified Products with the Software.
5. **Customer Responsibilities**

   In connection with CentralSquare's provision of technical support as described herein, Customer acknowledges that Customer has the responsibility to do each of the following:
   5.1 Provide hardware, operating system and browser software that meets technical specifications, as well as a fast, stable, high-speed connection and remote connectivity for accessing the Solution.
   5.2 Maintain any applicable computer system and associated peripheral equipment in good working order in accordance with the manufacturers' specifications, and ensure that any problems reported to CentralSquare are not due to hardware malfunction;
   5.3 For CentralSquare Solutions that are implemented on Customer Systems, maintain the designated operating system at the latest code revision level reasonably deemed necessary by CentralSquare for proper operation of the Software;

5.4 Supply CentralSquare with access to and use of all information and facilities reasonably determined to be necessary by CentralSquare to render the technical support described herein;

5.5 Perform any test or procedures reasonably recommended by CentralSquare for the purpose of identifying and/or resolving any problems;

5.6 At all times follow routine operator procedures as specified in the Documentation or any error correction guidelines of CentralSquare posted on the CentralSquare website;

5.7 Customer shall remain solely responsible at all times for the safeguarding of Customer's proprietary, confidential, and classified information contained within Customer Systems; and

5.8 Reasonably ensure that the Customer Systems are isolated and free from viruses and malicious code that could cause harm before requesting or receiving remote support assistance.

6. **Priorities and Support Response Matrix**

The following priority matrix relates to software errors covered by this Agreement. Causes secondary to non-covered causes - such as hardware, network, and third-party products - are not included in this priority matrix and are outside the scope of this Exhibit. CentralSquare will make commercially reasonable efforts to respond to Software incidents for live remote based production systems using the following guidelines:

| Priority | Issue Definition | Response Time |
|---|---|---|
| **Priority 1 – Urgent** | The software is completely down and will not launch or function. | Priority 1 issues must be called in via 833-278-7877 and will be immediately answered and managed by the first available representative. |
| **Priority 2 – Critical** | A high-impact problem that disrupts the customer's operation but there is capacity to remain productive and maintain necessary operations. | Priority 2 issues must be called in via 833-278-7877 and will be immediately answered and managed by the first available representative. |
| **Priority 3 – Non-Critical** | A Software Error related to a user function which does not negatively impact the User from the use of the system. This includes system administrator functions or restriction of user workflow but does not significantly impact their job function. | Priority 3 issues called in via 833-278-7877 will be immediately answered and managed by the first available representative.<br><br>Non-Critical Priority 3 issues may also be reported via Https://support.centralsquare.com/s/contact-us |
| **Priority 4 – Minor** | Cosmetic or documentation errors, including Customer technical questions or usability questions. | Priority 4 issues called in via 833-278-7877 will be immediately answered and managed by the first available representative.<br><br>Minor Priority 4 issues may also be reported via Https://support.centralsquare.com/s/contact-us |

7. **Exceptions.** CentralSquare shall not be responsible for failure to carry out its Support and Maintenance obligations under this Amendment if the failure is caused by adverse impact due to:

7.1. defectiveness of the Customer's Systems (including but not limited to environment, hardware or ancillary systems), or due to Customer corrupt, incomplete, or inaccurate data reported to the Solution, or documented defect.

7.2. denial of reasonable access to Customer's System or premises preventing CentralSquare from addressing the issue.

7.3. material changes made to the usage of the Solution by Customer where CentralSquare has not agreed to such changes in advance and in writing or the modification or alteration, in any way, by Customer or its subcontractors, of communications links necessary to the proper performance of the Solution.

7.4. a Force Majeure event (as outlined in Section 14), or the negligence, intentional acts, or omissions of Customer or its agents.

8. **Incident Resolution.** Actual response times and resolutions may vary due to issue complexity and priority. For critical impact level and above, CentralSquare provides a continuous resolution effort until the issue is resolved. CentralSquare will make commercially reasonable efforts to resolve Software incidents for live remote based production systems using the following guidelines:

| Priority | Resolution Process | Resolution Time |
|---|---|---|
| **Priority 1 – Urgent** | CentralSquare will provide a procedural or configuration workaround or a code correction that allows the Customer to resume live operations on the production System. | CentralSquare will work continuously to provide the Customer with a solution that allows the Customer to resume live operations on the production system.<br>CentralSquare will either resolve the issue or provide a resolution plan as soon as possible and not later than twenty-four (24) hours after notification. |
| **Priority 2 – Critical** | CentralSquare will provide a procedural or configuration workaround or a code correction that allows the Customer to resume normal operations on the production System. | CentralSquare will work continuously to provide the Customer with a solution that allows the Customer to resume normal operations on the production System.<br>CentralSquare will either resolve the issue or provide a resolution plan as soon as possible and not later than thirty-six (36) hours after notification. |
| **Priority 3 – Non – Critical** | CentralSquare will provide a procedural or configuration workaround that allows the Customer to resolve the problem. | CentralSquare will work to provide the Customer with a resolution which may include a workaround or code correction within a timeframe that takes into consideration the impact of the issue on the Customer and CentralSquare's User base. Priority 3 issues have priority scheduling in a subsequent release. |
| **Priority 4 – Minor** | If CentralSquare determines that a reported Minor Priority error requires a code correction, such issues will be addressed in a subsequent release when applicable. | CentralSquare will work to provide the Customer with a resolution which may include a workaround or code correction in a future release of the software. Priority 4 issues have no defined resolution time. |

9. **Non-Production Environments.** CentralSquare will make commercially reasonable efforts to provide fixes to non-production environment(s). Non-production environments are not included under the response or resolution tables provided in this Exhibit.

   9.1. Maintenance. All non-production environment resolution processes will follow the structure and schedules outlined above for production environments.

   9.2. Incidents and service requests. Non-production environment incidents are considered priority 3 or 4, dictated by circumstances and will be prioritized and scheduled subordinate to production environment service requests.

10. **Training.** Outside the scope of training services purchased, if any, Customer is responsible for the training and organization of its staff in the operation of the Software.

11. **Development Work.** Software support and maintenance does not include development work either (i) on software not licensed from CentralSquare or (ii) development work for enhancements or features that are outside the documented functionality of the Software, except such work as may be specifically purchased and outlined in the Agreement. CentralSquare retains all intellectual property rights in development work performed and Customer may request consulting and development work from CentralSquare as a separate billable service.

12. **Technology Life Expectancy**. Customer understands, acknowledges and agrees that the technology upon which the Hardware, Solution and Third-Party Software is based changes rapidly. Customer further acknowledges that CentralSquare will continue to improve the functionality and features of the Solution to improve legal compliance, accuracy, functionality and usability. As a result, CentralSquare does not represent or warrant that the Hardware, Solution and/or Third-Party Software provided to Customer under this Agreement or that the Customer Systems recommended by CentralSquare will function for an indefinite period of time. Rather, CentralSquare and Customer may, from time to time, analyze the functionality of the Hardware, Solution, Third-Party Software and Customer Systems in response to changes to determine whether Customer must upgrade the same. Customer upgrades may include without limitation, the installation of a new Release, additional disk storage and memory, and workstation and/or server upgrades. Customer upgrades may also include the installation and/or removal of Third-Party Software. Customer is solely responsible for all costs associated with future resources and upgrades.

**EXHIBIT 3**
**CentralSquare Access Management Policy**

In order to provide secure, federally compliant connections to agency systems CentralSquare Technologies ("CentralSquare") requires BeyondTrust or SecureLink as the only approved methodology of connection. BeyondTrust and Securelink provide the necessary remote access in order to service and maintain CentralSquare products while adhering to the Federal Bureau of Investigations Criminal Justice Information Services requirements. Both solutions utilize two-factor authentication Federal Information Processing Standard Publication ("FIPS") 140-2 validated cryptographic modules and AES encryption in 256-bit strengths.

BeyondTrust and Securelink are addressed in turn via this Access Management Policy; Customers may choose which remote privileged access management solution will be utilized by CentralSquare.

**BeyondTrust**

The BeyondTrust remote support solution may be utilized via escorted session or a jump Customer. As for an escorted session, when an agency needs assistance from CentralSquare, the agency employee requesting assistance will receive verbal or email communication with a session key necessary to enable remote access. If a verbal key is provided, the user enters the session key after visiting https://securesupport.centralsquare.com.

Jump Customers are a Windows service that can be stopped/started to facilitate a support session. Connections made via jump Customer can be active or passive. An active jump Customer is always available. A passive connection is enabled for a specific purpose and then disabled when not used. Regardless of the option selected, CentralSquare's support team will arrange a BeyondTrust session to establish the jump Customer.

The jump Customer resides on the agency side on the installed device, where an agency administrator can manage. Instructions on how to enable/disable jump Customers can be provided upon request. A sample workflow of a passive jump Customer is provided below:

> *Should an agency require support from CentralSquare, a call would be placed and/or a support ticket opened in the portal on the CentralSquare customer support website. Before accessing the agency's system and/or environment, the CentralSquare representative would send a notice of connection from the CentralSquare support portal instance. This notice can be sent to the individual at the agency that the CentralSquare representative is working with or other designated contacts as necessary. Upon receipt of the notice of connection, the agency personnel would enable the BeyondTrust jump Customer. The CentralSquare representative would then be admitted to the agency's system and/or environment to perform the necessary task. Upon completion of the task, the CentralSquare representative sends a notice of disconnection from the CentralSquare support portal instance. Upon receipt of the notice of disconnection, the agency personnel would then disable the BeyondTrust jump Customer.*

**Securelink**

Similar to BeyondTrust's escorted session, Securelink may be utilized via "quick connect". To enable a quick connect session when an agency needs assistance from CentralSquare, the Agency employee requesting assistance will enter a key code in order to connect for screen sharing on a device.

Similar to the jump Customer methodology, SecureLink may also be utilized via "gatekeeper". The sample workflow description for a jump Customer provided above is substantially similar to the workflow for gatekeeper.

**Summation**

BeyondTrust and Securelink allow customers the ability to monitor connectivity to the customer's network and maintain CJIS compliance while enabling CentralSquare to perform the necessary support functions.

## EXHIBIT 4
## Certificate of Insurance (Evidence of Coverage)

ACORD®

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/12/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
MARSH USA, INC.
TWO ALLIANCE CENTER
3560 LENOX ROAD, SUITE 2400
ATLANTA, GA 30326

CN130114897-EO/C-GAWU-22-23

INSURED
CentralSquare Technologies, LLC
1000 Business Center Drive
Lake Mary, FL 32746

CONTACT NAME:
PHONE (A/C, No, Ext):
FAX (A/C, No):
E-MAIL ADDRESS:

| INSURER(S) AFFORDING COVERAGE | | NAIC # |
|---|---|---|
| INSURER A : | The Charter Oak Fire Insurance Co | 25615 |
| INSURER B : | Phoenix Insurance Company | 25623 |
| INSURER C : | Travelers Property Casualty Company Of America | 25674 |
| INSURER D : | Travelers Casualty And Surety Company | 19038 |
| INSURER E : | AIG Specialty Insurance Company | 26883 |
| INSURER F : | | |

**COVERAGES** **CERTIFICATE NUMBER:** ATL-005494481-00 **REVISION NUMBER:** 0

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | | |
|---|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY | | | H-630-6S758660-COF-22 | 08/31/2022 | 08/31/2023 | EACH OCCURRENCE | $ | 1,000,000 |
| | CLAIMS-MADE X OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ | |
| | | | | | | | MED EXP (Any one person) | $ | 10,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ | 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ | 2,000,000 |
| | X POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ | 2,000,000 |
| | OTHER: | | | | | | | $ | |
| B | AUTOMOBILE LIABILITY | | | BA-6S783539-22-I3-G | 08/31/2022 | 08/31/2023 | COMBINED SINGLE LIMIT (Ea accident) | $ | 1,000,000 |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ | |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ | |
| | X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ | |
| | | | | | | | | $ | |
| C | X UMBRELLA LIAB / OCCUR | | | CUP-6S801390 | 08/31/2022 | 08/31/2023 | EACH OCCURRENCE | $ | 10,000,000 |
| | EXCESS LIAB / CLAIMS-MADE | | | | | | AGGREGATE | $ | 10,000,000 |
| | DED X RETENTION $ 10,000 | | | | | | | $ | |
| D | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | UB-6S783668-22-I3-G | 08/31/2022 | 08/31/2023 | X PER STATUTE / OTH-ER | | |
| | ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N | N / A | | | | | E.L. EACH ACCIDENT | $ | 1,000,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ | 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ | 1,000,000 |
| E | E&O/Cyber | | | 015930626 | 09/30/2022 | 08/31/2023 | Limit | | 5,000,000 |
| | | | | | | | SIR | | 1,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Evidence of Insurance

**CERTIFICATE HOLDER**

CentralSquare Technologies LLC
1000 Business Center Drive
Lake Mary, FL 32746

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh USA Inc.

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ACORD 25 (2016/03) The ACORD name and logo are registered marks of ACORD

**EXHIBIT 5**
**Statement of Work**
**[TBD]**

**EXHIBIT 6**
**Using/Accessing Agency Guidelines (If Applicable)**

The following agencies are authorized to use the Customer's system in the quantities specified in Exhibit 1. Customer acknowledges and agrees to be responsible for these authorized agencies use of the System and to bind each authorized agency to all terms of the Agreement as reasonably applicable. In the event of breach, or threatened breach of the provisions of the Agreement, Supplier has no adequate contractual remedy with the Authorized agencies and accordingly shall be entitled to pursue remedy direct from the Customer. The Customer shall be the point of contact for each of these authorized agencies in the event that support services are required or requested by said authorized agency. Customer agrees to be responsible for all payment obligations incurred by any authorized agency inclusive of support and any additional purchases under the Change Order/Amendment processes as described in the Agreement.

Accessing Agencies

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Development Administration<br>Prepared By: Jessica Ban<br>Staff Member Presenting: Scott Murphy, Executive Director Community Development<br>Reviewed By: Matthew Hernandez, Scott Murphy<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 11 |

**SUBJECT:** **A DEVELOPMENT IMPACT FEE CREDIT AGREEMENT (FILE NO. PDIF23-002) BETWEEN THE CITY OF ONTARIO AND KL LB BUY 1 LLC, FOR FACILITY CONSTRUCTION ASSOCIATED WITH TRACT MAP 20529 (FILE NO. PMTT22-010), LOCATED 400 FEET SOUTHWEST OF CHINO AVENUE AND MILL CREEK AVENUE, WITHIN THE RICH-HAVEN SPECIFIC PLAN**

**RECOMMENDATION:** That the City Council approve the Development Impact Fee Credit Agreement (File No. PDIF23-002) between the City of Ontario and KL LB BUY 1 LLC, for the facilities construction associated with Tract Map 20529 (PMTT22-010), located 400 feet southwest of Chino Avenue and Mill Creek Avenue, within the Rich-Haven Specific Plan, and authorize the City Manager, or his designee, to execute the Agreement.

**THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:**
**Invest in the Growth and Evolution of the City's Economy**
**Operate in a Businesslike Manner**
**Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)**
**Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch**

**FISCAL IMPACT:** Approval of the proposed Development Impact Fee (DIF) Credit Agreement (File No. PDIF23-002) will not result in any fiscal impact to the City's General Fund. The project's Development Agreement (File No. PDA22-001) and related conditions require KL LB BUY 1 LLC ("Developer") to construct DIF program infrastructure with estimated costs of $495,834. The proposed DIF Credit Agreement defines the amount of DIF credit that the Developer may be eligible to receive for construction of the improvements. The DIF credit that the Developer will receive upon completion of the improvements may be exchanged for a refund of the DIF fees paid by the Developer (up to the Developer's maximum DIF obligation) in the respective DIF category.

**BACKGROUND & ANALYSIS:** On November 22, 2022, the City Council approved the Development Agreement (File No. PDA22-001) between the City of Ontario and BrookCal Ontario LLC, the original owner for Tract Map 20529. On December 29, 2023, the Development Agreement was assigned to the Developer and included the construction of necessary infrastructure to serve the project development.

In accordance with the Development Agreement and related conditions, the Developer is required to construct DIF Program infrastructure to serve Tract Map 20529. Improvement includes installation of storm drain facilities on Twinkle Avenue.

Pursuant to the City's adopted DIF Credit and/or Reimbursement policies, construction of DIF Program facilities requires the Developer and the City to enter into a DIF Credit and/or Reimbursement Agreement ("Agreement"), which specifies the infrastructure to be constructed by the Developer and includes an estimate of the maximum DIF credit that may be applied in the applicable Regional/Local DIF categories. This infrastructure improvement is within the Ontario Ranch storm drain category. Since the maximum eligible costs in the Agreement for the required infrastructure exceeds the Developer's DIF obligation, the Developer is eligible to receive DIF Credit under the proposed Agreement.

The proposed Agreement complies with the City's DIF policies and conforms with the approved Development Plan and associated Condition of Approval. Under the provisions of the City's DIF Program, the City Manager is authorized to execute this Agreement upon approval by the City Council.

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

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

Space above this line for Recorder's Use
Exempt from Fees Per Gov. Code § 6103

# File No. PDIF23-002

# DEVELOPMENT IMPACT FEE CREDIT AGREEMENT

# FOR FACILITY CONSTRUCTION

**By and Between**

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

**and**

**KL LB BUY 1 LLC**
a Delaware limited liability company

**_____, 2024**

**San Bernardino County, California**

46700.10300\34006733.2

# DEVELOPMENT IMPACT FEE CREDIT AGREEMENT FOR FACILITY CONSTRUCTION BY AND BETWEEN THE CITY OF ONTARIO AND KL LB BUY 1 LLC (FILE NO. PDIF23-002)

This DEVELOPMENT IMPACT FEE CREDIT AGREEMENT ("Agreement"), entered into this _____ day of _____, 2024, between the CITY OF ONTARIO, a California municipal corporation, hereinafter referred to as the "City," and KL LB BUY 1 LLC, a Delaware limited liability company, hereinafter referred to as the "Developer."

## RECITALS

A. Developer is the owner and developer of property located within the City, which property has received development approvals from the City, including the Rich Haven Specific Plan ("Specific Plan") and Tract Map No. 20529 (the "Tract Map"). A legal description of the property is attached hereto as Exhibit 1 and incorporated herein by reference (the "Property"). A map of the Property is attached hereto as Exhibit 2 and incorporated herein by reference.

B. As a condition of the development approvals for the Property, including the Specific Plan and Tract Map approvals, the Developer is required to construct those public improvements identified on Exhibit 3, consisting of certain master planned public infrastructure and improvements, (hereinafter referred to collectively as the "Improvements"). The estimated costs for the design and construction of the Improvements are set forth in Exhibit 4. Both Exhibits 3 and 4 are attached hereto and incorporated herein by reference.

C. On July 1, 2003, City Ordinance No. 2779 was adopted establishing certain development impact fees ("DIF Fees") to be paid as a condition to the issuance of certain entitlements within the City. Section 7 of Ordinance 2779 authorizes the City Manager, when he or she determines that the public interest would be served by such an agreement, to execute agreements on behalf of the City with applicants in order to provide a credit to the applicant against certain DIF Fees in exchange for the applicant's construction and dedication of public improvements, upon reasonable terms and conditions as may be determined on a case by case basis and subject to City Council approval.

D. City and the previous owner of the Property have previously entered into a statutory development agreement (File No. PDA22-001), pursuant to Section 65864, et seq., of the Government Code, ("Development Agreement") and such Development Agreement has been assigned to Developer and Developer has assumed all rights, responsibilities and obligations of the Development Agreement, including the design and construction of the Improvements identified in Exhibit 3 and such Improvements are included in the City's Development Impact Fee (DIF) Program as a project, or a portion of a project and eligible for credit against DIF Fees.

E. City and Developer have agreed that the costs to design and construct the Improvements shall be eligible for DIF Credit in accordance with the City's Ontario Ranch

DIF Credit policies as contained in the City's DIF Program and Ordinance Nos. 2779 and 2780, and Resolution Nos. 2003-39, 2003-070, 2005-005, 2005-099, 2007-023, 2007-150, 2008-036, 2011-011, 2012-092, 2015-008, 2017-102, 2019-135, 2022-133, and 2023-036.

## AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and the mutual promises contained herein, it is agreed as follows:

1. Definitions. For purposes of this Agreement, the terms below shall be defined as follows:

"Acceptable Title" means title to land or an interest therein required for the operation of an Improvement, in form acceptable to the City Manager, free and clear of all liens, taxes, assessments, leases, easements and encumbrances, whether or not recorded, but subject to any exceptions determined by the City Manager as not materially interfering with the actual or intended use of the land or interest therein required for the operation of an Improvement. Notwithstanding the foregoing, an irrevocable offer of dedication may constitute "Acceptable Title."

"Acceptance Date" means the earlier of (i) the date the City Manager or his or her designee takes final action, in writing, to accept dedication or transfer of an Improvement or (ii) the date determined pursuant to Section 3 below.

"Bid Documents" means all designs, bid documents, construction plans and specifications, system layout drawings and other construction documents and permits relating to an Improvement.

"Certificate of DIF Credit" means a City certificate for the issuance of DIF Credit to Developer in the form attached hereto as Exhibit 5.

"City DIF Program and Policies" means Ordinance Nos. 2779 and 2780 and Resolution Nos. 2003-39, 2003-070, 2019-135, 2022-133, and 2023-036 as may be amended from time to time.

"City Manager" means the City Manager of the City or his or her designee.

"City Engineer" means the City's City Engineer or his or her designee.

"Completed", "Complete" and "Completion" with respect to an Improvement means that such Improvement has been completed in accordance with its Bid Documents, including any final "punch list" items, as approved in writing by the City Engineer, which approval shall not be unreasonably withheld, and that such Improvement is Usable. Notwithstanding the foregoing, if an Improvement which Developer is obligated to construct pursuant to the applicable conditions of approval for a portion of the Property is only a portion of a larger work of improvement, then a determination of "Completed" or

"Completion" with respect to that Improvement shall be made only as to that Improvement and not with respect to the larger work of improvement of which it is a portion.

"Credit Request" means a document, substantially in the form of Exhibit 6, to be used by Developer in requesting DIF Credits with respect to one or more Improvements.

"Days" shall mean business days unless otherwise stated.

"Developer Contract" means a contract between the Developer and a qualified contractor awarded for the construction of the Improvements at the direction of Developer.

"Development Agreement" has the meaning set forth in Recital D above.

"DIF" or "Development Impact Fees" or "DIF Fees" means the development impact fees imposed within the Ontario Ranch area pursuant to City Ordinance Nos. 2779 and 2780 and City Resolution Nos. 2003-39, 2003-070, 2005-005, 2005-099, 2007-023, 2007-150, 2008-036, 2011-011, 2012-092, 2015-008, 2017-102, 2019-135, 2022-133, and 2023-036, and any subsequent City ordinances and resolutions lawfully adopted by the City Council to update or modify such development impact fees.

"DIF Credit" means credits earned against the payment of DIFs pursuant to this Agreement.

"DIF Obligation" means the amount of Developer's total obligation for Development Impact Fees in either the Regional or Local Adjacent portion of a DIF category for the Property. Developer's DIF Obligation amounts for each DIF Category shall be as provided in Exhibit 4.

"DIF Program" means the Development Impact Fee Program and the capital improvement projects and public infrastructure identified in the Development Impact Fee Program, adopted and amended by the City from time to time.

"Effective Date" means the date set forth in the first paragraph of this Agreement.

"Eligible Cost" means the substantiated cost of an Improvement to be used in calculating DIF Credit amounts, which costs may include: (i) the costs for the construction (including grading) of such Improvement, (ii) costs directly related to the construction and/or acquisition of the Improvement, such as costs of payment, performance and/or maintenance bonds, the professional costs of material testing, and insurance costs (including costs of any title insurance required); (iii) the cost of acquiring any real property or interest therein in order to construct or operate the Improvement, (iv) the fees paid to the City and any other governmental agencies for, and all other costs incurred in connection with, obtaining permits, licenses or other governmental approvals for such Improvement, (v) the costs incurred in preparing Bid Documents and the related costs of geotechnical and environmental evaluations of the Improvement, (vi) costs of

construction and project management, administration and supervision (but only up to five percent (5%) of the costs described in clause (i) above) incurred for the construction of such Improvement, (vii) professional costs associated with such Improvement, such as design, engineering, accounting, inspection, construction staking, and similar professional services including legal services related to the review of construction contracts. The maximum amount of Eligible Costs described in clauses (v) through (vii) shall be limited to a total of fifteen percent (15%) of the costs described in clause (i).

"Improvement" or "Improvements" means the public improvements required to support the development of the Property as described in Exhibit 3 to the extent required by the applicable conditions of approval.

"Program Cost" or "DIF Program Cost" means the estimated cost of an Improvement identified in the "Nexus Study" referenced in City Resolution No. 2022-133 as it may be modified, supplemented or superseded from time to time. The Program Cost to be applied shall be the Program Cost in effect at the time the Improvement is Completed.

"Usable" shall mean that, with respect to any particular Improvement, the Improvement is actually usable for its intended purposes, and includes, for water Improvements connection to the applicable water supply, for sewer Improvements connection to an applicable disposal system, and for recycled water Improvements connection to a treated water supply and distribution system. Notwithstanding the foregoing, if an Improvement which Developer is obligated to construct pursuant to the applicable conditions of approval for a portion of the Property is only a portion of a larger work of improvement, then a determination of whether that Improvement is "Usable" shall be made only with respect to that Improvement and not with respect to the larger work of improvement of which it is a portion.

2. Construction and Funding of Improvements by Developer. Developer shall commence the Improvements in accordance with the terms of the Development Agreement and individual Tract Maps, including any extension thereof. Upon commencement of the Improvement(s), Developer agrees to proceed expeditiously with the construction of the Improvement(s) under the terms herein. For the purposes of this Agreement, commencement of the Improvements shall mean when Developer receives the first permit from City for grading of the Property. If Developer is unable or unwilling to proceed with, and Complete, the construction of the Improvement(s) for any reason, and subject to the provisions in Section 17 below, Developer shall be considered to be in default of this Agreement. City and Developer agree that Developer shall award, or cause to be awarded, all contracts for the construction of the Improvements and that this Agreement as necessary to assure the timely and satisfactory Completion of such Improvements. The Developer shall perform all of its obligations hereunder and shall conduct all operations with respect to the construction of the Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. The Developer shall not be relieved of

its obligation to construct the Improvements and cause title to the Improvements to be conveyed to the City even if the DIF Credit Amount is less than the actual cost of the Improvements.

3. Inspection and Acceptance of Completed Improvement by City. City shall make or shall cause to be made periodic site inspections of Developer's construction work. The Acceptance Date for each Improvement constructed by Developer shall occur not later than twenty (20) Days following the last to occur of the following:

(a) the City Engineer's determination that the Improvement is Complete;

(b) the City Manager's determination that Acceptable Title with respect to the Improvement is available for acceptance;

(c) Developer's provision of one (1) set of "as-built" or record drawings or plans for the Improvement, certified and reflecting the condition of the Improvement as constructed; and

(d) Developer's provision of such evidence or proof as the City Manager shall require that all persons, firms and corporations supplying work, labor, materials, supplies and equipment to the construction of the Improvement have been paid and that no claims of liens have been recorded by or on behalf of any such person, firm or corporation. Alternatively, rather than await the expiration of the time for the recording of claims of liens, Developer may elect to provide a title insurance policy or other security acceptable to the City Manager guaranteeing that no such claims of liens will be recorded or become a lien upon any of the real property required for the Improvement.

4. Conveyance of Acceptable Title to City. Acceptable Title to all property on, in or over which, the Improvement will be located, shall, prior to and as a condition precedent to the City's acceptance of any Improvement, be conveyed to City by way of an irrevocable offer of dedication of such property on the Tract Map or by a separate recorded instrument, and such conveyance of interest has been approved by the City as being a sufficient interest therein to permit the City to properly own, operate and maintain such Improvement. Developer agrees to assist the City in obtaining such documents as are required to obtain Acceptable Title. Completion of the transfer of Acceptable Title shall be evidenced by recordation of the acceptance thereof by the City Manager or his designee.

5. Maintenance and Warranties to be provided to City. Developer shall maintain the Improvement in good and safe condition until the Acceptance Date of the Improvement. Prior to the Acceptance Date, Developer shall, at its sole cost and expense, be responsible for performing any required maintenance on the Improvement. On or before the Acceptance Date of the Improvement, Developer shall assign to the City all of Developer's rights in any warranties, guarantees, maintenance obligations or other evidence of contingent obligations of third persons with respect to such Improvement. After the Acceptance Date, City shall be solely responsible for maintenance of the Improvement. With respect to the Improvement, Developer shall warrant that the

Improvement is free from defects in materials and construction defects (and shall correct or cause to be corrected any such defects at Developer's expense) for a period of one year from the Acceptance Date thereof (the "Warranty Period") and Developer shall provide a bond reasonably acceptable in form and substance to the City for such period and such purpose to insure that such defects that appear within said period will be repaired, replaced or corrected by Developer, at its own cost and expense, to the reasonable satisfaction of the City Manager. During the Warranty Period, Developer shall continue to repair, replace or correct any such defects within thirty (30) Days after written notice thereof by the City Manager to Developer, and shall complete such repairs, replacement or correction as soon as practicable. Any warranties, guarantees or other evidences of contingent obligations of third persons with respect to the Improvement shall be delivered to the City Manager, in writing, as part of the transfer of title.

6. Issuance of DIF Credit to Developer. Developer shall receive DIF Credits based upon the verified Eligible Costs of the Improvement (or accepted portion of the Improvement). Issued DIF Credits shall specify the DIF Credit infrastructure category and whether the DIF Credit is for construction of a Regional or Local Adjacent DIF Program Improvement.

7. Limitations on the Issuance of DIF Credit to Developer upon Completion of an Improvement. The amount of DIF Credit to be issued by City shall be limited to the amount of the DIF Program Costs for the Improvement (or accepted portion of the Improvement). The DIF Program Costs identified in the City's DIF Program shall be subject to change, from time to time, as part of the continuing update of the City's DIF Program. The DIF Program Costs for the Improvement (or accepted portion of the Improvement) shall be those in effect at the time the DIF Credit Request is submitted to the City.

(a) To the extent that NMC Builders LLC incurred the costs for the design of the Improvements, Developer agrees that the DIF Credit, up to ten (10%) of the DIF Program Costs, for such design cost portion of the Improvements shall be issued to NMC Builders LLC.

(b) The DIF Credit that the Developer will receive upon Completion of the Improvements may be exchanged for a refund of DIF that was paid by the Developer (up to the Developer's maximum DIF obligation) in the respective DIF category.

8. Issuance of a DIF Credit Certificate. When an Improvement is Complete, Developer shall submit a DIF Credit Request to City with all supporting documentation evidencing the total actual Eligible Costs of the Improvement at the time of submittal. The City Manager or designee shall determine the completeness of the DIF Credit Request and notify Developer of whether the DIF Credit Request is considered complete or if additional information is needed from Developer. Once the DIF Credit Request is considered complete, the City Manager or designee shall use his or her best efforts to determine the total actual Eligible Costs of the Improvements and provide Developer with a Certificate of DIF Credit within twenty (20) Days following receipt of the completed DIF Credit Request.

9. DIF Program Modifications. The estimated cost in the City's DIF Program for DIF Improvements (or defined portions of DIF Improvements) as listed in Exhibit 4 and Developer's total DIF Obligation amount may be modified from time to time based on modifications to the City's DIF Program.

10. Assignment of DIF Credits. Developer shall have the right to transfer or assign DIF Credits provided for herein, to any person, partnership, limited liability company, joint venture, firm or corporation; provided, however, that any such sale, transfer or assignment shall only be made in strict compliance with the following:

(a) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, Developer (i) shall notify the City Manager, in writing, of such sale, transfer or assignment and (ii) shall provide the City with an executed agreement, by purchaser, transferee or assignee that identifies the amount of DIF Credits transferred.

(b) Except for the limited assignment above of DIF Credits, any assignment by Developer of any of the obligations of Developer under this Agreement (a "DIF Improvement Assignment") with regards to the Improvements listed in Exhibit 4, shall identify the Improvements that are the subject of the Assignment Agreement and require the written approval of the City Manager, which approval shall not be unreasonably withheld so long as adequate security as determined by City in its sole discretion, is in place to secure the Completion of the subject Improvements and any DIF Improvement Assignment not made in strict compliance with the foregoing conditions (other than a transfer under Section 23 below) shall, unless such obligations are performed by Developer when required by this Agreement notwithstanding such assignment, constitute a default by Developer and City shall have no further obligations with regard to acceptance of Certificates of DIF Credit issued to Developer, including any DIF Credit assigned or transferred by Developer.

(c) If Developer enters into a DIF Improvement Assignment with a successor in interest with respect to all or a part of the Property (a "Successor Developer") in accordance with Section 10(b) and the Successor Developer obtains DIF Credit pursuant to this Agreement upon its completion of the Improvements identified in the DIF Improvement Assignment, then

(i) such Successor Developer shall have the right to sell, transfer or assign to Developer, and Developer shall have the right to acquire from such Successor Developer, all or a portion of such DIF Credit by complying only with Section 10(b) above, and

(ii) Developer shall have the right to sell, transfer or assign all or a portion of such DIF Credit to other Successor Developers who acquire other portions of the Property by complying only with Section 10(b) above, if the sale, transfer or assignment of such DIF Credit occurs concurrently with the conveyance of another portion of the Property to the other Successor Developer.

11. Additional Documents/Actions. The City Manager is authorized to approve and execute any documents and to take any actions necessary to effectuate the purposes of this Agreement.

12. Integration. This Agreement reflects the complete understanding of the parties with respect to the subject matter hereof. In all other respects, the parties hereto re-affirm and ratify all other provisions of the Development Agreement.

13. Prevailing Wages. Developer is aware of the requirements of California Labor Code Section 1720, et seq. (as amended by Stats 2001 ch. 938 § 2 (S.B. 975)), and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq. (collectively, the "Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. The Bid Documents and each Developer's Contract shall require all contractors for the construction of Improvements to pay prevailing wages in accordance with the applicable provisions of the Labor Code. Developer 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 Developer's principal place of business and at the project site. Developer shall defend, indemnify and hold the City, its officials, officers, employees, agents, contractors and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

14. Default and Force Majeure.

(a) Default. Failure or delay by Developer or City to perform any of its obligations under this Agreement constitutes a default by such party under this Agreement. The party alleged to be in default shall have thirty (30) days after the date of the written notice by the other party to commence to cure such default. The party alleged to be in default shall diligently pursue such cure to completion within thirty (30) days or a reasonable timeframe if such default cannot be reasonably cured within thirty (30) days, as established in the written notice provided by the party asserting the default. If the party alleged to be in default has not cured its default within the cure period set forth therein, the defaulting party shall be deemed in breach. Any failure or delay in giving such notice or in asserting any rights and remedies as to any default shall not constitute a waiver of any default, nor shall it change the time of default, nor shall it deprive the party not in default of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any of its rights or remedies. If any default by Developer is not cured within the time period provided by the City, City shall be entitled to terminate this Agreement in its entirety and thereafter, the City shall be under no obligation to perform any of City's obligations hereunder, including, but not limited to, the issuance of DIF Credits that Developer may claim.

(b) Force Majeure. Notwithstanding the provisions contained in the foregoing paragraph, performance by either party hereunder shall not be deemed to be in default where delay or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, epidemics, quarantine restrictions,

freight embargoes, public transportation stoppage, governmental restrictions or priority, litigation brought by a third party, unusually severe weather, reasonably unforeseeable property conditions, acts of the other party, acts or failure to act of the other party or any other public or governmental agency or entity, or any causes beyond the control or without the failure of the party claiming an extension of time to perform (a "Force Majeure Event"). An extension of time for any such cause (an "Excusable Delay") shall be for the time period of the delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of knowledge of the commencement of the cause or from the date of the notice if provided after such thirty-day period. Notwithstanding the foregoing, none of the foregoing events shall constitute an Excusable Delay unless and until the party claiming such delay and interference delivers to the other party written notice describing the event, its cause, when and how such party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Any party claiming an Excusable Delay shall make a good faith effort to deliver such written notice within thirty (30) days after it obtains actual knowledge of the event. Times of performance under this Agreement may also be extended in writing by City and Developer. The Parties hereto expressly acknowledge and agree that changes in either general economic conditions or changes in the economic assumptions of any of them (unless such conditions were caused by a Force Majeure Event) that may have provided a basis for entering into this Agreement and that occur at any time after the execution of this Agreement are not Force Majeure Events and do not provide any Party with grounds for asserting the existence of a delay in the performance of any covenant or undertaking that may arise under this Agreement. Each Party expressly assumes the risk that changes in general economic conditions or changes in such economic assumptions relating to the terms and covenants of this Agreement could impose an inconvenience or hardship on the continued performance of such Party under this Agreement, but that such inconvenience or hardship is not a Force Majeure Event and does not excuse the performance by such Party of its obligations under this Agreement. Without limiting the nature of the foregoing, the parties agree that the inability of Developer to obtain a satisfactory commitment from a construction lender for the improvement of the Property or to satisfy any other condition of this Agreement relating to the development of the Property shall not be deemed to be a Force Majeure Event or otherwise provide grounds for the assertion of the existence of a delay under this Section 14.

15. Licenses and Permits. The Developer shall secure (or shall cause to be secured) any and all permits that may be required by the City or any other governmental agency affected by the construction of the Improvements. The Developer shall be responsible for paying all applicable fees and charges to the City to obtain any land use entitlements and permits that are necessary to construct the Improvements.

16. Indemnification. The Developer agrees to protect, indemnify, defend and hold the City, and its respective officers, employees and agents, and each of them, harmless from and against any and all claims, losses, expenses, suits, actions, decrees, judgments, awards, attorney's fees, and court costs (collectively "Damages") that the City, or its respective officers, employees and agents, or any combination thereof, may suffer or that may be sought against or recovered or obtained from the City, or its respective

officers, employees or agents, or any combination thereof, as a result of or by reason of or arising out of or in consequence of (a) the acquisition, construction, or installation of the Improvements; (b) the untruth or inaccuracy of any representation or warranty made by the Developer in this Agreement or in any certifications delivered by the Developer hereunder; or (c) any act or omission of the Developer or any of its subcontractors, or their respective officers, employees or agents, in connection with the Improvements. If the Developer fails to do so, the City shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental costs of such defense, including any reasonable attorneys' fees or court costs, to and recover the same from the Developer. Notwithstanding the foregoing, neither the City nor its respective officers, employees, or agents shall be indemnified, defended or held harmless against such Damages to the extent that such Damages have been caused by their sole active negligence or sole willful misconduct. The parties acknowledge and agree that the Developer shall be released from the indemnity, defense and hold harmless obligations set forth herein upon the acceptance of the Improvements by the City and completion of the Warranty Period for such Improvements.

17. Developer as a Private Developer. In performing under this Agreement, it is mutually understood that the Developer is acting as a private developer, and not as an agent of the City. The City shall have no responsibility for payment to any contractor, subcontractor or supplier of the Developer. Accordingly, this Agreement does not constitute a debt or liability of the City. The City shall not be obligated to advance any of its own funds or any other costs incurred in connection with the Project. No member, official or employee of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Developer or its successors, or on any obligations under the terms of this Agreement.

18. Other Obligations. Nothing contained herein shall be construed as affecting the Developer's respective duty to perform its respective obligations under other agreements, land use regulations or subdivision requirements relating to the development of the Property, which obligations are and shall remain independent of the Developer's rights and obligations, and the City's rights and obligations, under this Agreement; provided, however, that the Developer shall use its reasonable and diligent efforts to perform each and every covenant to be performed by it under any lien or encumbrance, instrument, declaration, covenant, condition, restriction, license, order, or other agreement, the nonperformance of which could reasonably be expected to materially and adversely affect the design, acquisition, construction and installation of the Improvements. This Agreement is not, and shall not be construed as, a statutory development agreement as authorized by Government Code sections 65864 et seq., and this Agreement shall not be interpreted as limiting the authority of the City to adopt and amend regulations concerning permitted uses of property, the density or intensity of use, the maximum height and size of proposed buildings, provisions for the reservation or dedication of land or the payment of impact fees for public purposes.

19. Binding on Successors and Assigns. Except as set forth in Section 10 or Section 23 hereof, neither this Agreement nor the duties and obligations of the Developer

hereunder may be assigned to any person or legal entity other than an affiliate of the Developer without the written consent of the City, which consent shall not be unreasonably withheld or delayed. Neither this Agreement nor the duties and obligations of the City hereunder may be assigned to any person or legal entity, without the written consent of the Developer, which consent shall not be unreasonably withheld or delayed. The agreements and covenants included herein shall be binding on and inure to the benefit of any partners, permitted and accepted assigns, and successors-in-interest of the parties hereto.

20. Amendments. This Agreement can only be amended by an instrument in writing executed and delivered by the City and the Developer.

21. Waivers. No waiver of, or consent with respect to, any provision of this Agreement by a party hereto shall in any event be effective unless the same shall be in writing and signed by such party, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

22. No Third Party Beneficiaries. No person or entity, other than the City, shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City and the Developer (and their respective successors and assigns), any rights, remedies, obligations or liabilities under or by reason of this Agreement.

23. Mortgagee Protection. The parties hereto agree that this Agreement shall not prevent or limit Developer, at Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. Developer shall have the right to encumber and assign its rights and interests hereunder to the lenders providing such financing as security for such financing without the consent of the City and without complying with Section 10 hereof. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Developer and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. A mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust on the Property made in good faith and for value, unless otherwise required by law.

(b) The mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which mortgagee has submitted a request in writing to the City in the manner specified herein for giving notices, shall be entitled to receive written notification from City of any default by Developer in the performance of Developer's obligations under this Agreement.

(c) If City timely receives a request from a mortgagee requesting a copy of any notice of default given to Developer under the terms of this Agreement, City shall provide a copy of that notice to the mortgagee within ten (10) days following the sending of the notice of default to Developer. The mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no mortgagee shall have an obligation or duty under this Agreement to perform any of Developer's obligations or other affirmative covenants of Developer hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by Developer is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any mortgagee in possession shall be subject to the provisions of Section 10 of this Agreement.

24. Notices. Any written notice, statement, demand, consent approval, authorization, offer, designation, request or other communication to be given hereunder shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

**If to CITY:**
Scott Ochoa, City Manager
City of Ontario
303 East "B" Street
Ontario, CA 91764

**with a copy to:**
Ruben Duran, City Attorney
Best Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

**If to DEVELOPER:**

Tricia Patton
KL LB BUY 1 LLC
6900 E. Camelback Road, Suite 1090
Scottsdale, AZ 85251

**With a copy to (legal counsel, if applicable):**

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, or telecopy, upon the sender's receipt of an appropriate answerback or other written acknowledgment, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with courier charges prepaid, 24 hours after delivery to said

overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

25. Jurisdiction and Venue. City and the Developer (a) agree that any suit action or other legal proceeding arising out of or relating to this Agreement shall be brought in state or local court in the County of San Bernardino or in the Courts of the United States of America in the district in which the City is located, (b) consent to the jurisdiction of each such court in any suit, action or proceeding, and (c) waive any objection that it may have to the laying of venue or any suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Each of the City and the Developer agrees that a final and non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

26. Attorneys' Fees. If any action is instituted to interpret or enforce any of the provisions of this Agreement, the prevailing party in such action shall be entitled to recover from the other party thereto reasonable attorney's fees and costs of such suit (including both prejudgment and post judgment fees and costs) as determined by the court as part of the judgment.

27. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

28. Usage of Words. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

29. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

30. Incorporation by Reference. The following Exhibits attached hereto and the Recitals of this Agreement are hereby incorporated by reference as though fully set forth herein:

Exhibit 1 – Legal Description of Property
Exhibit 2 – Map of Property
Exhibit 3 – Description of Improvements
Exhibit 4 – Estimated Costs of Improvements
Exhibit 5 – Form of Certificate of Regional or Local Adjacent DIF Credit
Exhibit 6 – Form of DIF Credit Request
Exhibit 7 – Not applicable
Exhibit 8 – Form of DIF Improvement Assignment

[*Signatures On Next Page*]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the respective dates set forth below.

**"CITY"**

**CITY OF ONTARIO**, a California municipal corporation

Dated: _____

By: _____
Scott Ochoa, City Manager

**ATTEST:**

By: _____
City Clerk

**APPROVED AS TO FORM:**
BEST BEST & KRIEGER, LLP

By: _____
City Attorney

**"DEVELOPER"**

**KL LB BUY 1 LLC**
a Delaware limited liability company

Dated: April 22, 2024 By: Nathan Holt

Name: Nathan Holt

Its: Authorized Signatory



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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 SAN BERNARDINO

On this ___ day of _____, 2024 before me, _____, 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 ARIZONA
COUNTY OF MARICOPA

On this 22nd day of April, 2024 before me, Michelle Bowen, Notary Public, personally appeared Nathan Holt, 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 Arizona that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (Seal)

MICHELLE BOWEN
Notary Public - Arizona
Maricopa County
Commission # 663626
My Comm. Expires Mar 15, 2028

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## Exhibit 1

## Legal Description of Property

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

PARCEL H AS SHOWN ON LOT LINE ADJUSTMENT NO. LLA23-007, AS EVIDENCED BY DOCUMENT RECORDED MAY 17, 2023 AS INSTRUMENT NO. 2023-0119994 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL A OF LOT LINE ADJUSTMENT NO. LLA22-004, RECORDED NOVEMBER 17, 2022 AS DOC# 2022-0376852, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, ALSO BEING A PORTION OF PARCEL 2 OF PARCEL MAP NO. 16568, IN THE CITY OF ONTARIO, AS PER MAP FILED IN BOOK NO. 204, PAGES 24 AND 25 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN BERNARDINO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER PARCEL D OF SAID LOT LINE ADJUSTMENT NO. LLA22-004, ALSO BEING THE NORTHWEST CORNER OF LOT 6 OF TRACT MAP NO. 20134, IN THE CITY OF ONTARIO, AS PER MAP FILED IN BOOK 357, PAGES 23 THROUGH 33, INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID CORNER ALSO BEING ON THE SOUTHERLY LINE OF SAID PARCEL MAP NO. 16568;

THENCE, ALONG THE NORTHERLY PROLONGATION OF THE EASTERLY RIGHT OF WAY OF TWINKLE AVENUE AS SHOWN ON SAID LOT LINE ADJUSTMENT NO. LLA22-004, NORTH 00°11'36" WEST 21.94 FEET TO THE BEGINNING OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 1,030.00 FEET;

THENCE, NORTHERLY, 47.25 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°37'41";

THENCE NORTH 89°53'51" EAST 355.29 FEET TO A POINT ON THE EASTERLY LINE OF PARCEL A OF SAID LOT LINE ADJUSTMENT NO. LLA22-004, SAID POINT BEING ON A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 1385.00 FEET, A RADIAL LINE THROUGH SAID POINT BEARS NORTH 87°51'59" EAST;

THENCE, NORTHERLY, ALONG THE EASTERLY LINE OF SAID PARCEL A, AND ALONG SAID CURVE, 31.25 FEET THROUGH A CENTRAL ANGLE OF 01°17'34";

THENCE NORTH 03°25'35" WEST, 99.85 FEET, ALONG SAID EASTERLY LINE, AND TO THE BEGINNING OF A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 615.00 FEET;

THENCE, NORTHERLY, ALONG SAID EASTERLY LINE, AND ALONG SAID CURVE, 34.71 FEET THROUGH A CENTRAL ANGEL OF 03°14'00";

THENCE, ALONG SAID EASTERLY LINE, NORTH 00°11'35" WEST, 761.32 FEET TO THE NORTHERLY LINE OF SAID PARCEL 2, AND THE NORTHEAST CORNER OF SAID PARCEL A OF SAID LLA 22-004;

THENCE, ALONG SAID NORTHERLY LINE, SOUTH 89°58'40" WEST, 385.00 FEET, TO THE EASTERLY LINE OF PARCEL 1 OF SAID PARCEL MAP NO. 16568, AND THE NORTHWEST CORNER OF SAID PARCEL 2 OF SAID PARCEL MAP NO. 16568;

THENCE, SOUTHERLY ALONG SAID EASTERLY LINE, SOUTH 00°11'35" EAST, 946.80 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 1 OF SAID PARCEL MAP NO. 16568, AND THE SOUTHEAST CORNER THEREOF;

THENCE, WESTERLY ALONG SAID SOUTHERLY LINE, SOUTH 89°37'37" WEST, 1168.19 FEET, TO THE CENTERLINE OF HAVEN AVENUE, AS SHOWN ON SAID PARCEL MAP NO. 16568;

THENCE SOUTHERLY ALONG SAID CENTERLINE, SOUTH 00°11'36" EAST, 50.00 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 2;

THENCE EASTERLY ALONG SAID SOUTHERLY LINE, NORTH 89°37'37" EAST, 1207.01 FEET, TO THE NORTHWEST CORNER OF SAID PARCEL D AND SAID LOT 6 OF TRACT MAP NO. 20134 AND THE POINT OF BEGINNING.

APN: 0218-161-20-000

Exhibit 1

# Exhibit 2
# Map of Property

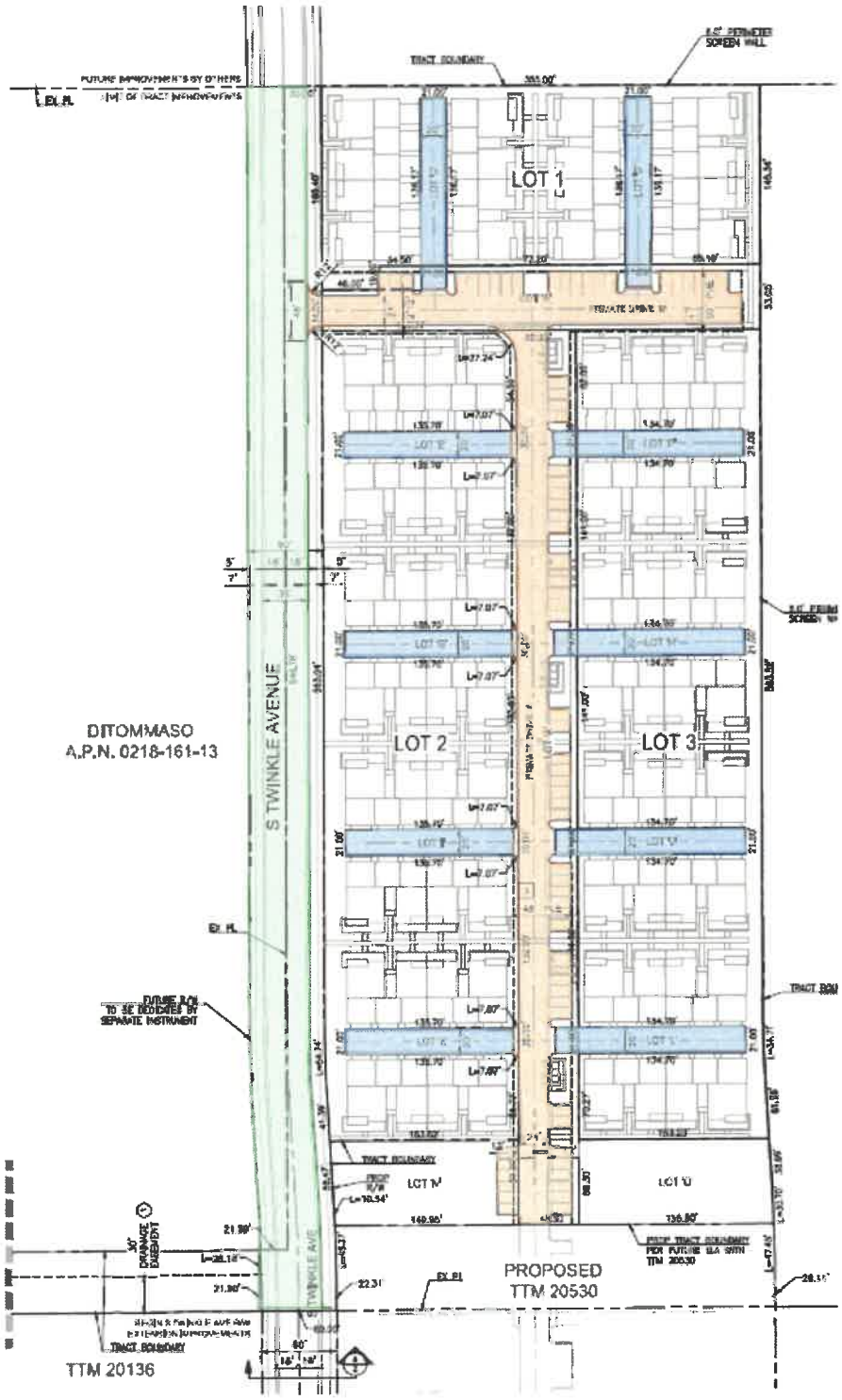


Exhibit 2

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## Exhibit 3

## Description of Improvements

DIF Eligible Facilities: The DIF Eligible Facilities consist of the following Components and Segments; provided, however, that each such Segment described below shall constitute a Segment for purposes of this Agreement only if such Segment was constructed by or on behalf of the Developer.

| Storm Drain Facilities | | | | | | |
|---|---|---|---|---|---|---|
| **Project** | **Development Phase** | **DIF Category** | **DIF Program Project No.** | **DIF Project Description** | **Segment Description** | **Project Scope/Length [LF]** |
| TM20529 | Phase 1 | Local Adjacent Storm Drain | SD-029 | Haven Avenue Laterals E/O Haven And N/O Schaefer | 72-inch storm drain main along the frontage of the project on Twinkle Avenue starting from about 337' south of Chino Avenue | 996 |

# Exhibit 4

## Estimated Costs of Improvements

| Storm Drain Facilities | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Project | Development Phase | DIF Category | DIF Program Project No. | DIF Project Description | Segment Description | Project Scope/Length [LF] | Total DIF Project Costs | Segment Cost Percentage | Estimated Eligible Costs |
| TM20529 | Phase 1 | Local Adjacent Storm Drain | SD-029 | Haven Avenue Laterals E/O Haven And N/O Schaefer | 72-inch storm drain main along the frontage of the project on Twinkle Avenue starting from about 337' south of Chino Avenue | 996 | $ 2,180,511 | 22.74% | $ 495,834 |
| | | | | | | | | **Subtotal Local Adjacent Storm Drain Facilities** | **$ 495,834** |

Exhibit 5

46700.10300\34006733.2

**Exhibit 5**

**FORM OF CERTIFICATE OF REGIONAL OR LOCAL ADJACENT DIF CREDIT**

Pursuant to Section 6 of the Development Impact Fee Credit Agreement for Facility Construction by and between the City of Ontario and KL LB BUY 1 LLC dated _____, 2024, the terms and definitions of which are hereby incorporated herein by this reference and hereinafter called the "Agreement" , the City of Ontario hereby certifies that Developer is entitled to the following amount and nature of DIF Credits:

Amount of Credit: $_____
Infrastructure Category of DIF: _____
Local Adjacent or Regional Category of DIF: _____

_____
Scott Ochoa, City Manager

Dated: _____

## Exhibit 6

## FORM OF DIF CREDIT REQUEST

The undersigned (the "Developer"), hereby requests DIF Credits in the DIF categories and amounts specified in Attachment 1 hereto. In connection with this Credit Request, the undersigned hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized officer or representative of the Developer, qualified to execute this Credit Request on behalf of the Developer and is knowledgeable as to the matters set forth herein.

2. All costs of the Improvements for which credit is requested hereby are Eligible Costs (as defined in the DIF Credit Agreement) and have not been inflated in any respect. The Eligible Costs for which credit is requested have not been the subject of any prior credit request submitted to the City.

3. Supporting documentation (such as the applicable Developer Contract, third party invoices, lien releases and cancelled checks or other evidence of payment) is attached with respect to each cost for which credit is requested.

4. The Improvement for which credit is requested was constructed in accordance with the requirements of the DIF Credit Agreement.

5. Please issue a Certificate of DIF Credit to the Developer in the amount requested.

I declare under penalty of perjury that the above representations and warranties are true and connect.

| DEVELOPER | CITY |
|---|---|
| KL LB BUY 1 LLC | Credit Request Approved |
| By: Nathan Holt<br>Authorized Representative of Developer | By: _____<br>Scott Ochoa, City Manager |
| Date: April 22, 2024 | Date: _____ |

ATTACHMENT 1

SUMMARY OF IMPROVEMENTS AND REQUESTED DIF CREDITS

| Improvement | Eligible Costs/Contract Amount | DIF Credit Requested |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
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**[List here all Improvements for which credit is requested, and attach support documentation]**

Exhibit 6

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**Exhibit 8**

**FORM OF ASSIGNMENT, SALE, OR TRANSFER OF DIF CREDIT**

**FROM _____ to _____**

This Sale or Transfer of DIF Credit ("DIF Credit Transfer") is entered into as of _____, 20__, between _____, a _____ _____"Transferor") and_____ ("Transferee").

A. NMC Builders, LLC is a limited liability company formed under the laws of the state of California, the business affairs of which are governed by that certain Amended and Restated Limited Liability Company Agreement of NMC Builders, LLC dated as of March 31, 2005, as amended ("NMC Agreement").

B. Transferor is a Member of the NMC Builders, LLC.

C. Pursuant to that certain Certificate of DIF Credit (the "Certificate") issued by the City of Ontario to NMC Builders, LLC, dated _____, an amount of DIF Credit was made available to the Transferor for use in the eastern portion of the New Model Colony. A copy of the Certificate is DIF Credit issued to NMC Builders, LLC by CITY is attached hereto and incorporated herein as Exhibit "C-2".

D. Transferee is owner of real property within the eastern portion of the New Model Colony of the City of Ontario and further described as Tract Map No. _____ . (or other description of the property).

E. Pursuant to the terms of this DIF Credit Assignment, Transferee desires to receive from the Transferor, a share of the DIF Credit issued to Transferor by NMC Builders LLC.

For good, valuable and sufficient consideration received, the receipt of which is hereby acknowledged, the Transferor and Transferee hereby agree as follows:

1. <u>TRANSFER</u>

The Transferor hereby assigns, transfers and conveys to Transferee the DIF Credit of (insert more rows as needed):

| DIF Credit Category | DIF Certificate No. | DIF Credit Amount |
| --- | --- | --- |
| | | |
| | | |

2. ACCEPTANCE

Transferee hereby accepts and assumes DIF Credit as listed above. Transferee and CITY shall track DIF Credit as it is redeemed, and the remaining balance to be used, by completing, dating and initialing Exhibit "D-3" attached hereto and incorporated herein. The original Exhibit "C-2" shall not be removed from this Transfer Agreement.

3. EFFECTIVE DATE.

This Transfer Agreement shall become effective as of the date first above written.

4. TRANSFEROR'S REPRESENTATIONS AND WARRANTIES.

The Transferor makes the following representations and warranties, which representations and warranties shall survive this DIF Credit Transfer:

The Transferor has the full power and authority to enter into this DIF Credit Transfer.

The execution, delivery and performance of this DIF Credit Transfer will not result in any violation or default under its organizational documents or any instruments to which the Transferor is a party.

From and after the date of this DIF Credit Transfer, the Transferor shall have no further rights, title or interest in or to the DIF Credit.

5. TRANSFEREE'S REPRESENTATION AND WARRANTIES.

Transferee makes the following representations and warranties, which representations and warranties shall survive this Transfer:

Transferee is the owner of Tract No. _____ (or other property description) in the eastern portion of the New Model Colony, City of Ontario.

Transferee has the full power and authority to enter into this DIF Credit Transfer.

This DIF Credit Transfer, when executed, shall constitute a valid and legal obligation binding as to Transferee.

6. NOTICES.

All notices, consents, waivers and other communications under this DIF Credit Transfer must be in writing and will be deemed to have been duly given when (a) delivered by hand (with written confirmation of receipt), (b) when received by the addressee, if sent by a nationally recognized overnight delivery service (receipt requested), in each case to the appropriate addresses set forth below (or to such other addresses as a party may designate by notice to the other parties); (c) when received by the addresses as confirmed by a confirmation receipt, if sent by facsimile to the appropriate facsimile number designated below (or to such other facsimile number as the parties may designate by notice to the other parties).

If to the Transferor:

Entity Name: _____
Address: _____
_____
Attention: _____
Phone: _____
Email: _____

If to Transferee:

Entity Name: _____
Address: _____
_____
Attention: _____
Phone: (___) _____
Email: _____

7. GENERAL PROVISIONS.

Severability. In the event that the application of any of the provisions of this DIF Credit Transfer are held to be unenforceable or invalid, the validity and enforceability of other applications of that provision and of the remaining provisions shall not be affected.

Counterparts. This DIF Credit Transfer may be executed in counterparts.

Entire Agreement. This DIF Credit Transfer contains the entire final understanding of and between the parties and supersedes any prior written or oral agreements between them respecting the subject matter of this DIF Credit Transfer. There are no representations, agreements, arrangements or understandings, oral or written, between the parties that are not fully set forth herein.

Construction. Every covenant, term and provision of this DIF Credit Transfer shall be construed simply according to its fair meaning and not strictly for or against any party.

No Modifications. No supplement, modifications or amendment to this DIF Credit Transfer shall be binding unless executed in writing by both parties.

Further Assurances. The Transferor and Transferee each agree to execute such other documents and perform such other acts as may be necessary or desirable to effectuate this DIF Credit Transfer.

Effect of NMC Agreement and Certificate. This DIF Credit Transfer Agreement is, and shall remain, subject to the terms and conditions of the DIF Credit Certificate and the NMC Agreement, as may be amended by the parties thereto from time to time.

No Third Party Beneficiaries. This DIF Credit Transfer Agreement is made and entered into for the sole protection and benefit of the parties hereto, the City of Ontario, and their respective successors and assigns. No other person or entity shall have any right of action based upon any provision of this DIF Credit Transfer Agreement.

IN WITNESS WHEREOF, the Transferor and Transferee have duly executed this DIF Credit Transfer as of the date first written above.

TRANSFEROR:

Entity Name (NMC Builders Member) a _____

By: _____

By: _____

TRANSFEREE:

Entity Name _____ a _____

By: _____

By: _____

**(All Signatures must be notarized)**

Exhibit 8

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**EXHIBIT "C-2" to Transfer of DIF Credit**

**(Certificate of DIF Credit)**

*(Original DIF Credit Certificate issued by City must be attached).*

**EXHIBIT "D-3" to Transfer of DIF Credit**

**Available DIF Credit Reconciliation**

**DIF Credit Category** _____

**Assigned to:** _____**(NMC Member)**

**Date Assigned to NMC Member:** _____

**Transferee:** _____

**Date Transferred:** _____

| Starting DIF Credit Balance | Amount Redeemed | Date | Remaining DIF Credit Balance | City's Initials | Transferee's Initials |
|---|---|---|---|---|---|
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Exhibit 8

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| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Planning<br>Prepared By: Diane Ayala<br>Staff Member Presenting: Scott Murphy, Executive Director Community Development<br>Reviewed By: Kimberly Ruddins, Henry Noh<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 12 |

**SUBJECT:** **AN ORDINANCE ADOPTING A DEVELOPMENT CODE AMENDMENT ESTABLISHING HISTORIC PRESERVATION - ADAPTIVE REUSE PLANS, FILE NO. PDCA24-002**

**RECOMMENDATION:** That the City Council consider and adopt an Ordinance approving File No. PDCA24-002, a Development Code Amendment revising Table 2.02-1: Reviewing Matrix of Chapter 2 (Administration and Procedures) to include the Fire Marshal as an Approving Authority, and Chapters 4 (Permits Actions and Decision) and 7 (Historic Preservation) to establish Historic Preservation - Adaptive Reuse Plan of the City of Ontario Development Code.

**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.

**BACKGROUND & ANALYSIS:** On June 18, 2024, the City Council introduced and waived further reading of an ordinance approving the Development Code Amendment. Staff has initiated a Development Code Amendment to allow for the establishment of Historic Preservation - Adaptive Reuse Plans and processing procedures, generally described as follows:
(1) Amend Division 2.02 (Application Filing and Processing), revising Table 2.02-1: Reviewing Matrix to include the Fire Marshal as an Approving Authority;
(2) Amend Division 4.03 (Ministerial Permits and Decision) by adding processing procedures, requirements, and eligibility for an adaptive reuse plan approval; and
(3) Amend Division 7.01 (Historic Preservation) to add Historic Preservation - Adaptive Reuse Plan as an incentive.

The Amendment will target adaptive reuse (or change of building classification/occupancy) of designated historic buildings to multiple-family residential, office, commercial, work/live, or retail while removing construction barriers related to zoning, building, and fire code compliance. In turn, the adaptive reuse program will further incentivize preservation of historically significant resources, streamline the review and approval process by waiving the development plan review, reduce

underutilized sites, reduce demolition, and foster sustainable community development.

Adaptive reuse programs rely upon the California Historic Building Code, International Existing Building Code, and California Health and Safety Code to provide the authority for the Building Official and Fire Marshal to consider alternative building standards and methods of construction while ensuring adequate health and safety protections for the new use. Relief of strict zoning requirements or allowance of nonconforming site conditions, such as setbacks, parking, open space for residential use, and height, may be considered by the Planning Director. The Fire Marshal, Building Official and Planning Director (Approving Authority) may approve Adaptive Reuse Plans through a ministerial process, however the Approving Authority shall first find that special individual reasons make the strict letter of the local codes impractical and the modification is in compliance with the intent and purpose of the local codes and that such modification does not lessen health, life and safety requirements. The proposed provisions of the Development Code Amendment are shown in Attachment A (Development Code Amendment) of the appended Ordinance.

**PLANNING COMMISSION REVIEW AND ACTION**: On May 28, 2024, the Planning Commission conducted a public hearing to consider the proposed Development Code Amendment. Upon conclusion of the public hearing, the Planning Commission voted unanimously (5-0) to approve Resolution No. PC24-016, recommending the City Council approve the proposed Development Code Amendment.

**COMPLIANCE WITH THE ONTARIO PLAN:** The proposed project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of TOP. Goals and policies of TOP that are furthered by the proposed Development Code Amendment are addressed in the attached Planning Commission backup material.

**ENVIRONMENTAL REVIEW:** The proposed Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the commonsense exemption (general rule) that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

# ATTACHMENT A:
# Development Code Amendment
# File No. PDCA23-001

**PART I. Division 2.02—Application Filing and Processing**
Revise Table 2.02-1 (Review Matrix) as follows:

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| A. LEGISLATIVE ACTIONS | | | | | | | | | | | |
| 1. Airport Land Use Compatibility Plan and Amendments [1] (Ref: ODC Section 4.01.010) | | | | | | | | | R | X | |
| 2. Development Agreements [1] (Ref: ODC Section 4.01.015) | | | | | | | | | R | X | |
| 3. Development Code Amendments [1] (Ref: ODC Section 4.01.020) | | | | | | | | | R | X | |
| 4. Amendment to the Policy Plan (General Plan) Component of The Ontario Plan [1] (Ref: ODC Section 4.01.025) | | | | | | | | | R | X | |
| 5. Planned Unit Developments and Amendments [1] (Ref: ODC Section 4.01.030) | | | | | | | | | R | X | |
| 6. Specific Plans and Amendments [1][12] (Ref: ODC Section 4.01.035) | | | | | | | | | R | X | |
| 7. Williamson Act Contract Cancellations [1] (Ref: GC Section 51200 et.seq.) | | | | | | | | | R | X | |
| 8. Zone Changes [1] (Ref: ODC Section 4.01.040) | | | | | | | | | R | X | |
| B. DISCRETIONARY PERMITS AND ACTIONS | | | | | | | | | | | |
| 1. Billboard Relocation Agreements [1] (Ref: ODC Section 4.02.010) | | | | | | | | | R | X | |
| 2. Conditional Use Permits (Ref: ODC Section 4.02.015) | | | | | | | | | | | |
| a. Hotels, Motels and Residence Inns [1] | | | | | | | | | R | X | |
| b. Use established in conjunction with a Development Plan [1] | | | | | | R | | | X | A | |
| c. Use established within an existing structure [1] | | | | | X | | | | A | A | |
| d. Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | | | | | X | A | |
| e. Revocation due to abandonment of use per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | X | | | | A | A | |
| 3. Density Bonus and Other Incentives per ODC Section 6.01.010.G (Density Bonus and Other Incentives) [1] | | | | | | | | | R | X | |
| 4. Development Plans, except within the ONT zoning district (Ref: ODC Section 4.02.025) | | | | | | | | | | | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| a. Residential developments totaling 5 or more dwelling units or the development of 3 or more dwelling units on a single lot or parcel | | | | | | R | | | X | A | |
| b. Commercial developments, and developments in the CIV, OS-R, OS-C and UC zoning districts, greater than 500 SF in area | | | | | | X | | | A | A | |
| c. Industrial developments equal to or less than 0.45 FAR | | | | | | X | | | A | A | |
| d. Industrial developments exceeding 0.45 FAR | | | | | | R | | | X | A | |
| e. Wireless telecommunications facilities pursuant to Section 5.03.415 (Wireless Telecommunications Facilities) of this Development Code | | | | | | | | | | | |
| (1) Tier 2 facilities | | | | | | X | | | A | A | |
| (2) Tier 3 facilities [2] | | | | | | X | | | A | A | |
| f. All others | | | | | | X | | | A | A | |
| 5. Extensions of Legal Nonconforming Status [1] (Ref: ODC Section 4.02.030) | | | | | X | | | | A | A | |
| 6. Historic Preservation | | | | | | | | | | | |
| a. Certificates of Appropriateness (Ref: ODC Section 4.02.050) | | | | | | | | | | | |
| (1) Designated Historic Landmarks and Contributors, and Architectural Conservation Areas; and Demolition of an Historic Resource [1] | | | | | | | R | X | | A | |
| (2) Deferral of Replacement Structure [1] | | | | | | | R | X | | A | |
| (3) Eligible Historic Resources [1] | | | | | | | X | A | | A | |
| (4) Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | | | R | X | | A | |
| (5) Waivers for Minor Improvements | X | | | | | | A[6] | A[6] | | | |
| b. Certificates of Economic Hardship [1] (Ref: ODC Section 4.02.055) [1] | | | | | | | R | X | | A | |
| c. Certificates of Economic Hardship—Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | | | R | X | | A | |
| d. Conservation Plans (Ref: ODC Section 4.02.060) | | | | | | | X | A | | A | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| e. Historic Resource Tiering (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045) | | | | | | | X | A | | A | |
| f. Local Historic Landmark and Local District Designations, and Architectural Conservation Areas (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045) | | | | | | | R | R | | X | |
| g. Mills Act Contracts (Ref: ODC Section 4.02.065) | | | | | | | R | R | | X | |
| h. Mills Act Cancellations [1] (Ref: ODC Section 4.02.065) | | | | | | | R | R | | X | |
| i. Addition/Removal of Resources to/from the Ontario Register (Ref: ODC Section 4.02.045) | | | | | | | | | | | |
| (1) At the request of the property owner, or upon City initiation if the most recently prepared Historic Resource Survey evaluating the resource is more than 5 years old. | | | | | | | X | A | | A | |
| (2) Loss of all historic and/or cultural significance due to a catastrophe causing a loss of integrity, or due to extensive legally performed alterations performed after the property was initially surveyed. | X | | | | | | | A | | A | |
| 7. Master Plans and Amendments [1] (Ref: ODC Section 4.02.070) | | | | | | | | | R | X | |
| 8. Minor Adjustments/Alterations (Ref: ODC Section 4.02.020.C) | | | | | X | | | | A | A | |
| 9. Nonconforming Structure Reconstruction [1] (Ref: ODC Section 3.01.020) | | | | | | | | | X | A | |
| 10. Parking Reduction (Ref: ODC Section 6.03.025) | | | | | | | | | X | A | |
| 11. Sign Programs (Ref: ODC Section 4.02.075) | X | | | | | | | | A | A | |
| 12. Specific Plan Minor Adjustments/Alterations [12] (Ref: ODC Section 4.02.080) | X | | | | | | | | A | A | |
| 13. Stays of Permit Approval Time Limit (Ref: ODC Section 2.02.025.A.8) | | | | | X[5] | X[5] | X[5] | X[5] | X[5] | X[5] | |
| 14. Subdivisions | | | | | | | | | | | |
| a. Lot Merger (Merger of Contiguous Parcels) [1] (Ref: ODC Section 4.02.085) | | | | | | R | | | X | A | |
| b. Reversions to Acreage [1] (Ref: ODC Section 4.02.090) | | | | | | R | | | X | A | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| c. Tentative Tract and Parcel Maps, and Vesting Maps [1] (Ref: ODC Section 4.02.095) | | | | | | R | | | X | A | |
| d. Tentative Tract and Parcel Map Time Extensions (Ref: ODC Section 2.02.025.A.3 & 4) | | | | | | R | | | X | A | |
| 15. Time Extensions, excepting tentative subdivision maps (Ref: ODC Section 2.02.025) | X | | | | | | | | A | A | |
| 16. Variances (Ref: ODC Section 4.02.020.D) | | | | | | | | | | | |
| a. Homeowner [1] | | | | | X | | | | A | A | |
| b. Other [1] | | | | | | R | | | X | A | |
| C. MINISTERIAL (ADMINISTRATIVE) PERMITS AND DECISIONS | | | | | | | | | | | |
| 1. Historic Preservation- Adaptive Reuse Plans (Ref: ODC Section 4.03.010) | X | | X | X | | | | | | | |
| 2. Administrative Exceptions (Ref: ODC Section 4.03.050) | | | | | X | | | | A | A | |
| 3. Administrative Use Permits (Ref: ODC Section 4.03.015) | X | | | | | | | | | | |
| 4. Business License - Zoning/Land Use Compliance (Ref: OMC 3-1.129 (Zoning Compliance) | X | | | | | | | | A | A | |
| 5. Development Plans within the ONT zoning district (Ref: ODC Section 4.02.025) | X | | | | | | | | A | A | |
| 6. Fair Housing and Reasonable Accommodation Ref: ODC Section 4.02.035) | | | | | X | | | | A | A | |
| 7. Interpretations and Land Use Determinations (Ref: ODC Section 1.02.010) | | | | | X | | | | A | A | |
| 8. Landscape and Irrigation Plans (Ref. ODC Section 6.05.005) | X | | | | | | | | A | A | |
| 9. Off-Site (Public) Improvement Plans (Ref: ODC Section 6.08.040) | | X | | | | | | | A | A | |
| 10. ONT ALUCP Interagency Review [7] (Ref: ONT ALUCP) | X | | | | | | | | | A[8] | |
| 11. Other Plan Checks and actions required by this Development Code | X | | | | | | | | A | A | |
| 12. Shopping Cart Retention Plans (Ref: ODC Section 6.11.020) | X | | | | | | | | A | A | |
| 13. Sign Plans (Ref: ODC Section 4.03.020) | X | | | | | | | | A | A | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| 14. | X | | | | | | | | A | A | |
| 15. Subdivisions | | | | | | | | | | | |
| a. Certificates of Compliance (Ref: ODC Section 4.03.025) | | X | | | | | | | A | A | |
| b. Final Tract and Parcel Maps, and Vesting Maps (Ref: ODC Section 4.03.030) | | | | | | | | | | X | |
| c. Lot Line Adjustments (Ref: ODC Section 4.03.035) | | X | | | | | | | A | A | |
| d. Map Corrections and Amendments (Ref: ODC Section 4.03.040) | | X | | | | | | | A | A | |
| e. Street Address Numbering (Ref. ODC Section 6.06.010) | | | | X | | | | | A | A | |
| f. Street Name Assignment (Ref. ODC Section 6.06.010) | X | | | | | | | | A | A | |
| g. Subdivision Improvement Agreement (Ref: ODC Section 6.08.040.G) | | X | | | | | | | A | A | |
| h. Urban Lot Split (Ref: ODC Section 6.08.060 | | X | | | | | | | A | A | |
| 16. Tier 1 wireless telecommunications facility pursuant to ODC Section 5.03.420 (Wireless Telecommunications Facilities) | | | | | X | | | | A | A | |
| 17. Wall, Fence, and Obstructions Plans not associated with a Development Plan (Ref. ODC Section 6.02.005) | X | | | | | | | | A | A | |
| D. ENVIRONMENTAL DETERMINATIONS AND ACTIONS | | | | | | | | | | | |
| 1. Environmental Impact Reports (EIRs) (Ref: CCR Section 15080 et seq.) | | | | | | | | | X[3] | X[3] | |
| 2. Exempt Projects (Ref: CCR Section 15300 et seq.) | X[3] | | | | X[3] | X[3] | X[3] | X[3] | A | A | |
| 3. Ministerial Projects (Ref: CCR Section 15268) | | Ministerial projects are exempt from the requirements of CEQA [10] | | | | | | | | | |
| 4. Negative Declarations (NDs) and Mitigated Negative Declarations (MNDs) (Ref: CCR Section 15070 et seq.) | | | | | X[3] | X[3] | X[3] | X[3] | X[3] | X[3] | |
| 5. Addendums to previously certified EIRs and previously adopted NDs and MNDs (Ref: CCR Section 15164) | | | | | X[3] | X[3] | X[3] | X[3] | X[3] | X[3] | |
| 6. Environmental review for projects located within the ONT zoning district [9] | | | | | | | | | | | X |

**PART II. Division 4.03 —Ministerial Permits and Decision**
Add Section as follows:

Sections:

4.03.010: Historic Preservation—Adaptive Reuse Plan

## 4.03.010: Historic Preservation—Adaptive Reuse Plan

A. Purpose. The purpose of this Section is to establish a procedure by which Adaptive Reuse Plans may be approved by the City, while at the same time:

1. Provide a more efficient way for qualified historic buildings and adaptive reuse projects to meet development, building, and fire protection standards;

2. Promote adaptive reuse as part of broader goals supporting historic preservation, economic development, environmental sustainability and resilience, and recognize the social value of historic buildings;

3. Incentivize building reuse to encourage activation of Downtown Ontario where there is a large collection of commercial and industrial historic buildings that are worthy of preservation;

4. Eliminate or allow nonconformance with certain development regulations that would make adaptive reuse of qualified historic buildings infeasible, including such standards related to parking and loading, height, density, floor-area ratio, and open space; and

5. Allow alternative building and fire code compliance for qualified adaptive reuse projects able to demonstrate an alternative means or method of protecting public health, safety, and welfare.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny an Adaptive Reuse Plan application, and to impose reasonable conditions upon the approval of the application.

2. Adaptive Reuse Plan approval shall allow for those land uses identified in Table 5.02-1 (Land Use Matrix) of this Development Code which allows for a broad range of land uses of the underlying zoning district in which the site is located. However, no new uses that emits noxious odors or excessive noise shall be allowed, unless the it can be demonstrated to the satisfaction of the Planning Director that the use will not cause adverse impacts to nearby residential land uses.

3. Qualifying buildings include those listed on the National Register of Historic Places, on the California Register of Historic Resources, Ontario Register of Historic Resources as designated local landmarks or contributors to designated local historic districts located within the Adaptive Reuse Plan Area.

4. Adaptive Reuse projects are construction and remodeling projects that reconfigure existing spaces within existing buildings to accommodate a new use or purpose other

than what it was originally designed for. Adaptive Reuse projects require a change of use and building occupancy from office or commercial to residential, industrial to work/live, residential to office or commercial, or assembly to residential, office or commercial.

5. Application Filing and Processing. An Adaptive Reuse Plan application shall be filed, processed, and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section. Plans and reports prepared for an Adaptive Reuse Plan shall be prepared by a California licensed architect meeting the minimum qualifications standards of The Secretary of the interior Professional Qualifications (Code of Federal Regulations, 36 CFR Part 61).

C. Adaptive Reuse Plan Area. This area consists of the City's original downtown, and extends north to include the historic districts adjacent to Euclid Avenue, the boundary of which is as follows:

*Beginning at the intersection of the centerlines of State Street and San Antonio Avenue, thence north to the northernmost city boundary, thence east to the centerline of Sultana Avenue, thence south to the centerline of I Street, thence east to the centerline of Campus Avenue, thence south to the centerline of State Street, thence west to the point of beginning.*

D. Alternative Building and Fire Code Regulations. The alternative building and fire codes regulations adopted in this Section are applicable to qualified buildings and adaptive reuse projects.

1. *Alternative Codes.* Use of the California Historic Building Code, International Existing Building Code, California Health and Safety Code and the Ontario Adaptive Reuse Plan Technical Manual shall provide a process and the ability for the Building Official and Fire Marshal to consider alternative building standards while ensuring adequate health and safety protections.

2. In permitting repairs, alterations, and additions necessary to accommodate adaptive reuse projects, the alternative code regulations shall impose requirements that will, in the determination of the Building Official and the Fire Marshal, protect the public health, safety, and welfare.

3. Nothing in this Section shall be construed to allow the reduction of existing seismic or fire and life-safety elements of an eligible building where such elements provide a greater level of protection than the minimum requirements established by this Section.

4. Subject to the approval of the Building Official and Fire Marshal, the use or occupancy type of a qualified building shall be allowed to be changed as part of an adaptive reuse project without conforming to all requirements of Title 8, Building Regulations, and Title 4, Chapter 4, Fire Code of the City of Ontario Municipal Code provided the new or proposed occupancy is equally or less hazardous, based on life and fire risk, than the existing use.

5. Whenever there are practical difficulties involved in carrying out the provisions of Title 8, Building Regulations, and Title 4, Chapter 4, Fire Code of the City of Ontario Municipal Code, the Building Official and Fire Marshal shall have the authority to grant modifications for individual cases, provided the Approving Authority shall first find that special individual reasons make the strict letter of the local codes impractical and the modification is in compliance with the intent and purpose of the local codes and that such modification does not lessen health, life and safety requirements.

E. Incentives. The Planning Director may grant the following departures from certain development standards and requirements to incentivize qualified Adaptive Reuse Plans:

1. *Development Plan Waived*. Approved Adaptive Reuse Plans, which may allow for new additions up to 25 percent of the existing building floor area and is not visible from the public right-of-way, shall be exempt for the requirements for Development Plan review set forth in Section 4.02.025.

2. *Mezzanines*. Loft spaces in joint living and work quarters, dwelling units and guest rooms which do not exceed more than 33 percent of the floor area of the space below shall not be considered new floor area. Mezzanines may be included in the calculation of floor area for the purpose of determining compliance with the standards set forth in Paragraph (E) of this subdivision.

3. *Parking Reduction*. New parking spaces shall not be required for any converted use within the existing footprint of the building, but expansions to floor area shall require one parking space per bedroom or one parking space per 250 square feet of gross floor area for office or commercial.

4. *Setbacks*. Existing building setbacks may remain and shall be considered legally nonconforming, but no further encroachments shall be permitted into any nonconforming setback.

5. *Increases in Maximum Building Height*. The height of the structure, if it exceeds the maximum height of the zoning district, may remain and shall be considered legally nonconforming. Any rooftop construction needed for drainage, ventilation, utilities, or passive recreation shall be included within the height exemption. This height exemption does not include new residential or commercial floor area.

6. *Open Space*. Private open space for residential adaptive reuse projects may be waived when it is determined by the Approving Authority that the requirement would result in exterior alterations to the existing building that would result in an adverse impact to a historic resource. A minimum of 100 square feet of common open space per residential unit or 25 percent of the building square footage, whichever is less, shall be required and may be provided on the rooftop of the building or within the building and include various type of indoor amenities such as fitness center, workstations, playrooms, etc.

7. *Loading Zone*. A new loading zone shall not be required if the existing building does not have an existing loading zone.

F. Standards. Adaptive Reuse Projects permitted pursuant to this subdivision shall be developed in compliance with the following standards:

1. *Minimum Dwelling Units*. Adaptive reuse projects that propose residential shall develop no less than 3 units. The minimum floor area for new dwelling units and joint living and work quarters shall be 450 square feet. Floor area shall not include hallways or other common areas, or rooftops, balconies, terraces, fire escapes, or other projections or surfaces exterior to the walls of the building. The floor area of both the living space and the workspace shall be combined to determine the size of joint living and work quarters. The average floor area, as defined above, of all the dwelling units and joint living and work quarters in the building, including those that existed prior to the effective date of this ordinance, shall be at least 750 square feet. That minimum average size shall be maintained and not reduced.

2. *Storefront*. Ground floor of an existing multiple level commercial building shall contain street frontage and shall be used as a commercial storefront. Residential on ground may occur at the rear of the building behind the storefront.

3. *Exterior or Interior (Public Space) Alterations*. A Certificate of Appropriateness pursuant to Section 4.02.050: Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources is required for any alteration, addition, restoration, rehabilitation, remodeling, relocation, repainting, and/or resurfacing of an historic resource.

4. *Other Provisions*. Floor Area Ratio (FAR), Landscaping, Lot Coverage, and any other development standard of the underlying zone may be waived by the Approving Authority.

G. Conditions of Approval.

1. In approving an Adaptive Reuse Plan, the Planning Director may impose certain safeguards and standards to ensure that the purposes of this Development Code are maintained; ensure that the permit will not endanger the public health, safety or general welfare; ensure that the permit will not result in any significant environmental impacts; ensure that the permit will be in harmony with the area in which it is located; and ensure that the permit will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. The standards and requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

H. Findings and Decision. An Adaptive Reuse Plan, or any amendment thereto, shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. That the use(s) of the property will not be detrimental to the public health, safety and general welfare surrounding the project location;

2. That the Adaptive Reuse Project complies with the standards set forth in Section 4.03.010 (F) of this Development Code; and

3. A Certificate of Appropriateness has been approved or Waived for the Adaptive Reuse Plan.

**PART II. Division 7.01 —Historic Preservation**
Revise Section 7.01.025 (C) Types of Incentives, as follows:

C. Types of Incentives. The below-listed incentives may be used for the eligible projects identified in Subsection B (Applicability) of this Section.

1. Economic and Financial Incentives. The following economic and financial incentives may be applied to a project following approval by the Historic Preservation Commission or the Historic Preservation Trust Board of Trustees, as applicable, and approval by the City Manager or the City Council, as applicable:

a. Grants or loans approved through the Historic Preservation Trust pursuant to Section 7.01.030 (Historic Preservation Trust Fund) of this Division;

b. Approval of a Mills Act contract pursuant to Section 4.02.070 (Historic Preservation—Mills Act Contracts) of this Development Code;

c. Approval of funding through the Historic Rehabilitation Financing Program pursuant to Section 7.01.015 (California Historical Building Code) of this Division;

d. Grants or loans through other City funding sources, including, but not limited to, redevelopment and housing funds;

e. Preservation easements;

f. Reduction or elimination of building plan check or permit fees;

g. Reduction or elimination of development impact fees;

h. Reduction or elimination of any other applicable City fees; or

i. Federal rehabilitation tax credits (applied through the California Office of Historic Preservation).

2. Development Incentives. The following development incentives to be applied to the project:

a. *California Historical Building Code.* Use of the CHBC pursuant to Section 7.01.015 (California Historical Building Code) of this Division.

b. *Parking Reduction.* For existing single-family dwellings with a one-car garage, the Planning Director may waive the requirement for 2 off-street parking spaces within a garage when adding floor area, if an existing one-car garage contributes to the significance of the property and/or district, and the existing garage is in good condition, or, if deteriorated, will be returned to good condition as part of the work to add new living space to the residence.

c. *Setback Reductions and Increases in Maximum Building Height.* The Planning Director may grant reductions in required building setbacks or increases in the maximum allowed building height when the setback reduction or increase in allowed building height allows for the restoration of a character-defining feature, or allows character-defining features to be replicated in additions to historic structures. In no case, however, shall a reduction in a setback be granted when the reduction will cause an adverse effect to the property or neighboring property, or cause an adverse effect to the character of the neighborhood or district.

d. *Adaptive Reuse.* Departures from certain development standards may be waived to encourage adaptive reuse of qualified historic buildings pursuant to, and in accord with, the provisions of Section 4.03.010 of this Development Code.

ORDINANCE NO._____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA24-002, A DEVELOPMENT CODE AMENDMENT REVISING TABLE 2.02-1: REVIEWING MATRIX OF CHAPTER 2 (ADMINISTRATION AND PROCEDURES) TO INCLUDE THE FIRE MARSHAL AS AN APPROVING AUTHORITY, AND CHAPTERS 4 (PERMITS ACTIONS AND DECISION) AND 7 (HISTORIC PRESERVATION) TO ESTABLISH HISTORIC PRESERVATION-ADAPTIVE REUSE PLAN OF THE CITY OF ONTARIO DEVELOPMENT CODE, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, THE CITY OF ONTARIO ("Applicant") has filed an Application for the approval of a Development Code Amendment, File No. PDCA24-002, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City of Ontario Development Code (Ontario Municipal Code Title 9) provides the legislative framework for the implementation of The Ontario Plan, which establishes long term principals, goals, and policies for guiding the growth and development of the City in a manner that achieves Ontario's vision, and promotes and protects the public health, safety, comfort, convenience, prosperity, and welfare of its citizens; and

WHEREAS, the Project affects approximately 1.7 square miles (533 acres) of land, which is generally bordered by the Interstate 10 Freeway to the north, State Street to the south, San Antonio Avenue to the west and Sultana and Campus Avenue to the east; and

WHEREAS, the Project will allow for the establishment of Historic Preservation—Adaptive Reuse Plans and processing procedures, generally described as follows:

(1) Amend Division 2.02 (Application Filing and Processing), revising Table 2.02-1: Reviewing Matrix to include the Fire Marshal as an Approving Authority,

(2) Amend Division 4.03 (Ministerial Permits and Decision) by adding processing procedures, requirements and eligibility for an adaptive reuse plan approval;

(3) Amend Division 7.01 (Historic Preservation) to add Historic Preservation—Adaptive Reuse Plan as an incentive; and

WHEREAS, the Project will target adaptive reuse (or change of building classification/occupancy) of designated historic buildings to multiple-family residential, office, commercial, work/live, or retail while removing construction barriers related to zoning, building, and fire code compliance; and

WHEREAS, the adaptive reuse program will further incentivize preservation of historically significant resources, streamline the review and approval process by waiving the development plan review, reduce underutilized sites, reduce demolition, and foster sustainable community development; and

WHEREAS, adaptive reuse programs rely upon the California Historic Building Code, International Existing Building Code, and California Health and Safety Code to provide the authority for the Building Official and Fire Marshal to consider alternative building standards and methods of construction while ensuring adequate health and safety protections for the new use. Relief of strict zoning requirements or allowance of nonconforming site conditions, such as setbacks, parking, open space for residential use, and height, may be considered by the Planning Director; and

WHEREAS, the Fire Marshal, Building Official and Planning Director (Approving Authority) may approve of Adaptive Reuse Plans through a ministerial process, however the Approving Authority shall first find that special individual reasons make the strict letter of the local codes impractical and the modification is in compliance with the intent and purpose of the local codes and that such modification does not lessen health, life and safety requirements; and

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

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport ("ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; 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 May 28, 2024, 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. PC24-016, recommending the City Council approve the Application; and

WHEREAS, on June 18, 2024, 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 Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the" common sense exemption" (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.

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

(1) The Project is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Goals components of The Ontario Plan ("TOP"). The Development Code Amendment will: (a) serve to promote a community that is consistently seeking—and thoughtfully applying—new ways of doing things better, as encouraged by TOP's Vision; (b) provides for 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, have a wide spectrum of choices of where they can live and recreate, as promoted by Land Use Element Policy LU-1.6, Complete Community; and (c) promotes the City Council Goals through the establishment of Development Code provisions that encourages investment in the growth and evolution of the City's economy and focuses City resources in commercial and residential neighborhoods.

(2) The Project would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The Development Code Amendment incorporates safeguards intended to ensure that the purposes of the Development Code are preserved; the project will not be contrary to or damage the public health, safety, convenience, or general welfare; the project will not result in any significant environmental impacts; and the project will be in full conformity with the Vision, City Council Priorities, and Policy Plan components of The Ontario Plan.

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

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

SECTION 6: ***Severability.*** If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 7: ***Effective Date.*** This Ordinance shall become effective 30 days following its adoption.

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

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2024.

_____
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 June 18, 2024 and adopted at the regular meeting held July 2, 2024 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 July 2, 2024 and that Summaries of the Ordinance were published on _____ and _____, in the Inland Valley Daily Bulletin newspaper.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

# <u>ATTACHMENT A</u>:

## File No. PDCA24-002;
## DEVELOPMENT CODE AMENDMENT ADOPTING HISTORIC PRESERVATION– ADAPTIVE REUSE PLAN

*(Document follows this page)*

# ATTACHMENT A:
# Development Code Amendment
# File No. PDCA23-001

**PART I. Division 2.02—Application Filing and Processing**

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| A. LEGISLATIVE ACTIONS | | | | | | | | | | | |
| 1. Airport Land Use Compatibility Plan and Amendments [1] (Ref: ODC Section 4.01.010) | | | | | | | | | R | X | |
| 2. Development Agreements [1] (Ref: ODC Section 4.01.015) | | | | | | | | | R | X | |
| 3. Development Code Amendments [1] (Ref: ODC Section 4.01.020) | | | | | | | | | R | X | |
| 4. Amendment to the Policy Plan (General Plan) Component of The Ontario Plan [1] (Ref: ODC Section 4.01.025) | | | | | | | | | R | X | |
| 5. Planned Unit Developments and Amendments [1] (Ref: ODC Section 4.01.030) | | | | | | | | | R | X | |
| 6. Specific Plans and Amendments [1][12] (Ref: ODC Section 4.01.035) | | | | | | | | | R | X | |
| 7. Williamson Act Contract Cancellations [1] (Ref: GC Section 51200 et.seq.) | | | | | | | | | R | X | |
| 8. Zone Changes [1] (Ref: ODC Section 4.01.040) | | | | | | | | | R | X | |
| B. DISCRETIONARY PERMITS AND ACTIONS | | | | | | | | | | | |
| 1. Billboard Relocation Agreements [1] (Ref: ODC Section 4.02.010) | | | | | | | | | R | X | |
| 2. Conditional Use Permits (Ref: ODC Section 4.02.015) | | | | | | | | | | | |
| a. Hotels, Motels and Residence Inns [1] | | | | | | | | | R | X | |
| b. Use established in conjunction with a Development Plan [1] | | | | | | R | | | X | A | |
| c. Use established within an existing structure [1] | | | | | X | | | | A | A | |
| d. Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | | | | | X | A | |
| e. Revocation due to abandonment of use per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | X | | | | A | A | |
| 3. Density Bonus and Other Incentives per ODC Section 6.01.010.G (Density Bonus and Other Incentives) [1] | | | | | | | | | R | X | |
| 4. Development Plans, except within the ONT zoning district (Ref: ODC Section 4.02.025) | | | | | | | | | | | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| a. Residential developments totaling 5 or more dwelling units or the development of 3 or more dwelling units on a single lot or parcel | | | | | | R | | | X | A | |
| b. Commercial developments, and developments in the CIV, OS-R, OS-C and UC zoning districts, greater than 500 SF in area | | | | | | X | | | A | A | |
| c. Industrial developments equal to or less than 0.45 FAR | | | | | | X | | | A | A | |
| d. Industrial developments exceeding 0.45 FAR | | | | | | R | | | X | A | |
| e. Wireless telecommunications facilities pursuant to Section 5.03.415 (Wireless Telecommunications Facilities) of this Development Code | | | | | | | | | | | |
| (1) Tier 2 facilities | | | | | | X | | | A | A | |
| (2) Tier 3 facilities [2] | | | | | | X | | | A | A | |
| f. All others | | | | | | X | | | A | A | |
| 5. Extensions of Legal Nonconforming Status [1] (Ref: ODC Section 4.02.030) | | | | | X | | | | A | A | |
| 6. Historic Preservation | | | | | | | | | | | |
| a. Certificates of Appropriateness (Ref: ODC Section 4.02.050) | | | | | | | | | | | |
| (1) Designated Historic Landmarks and Contributors, and Architectural Conservation Areas; and Demolition of an Historic Resource [1] | | | | | | | R | X | | A | |
| (2) Deferral of Replacement Structure [1] | | | | | | | R | X | | A | |
| (3) Eligible Historic Resources [1] | | | | | | | X | A | | A | |
| (4) Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | | | R | X | | A | |
| (5) Waivers for Minor Improvements | X | | | | | | A[6] | A[6] | | | |
| b. Certificates of Economic Hardship [1] (Ref: ODC Section 4.02.055) [1] | | | | | | | R | X | | A | |
| c. Certificates of Economic Hardship—Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) [1] | | | | | | | R | X | | A | |
| d. Conservation Plans (Ref: ODC Section 4.02.060) | | | | | | | X | A | | A | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| e. Historic Resource Tiering (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045) | | | | | | | X | A | | A | |
| f. Local Historic Landmark and Local District Designations, and Architectural Conservation Areas (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045) | | | | | | | R | R | | X | |
| g. Mills Act Contracts (Ref: ODC Section 4.02.065) | | | | | | | R | R | | X | |
| h. Mills Act Cancellations [1] (Ref: ODC Section 4.02.065) | | | | | | | R | R | | X | |
| i. Addition/Removal of Resources to/from the Ontario Register (Ref: ODC Section 4.02.045) | | | | | | | | | | | |
| (1) At the request of the property owner, or upon City initiation if the most recently prepared Historic Resource Survey evaluating the resource is more than 5 years old. | | | | | | | X | A | | A | |
| (2) Loss of all historic and/or cultural significance due to a catastrophe causing a loss of integrity, or due to extensive legally performed alterations performed after the property was initially surveyed. | X | | | | | | | A | | A | |
| 7. Master Plans and Amendments [1] (Ref: ODC Section 4.02.070) | | | | | | | | | R | X | |
| 8. Minor Adjustments/Alterations (Ref: ODC Section 4.02.020.C) | | | | | X | | | | A | A | |
| 9. Nonconforming Structure Reconstruction [1] (Ref: ODC Section 3.01.020) | | | | | | | | | X | A | |
| 10. Parking Reduction (Ref: ODC Section 6.03.025) | | | | | | | | | X | A | |
| 11. Sign Programs (Ref: ODC Section 4.02.075) | X | | | | | | | | A | A | |
| 12. Specific Plan Minor Adjustments/Alterations [12] (Ref: ODC Section 4.02.080) | X | | | | | | | | A | A | |
| 13. Stays of Permit Approval Time Limit (Ref: ODC Section 2.02.025.A.8) | | | | | X[5] | X[5] | X[5] | X[5] | X[5] | X[5] | |
| 14. Subdivisions | | | | | | | | | | | |
| a. Lot Merger (Merger of Contiguous Parcels) [1] (Ref: ODC Section 4.02.085) | | | | | | R | | | X | A | |
| b. Reversions to Acreage [1] (Ref: ODC Section 4.02.090) | | | | | | R | | | X | A | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| c. Tentative Tract and Parcel Maps, and Vesting Maps [1] (Ref: ODC Section 4.02.095) | | | | | | R | | | X | A | |
| d. Tentative Tract and Parcel Map Time Extensions (Ref: ODC Section 2.02.025.A.3 & 4) | | | | | | R | | | X | A | |
| 15. Time Extensions, excepting tentative subdivision maps (Ref: ODC Section 2.02.025) | X | | | | | | | | A | A | |
| 16. Variances (Ref: ODC Section 4.02.020.D) | | | | | | | | | | | |
| a. Homeowner [1] | | | | | X | | | | A | A | |
| b. Other [1] | | | | | | R | | | X | A | |
| C. MINISTERIAL (ADMINISTRATIVE) PERMITS AND DECISIONS | | | | | | | | | | | |
| 1. Historic Preservation- Adaptive Reuse Plans (Ref: ODC Section 4.03.010) | X | | X | X | | | | | | | |
| 2. Administrative Exceptions (Ref: ODC Section 4.03.050) | | | | | X | | | | A | A | |
| 3. Administrative Use Permits (Ref: ODC Section 4.03.015) | X | | | | | | | | | | |
| 4. Business License - Zoning/Land Use Compliance (Ref: OMC 3-1.129 (Zoning Compliance) | X | | | | | | | | A | A | |
| 5. Development Plans within the ONT zoning district (Ref: ODC Section 4.02.025) | X | | | | | | | | A | A | |
| 6. Fair Housing and Reasonable Accommodation Ref: ODC Section 4.02.035) | | | | | X | | | | A | A | |
| 7. Interpretations and Land Use Determinations (Ref: ODC Section 1.02.010) | | | | | X | | | | A | A | |
| 8. Landscape and Irrigation Plans (Ref. ODC Section 6.05.005) | X | | | | | | | | A | A | |
| 9. Off-Site (Public) Improvement Plans (Ref: ODC Section 6.08.040) | | X | | | | | | | A | A | |
| 10. ONT ALUCP Interagency Review [7] (Ref: ONT ALUCP) | X | | | | | | | | | A[8] | |
| 11. Other Plan Checks and actions required by this Development Code | X | | | | | | | | A | A | |
| 12. Shopping Cart Retention Plans (Ref: ODC Section 6.11.020) | X | | | | | | | | A | A | |
| 13. Sign Plans (Ref: ODC Section 4.03.020) | X | | | | | | | | A | A | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| 14. | X | | | | | | | | A | A | |
| 15. Subdivisions | | | | | | | | | | | |
| a. Certificates of Compliance (Ref: ODC Section 4.03.025) | | X | | | | | | | A | A | |
| b. Final Tract and Parcel Maps, and Vesting Maps (Ref: ODC Section 4.03.030) | | | | | | | | | | X | |
| c. Lot Line Adjustments (Ref: ODC Section 4.03.035) | | X | | | | | | | A | A | |
| d. Map Corrections and Amendments (Ref: ODC Section 4.03.040) | | X | | | | | | | A | A | |
| e. Street Address Numbering (Ref. ODC Section 6.06.010) | | | | X | | | | | A | A | |
| f. Street Name Assignment (Ref. ODC Section 6.06.010) | X | | | | | | | | A | A | |
| g. Subdivision Improvement Agreement (Ref: ODC Section 6.08.040.G) | | X | | | | | | | A | A | |
| h. Urban Lot Split (Ref: ODC Section 6.08.060 | | X | | | | | | | A | A | |
| 16. Tier 1 wireless telecommunications facility pursuant to ODC Section 5.03.420 (Wireless Telecommunications Facilities) | | | | | X | | | | A | A | |
| 17. Wall, Fence, and Obstructions Plans not associated with a Development Plan (Ref. ODC Section 6.02.005) | X | | | | | | | | A | A | |
| D. ENVIRONMENTAL DETERMINATIONS AND ACTIONS | | | | | | | | | | | |
| 1. Environmental Impact Reports (EIRs) (Ref: CCR Section 15080 et seq.) | | | | | | | | | X[3] | X[3] | |
| 2. Exempt Projects (Ref: CCR Section 15300 et seq.) | X[3] | | | | X[3] | X[3] | X[3] | X[3] | A | A | |
| 3. Ministerial Projects (Ref: CCR Section 15268) | | Ministerial projects are exempt from the requirements of CEQA [10] | | | | | | | | | |
| 4. Negative Declarations (NDs) and Mitigated Negative Declarations (MNDs) (Ref: CCR Section 15070 et seq.) | | | | | X[3] | X[3] | X[3] | X[3] | X[3] | X[3] | |
| 5. Addendums to previously certified EIRs and previously adopted NDs and MNDs (Ref: CCR Section 15164) | | | | | X[3] | X[3] | X[3] | X[3] | X[3] | X[3] | |
| 6. Environmental review for projects located within the ONT zoning district [9] | | | | | | | | | | | X |

**PART II. Division 4.03 —Ministerial Permits and Decision**

4.03.010: Historic Preservation—Adaptive Reuse Plan

A. Purpose. The purpose of this Section is to establish a procedure by which Adaptive Reuse Plans may be approved by the City, while at the same time:

1. Provide a more efficient way for qualified historic buildings and adaptive reuse projects to meet development, building, and fire protection standards;

2. Promote adaptive reuse as part of broader goals supporting historic preservation, economic development, environmental sustainability and resilience, and recognize the social value of historic buildings;

3. Incentivize building reuse to encourage activation of Downtown Ontario where there is a large collection of commercial and industrial historic buildings that are worthy of preservation;

4. Eliminate or allow nonconformance with certain development regulations that would make adaptive reuse of qualified historic buildings infeasible, including such standards related to parking and loading, height, density, floor-area ratio, and open space; and

5. Allow alternative building and fire code compliance for qualified adaptive reuse projects able to demonstrate an alternative means or method of protecting public health, safety, and welfare.

B. Applicability.

1. Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny an Adaptive Reuse Plan application, and to impose reasonable conditions upon the approval of the application.

2. Adaptive Reuse Plan approval shall allow for those land uses identified in Table 5.02-1 (Land Use Matrix) of this Development Code which allows for a broad range of land uses of the underlying zoning district in which the site is located. However, no new uses that emits noxious odors or excessive noise shall be allowed, unless the it can be demonstrated to the satisfaction of the Planning Director that the use will not cause adverse impacts to nearby residential land uses.

3. Qualifying buildings include those listed on the National Register of Historic Places, on the California Register of Historic Resources, Ontario Register of Historic Resources as designated local landmarks or contributors to designated local historic districts located within the Adaptive Reuse Plan Area.

4. Adaptive Reuse projects are construction and remodeling projects that reconfigure existing spaces within existing buildings to accommodate a new use or purpose other than what it was originally designed for. Adaptive Reuse projects require a change of use and building occupancy from office or commercial to residential, industrial to work/live, residential to office or commercial, or assembly to residential, office or commercial.

5. Application Filing and Processing. An Adaptive Reuse Plan application shall be filed, processed, and acted upon pursuant to Division 2.02 (Application Filing and Processing) of

this Development Code and the provisions of this Section. Plans and reports prepared for an Adaptive Reuse Plan shall be prepared by a California licensed architect meeting the minimum qualifications standards of The Secretary of the interior Professional Qualifications (Code of Federal Regulations, 36 CFR Part 61).

C. Adaptive Reuse Plan Area. This area consists of the City's original downtown, and extends north to include the historic districts adjacent to Euclid Avenue, the boundary of which is as follows:

> *Beginning at the intersection of the centerlines of State Street and San Antonio Avenue, thence north to the northernmost city boundary, thence east to the centerline of Sultana Avenue, thence south to the centerline of I Street, thence east to the centerline of Campus Avenue, thence south to the centerline of State Street, thence west to the point of beginning.*

D. Alternative Building and Fire Code Regulations. The alternative building and fire codes regulations adopted in this Section are applicable to qualified buildings and adaptive reuse projects.

1. *Alternative Codes*. Use of the California Historic Building Code, International Existing Building Code, California Health and Safety Code and the Ontario Adaptive Reuse Plan Technical Manual shall provide a process and the ability for the Building Official and Fire Marshal to consider alternative building standards while ensuring adequate health and safety protections.

2. In permitting repairs, alterations, and additions necessary to accommodate adaptive reuse projects, the alternative code regulations shall impose requirements that will, in the determination of the Building Official and the Fire Marshal, protect the public health, safety, and welfare.

3. Nothing in this Section shall be construed to allow the reduction of existing seismic or fire and life-safety elements of an eligible building where such elements provide a greater level of protection than the minimum requirements established by this Section.

4. Subject to the approval of the Building Official and Fire Marshal, the use or occupancy type of a qualified building shall be allowed to be changed as part of an adaptive reuse project without conforming to all requirements of Title 8, Building Regulations, and Title 4, Chapter 4, Fire Code of the City of Ontario Municipal Code provided the new or proposed occupancy is equally or less hazardous, based on life and fire risk, than the existing use.

5. Whenever there are practical difficulties involved in carrying out the provisions of Title 8, Building Regulations, and Title 4, Chapter 4, Fire Code of the City of Ontario Municipal Code, the Building Official and Fire Marshal shall have the authority to grant modifications for individual cases, provided the Approving Authority shall first find that special individual reasons make the strict letter of the local codes impractical and the modification is in compliance with the intent and purpose of the local codes and that such modification does not lessen health, life and safety requirements.

E. Incentives. The Planning Director may grant the following departures from certain development standards and requirements to incentivize qualified Adaptive Reuse Plans:

1. *Development Plan Waived*. Approved Adaptive Reuse Plans, which may allow for new additions up to 25 percent of the existing building floor area and is not visible from the public

right-of-way, shall be exempt for the requirements for Development Plan review set forth in Section 4.02.025.

2. *Mezzanines*. Loft spaces in joint living and work quarters, dwelling units and guest rooms which do not exceed more than 33 percent of the floor area of the space below shall not be considered new floor area. Mezzanines may be included in the calculation of floor area for the purpose of determining compliance with the standards set forth in Paragraph (E) of this subdivision.

3. *Parking Reduction*. New parking spaces shall not be required for any converted use within the existing footprint of the building, but expansions to floor area shall require one parking space per bedroom or one parking space per 250 square feet of gross floor area for office or commercial.

4. *Setbacks*. Existing building setbacks may remain and shall be considered legally nonconforming, but no further encroachments shall be permitted into any nonconforming setback.

5. *Increases in Maximum Building Height*. The height of the structure, if it exceeds the maximum height of the zoning district, may remain and shall be considered legally nonconforming. Any rooftop construction needed for drainage, ventilation, utilities, or passive recreation shall be included within the height exemption. This height exemption does not include new residential or commercial floor area.

6. *Open Space*. Private open space for residential adaptive reuse projects may be waived when it is determined by the Approving Authority that the requirement would result in exterior alterations to the existing building that would result in an adverse impact to a historic resource. A minimum of 100 square feet of common open space per residential unit or 25 percent of the building square footage, whichever is less, shall be required and may be provided on the rooftop of the building or within the building and include various type of indoor amenities such as fitness center, workstations, playrooms, etc.

7. *Loading Zone*. A new loading zone shall not be required if the existing building does not have an existing loading zone.

F. Standards. Adaptive Reuse Projects permitted pursuant to this subdivision shall be developed in compliance with the following standards:

1. *Minimum Dwelling Units*. Adaptive reuse projects that propose residential shall develop no less than 3 units. The minimum floor area for new dwelling units and joint living and work quarters shall be 450 square feet. Floor area shall not include hallways or other common areas, or rooftops, balconies, terraces, fire escapes, or other projections or surfaces exterior to the walls of the building. The floor area of both the living space and the workspace shall be combined to determine the size of joint living and work quarters. The average floor area, as defined above, of all the dwelling units and joint living and work quarters in the building, including those that existed prior to the effective date of this ordinance, shall be at least 750 square feet. That minimum average size shall be maintained and not reduced.

2. *Storefront*. Ground floor of an existing multiple level commercial building shall contain street frontage and shall be used as a commercial storefront. Residential on ground may occur at the rear of the building behind the storefront.

3. *Exterior or Interior (Public Space) Alterations*. A Certificate of Appropriateness pursuant to Section 4.02.050: Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources is required for any alteration, addition, restoration, rehabilitation, remodeling, relocation, repainting, and/or resurfacing of an historic resource.

4. *Other Provisions*. Floor Area Ratio (FAR), Landscaping, Lot Coverage, and any other development standard of the underlying zone may be waived by the Approving Authority.

G. Conditions of Approval.

1. In approving an Adaptive Reuse Plan, the Planning Director may impose certain safeguards and standards to ensure that the purposes of this Development Code are maintained; ensure that the permit will not endanger the public health, safety or general welfare; ensure that the permit will not result in any significant environmental impacts; ensure that the permit will be in harmony with the area in which it is located; and ensure that the permit will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

2. The standards and requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

H. Findings and Decision. An Adaptive Reuse Plan, or any amendment thereto, shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

1. That the use(s) of the property will not be detrimental to the public health, safety and general welfare surrounding the project location;

2. That the Adaptive Reuse Project complies with the standards set forth in Section 4.03.010 (F) of this Development Code; and

3. A Certificate of Appropriateness has been approved or Waived for the Adaptive Reuse Plan.

**PART II. Division 7.01 —Historic Preservation**

C. Types of Incentives. The below-listed incentives may be used for the eligible projects identified in Subsection B (Applicability) of this Section.

1. Economic and Financial Incentives. The following economic and financial incentives may be applied to a project following approval by the Historic Preservation Commission or the Historic Preservation Trust Board of Trustees, as applicable, and approval by the City Manager or the City Council, as applicable:

a. Grants or loans approved through the Historic Preservation Trust pursuant to Section 7.01.030 (Historic Preservation Trust Fund) of this Division;

b. Approval of a Mills Act contract pursuant to Section 4.02.070 (Historic Preservation—Mills Act Contracts) of this Development Code;

c. Approval of funding through the Historic Rehabilitation Financing Program pursuant to Section 7.01.015 (California Historical Building Code) of this Division;

d. Grants or loans through other City funding sources, including, but not limited to, redevelopment and housing funds;

e. Preservation easements;

f. Reduction or elimination of building plan check or permit fees;

g. Reduction or elimination of development impact fees;

h. Reduction or elimination of any other applicable City fees; or

i. Federal rehabilitation tax credits (applied through the California Office of Historic Preservation).

2. Development Incentives. The following development incentives to be applied to the project:

a. *California Historical Building Code.* Use of the CHBC pursuant to Section 7.01.015 (California Historical Building Code) of this Division.

b. *Parking Reduction.* For existing single-family dwellings with a one-car garage, the Planning Director may waive the requirement for 2 off-street parking spaces within a garage when adding floor area, if an existing one-car garage contributes to the significance of the property and/or district, and the existing garage is in good condition, or, if deteriorated, will be returned to good condition as part of the work to add new living space to the residence.

c. *Setback Reductions and Increases in Maximum Building Height.* The Planning Director may grant reductions in required building setbacks or increases in the maximum allowed building height when the setback reduction or increase in allowed building height allows for the restoration of a character-defining feature, or allows character-defining features to be replicated in additions to historic structures. In no case, however, shall a reduction in a setback be granted when the reduction will cause an adverse effect to the property or neighboring property, or cause an adverse effect to the character of the neighborhood or district.

d. *Adaptive Reuse.* Departures from certain development standards may be waived to encourage adaptive reuse of qualified historic buildings pursuant to, and in accord with, the provisions of Section 4.03.010 of this Development Code.

# PLANNING COMMISSION AGENDA REPORT

**May 28, 2024**

CITY OF ONTARIO PLANNING DEPARTMENT

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

**FILE NO.:** PDCA24-002

**SUBJECT:** A Development Code Amendment to establish Historic Preservation—Adaptive Reuse Plans. **City initiated. City Council action is required.**

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**RECOMMENDED ACTION:** That the Planning Commission consider and adopt the Resolution recommending the City Council approve the Development Code Amendment, File No. PDCA24-002, pursuant to the facts and reasons contained in the staff report and attached Resolution.

**PROJECT SETTING:** The Development Code Amendment affects approximately 1.7 square miles (533 acres) of land, which is generally bordered by the Interstate 10 Freeway to the north, State Street to the south, San Antonio Avenue to the west and Sultana Avenue and Campus Avenue to the east, and is depicted in Exhibit A, Adaptive Reuse Plan Area.

**PROJECT ANALYSIS:**

The proposed Development Code Amendment will allow for the establishment of Historic Preservation— Adaptive Reuse Plans and processing procedures, generally described as follows:

(1) Amend Division 2.02 (Application Filing and Processing), revising Table 2.02-1: Reviewing Matrix to include the Fire Marshal as an Approving Authority;

(2) Amend Division 4.03 (Ministerial Permits and Decision) by adding processing procedures, requirements, and eligibility for an adaptive reuse plan approval; and

(3) Amend Division 7.01 (Historic Preservation) to add Historic Preservation— Adaptive Reuse Plan as an incentive.

The Amendment will target adaptive reuse (or change of building classification/occupancy) of designated historic buildings to multiple-family residential, office, commercial, work/live, or retail while removing construction barriers related to zoning, building, and fire code compliance. In turn, the adaptive reuse program will further incentivize preservation of historically significant resources, streamline the review and approval process by waiving the development plan review, reduce underutilized sites, reduce demolition, and foster sustainable community development.

| | |
|---|---|
| *Case Planner:* | Diane Ayala |
| *Planning Director Approval:* | |
| *Submittal Date:* | N/A |

| *Hearing Body* | *Date* | *Decision* | *Action* |
|---|---|---|---|
| *PC* | 5/28/2024 | Approval | Recommend |
| *CC 1st reading* | 6/18/2024 | | Introduction |
| *CC 2nd reading* | 7/2/2024 | | Final Action |

Adaptive reuse programs rely upon the California Historic Building Code, International Existing Building Code, and California Health and Safety Code to provide the authority for the Building Official and Fire Marshal to consider alternative building standards and methods of construction while ensuring adequate health and safety protections for the new use. Relief of strict zoning requirements or allowance of nonconforming site conditions, such as setbacks, parking, open space for residential use, and height, may be considered by the Planning Director. The Fire Marshal, Building Official and Planning Director (Approving Authority) may approve Adaptive Reuse Plans through a ministerial process, however the Approving Authority shall first find that special individual reasons make the strict letter of the local codes impractical and the modification is in compliance with the intent and purpose of the local codes and that such modification does not lessen health, life and safety requirements.

The proposed provisions of the Development Code Amendment are shown in Attachment A (Development Code Amendment) of the appended resolution. Any provisions proposed for deletion are shown in red strikeout text (~~Abcdefg~~) and all additions are shown in blue text (Abcdefg).

**PUBLIC NOTIFICATION:** The number of owners to whom a public hearing notice would be mailed or delivered is greater than 1,000; therefore, pursuant to Development Code Section 2.03.010.C.2 and Government Code Section 65091(a)(4), in lieu of mailed or delivered notice, a display advertisement of at least 1/8 page was placed in a newspaper of general circulation in the City of Ontario (Inland Valley Daily Bulletin). Public hearing notification was published a minimum of 10 days in advance of the public hearing.

**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.

**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 authority 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.

**COMPLIANCE WITH THE ONTARIO PLAN:** The proposed Project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (general plan), and City Council Priorities components of The Ontario Plan ("TOP"). More specifically, the goals and policies of TOP that are furthered by the proposed Project are as follows:

(1) City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods

(2) Vision.

**Distinctive Development:**

- Commercial and Residential Development

➢ Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

(3) Governance.

**Decision Making:**

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.

➢ G 1-2. 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-2.6 Infrastructure Compatibility. We require infrastructure to be aesthetically pleasing and in context with the community character.

**Community Economics Element:**

- 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-2.4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

**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-1.1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing, enhancing, and preserving the character of our existing viable neighborhoods.

- CD-1.2 Growth Areas. We establish Place Types in urban, mixed use, and transit-oriented areas to foster the City's identity as a premier community and require new development within each Place Type to incorporate prescribed urban patterns, forms, and placemaking priorities.

- CD-1.3 Existing Neighborhoods. We require the existing character of viable residential and non-residential neighborhoods be preserved, protected, and enhanced.

- 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-3.2 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-3.3 Complete and Connected Network. We require that pedestrian, vehicular, and bicycle circulation on both public and private property be coordinated to provide connections internally and externally to adjacent neighborhoods and properties (existing and planned) through a system of local roads and trails that promote walking and biking to nearby destinations (including existing and planned parks, commercial areas, and transit stops) and are designed to maximize safety, comfort, and aesthetics.

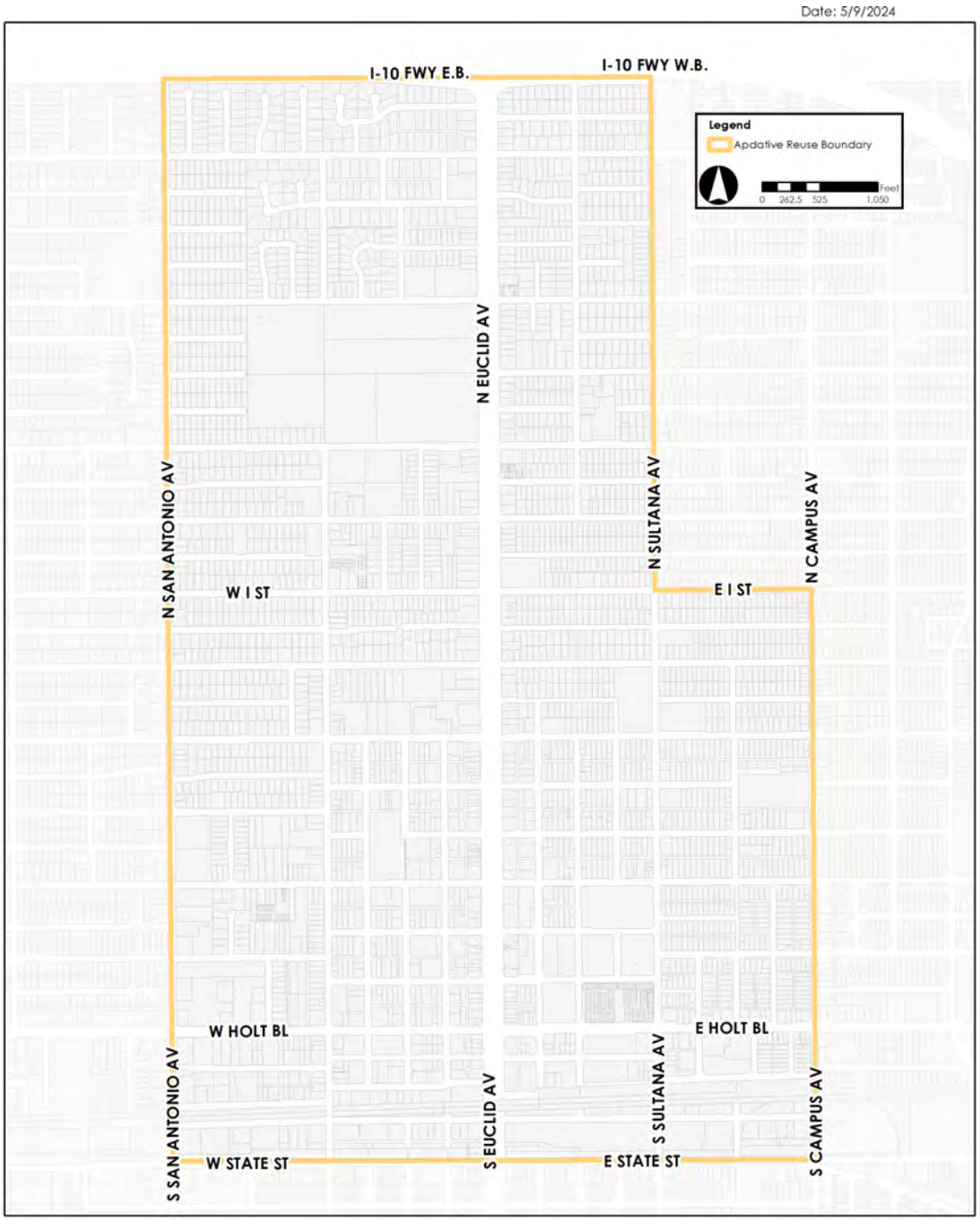
  - CD-3.4 Context-Aware and Appropriate Design. We require appropriate building and site design that complements existing development, respects the intent and identity of the Place Type, and provides appropriate transitions and connections between adjacent uses to ensure compatibility of scale, maintain 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 Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the common sense exemption (general rule) that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**Exhibit A: ADAPTIVE REUSE PLAN AREA**



RESOLUTION NO. PC24-016

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDS THE CITY COUNCIL APPROVE FILE NO. PDCA24-002, A DEVELOPMENT CODE AMENDMENT TO ESTABLISH HISTORIC PRESERVATION— ADAPTIVE REUSE PLANS, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, THE CITY OF ONTARIO ("Applicant") has filed an Application for the approval of a Development Code Amendment, File No. PDCA24-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City of Ontario Development Code (Ontario Municipal Code Title 9) provides the legislative framework for the implementation of The Ontario Plan, which establishes long term principals, goals, and policies for guiding the growth and development of the City in a manner that achieves Ontario's vision, and promotes and protects the public health, safety, comfort, convenience, prosperity, and welfare of its citizens; and

WHEREAS, the Project affects approximately 1.7 square miles (533 acres) of land, which is generally bordered by the Interstate 10 Freeway to the north, State Street to the south, San Antonio Avenue to the west and Sultana and Campus Avenue to the east; and

WHEREAS, the Project will allow for the establishment of Historic Preservation— Adaptive Reuse Plans and processing procedures, generally described as follows:

(1) Amend Division 2.02 (Application Filing and Processing), revising Table 2.02-1: Reviewing Matrix to include the Fire Marshal as an Approving Authority;

(2) Amend Division 4.03 (Ministerial Permits and Decision) by adding processing procedures, requirements and eligibility for an adaptive reuse plan approval;

(3) Amend Division 7.01 (Historic Preservation) to add Historic Preservation— Adaptive Reuse Plan as an incentive; and

WHEREAS, the Project will target adaptive reuse (or change of building classification/occupancy) of designated historic buildings to multiple-family residential, office, commercial, work/live, or retail while removing construction barriers related to zoning, building, and fire code compliance; and

WHEREAS, the adaptive reuse program will further incentivize preservation of historically significant resources, streamline the review and approval process by waiving the development plan review, reduce underutilized sites, reduce demolition, and foster sustainable community development; and

WHEREAS, adaptive reuse programs rely upon the California Historic Building Code, International Existing Building Code, and California Health and Safety Code to provide the authority for the Building Official and Fire Marshal to consider alternative building standards and methods of construction while ensuring adequate health and safety protections for the new use. Relief of strict zoning requirements or allowance of nonconforming site conditions, such as setbacks, parking, open space for residential use, and height, may be considered by the Planning Director; and

WHEREAS, the Fire Marshal, Building Official and Planning Director (Approving Authority) may approve of Adaptive Reuse Plans through a ministerial process, however the Approving Authority shall first find that special individual reasons make the strict letter of the local codes impractical and the modification is in compliance with the intent and purpose of the local codes and that such modification does not lessen health, life and safety requirements; 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, 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 May 28, 2024, 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 Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the" common sense exemption" (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 that the Development Code Amendment is not subject to CEQA 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, 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 authority 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; and

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 Sections 1 through 3, above, the Planning Commission hereby concludes as follows:

(1) The Project is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Goals components of The Ontario Plan ("TOP"). The Development Code Amendment will: (a) serve to promote a community that is consistently seeking—and thoughtfully applying—new ways of doing things better, as encouraged by TOP's Vision; (b) provides for 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, have a wide spectrum of choices of where they can live and recreate, as promoted by Land Use Element Policy LU-1.6, Complete Community; and (c) promotes the City Council Goals through the establishment of Development Code provisions that encourages investment in the growth and evolution of the City's economy and focuses City resources in commercial and residential neighborhoods.

(2) The Project would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The Development Code Amendment incorporates safeguards intended to ensure that the purposes of the Development Code are preserved; the project will not be contrary to or damage the public health, safety, convenience, or general welfare; the project will not result in any significant environmental impacts; and the project will be in full conformity with the Vision, City Council Priorities, and Policy Plan components of The Ontario Plan.

SECTION 5: ***Planning Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 through 4, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVES the herein described Application, subject to each and every condition set forth in the Department reports attached hereto as "Attachment A," and 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 28th day of May, 2024 and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Nicola Ricci
Planning Commission Chairperson

ATTEST:

Henry K. Noh
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. PC24-016, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on May 28, 2024, by the following roll call vote, to wit:

AYES: Anderson, DeDiemar, Del Turco, Lampkin, Ricci

NOES: None

ABSENT: Dean, Gage

ABSTAIN: None

Gwen Berendsen
Secretary Pro Tempore

# ATTACHMENT A:

## File No. PDCA24-002
## Historic Preservation- Adaptive Reuse Plans

# ATTACHMENT A:
# Development Code Amendment
# File No. PDCA24-002

**PART I. Division 2.02—Application Filing and Processing**
Revise Table 2.02-1 (Review Matrix) as follows:

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| **A. LEGISLATIVE ACTIONS** | | | | | | | | | | | |
| **1.** Airport Land Use Compatibility Plan and Amendments **[1]** (Ref: ODC Section 4.01.010) | | | | | | | | | R | X | |
| **2.** Development Agreements **[1]** (Ref: ODC Section 4.01.015) | | | | | | | | | R | X | |
| **3.** Development Code Amendments **[1]** (Ref: ODC Section 4.01.020) | | | | | | | | | R | X | |
| **4.** Amendment to the Policy Plan (General Plan) Component of The Ontario Plan **[1]** (Ref: ODC Section 4.01.025) | | | | | | | | | R | X | |
| **5.** Planned Unit Developments and Amendments **[1]** (Ref: ODC Section 4.01.030) | | | | | | | | | R | X | |
| **6.** Specific Plans and Amendments **[1][12]** (Ref: ODC Section 4.01.035) | | | | | | | | | R | X | |
| **7.** Williamson Act Contract Cancellations **[1]** (Ref: GC Section 51200 et.seq.) | | | | | | | | | R | X | |
| **8.** Zone Changes **[1]** (Ref: ODC Section 4.01.040) | | | | | | | | | R | X | |
| **B. DISCRETIONARY PERMITS AND ACTIONS** | | | | | | | | | | | |
| **1.** Billboard Relocation Agreements **[1]** (Ref: ODC Section 4.02.010) | | | | | | | | | R | X | |
| **2.** Conditional Use Permits (Ref: ODC Section 4.02.015) | | | | | | | | | | | |
| **a.** Hotels, Motels and Residence Inns **[1]** | | | | | | | | | R | X | |
| **b.** Use established in conjunction with a Development Plan **[1]** | | | | | | R | | | X | A | |
| **c.** Use established within an existing structure **[1]** | | | | | X | | | | A | A | |
| **d.** Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) **[1]** | | | | | | | | | X | A | |
| **e.** Revocation due to abandonment of use per ODC Division 2.05 (City Initiated Modification or Revocation) **[1]** | | | | | X | | | | A | A | |
| **3.** Density Bonus and Other Incentives per ODC Section 6.01.010.G (Density Bonus and Other Incentives) **[1]** | | | | | | | | | R | X | |
| **4.** Development Plans, except within the ONT zoning district (Ref: ODC Section 4.02.025) | | | | | | | | | | | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| **a.** Residential developments totaling 5 or more dwelling units or the development of 3 or more dwelling units on a single lot or parcel | | | | | | R | | | X | A | |
| **b.** Commercial developments, and developments in the CIV, OS-R, OS-C and UC zoning districts, greater than 500 SF in area | | | | | | X | | | A | A | |
| **c.** Industrial developments equal to or less than 0.45 FAR | | | | | | X | | | A | A | |
| **d.** Industrial developments exceeding 0.45 FAR | | | | | | R | | | X | A | |
| **e.** Wireless telecommunications facilities pursuant to Section 5.03.415 (Wireless Telecommunications Facilities) of this Development Code | | | | | | | | | | | |
| **(1)** Tier 2 facilities | | | | | | X | | | A | A | |
| **(2)** Tier 3 facilities **[2]** | | | | | | X | | | A | A | |
| **f.** All others | | | | | | X | | | A | A | |
| **5.** Extensions of Legal Nonconforming Status **[1]** (Ref: ODC Section 4.02.030) | | | | | X | | | | A | A | |
| **6.** Historic Preservation | | | | | | | | | | | |
| **a.** Certificates of Appropriateness (Ref: ODC Section 4.02.050) | | | | | | | | | | | |
| **(1)** Designated Historic Landmarks and Contributors, and Architectural Conservation Areas; and Demolition of an Historic Resource **[1]** | | | | | | | R | X | | A | |
| **(2)** Deferral of Replacement Structure **[1]** | | | | | | | R | X | | A | |
| **(3)** Eligible Historic Resources **[1]** | | | | | | | X | A | | A | |
| **(4)** Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) **[1]** | | | | | | | R | X | | A | |
| **(5)** Waivers for Minor Improvements | X | | | | | | A[6] | A[6] | | | |
| **b.** Certificates of Economic Hardship **[1]** (Ref: ODC Section 4.02.055) **[1]** | | | | | | | R | X | | A | |
| **c.** Certificates of Economic Hardship—Modification or revocation per ODC Division 2.05 (City Initiated Modification or Revocation) **[1]** | | | | | | | R | X | | A | |
| **d.** Conservation Plans (Ref: ODC Section 4.02.060) | | | | | | | X | A | | A | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| **e.** Historic Resource Tiering (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045) | | | | | | | X | A | | A | |
| **f.** Local Historic Landmark and Local District Designations, and Architectural Conservation Areas (Ref: ODC Section 4.02.040), including Rescinding or Amending Status (Ref: ODC Section 4.02.045) | | | | | | | R | R | | X | |
| **g.** Mills Act Contracts (Ref: ODC Section 4.02.065) | | | | | | | R | R | | X | |
| **h.** Mills Act Cancellations **[1]** (Ref: ODC Section 4.02.065) | | | | | | | R | R | | X | |
| **i.** Addition/Removal of Resources to/from the Ontario Register (Ref: ODC Section 4.02.045) | | | | | | | | | | | |
| **(1)** At the request of the property owner, or upon City initiation if the most recently prepared Historic Resource Survey evaluating the resource is more than 5 years old. | | | | | | | X | A | | A | |
| **(2)** Loss of all historic and/or cultural significance due to a catastrophe causing a loss of integrity, or due to extensive legally performed alterations performed after the property was initially surveyed. | X | | | | | | | A | | A | |
| **7.** Master Plans and Amendments **[1]** (Ref: ODC Section 4.02.070) | | | | | | | | | R | X | |
| **8.** Minor Adjustments/Alterations (Ref: ODC Section 4.02.020.C) | | | | | X | | | | A | A | |
| **9.** Nonconforming Structure Reconstruction **[1]** (Ref: ODC Section 3.01.020) | | | | | | | | | X | A | |
| **10.** Parking Reduction (Ref: ODC Section 6.03.025) | | | | | | | | | X | A | |
| **11.** Sign Programs (Ref: ODC Section 4.02.075) | X | | | | | | | | A | A | |
| **12.** Specific Plan Minor Adjustments/Alterations **[12]** (Ref: ODC Section 4.02.080) | X | | | | | | | | A | A | |
| **13.** Stays of Permit Approval Time Limit (Ref: ODC Section 2.02.025.A.8) | | | | | X[5] | X[5] | X[5] | X[5] | X[5] | X[5] | |
| **14.** Subdivisions | | | | | | | | | | | |
| **a.** Lot Merger (Merger of Contiguous Parcels) **[1]** (Ref: ODC Section 4.02.085) | | | | | | R | | | X | A | |
| **b.** Reversions to Acreage **[1]** (Ref: ODC Section 4.02.090) | | | | | | R | | | X | A | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| c. Tentative Tract and Parcel Maps, and Vesting Maps **[1]** (Ref: ODC Section 4.02.095) | | | | | | R | | | X | A | |
| d. Tentative Tract and Parcel Map Time Extensions (Ref: ODC Section 2.02.025.A.3 & 4) | | | | | | R | | | X | A | |
| 15. Time Extensions, excepting tentative subdivision maps (Ref: ODC Section 2.02.025) | X | | | | | | | | A | A | |
| 16. Variances (Ref: ODC Section 4.02.020.D) | | | | | | | | | | | |
| a. Homeowner **[1]** | | | | | X | | | | A | A | |
| b. Other **[1]** | | | | | | R | | | X | A | |
| **C. MINISTERIAL (ADMINISTRATIVE) PERMITS AND DECISIONS** | | | | | | | | | | | |
| 1. Historic Preservation- Adaptive Reuse Plans (Ref: ODC Section 4.03.010) | X | | X | X | | | | | | | |
| 2. Administrative Exceptions (Ref: ODC Section 4.03.050) | | | | | X | | | | A | A | |
| 3. Administrative Use Permits (Ref: ODC Section 4.03.015) | X | | | | | | | | | | |
| 4. Business License - Zoning/Land Use Compliance (Ref: OMC 3-1.129 (Zoning Compliance) | X | | | | | | | | A | A | |
| 5. Development Plans within the ONT zoning district (Ref: ODC Section 4.02.025) | X | | | | | | | | A | A | |
| 6. Fair Housing and Reasonable Accommodation Ref: ODC Section 4.02.035) | | | | | X | | | | A | A | |
| 7. Interpretations and Land Use Determinations (Ref: ODC Section 1.02.010) | | | | | X | | | | A | A | |
| 8. Landscape and Irrigation Plans (Ref. ODC Section 6.05.005) | X | | | | | | | | A | A | |
| 9. Off-Site (Public) Improvement Plans (Ref: ODC Section 6.08.040) | | X | | | | | | | A | A | |
| 10. ONT ALUCP Interagency Review **[7]** (Ref: ONT ALUCP) | X | | | | | | | | | A[8] | |
| 11. Other Plan Checks and actions required by this Development Code | X | | | | | | | | A | A | |
| 12. Shopping Cart Retention Plans (Ref: ODC Section 6.11.020) | X | | | | | | | | A | A | |
| 13. Sign Plans (Ref: ODC Section 4.03.020) | X | | | | | | | | A | A | |

*Table 2.02-1: Review Matrix*

| Applications, Actions, Decisions and Processes | Reviewing Authorities [4] | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Planning Director | City Engineer | Fire Marshal | Building Official | Zoning Administrator [2] | Development Advisory Board | Historic Preservation Subcommittee [2] [11] | Historic Preservation Commission [11] | Planning Commission [11] | City Council [11] | Ontario International Airport Authority |
| **14.** | X | | | | | | | | A | A | |
| **15.** Subdivisions | | | | | | | | | | | |
| **a.** Certificates of Compliance (Ref: ODC Section 4.03.025) | | X | | | | | | | A | A | |
| **b.** Final Tract and Parcel Maps, and Vesting Maps (Ref: ODC Section 4.03.030) | | | | | | | | | | X | |
| **c.** Lot Line Adjustments (Ref: ODC Section 4.03.035) | | X | | | | | | | A | A | |
| **d.** Map Corrections and Amendments (Ref: ODC Section 4.03.040) | | X | | | | | | | A | A | |
| **e.** Street Address Numbering (Ref. ODC Section 6.06.010) | | | | X | | | | | A | A | |
| **f.** Street Name Assignment (Ref. ODC Section 6.06.010) | X | | | | | | | | A | A | |
| **g.** Subdivision Improvement Agreement (Ref: ODC Section 6.08.040.G) | | X | | | | | | | A | A | |
| **h.** Urban Lot Split (Ref: ODC Section 6.08.060 | | X | | | | | | | A | A | |
| **16.** Tier 1 wireless telecommunications facility pursuant to ODC Section 5.03.420 (Wireless Telecommunications Facilities) | | | | | X | | | | A | A | |
| **17.** Wall, Fence, and Obstructions Plans not associated with a Development Plan (Ref. ODC Section 6.02.005) | X | | | | | | | | A | A | |
| **D. ENVIRONMENTAL DETERMINATIONS AND ACTIONS** | | | | | | | | | | | |
| **1.** Environmental Impact Reports (EIRs) (Ref: CCR Section 15080 et seq.) | | | | | | | | | X[3] | X[3] | |
| **2.** Exempt Projects (Ref: CCR Section 15300 et seq.) | X[3] | | | | X[3] | X[3] | X[3] | X[3] | A | A | |
| **3.** Ministerial Projects (Ref: CCR Section 15268) | | **Ministerial projects are exempt from the requirements of CEQA [10]** | | | | | | | | | |
| **4.** Negative Declarations (NDs) and Mitigated Negative Declarations (MNDs) (Ref: CCR Section 15070 et seq.) | | | | | X[3] | X[3] | X[3] | X[3] | X[3] | X[3] | |
| **5.** Addendums to previously certified EIRs and previously adopted NDs and MNDs (Ref: CCR Section 15164) | | | | | X[3] | X[3] | X[3] | X[3] | X[3] | X[3] | |
| **6.** Environmental review for projects located within the ONT zoning district **[9]** | | | | | | | | | | | X |

**PART II. Division 4.03 —Ministerial Permits and Decision**
Add Section as follows:

Sections:

4.03.010: Historic Preservation—Adaptive Reuse Plan

## 4.03.010: Historic Preservation—Adaptive Reuse Plan

**A. Purpose.** The purpose of this Section is to establish a procedure by which Adaptive Reuse Plans may be approved by the City, while at the same time:

**1.** Provide a more efficient way for qualified historic buildings and adaptive reuse projects to meet development, building, and fire protection standards;

**2.** Promote adaptive reuse as part of broader goals supporting historic preservation, economic development, environmental sustainability and resilience, and recognize the social value of historic buildings;

**3.** Incentivize building reuse to encourage activation of Downtown Ontario where there is a large collection of commercial and industrial historic buildings that are worthy of preservation;

**4.** Eliminate or allow nonconformance with certain development regulations that would make adaptive reuse of qualified historic buildings infeasible, including such standards related to parking and loading, height, density, floor-area ratio, and open space; and

**5.** Allow alternative building and fire code compliance for qualified adaptive reuse projects able to demonstrate an alternative means or method of protecting public health, safety, and welfare.

**B. Applicability.**

**1.** Pursuant to Table 2.02-1 (Review Matrix) of this Development Code, the Approving Authority is hereby empowered to approve, approve in modified form, or deny an Adaptive Reuse Plan application, and to impose reasonable conditions upon the approval of the application.

**2.** Adaptive Reuse Plan approval shall allow for those land uses identified in Table 5.02-1 (Land Use Matrix) of this Development Code which allows for a broad range of land uses of the underlying zoning district in which the site is located. However, no new uses that emits noxious odors or excessive noise shall be allowed, unless the it can be demonstrated to the satisfaction of the Planning Director that the use will not cause adverse impacts to nearby residential land uses.

**3.** Qualifying buildings include those listed on the National Register of Historic Places, on the California Register of Historic Resources, Ontario Register of Historic Resources as designated local landmarks or contributors to designated local historic districts located within the Adaptive Reuse Plan Area.

**4.** Adaptive Reuse projects are construction and remodeling projects that reconfigure existing spaces within existing buildings to accommodate a new use or purpose other

than what it was originally designed for. Adaptive Reuse projects require a change of use and building occupancy from office or commercial to residential, industrial to work/live, residential to office or commercial, or assembly to residential, office or commercial.

**5.** **Application Filing and Processing.** An Adaptive Reuse Plan application shall be filed, processed, and acted upon pursuant to Division 2.02 (Application Filing and Processing) of this Development Code and the provisions of this Section. Plans and reports prepared for an Adaptive Reuse Plan shall be prepared by a California licensed architect meeting the minimum qualifications standards of The Secretary of the interior Professional Qualifications (Code of Federal Regulations, 36 CFR Part 61).

**C.** **Adaptive Reuse Plan Area.** This area consists of the City's original downtown, and extends north to include the historic districts adjacent to Euclid Avenue, the boundary of which is as follows:

*Beginning at the intersection of the centerlines of State Street and San Antonio Avenue, thence north to the northernmost city boundary, thence east to the centerline of Sultana Avenue, thence south to the centerline of I Street, thence east to the centerline of Campus Avenue, thence south to the centerline of State Street, thence west to the point of beginning.*

**D.** **Alternative Building and Fire Code Regulations.** The alternative building and fire codes regulations adopted in this Section are applicable to qualified buildings and adaptive reuse projects.

**1.** *Alternative Codes.* Use of the California Historic Building Code, International Existing Building Code, California Health and Safety Code and the Ontario Adaptive Reuse Plan Technical Manual shall provide a process and the ability for the Building Official and Fire Marshal to consider alternative building standards while ensuring adequate health and safety protections.

**2.** In permitting repairs, alterations, and additions necessary to accommodate adaptive reuse projects, the alternative code regulations shall impose requirements that will, in the determination of the Building Official and the Fire Marshal, protect the public health, safety, and welfare.

**3.** Nothing in this Section shall be construed to allow the reduction of existing seismic or fire and life-safety elements of an eligible building where such elements provide a greater level of protection than the minimum requirements established by this Section.

**4.** Subject to the approval of the Building Official and Fire Marshal, the use or occupancy type of a qualified building shall be allowed to be changed as part of an adaptive reuse project without conforming to all requirements of Title 8, Building Regulations, and Title 4, Chapter 4, Fire Code of the City of Ontario Municipal Code provided the new or proposed occupancy is equally or less hazardous, based on life and fire risk, than the existing use.

**5.** Whenever there are practical difficulties involved in carrying out the provisions of Title 8, Building Regulations, and Title 4, Chapter 4, Fire Code of the City of Ontario Municipal Code, the Building Official and Fire Marshal shall have the authority to grant modifications for individual cases, provided the Approving Authority shall first find that special individual reasons make the strict letter of the local codes impractical and the modification is in compliance with the intent and purpose of the local codes and that such modification does not lessen health, life and safety requirements.

**E. Incentives**. The Planning Director may grant the following departures from certain development standards and requirements to incentivize qualified Adaptive Reuse Plans:

**1.** *Development Plan Waived*. Approved Adaptive Reuse Plans, which may allow for new additions up to 25 percent of the existing building floor area and is not visible from the public right-of-way, shall be exempt for the requirements for Development Plan review set forth in Section 4.02.025.

**2.** *Mezzanines*. Loft spaces in joint living and work quarters, dwelling units and guest rooms which do not exceed more than 33 percent of the floor area of the space below shall not be considered new floor area. Mezzanines may be included in the calculation of floor area for the purpose of determining compliance with the standards set forth in Paragraph (E) of this subdivision.

**3.** *Parking Reduction*. New parking spaces shall not be required for any converted use within the existing footprint of the building, but expansions to floor area shall require one parking space per bedroom or one parking space per 250 square feet of gross floor area for office or commercial.

**4.** *Setbacks*. Existing building setbacks may remain and shall be considered legally nonconforming, but no further encroachments shall be permitted into any nonconforming setback.

**5.** *Increases in Maximum Building Height*. The height of the structure, if it exceeds the maximum height of the zoning district, may remain and shall be considered legally nonconforming. Any rooftop construction needed for drainage, ventilation, utilities, or passive recreation shall be included within the height exemption. This height exemption does not include new residential or commercial floor area.

**6.** *Open Space*. Private open space for residential adaptive reuse projects may be waived when it is determined by the Approving Authority that the requirement would result in exterior alterations to the existing building that would result in an adverse impact to a historic resource. A minimum of 100 square feet of common open space per residential unit or 25 percent of the building square footage, whichever is less, shall be required and may be provided on the rooftop of the building or within the building and include various type of indoor amenities such as fitness center, workstations, playrooms, etc.

**7.** *Loading Zone*. A new loading zone shall not be required if the existing building does not have an existing loading zone.

**F. Standards.** Adaptive Reuse Projects permitted pursuant to this subdivision shall be developed in compliance with the following standards:

**1.** *Minimum Dwelling Units*. Adaptive reuse projects that propose residential shall develop no less than 3 units. The minimum floor area for new dwelling units and joint living and work quarters shall be 450 square feet. Floor area shall not include hallways or other common areas, or rooftops, balconies, terraces, fire escapes, or other projections or surfaces exterior to the walls of the building. The floor area of both the living space and the workspace shall be combined to determine the size of joint living and work quarters. The average floor area, as defined above, of all the dwelling units and joint living and work quarters in the building, including those that existed prior to the effective date of this ordinance, shall be at least 750 square feet. That minimum average size shall be maintained and not reduced.

**2.** *Storefront*. Ground floor of an existing multiple level commercial building shall contain street frontage and shall be used as a commercial storefront. Residential on ground may occur at the rear of the building behind the storefront.

**3.** *Exterior or Interior (Public Space) Alterations*. A Certificate of Appropriateness pursuant to Section 4.02.050: Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources is required for any alteration, addition, restoration, rehabilitation, remodeling, relocation, repainting, and/or resurfacing of an historic resource.

**4.** *Other Provisions*. Floor Area Ratio (FAR), Landscaping, Lot Coverage, and any other development standard of the underlying zone may be waived by the Approving Authority.

**G. Conditions of Approval.**

**1.** In approving an Adaptive Reuse Plan, the Planning Director may impose certain safeguards and standards to ensure that the purposes of this Development Code are maintained; ensure that the permit will not endanger the public health, safety or general welfare; ensure that the permit will not result in any significant environmental impacts; ensure that the permit will be in harmony with the area in which it is located; and ensure that the permit will be in conformity with The Ontario Plan and any applicable specific and/or area plan(s).

**2.** The standards and requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this Development Code.

**H. Findings and Decision**. An Adaptive Reuse Plan, or any amendment thereto, shall be acted upon by the Approving Authority based upon the information provided in the submitted application, evidence presented in the Planning Department's written report, only after considering and clearly establishing all of the below-listed findings, and giving supporting reasons for each finding. The application shall be denied if one or more of the below-listed findings cannot be clearly established.

**1.** That the use(s) of the property will not be detrimental to the public health, safety and general welfare surrounding the project location;

**2.** That the Adaptive Reuse Project complies with the standards set forth in Section 4.03.010 (F) of this Development Code; and

**3.** A Certificate of Appropriateness has been approved or Waived for the Adaptive Reuse Plan.

**PART II. Division 7.01 —Historic Preservation**
Revise Section 7.01.025 (C) Types of Incentives, as follows:

**C. Types of Incentives.** The below-listed incentives may be used for the eligible projects identified in Subsection B (Applicability) of this Section.

**1.** Economic and Financial Incentives. The following economic and financial incentives may be applied to a project following approval by the Historic Preservation Commission or the Historic Preservation Trust Board of Trustees, as applicable, and approval by the City Manager or the City Council, as applicable:

**a.** Grants or loans approved through the Historic Preservation Trust pursuant to Section 7.01.030 (Historic Preservation Trust Fund) of this Division;

**b.** Approval of a Mills Act contract pursuant to Section 4.02.070 (Historic Preservation—Mills Act Contracts) of this Development Code;

**c.** Approval of funding through the Historic Rehabilitation Financing Program pursuant to Section 7.01.015 (California Historical Building Code) of this Division;

**d.** Grants or loans through other City funding sources, including, but not limited to, redevelopment and housing funds;

**e.** Preservation easements;

**f.** Reduction or elimination of building plan check or permit fees;

**g.** Reduction or elimination of development impact fees;

**h.** Reduction or elimination of any other applicable City fees; or

**i.** Federal rehabilitation tax credits (applied through the California Office of Historic Preservation).

**2.** Development Incentives. The following development incentives to be applied to the project:

**a.** *California Historical Building Code.* Use of the CHBC pursuant to Section 7.01.015 (California Historical Building Code) of this Division.

**b.** *Parking Reduction.* For existing single-family dwellings with a one-car garage, the Planning Director may waive the requirement for 2 off-street parking spaces within a garage when adding floor area, if an existing one-car garage contributes to the significance of the property and/or district, and the existing garage is in good condition, or, if deteriorated, will be returned to good condition as part of the work to add new living space to the residence.

**c.** *Setback Reductions and Increases in Maximum Building Height.* The Planning Director may grant reductions in required building setbacks or increases in the maximum allowed building height when the setback reduction or increase in allowed building height allows for the restoration of a character-defining feature, or allows character-defining features to be replicated in additions to historic structures. In no case, however, shall a reduction in a setback be granted when the reduction will cause an adverse effect to the property or neighboring property, or cause an adverse effect to the character of the neighborhood or district.

**d.** *Adaptive Reuse.* Departures from certain development standards may be waived to encourage adaptive reuse of qualified historic buildings pursuant to, and in accord with, the provisions of Section 4.03.010 of this Development Code.

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Economic Development<br>Prepared By: Karla Tavera<br>Department:<br>Prepared By: Karla Tavera<br>Staff Member Presenting: Jennifer McLain Hiramoto, Economic Development Director<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 13 |

**SUBJECT: AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH WINDSONG PRODUCTIONS, LLC. FOR VIDEO PRODUCTION SERVICES**

**RECOMMENDATION:** That the City Council authorize the City Manager, or his designee, to execute Amendment No. 3 to the Professional Services Agreement with Windsong Productions, LLC. to extend the contract term by one year and increase the contract amount by $292,789 to cover the corresponding work for the year. The new not-to-exceed amount for the contract will be $1,107,836.

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

**FISCAL IMPACT:** The Fiscal Year 2024-25 Adopted Budget includes appropriations in the General Fund within Economic Development and Management Services cost centers for these services.

**BACKGROUND & ANALYSIS:** On November 2, 2021, the City executed a Professional Services Agreement with Windsong Productions, LLC. ("Windsong") for video production services following a competitive Request for Proposals process. Windsong Productions, LLC was the top candidate. At the time the Agreement was executed, the not-to-exceed compensation amount was set at $235,000 for the duration of the Agreement term. Since then, it was clarified that the $235,000 amount only covered the cost for services for the initial year of the Agreement term (FY 2021-22). The vendor was asked to provide cost projections through the end of the Agreement term (FY 2023-24).

On October 18, 2022, Council approved Amendment No. 1 to add the total cost of services for the whole Agreement term bringing the new not-to-exceed amount to $753,312. On February, 6, 2024 Council Approved Amendment No. 2 to expand the scope of services and increase the not-to-exceed amount to $815,047. Pursuant to the original Agreement, the City has the sole discretion to renew for two additional one-year terms. Therefore, City Staff is now requesting to extend the term for the first additional one year term and increase the Agreement amount by $292,789

(Amendment No. 3) to cover the services of that year (FY 2024-25). This brings the new Agreement not-to-exceed amount to $1,107,836.

Video production services are an important element to the City's marketing and advertising efforts as they allow the City to produce engaging visual content featuring businesses, projects and various aspects of the City's efforts to the public. Windsong's services are used for the Made in Ontario series, the annual State of the City video and other miscellaneous videos featuring City-hosted events.

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

PAUL S. LEON
MAYOR

DEBRA PORADA
MAYOR PRO TEM

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT OCHOA
CITY MANAGER

July 2, 2024

Windsong Productions, LLC.
351 O Street
Fresno, CA 93721

Re: Notice to Extend Agreement with Windsong Productions, LLC., Amendment No. 3

Dear Joann Mercado Hicks,

As you know, the City of Ontario ("City") and Windsong Productions, LLC. ("Consultant") entered into a Professional Services Agreement dated August 18, 2021, Amendment No. 1 dated September 7, 2022 and Amendment No. 2 dated February 6, 2024 (the "Agreement"). The term of the Agreement is set to expire on August 18, 2024.

Pursuant to the Agreement, the City has the sole discretion to renew the Agreement for two additional one-year terms. Through this letter, the City hereby extends the term of the Agreement the first additional year and increases the dollar value by two hundred ninety-two thousand seven hundred eighty-nine dollars ($292,789) for a new total not to exceed amount of **one million one hundred and seven thousand eight hundred thirty-six dollars ($1,107,836)**.

The terms and conditions of the Agreement shall remain the same.

If you have any questions, please don't hesitate to contact Karla Tavera at the City.

Sincerely,

Scott Ochoa
City Manager

# ESTIMATE

Windsong Productions
351 O Street
Fresno, CA 93721

TEL. 559.437.3900

Dan Bell, Communications & Community Relations Director
City of Ontario

United States

**Date: 2024-06-12**
Title: **ONT Event Filming Production PKG** Estimate #: **12053**
Prepared By: Joann Mercado Hicks

**Project Description:** Estimate includes the filming and photography of the following events:

2024 Ontario 5K Reindeer Run
2024 Holiday Light Parade / Christmas on Euclid
2025 Ontario Fourth of July Parade, Council and attendee interviews and BROLL coverage of the entire event.

Each event includes an edit of (1) x up to 3 minutes highlight video and up to (100) finished photos.
Additional videos, videos and filming days to be estimated separately.

| Scope of Work | Cost |
|---|---|

**Video Production**
City Events 2024-2025
Internal Services
Pre Production
pre-production
Director
director to oversee shoot and edit
Producer
producer to oversee pre/post production, on location.
Associate Producer
associate producer; on-location
Production Assistant
On-location production assistant for all events
Audio Production
audio syncing, studio time and audio mix
Editing
editing of (1) x up to 2 minutes highlight videos for Reindeer Run and Holiday Light Parade. Includes (1) x up to 3 minutes highlight video for Fourth of July 2025. Includes final approved masters formatted for 9x16 Instagram Reels.

Includes footage import, edit, animation, color correction, rendering, exporting and proof uploading. Includes up to (2) round of client revisions per spot.
Assistant Editing
assistant editor to cull through the footage, catalog and assemble editing timeline
External Expenses
Shooting

**ESTIMATE**
Windsong Productions
351 O Street
Fresno, CA 93721

TEL. 559.437.3900

**Date: 2024-06-12**
Title: **ONT Event Filming Production PKG** Estimate #: **12053**

(3) x camera operators (RED or equivalent) to capture the (3) events
Music
(3) royalty free music track
Grip
Grip (2) + G&E gear
Photographer
(1) photographer to capture (3) events: Reindeer Run, Holiday Light Parade/Christmas on Euclid and Fourth of July 2025; includes delivery of up to (100) finished photos.
Rentals
Walkie rentals for (3) events

---

**Production Management**
Internal Services
Client Communication
no charge
Internal Meeting/Communication
Production Management
scheduling, crew communication pre- and post-shoot
Internal Expenses
Project Archive & Storage
ingest footage and meta-tag, make back-ups, compress footage with timecode for transcribing

| | |
|---|---|
| **Total** | $63,197.50 |

**Terms & Conditions**

signature printed name date

Approved to proceed and have read and agree with terms and conditions.

signature printed name date

# ESTIMATE

Windsong Productions
351 O Street
Fresno, CA 93721

TEL. 559.437.3900

Dan Bell, Communications & Community Relations Director
City of Ontario

United States

**Date: 2024-06-13**
Title: **ONT Additional Event Filming (as needed)** Estimate #: **12055**
Prepared By: Joann Mercado Hicks

**Project Description:** Estimate includes the filming and photography costs for (1) event in Ontario, CA in 2024-2025. Does not include a Federal holiday event (i.e. Fourth of July)

Each event includes an edit of (1) x up to 2 minutes highlight video and up to (100) finished photos. Additional videos, videos and filming days to be estimated separately.

| Scope of Work | Cost |
|---|---|

**Video Production**
City Events 2024-2025; Single Day Event Rate

## Internal Services

Pre Production
- pre-production

Director
- director to oversee shoot and edit

Producer
- producer to oversee pre/post production, on location.

Associate Producer
- associate producer; on-location

Production Assistant
- On-location production assistant for (1) event

Audio Production
- audio syncing, studio time and audio mix

Editing
- editing of (1) x up to 2 minutes highlight videos for one event. Includes final approved masters formatted for 9x16 Instagram Reels.

  Includes footage import, edit, animation, color correction, rendering, exporting and proof uploading. Includes up to (2) round of client revisions per spot.

Assistant Editing
- assistant editor to cull through the footage, catalog and assemble editing timeline

## External Expenses

Shooting
- (3) x camera operators (RED or equivalent) to capture the (1) event

Music
- (1) royalty free music track

Grip

**ESTIMATE**
Windsong Productions
351 O Street
Fresno, CA 93721

TEL. 559.437.3900

**Date: 2024-06-13**
Title: **ONT Additional Event Filming (as needed)** Estimate #: **12055**

Grip (2) + G&E gear
Photographer
(1) photographer to capture (1) event; includes delivery of up to (100) finished photos.
Rentals
Walkie rentals for (1) event

---

**Production Management**
Internal Services
Client Communication
no charge
Internal Meeting/Communication
Production Management
scheduling, crew communication pre- and post-shoot
Internal Expenses
Project Archive & Storage
ingest footage and meta-tag, make back-ups, compress footage with timecode for transcribing

---

**Total** $19,695.00

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**Terms & Conditions**

signature printed name date

Approved to proceed and have read and agree with terms and conditions.

signature printed name date

**ESTIMATE**
Windsong Productions
351 O Street
Fresno, CA 93721

TEL. 559.437.3900

City of Ontario

United States

**Date: 2024-04-18**
Title: **Made in Ontario: Series 2024-2025** Estimate #: **11989**
Prepared By: Joann Mercado Hicks

**Project Description:** Estimate includes (5) x filming days to complete a shot list, B-ROLL and interviews with organizations & businesses selected by the City of Ontario. Estimate includes the edit of (9) x up to :90 seconds videos + (9) x :15 seconds Social Media cutdowns (9x16s) that educate the public on local businesses and organizations in the City of Ontario and all projected expenses for a quality production. Additional videos and filming days to be estimated separately.

| Scope of Work | Cost |
|---|---|
| **Video Production** | **$82,625.00** |

Internal Services

Pre Production
pre-production

Copywriting/Transcribing
transcribing of (8) interviews and scriptwriting of (8) x :90 seconds videos

Director
Director to oversee shoot and edit

Producer
Producer, on set and to oversee pre/post production

Assistant Producer
Assistant producer, on set and to assist in all steps of production

Audio Production
audio syncing, studio time and audio mix

Editing
editing of (8) x :90 seconds videos, (2) x up to :45s City-focused videos (leveraging library footage) and (8) x :15 seconds social media cutdowns (9x16 exports). Includes footage import, edit, color correction, rendering, exporting and proof uploading. Includes up to (2) rounds of client revisions per spot.

Assistant Editing
assistant editor to cull through the footage, catalog and assemble editing timeline

External Expenses

Camera Department
(1) camera operator with RED camera package and (1) secondary camera operator with BlackMagic or equivalent camera package; (5) filming days

Music
royalty-free music tracks

Per Diem
per diem for crew; (5) filming days

G&E Swing

# ESTIMATE

Windsong Productions
351 O Street
Fresno, CA 93721

TEL. 559.437.3900

**Date: 2024-04-18**
Title: **Made in Ontario: Series 2024-2025** Estimate #: **11989**

G&E swing; (5) filming days

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**Production Management** **$3,895.00**
Internal Services
Client Communication
no charge
Internal Meeting/Communication
Production Management
scheduling, crew communication pre- and post-shoot
Internal Expenses
Project Archive & Storage
ingest footage and meta-tag, make back-ups, compress footage with timecode for transcribing; upkeep of ONT footage library

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**Total** $86,520.00

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**Terms & Conditions**

Karla Tavera Karla Tavera 4-23-2024

signature printed name date

Approved to proceed and have read and agree with terms and conditions.

signature printed name date

# ESTIMATE

Windsong Productions
351 O Street
Fresno, CA 93721

TEL. 559.437.3900

City of Ontario

United States

**Date: 2024-04-18**
Title: **Ontario: 2025 State of the City Video Production PKG** Estimate #: **11988**
Prepared By: Joann Mercado Hicks

**Project Description:** Estimate includes (6) total days of filming on-location in Ontario, California. Filming will include up to (4) days of filming, and up to (2) days of Council interviews for the Ontario State of the City video package. Estimate includes the edit of videos for SOTC 2025 event. Additional videos and filming days to be estimated separately.

Deliverables include:
(1) x up to 20 minutes SOTC Video featuring Council
(1) up to 2 minutes opening video
(1) up to 3 minutes closing video
(4) x :15 seconds SOTC event teaser videos for social.
Voice of God audio files for day of event use
Directional arrows and "screen saver" loop for event day

| Scope of Work | Cost |
|---|---|

**Video Production**
State of the City Video PKG 2025
Internal Services
Pre Production
pre-production
Transcribing & Scriptwriting
transcribing of interviews and scriptwriting
Director
director to oversee shoot and edit; (6) days of filming and post-production
Producer
producer to oversee pre/post production
Associate Producer
associate producer to assist in the pre/post production of SOC 2025
Audio Production
audio syncing, studio time and audio mix
Editing

**ESTIMATE**
Windsong Productions
351 O Street
Fresno, CA 93721

TEL. 559.437.3900

**Date: 2024-04-18**
Title: **Ontario: 2025 State of the City Video Production PKG** Estimate #: **11988**

editing of:
(1) x up to 20 minutes SOTC Video featuring Council, (1) up to 2 minutes opening video, (1) up to 3 minutes closing video, and (4) x :15 seconds SOTC teaser videos for social.

Includes footage import, edit, animation, rendering, exporting and proof uploading. Includes up to (2) round of client revisions per spot.

Animation
creation and design of SOC 2025 gfx; for videos only
** Includes directional arrows and "screen saver" style event video

Color Grading
color correction of final SOC videos.

Assistant Editing
assistant editor to cull through the footage, catalog and assemble editing timeline

Audio Engineer
on set audio engineer; (6) days

External Expenses

Shooting
(1) camera operator with RED camera package and (1) secondary camera operator with an equivalent camera package; (6) days of filming

Music
(10) royalty free music track

Grip
(2) x grip/gaffer; (6) days

Audio/ VO
non-union VO talent; in perpetuity, full-usage buyout for SOC videos, includes VOG recordsings

Other
Additional crew for filming days for interviews

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**Production Management**

Internal Services

Client Communication
no charge

Internal Meeting/Communication

Production Management
scheduling, crew communication pre- and post-shoot

Internal Expenses

Project Archive & Storage
ingest footage and meta-tag, make back-ups, compress footage with timecode for transcribing

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**Video Production - Event Filming Day**

Sponsorship

Internal Services

**ESTIMATE**
Windsong Productions
351 O Street
Fresno, CA 93721

TEL. 559.437.3900

**Date: 2024-04-18**
Title: **Ontario: 2025 State of the City Video Production PKG** Estimate #: **11988**

Pre Production
pre-production for event filming
Director
pre-production and oversight + (1) filming day for SOTC 2025 Event, March 2025
Producer
(1) filming day for SOTC 2025 Event, March 2025
Associate Producer
(1) filming day for SOTC 2025 Event, March 2025
Audio Production
(1) filming day for SOTC 2025 Event, March 2025
Editing
Editing of (1) x up to 90 seconds SOTC Event Highlight Video. Includes up to (2) rounds of revisions, color, gfx pkg and final export for web/tv.

External Expenses
Music
(2) royalty-free music tracks for SOTC Highlight video
Cinematographer
(3) Camera operators for (1) filming day for SOTC 2025 Event, March 2025
Grip
(2) x Grips; (1) filming day for SOTC 2025 Event, March 2025

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**Sponsorship: State of the City 2024**
Internal Services
Sponsorship
Sponsorship: State of the City 2025; [$22,625]

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**Total** $123,376.00

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**Terms & Conditions**

Karla Tavera Karla Tavera 4-23-2024
signature printed name date

Approved to proceed and have read and agree with terms and conditions.

signature printed name date

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Broadband Operations<br>Prepared By: Judy Witrago<br>Staff Member Presenting: Jimmy Chang, Broadband General Manager<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 14 |

**SUBJECT:** **A TELECOMMUNICATIONS MASTER CUSTOMER AGREEMENT WITH ZAYO GROUP LLC FOR THE LEASE OF DARK FIBER**

**RECOMMENDATION:** That the City Council authorize a Master Customer Agreement and Service Order, with Zayo Group LLC to establish a dark fiber connection from Ontario, California to One Wilshire in Los Angeles, California, in the amount of $528,780, plus a 10% contingency in the amount of $52,878, for a total-not-to-exceed amount of $581,658; and authorize the City Manager, or his designee, to execute said Agreement and future amendments within the authorization limits.

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

**FISCAL IMPACT:** The Fiscal Year 2024-25 Adopted Budget includes appropriations for Telecommunications Services in the Broadband/Fiber Fund. The monthly dark fiber service lease will be $7,580, plus taxes and telecommunication surcharges, for a monthly total of $8,813, and an annual total of $105,756. The term of the lease is 5 years, for a total amount of $528,780, plus a 10% contingency in the amount of $52,878, for a total fee schedule not-to-exceed amount of $581,658.

If approved, appropriations for future fiscal years will be included in future Annual Budgets for City Council approval.

**BACKGROUND & ANALYSIS:** Through this agreement with Zayo Group, OntarioNet will lease dark fibers to connect to One Wilshire in Los Angeles, California, one of the world's top telecommunications centers. Zayo Group currently owns telecommunications network infrastructure in the City of Ontario and elsewhere in California. Dark fiber refers to optical fiber strands that have been installed but are not currently active. The term "dark" is used because there is no light being transmitted through these fibers, which is necessary for data transfer in optical networks. OntarioNet will need to install equipment to light these dark fibers.

The connection will be used to accommodate future growth in data traffic and provide a reserved capacity to allow OntarioNet to support the Broadband Department's expansion and the City infrastructure as stated in the Fiber Optic Master Plan and future plans as a Broadband Service Provider. Subsequent to extension research for this project, City staff recommends executing a Master Customer Agreement for a dark fiber lease with Zayo as a unique Telecommunications Network provider in the Ontario geographical area with 100% underground fiber connectivity to One Wilshire in Los Angeles.

**MASTER CUSTOMER AGREEMENT**

This Master Customer Agreement ("**MCA**") is effective as of **_____, 2024** ("**Effective Date**") between Zayo Group, LLC, a Delaware limited liability company, with an address of 1821 30th Street, Unit A, Boulder, CO 80301 (collectively "**Zayo**" and each entity controlled by, controlling or under common control with Zayo, a "**Zayo Affiliate**") and the **City of Ontario**, a **California municipal corporation d/b/a OntarioNet** with an address of **303 E. B Street, Ontario, CA 91764** ("**Customer**"). Zayo and Customer each may be referred to herein as a "**Party**" and collectively as the "**Parties**".

## ARTICLE 1 - GENERAL

**1.1 Agreement Structure**. This MCA provides general terms and conditions under which Customer may from time to time purchase access to and utilization of selected portions of the Zayo fiber network and associated infrastructure ("**Access**") and certain related telecommunications and infrastructure services ("**Services**") from Zayo. Terms and conditions that apply to Access and to each type of Service are set forth in customer schedules (each a "**Customer Schedule**"). Access and Services may also be referred to as offerings ("**Offerings**") in the Customer Schedule and Customer Orders. This MCA, applicable Customer Schedules, and Customer Orders are collectively the "**Agreement**". Any part of the Agreement may be entered into and performed by any Zayo Affiliate, including those authorized to provide Access or Services in any country or jurisdiction.

**1.2 Orders for Access and/or Services**. Customer may request that Zayo provide Access and/or Services by submitting a customer order in a form provided by Zayo ("**Customer Order**"). Customer is responsible for the accuracy of all information that it provides to Zayo. Customer Orders shall set forth the term, pricing, Access and Service type and location(s), monthly recurring charge ("**MRC**"), non-recurring charge ("**NRC**") and any additional terms applicable to the Access and/or Services. All Customer Orders are subject to availability and acceptance by Zayo, and are governed by this Agreement.

**1.3 Term.** The term of each Customer Order shall commence on the Activation Date (as defined in the applicable Customer Schedule) for such Access and/or Service and continue for the period of time specified in that Customer Order. Thereafter, the term shall automatically renew for one year periods (collectively, the "**Order Term**") until terminated by either Party upon at least 90 days written notice prior to the end of the Order Term. Customer is responsible for payment to Zayo for the Access and Services to be terminated through the date of termination. The term of the Agreement is coterminous with the longest Order Term hereunder.

**1.4 Order of Precedence**. In the event of an express conflict between terms in the Agreement, precedence will be given, as applicable, in the following order: (a) the Customer Order, but solely with respect to the Services covered by such Customer Order (b) the Customer Schedule, but solely with respect to the Services covered by such Customer Schedule, and (c) the MCA.

## ARTICLE 2 - PAYMENT TERMS

**2.1 Invoicing and Payment Terms**. Zayo commences billing and Customer shall be liable for payment upon the Activation Date. Zayo will provide Customer with a monthly itemized invoice for the Access and Services together with all other charges due. Customer shall pay to Zayo all amounts due in full, without offset or reduction, within 30 days from the date of the invoice ("**Due Date**"). Invoice amounts not paid on or before the Due Date shall bear interest at the rate of one and one-half percent per month or the highest lawful rate, whichever is lower. Unless otherwise stated in the Agreement, Zayo invoices NRCs upon acceptance of a Customer Order.

**2.2 Invoice Disputes**. If Customer reasonably disputes any portion of an invoice, Customer shall timely pay all undisputed amounts by the Due Date and shall notify Zayo in writing and provide detailed documentation supporting all disputed amounts within 10 days from the Due Date or Customer's right to any billing adjustment shall be waived. If the dispute is resolved against Customer, Customer shall pay such amounts due plus interest, as set forth in Section 2.1 above, from and after the Due Date.

**2.3 Taxes and Other Fees and Surcharges.** Excluding taxes based on Zayo's net income, Customer shall be responsible for all Taxes (defined below) and Other Fees and Surcharges (defined below) arising in any jurisdiction imposed on or incident to the provision, sale or use of Access or Services, including but not limited to value added, consumption, sales, use, gross receipts, foreign withholding (which will be grossed up), excise, access and bypass (collectively "**Taxes**") and any property, franchise, rights of way, license or permit, regulatory or other taxes, duties, fees, charges or surcharges (collectively "**Other Fees and Surcharges**"). Charges for Access and Services are exclusive of any Taxes and Other Fees and Surcharges. Taxes and Other Fees and Surcharges may be recovered through

imposition of a percentage surcharge on the charges for Access and Services to Customer. Customer may present Zayo with a valid exemption certificate (in a form reasonably acceptable to Zayo); Zayo will give effect thereto prospectively.

**2.4 Portability**. Customer may terminate an existing Service (the "**Original Service**") and make a one-time request that such Service be replaced by a new Service ("Replacement Service"), and Customer will not incur any early termination liability with respect to the Original Service, as long as: (a) the Original Service is On-Net, (b) the Original Service has been in-service for at least twelve (12) months of the Order Term, and (c) Customer submits, and Zayo accepts, a Customer Order for the Replacement Service that complies with the requirements of this provision (the "**Replacement Customer Order**"). The Replacement Customer Order shall reflect (i) an Order Term of at least one (1) additional year beyond the expiration date of the Order Term for the Original Service, (ii) an MRC at least equal to the MRC of the Original Service and (iii) an NRC to implement the Replacement Service (which may include costs incurred but not recovered under the Original Service). Customer may not terminate the Original Service until commencement of the Replacement Service, and must provide Zayo at least thirty (30) days' written notice of disconnection prior to disconnection of the Original Service. Customer must pay all charges for the Original Service through the disconnection date. "On-Net" means any Service which connects two locations to which Zayo is already providing the same type of Service at the time of the Order and which is provisioned entirely on Zayo facilities and does not include any third party services or special construction.

## ARTICLE 3 - DEFAULT

If Customer fails to make any payment due under the Agreement by the Due Date, and such failure continues for fifteen days after receiving notice of the failure to make payment, or if a Party fails to cure any material breach of any term of the Agreement within 30 days of receiving notice of the breach from the other Party, then the non-breaching Party may: (a) terminate the Agreement in whole or in part and (b) subject to the liability limitations stated herein, pursue any available remedies at law or in equity.

## ARTICLE 4 - LIABILITIES

**4.1 Damage Limitations**. Except for indemnity obligations arising under Section 4.4, confidentiality obligations arising under Section 5.1, or payment obligations arising under this Agreement: (i) each Party's total liability for any and all causes and claims whether based in contract, warranty, tort or otherwise shall be limited to the actual direct damages sustained by the damaged Party under this Agreement, but in no event greater than an amount equivalent to the total MRC payable by Customer over the preceding twelve months for the Access or Service affected or if the claim arises prior to the Activation Date, an amount equivalent to the total MRC payable by Customer for the first twelve months of the Order Term, and (ii) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY DAMAGES FOR LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOSS OF DATA, ANTICIPATED SAVINGS OR COST OF PURCHASING REPLACEMENT SERVICES, OR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF THE PERFORMANCE OR FAILURE TO PERFORM UNDER THE AGREEMENT. Notwithstanding anything to the contrary, Customer's sole and exclusive remedy for any non-performance, defect or failure to deliver the Access or Service are the performance credits and/or other remedies expressly stated in the relevant Customer Schedule.

**4.2 No Warranty**. ZAYO MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

**4.3 No Liability for Certain Actions**. Zayo exercises no control over and is not responsible for the content of any information transmitted or received through the use of the Access or the Services. Other than as expressly stated in the Agreement, Customer shall be solely responsible for all of the security and confidentiality of information it transmits using the Access or Service.

**4.4 Indemnification.** Each Party (an "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party, its directors, officers, employees, agents, contractors, successors and assigns ("**Indemnified Party**") harmless from and against all losses, damages, costs, expenses and liabilities (including reasonable attorney's fees and expenses) incurred by such Indemnified Party arising from any third party claims relating to: (i) any physical damage to tangible property, or personal injury or death caused by the gross negligence or willful misconduct of the Indemnifying Party, or (ii) infringement or misappropriation of such third party's intellectual property right caused by the Indemnifying Party, provided, however, that Zayo is not obligated to indemnify Customer, and Customer shall defend and indemnify Zayo as an Indemnified Party, for any claims or actions commenced by any third party, including end users, arising from or in connection with goods or services provided by Customer that incorporate any of the Access or Services.

## ARTICLE 5 – MISCELLANEOUS PROVISIONS

**5.1 Confidentiality.**

a) Information or documentation exchanged between the Parties in performing this Agreement, including the terms of this Agreement, are subject to the terms of any non-disclosure agreement in effect between the Parties, and if none, neither Party will disclose Confidential Information to third parties (other than to vendors, if and as needed to perform under this Agreement) without the express consent of the other Party. Each Party will limit disclosure and access to Confidential Information to those of its employees, vendors, or other representatives who reasonably require such access to perform under this Agreement and who are subject to confidentiality obligations at least as restrictive as those required herein. "Confidential Information" means any information disclosed by one Party to the other in connection with the Agreement, including any terms of this Agreement and does not include information that: (i) is independently developed by the receiving Party, (ii) is lawfully received by the receiving Party free of any obligation to keep it confidential, or (iii) becomes generally available to the public other than by breach of this Agreement.

b) Zayo acknowledges that Customer is a public agency subject to the requirements of the California Public Records Act (Gov. Code, § 7922.000 et. Seq.) ("**CPRA**"). Each Party acknowledges that Zayo may submit information to the City that Zayo considers Confidential Information or otherwise not subject to disclosure pursuant to an exemption to the CPRA. In the event of a request or demand of a third person or entity not a party to this Agreement for the production, inspection, and/or copying of Confidential Information (i) that is made under the CPRA, and (ii) is not exempt from disclosure under the CPRA, Customer shall provide ten (10) calendar days' advance notice to Zayo so that Zayo may seek protection from disclosure by providing Customer with a legal basis to withhold such information, or take whatever legal steps are necessary to protect such information. If Zayo fails to take any such action within the ten (10) calendar days after receiving the foregoing notice, Customer is required by law to comply with the CPRA request and is not required to defend against it.

**5.2 Force Majeure.** Neither Party shall be liable, nor shall any credit allowance or other remedy be extended, for any failure or hindrance of performance hereunder due to causes beyond its reasonable control (a "**Force Majeure Event**"). The Party claiming relief under this Section shall notify the other Party of the occurrence or existence of the event and of the termination of such event.

**5.3 Subject to Laws**. Each Party is responsible for complying with laws and regulations applicable to it, including but not limited to applicable: (a) federal, state and local laws; (b) regulations, rulings and orders of government agencies; (c) data protection legislation; (d) laws, statutes, regulations and codes relating to anti-bribery and anti-corruption; and (e) import, export and economic sanction laws and regulations. Neither Party shall use the Access or Services for any unlawful purposes.

**5.4 Governing Law; Venue; Prevailing Party**. The Agreement shall be governed by and construed in accordance with the laws of California , without giving effect to any conflict of law principles. Venue arising under the Agreement shall be California. The United Nations Convention on Contracts for the International Sale of Goods does not apply. If suit is brought or an attorney is retained by either party to enforce the terms of the Agreement or to collect any money as due hereunder or to collect any money damages for breach hereof, the prevailing party shall be entitled to recover its reasonable attorneys' fees and related expenses incurred in connection therewith.

**5.5 Notices**. Notices under this MCA shall be in writing and delivered by electronic mail or certified mail, return receipt requested, or by a nationally recognized courier to the persons whose names and business addresses appear below, and such notice shall be effective on the date of receipt, or refusal of delivery, by the receiving Party. **In lieu of the foregoing notice requirement, if Customer is disconnecting Access or discontinuing Service(s) of any type for any reason, Customer must submit the disconnection request through the form located at https://www.zayo.com/disconnectservice/**

**If to Zayo:**
Zayo Group, LLC
Attn: General Counsel, Legal
1821 30th Street, Unit A
Boulder, CO 80301
Email: legal@zayo.com

***Billing Disputes:***
Zayo Group, LLC:
Attn: Accounts Receivable
1821 30th Street, Unit A
Boulder, CO 80301
Email: customerservice@zayo.com

**If to Customer:**
**City of Ontario d/b/a OntarioNet**
Attn: **Jimmy Chang, Broadband General Manager**
**303 E. B Street**
**Ontario, CA 91764**
Email: **JChang@ontarioca.gov**

(if this "Customer" section is left blank, notice shall be deemed effective if delivered to Customer's registered office address or the last Customer address provided to Zayo by Customer)

**5.6 Assignment**. Neither Party shall transfer or assign, voluntarily or by operation of law or otherwise, its obligations under the Agreement without the prior written consent of the other party, except no such consent shall be required in the event of a merger, reorganization, consolidation or sale of substantially all of the Party's assets or business in which case the assigning party shall provide notice to the non-assigning Party; provided, however, that Customer may only transfer or assign under this provision if its account balance with Zayo is current. Zayo may assign in whole or in part the Agreement or any of its rights and obligations hereunder to any Zayo Affiliate without prior notice to Customer. The Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

**5.7 No Third Party Beneficiaries; Relationship and Counterparts**. The Agreement is not intended for, nor shall it be for the benefit of or enforceable by, any third party or person not a Party hereto, including without limitation, end users. The Agreement does not create a partnership, joint venture or agency relationship between the Parties. Neither Party shall have any authority to bind the other Party to any agreement, understanding or other instrument, in any manner whatsoever. The Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. The Agreement may be executed via a recognized electronic signature service and/or signed, scanned and emailed to Zayo, and any such signatures shall be treated as original signatures.

**5.8 Entire Agreement; Amendment**. The Agreement constitutes the entire and final agreement and understanding between the Parties, expressed or implied, with respect to the Access and Services ordered after the Effective Date and supersedes all other prior or contemporaneous representations, understandings or agreements. No alteration or variation of the terms of any provision shall be valid unless made in writing and signed by the Parties. If any provision of the Agreement shall be held to be invalid or unenforceable, the remaining provisions of the Agreement shall be unimpaired and shall remain in effect and be binding upon the Parties. No course of dealing and no failure to exercise any right hereunder shall be construed as a waiver of any provision hereof.

| **ZAYO GROUP, LLC** | **CITY OF ONTARIO D/B/A ONTARIONET** |
|---|---|
| Signature: _____ | Signature: _____ |
| Name: _____ | Name: _____ |
| Title: _____ | Title: _____ |

**CUSTOMER SCHEDULE**
**DARK FIBER**

**Customer Name**
Customer:

This Dark Fiber Customer Schedule (**"Customer Schedule"**) is subject to, and made a part of, that Master Customer Agreement or Master Services Agreement (herein referred to as the "Master Customer Agreement" or **"MCA"**) entered into between the undersigned Parties. Zayo owns and operates fiber networks and other related telecommunications facilities and is in the business of leasing dark optical fiber strands (**"Dark Fiber"**) within the Zayo network (**"Dark Fiber Offerings"** or **"Offerings"**). Capitalized terms not defined herein will have the meaning ascribed to them in the MCA.

**1. DEFINITIONS.** The following additional definitions shall apply to Dark Fiber Offerings:

**1.1** **Allocated MRC** means a portion of a Monthly Recurring Charge allocated by Segment on a pro-rata basis, unless otherwise specified in a Customer Order.

**1.2** **Costs** mean any applicable cancellation, termination or other charges from a third party, charges for make ready work, permitting and engineering fees, building access or license fees, Zayo standard labor charges, special construction charges and/or materials and equipment costs.

**1.3** **Customer Requirements** shall have the meaning set forth in Section 4.1 below.

**1.4** **Demarcation Point** is the network interface point specified on a Customer Order where Customer's handoff occurs.

**1.5** **Estimated Access Date** is the date or access/delivery interval, specified in a Customer Order, in which Zayo estimates the Dark Fiber Offering to be available to Customer.

**1.6** **Offering Specifications** means both the definitions and performance specifications of an Offering detailed herein and in a Customer Order.

**1.7** **Segment** is a span of Dark Fiber between Locations specified in a Customer Order.

**2. GRANT OF LEASE**. As of the Activation Date for any Dark Fiber ordered under a Customer Order, Zayo agrees to lease to Customer, and Customer agrees to lease from Zayo, the number of strands of Dark Fiber in the configuration described in the Customer Order. Any materials, components, equipment, optical fiber cable and other property of Zayo shall remain Zayo's property even if affixed to or installed within the real property of Customer. Customer acknowledges that it has no option to purchase any part of the materials, components, equipment, optical fiber cable and other property of Zayo installed between the Demarcation Points. Customer shall keep Zayo's facilities and the Dark Fiber free from all liens, including but not limited to mechanics liens, and encumbrances by reason of the use of the Dark Fiber by Customer. If Customer fails to pay, or bring appropriate challenge to, any taxes, assessments, or other fees, and such failure results in the imposition of a lien or encumbrance on the Dark Fiber or an assessment directly against Zayo, Zayo shall have the right to pay the same and charge the amount thereof to Customer, who shall pay the same promptly upon demand. This right is in addition to any other right provided to Zayo herein to remedy a breach of this Customer Schedule. Customer shall be responsible for obtaining and maintaining any rights or licenses required for it to lease, use, occupy or operate the Dark Fiber.

**3. CUSTOMER REQUESTS AND ACCESS**

**3.1.** **Customer Order Acceptance**. Within five (5) business days of Zayo's acknowledgment to Customer of receipt of a Customer Order, Zayo will notify Customer (in writing or electronically) of its acceptance of the Customer Order ("**Customer Order Acceptance**"), at which time such Customer Order becomes a binding obligation to purchase the Offerings therein, or rejection of such Customer Order, in which case Zayo will communicate to Customer why it is unable to accept such Customer Order. Zayo may accept or reject any submitted Customer Order in its sole discretion. Unless otherwise provided in the MCA or this Customer Schedule, Customer's obligations specified in an accepted Customer Order are non-cancellable. Dark Fiber Offerings are subject to availability and Zayo retains the right to cancel a Customer Order at any time prior to delivery of the Activation Notice (as defined below).

**3.2.** **Activation**. After Zayo has determined that the Offering conforms to the relevant Offering Specifications as described in Exhibit B at the time of delivery, Zayo will provide Customer with a Close Out Package as defined in Exhibit B **("Activation Notice**"). The **"Activation Date**" shall be the earlier of (i) the date on which Customer begins using the Offering for any purpose other than testing or (ii) the date that Zayo has sent the Activation Notice to Customer. Customer shall have ten (10) days in which to notify Zayo that it is rejecting the Offering that does not meet the Offering Specifications. If Customer has notified Zayo within such ten (10) day period that the Offering does not meet the Offering Specifications, and provided that such notification is legitimate, then Zayo shall take such steps reasonably necessary to cause the Offering to meet the Offering Specifications, at which time Zayo shall issue a new Activation Notice and the acceptance process above shall be repeated. Customer's failure or delay to test the Offering or failure or delay to utilize the Offering on or after the Customer Activation Notice date shall not prevent Zayo from billing Customer for the Offering. The billing of any recurring charges shall begin on the Activation Date and continue throughout the Order Term. If the Activation Date is



**Confidential and Proprietary (6.21.23)**

delayed as a result of Customer's failure to meet its responsibilities under the MCA or this Customer Schedule including obtaining the necessary Customer Requirements, Zayo may continue with the acceptance procedures to the extent possible and the Activation Date will be deemed to occur as of the Estimated Access Date or the date that Zayo is ready to provide access to the related Offering, whichever is later.

**3.3.** **Incrementally Provided Segments.** Unless otherwise specified in a Customer Order, Zayo may incrementally provide access to individual Segments of an Offering, when ready, which may result in different Activation Dates for such incrementally provided Segments. The initial Order Term for each incrementally provided Segment shall begin on its respective Activation Date and end after the period specified as the Order Term from the Activation Date of the last Segment provided. The charge associated with a provided Segment will be based on the Allocated MRC.

## 4. COMPONENTS AND INSTALLATION

**4.1.** **Access and Customer Premises Obligations.** In support of Zayo meeting the Estimated Access Date, Customer specifically acknowledges that Customer is responsible for all work and Costs on the premise side of each Demarcation Point, including technically compatible cross-connections. In addition, Customer shall be responsible for securing all rights and paying the related Costs to connect to the Demarcation Point and for securing all rights and paying the related Costs to access, occupy, and conduct typical telecommunication operations within and to each respective building (including any necessary rights for Zayo to enter and access each building), and for providing all necessary cable pathways in and to the respective buildings (all of the preceding may include, but not be limited to, construction permits and underlying rights, wayleaves, building access and/or occupancy agreements, building access and/or occupancy fees, lateral/conduit fees, riser fees, cross-connects and cross-connect fees, coordination at any third party owned location, and, where applicable, necessary space for Zayo's fiber termination panel). All of the above, collectively, shall be referred to as **"Customer Requirements"** and Customer shall reimburse Zayo in the event that a third party bills Zayo for charges related to such Customer Requirements. If Customer satisfies a Customer Requirement by purchasing Service from Zayo, Zayo may pass through and Customer shall pay Zayo for any increase in the charges to Zayo by a third party which Zayo utilizes to provide Customer the Customer Requirement. Customer acknowledges that any delay in Customer providing such Customer Requirements may delay Zayo from completing work at any location.

**4.2.** **Zayo Facilities.** Zayo, or its agent, may provide, install, maintain, repair, operate and control Zayo's conduit, optical fiber cable, fiber termination panels or any other components or equipment ("**Zayo Facility(ies)**"). Any facilities, components, or equipment that is not a Zayo Facility is a "**non-Zayo Facility(ies)**." Customer shall be liable for any loss of or damage to Zayo Facilities caused by Customer's negligence, intentional acts, or unauthorized maintenance and shall reimburse Zayo for the same. If, on responding to a Customer initiated support call, Zayo reasonably determines that the cause of the deficiency was a failure, malfunction or the inadequacy of facilities, components, or equipment other than Zayo Facilities, Customer shall compensate Zayo for actual time and materials expended during the support call and for any work performed by Zayo on non-Zayo Facilities.

## 5. USE OF DARK FIBER

**5.1.** Subject to the limitations set forth in this Customer Schedule, Customer shall use the optical fiber strands of the Offering solely for lawful purposes. In no event whatsoever shall Customer directly or indirectly transfer, sell, assign, swap, exchange, lease, sublease, license, sublicense, resell or grant indefeasible or other rights of use in or to all or any part of the optical fiber strands as "dark fiber" as such term is commonly understood in the telecommunications industry. A violation of this provision shall be a material default and shall subject Customer to immediate termination.

**5.2.** Except as expressly set forth herein as part of the access rights included within the Dark Fiber Offering, the lease does not include the right of Customer to own, control, access, maintain, splice, adjust, align, cut, modify or revise the Dark Fiber. Customer will not install any components or equipment to be used with the Offering that damages or interferes with the Zayo network.

## 6. MAINTENANCE, RELOCATION AND ADJUSTMENTS

6.1. **Maintenance**. Zayo or its affiliates shall provide Routine Maintenance and Non-Routine Maintenance as defined in and in accordance with Exhibit A. In the event Zayo responds to a perceived or actual interruption of Customer's access to the Zayo network and it is determined that the interruption was not attributed to the failure of Zayo's network or Customer's failure to identify deficiencies in the Close Out Package within the period described in Section 3.2, Zayo reserves the right to charge the Customer the Cost of such Non-Routine Maintenance.

6.2. **Relocation.** Where feasible, Zayo shall provide Customer at least thirty calendar days' prior written notice of the Customer's need to relocate any of the Segment(s) of the Zayo network,, after the Activation Date, in the event such relocation is required (i) by any governmental authority under the power of eminent domain or otherwise, (ii) by the grantor or provider of any underlying right, (iii) by any other person having the authority to so require, or (iv) by the occurrence of any Force Majeure Event. Zayo shall use reasonable and good faith efforts to have the party requesting the relocation pay all costs and expenses associated with such relocation, but in no event shall Customer be required to pay any amount exceeding its proportionate share of the Costs related to such relocation, which shall be the number of Customer fibers divided by the total amount of fibers in use for the particular Segment.

6.3. **Adjustments**. The Monthly Recurring Charge for the Dark Fiber Offering shall be adjusted annually effective December 31st of each year by the greater of (i) four percent (4%) or (ii) the cumulative increase in the U.S. Consumer Price Index, All Urban Consumers (CPI-U), U.S. City Average, published by United States Department of Labor, Bureau of Labor Statistics ("CPI Adjustment") for the

preceding 12 month period. In the event the Bureau of Labor Statistics (or any successor organization) no longer publishes the CPI-U, Zayo may, in its reasonable discretion, designate a replacement index.

**DATED this _____day of _____, 20____.**

| **ZAYO GROUP, LLC** | **Customer Name** |
|---|---|
| Signature: _____ | Signature: _____ |
| Name: _____ | Name: _____ |
| Title: _____ | Title: _____ |

## Exhibit A

### Maintenance & Repair

1. **Purpose.** This Exhibit describes the policies and procedures Zayo utilizes to maintain the Dark Fiber Offering. Zayo shall ensure that the Dark Fiber Offering is maintained according to the procedures specified herein, through application of commercially reasonable and accepted industry standards, and in accordance with manufacturers' specifications. The purpose and result of maintenance shall be to maintain (in the case of Routine Maintenance) or restore (in the case of Non-Routine Maintenance) the functionality of the Dark Fiber Offering. Zayo reserves the right to modify these procedures as appropriate to ensure that performance specifications are achieved.

2. **Network Maintenance.** Zayo performs cable and conduit maintenance and repair, on a twenty-four (24) hour per day, seven (7) days per week basis (24x7). Zayo utilizes only qualified personnel, office services, vehicles, and all tools and materials required for the safe and proper performance of network monitoring, maintenance procedures and emergency restoration.

3. **Routine Maintenance.** Routine Maintenance is maintenance and repairs that Zayo deems necessary to ensure proper functioning of the Zayo network. Zayo shall perform routine and preventative maintenance and all cable and locate activities as a part of the local "Call Before You Dig" program. Planned network maintenance that does or does not potentially involve the disruption of functionality of the Dark Fiber Offerings is also considered Routine Maintenance. The nature of such a planned Routine Maintenance activity is such that it can be pre-scheduled so as to allow notification to Customer as appropriate. The Zayo Network Operations Center (NOC) will generally conduct such planned Routine Maintenance outside normal working hours anytime between 12:00 AM to 5:00 AM (local time) seven (7) days a week. Zayo will provide Customer with fourteen (14) days prior notice of Routine Maintenance that affects availability. All maintenance other than Routine Maintenance as described above shall be deemed to be Non-Routine Maintenance.

4. **Non-Routine & Emergency Maintenance.** For any Non-Routine Maintenance performed to restore functionality of the Dark Fiber Offerings (including, but not limited to, emergency repairs required due to cable cuts, fires, remodeling work or other acts of third parties or Force Majeure events), Customer will first use commercially reasonable efforts to determine that any disruption in the functionality of the Dark Fiber Offering is not on the Customer's side of the Demarcation Point. After verifying that the problem is not on Customer's side of the Demarcation Point, Customer shall open a Trouble Case for Technical Support by contacting Zayo Customer Support at 1-866-236-2824 (US and Canada) / +4420 3846 4222 (Europe) / 00800 4997 0737 (France) , or ncc@zayo.com. Escalation procedures following opening of a Trouble Case can be found at https://tranzact.zayo.com/#!/escalation-lists.

5. **Optical Fiber Repair & Restoration.** Following receipt of Customer's notification of a Trouble Case, Zayo shall reasonably endeavor to respond on-site (if necessary) to the affected location(s) within two (2) hours of the initial Trouble Case, provided Zayo has all necessary access to the Customer Location(s), including Customer's Premises. In the event of a fiber failure, Zayo shall reasonably endeavor to begin Dark Fiber Offering restoration within two (2) hours following identification of such failure. Zayo shall use its best efforts to then restore the functionality of the Dark Fiber Offering no later than six (6) hours following initiation of restoration activities. During an outage Zayo shall contact Customer on a regular basis, to update the status of restoration. Zayo is responsible for ensuring that the maintenance personnel are properly trained and otherwise qualified to perform the maintenance on the Offerings. Customer shall procure for Zayo reasonable 24x7x365 access to Customer's Location(s) for purposes of both Routine and Non-Routine Maintenance.

6. **Mean Time to Repair Credits.**

**6.1** The term "**Outage**" shall be defined as a total loss of the ability of a strand of Dark Fiber to pass light for a continuous and uninterrupted period of time; provided, however, that any such interruption will not be deemed an Outage if caused by: (a) any act or omission of the Customer or its End User Customers, or their representatives, contractors, agents, authorized invitees, successors or assigns; (b) the configuration, failure or malfunction of non-Zayo Facilities; (c) scheduled maintenance or planned enhancements or upgrades to Zayo's network; (d) Zayo not having reasonable and uninterrupted access to any premises or site respecting the Outage (the "**Outage Site**"); or (e) a Force Majeure Event. Each of the events described in this Section 6.1shall be deemed an "**Excused Outage**."

**6.2** **Outage Credits**. In the event an Outage takes longer than twelve (12) hours to repair following Zayo's arrival at (and having continuous and uninterrupted access to) the Outage Site, then subject to Section 6.3 below, Customer shall be entitled to an Outage credit equal to one (1) day of pro-rated MRC of the affected Dark Fibers for every full hour greater than twelve (12) hours for which the Outage persists ("Outage Credit"). The pro-rated MRC shall be determined by dividing the number of Dark Fibers in the Order by the total MRC for all Dark Fibers in the Order on the same Segment, then multiplying that number by the total number of Dark Fibers affected by the Outage, then dividing that by the number of days in the month.

**6.3** **Credit Process**. In order to receive an Outage Credit, Customer must (a) immediately report the Outage to the NOC and open a trouble ticket and (b) make a written request for the same within thirty (30) days following the end of the month in which the Outage occurred along with providing sufficient detail to permit Zayo to investigate the Outage Credit request. Upon receipt of Customer's request, Zayo will investigate the claim under the terms described in this Customer Schedule. Credits will be granted only if Customer has paid all outstanding invoices by the Due Dates thereof. The issuance of credits pursuant to this Section is Zayo's sole obligation and, along with termination in accordance with Section 6.4 (Chronic Outage), Customer's sole remedy for any failure or non-performance of Offerings set forth in this Customer Schedule. Outage Credits shall be deducted from the charges payable by Customer hereunder and shall be expressly indicated on the Customer invoice. The maximum Outage Credit in a calendar month shall not exceed 100% of the MRC for the affected Dark Fiber.

**6.4 Chronic Outage:** Customer may terminate the affected Segment without incurring early termination charges if: Customer experiences three (3) or more related Outages on the same Segment each with an Outage Duration lasting more than one (1) hour in any sixty (60) day period. In order to exercise a right to terminate under this Section, Customer must notify Zayo of its intent to terminate the affected Offering in writing within thirty (30) days after the event giving rise to a right of termination. Customer shall be deemed to have waived its right to terminate under this Section if it fails to provide the requisite notice within such thirty (30) day period Zayo reserves the right to refuse the foregoing termination right if Customer has any past-due balances.. Notwithstanding the foregoing, Customer may not terminate the affected Dark Fiber Offering under this Section if Zayo is able to cure (to Customer's reasonable satisfaction) the issue(s) giving rise to such Outages under this provision within thirty (30) calendar days of the chronic outage triggering event.

**Exhibit B**

**Zayo-Provided Dark Fiber Specification & Testing Acceptance Objectives**

Unless otherwise defined herein, capitalized terms shall have the meaning given them in Zayo's standard Dark Fiber Schedule ("Schedule") in use at the time of testing.

Pursuant to Section 3.2 of the Schedule, Zayo will perform testing on the Zayo-provided Dark Fiber Offering as described herein, on a per Fiber Span (defined below) basis and provide test results to the Customer at the e-mail address provided by Customer ("Close Out Package"). In the event the Dark Fiber is OOS (defined below), Customer shall accept or reject the Dark Fiber as set forth in Section 3.2 of the Schedule.

**1.0 Definitions**

**Connector** – Dark Fiber Strand polished to a flat surface and housed within an adapter to enable the transfer of light to another connection. All Connectors on Dark Fiber are created in a manufacturer lab per industry standard.

**Mated Connector** – Two Dark Fiber Connectors linking together Dark Fibers, generally at a cross-connect at a termination panel.

**In-Line Connector** – Connectors used to link Segments between Demarcation Points. In-Line Connectors are always mated with another In-Line Connector.

**Front End Connector (FEC)** – Connector at the Demarcation Point, marking the beginning or end of the Segment.

**Dark Fiber Strand or Strand** - a single optic fiber.

**Dead Zone** – A portion of the Dark Fiber that cannot be accurately measured without the use of a Launch Reel.

**Fiber Span -** A Segment of one or many Dark Fiber optic strands that are terminated to a Connector on each end.

**Fusion Splice** – The act of using a fusion splice machine to melt two ends of Dark Fiber for purposes of joining together.

**Launch Reel** – Spool of fiber used to accurately measure the insertion loss at the Front End Connector, eliminating the Dead Zone.

**OOS** - Any event not meeting the criteria in Section 4.2 or 4.4 will be considered out of specification ("OOS").

**OTDR (Optical Time Domain Reflectometer)** – Instrument used to measure a Dark Fiber path by injecting pulses of lights at a specific timed rate within a specific range. The pulses are then analyzed by the OTDR upon returning to the point of origin by means of reflection due to characteristics of the Dark Fiber.

**Pulse Width** – Length of time a single pulse of light enters the fiber optic glass.

**Range** – Distance that the OTDR will perform measurement of a Span.

**Power Meter** – Instrument used to measure the loss of light that occurs on a given Span.

**Pigtail** – The opposing end of Dark Fiber glass that has been lab polished in a Connector.

**Trace** - Test performed on a single Dark Fiber Strand with certain parameters. Each Trace represents a single test that is performed on a Dark Fiber Strand from a single direction.

**2.0. Fiber Performance.**

Zayo will endeavor to meet the following ITU Specifications for Dark Fiber:

Table 1 –Fiber specification limits

| Parameter | ITU-T G652 & G.657 | ITU-T G.655 |
|---|---|---|
| **Dispersion @1550nm [ps/(nm*km)]** | ≤18.5 | ≥2.0 to ≤6.0 |
| **Typical Attenuation @1550 (dB/km)** | ≥0.18 to ≤0.25 | ≥0.19 – ≤0.25 |
| **Zero Dispersion Wavelength (nm)** | ≥1300 to ≤1324 | ≥1450 to ≤1520 |
| **Mode Field Diameter @ 1550nm (µm)** | ≥9.3 to ≤10.9 | ≥9.2 to ≤10.0 |
| **Polarization Mode Dispersion (ps/√km)** | ≤0.2 | ≤0.1 |

*Dark Fiber types may differ across a Fiber Span. In the event that non-Zayo Facilities, including cross-connects, campus and entrance cables, riser cables and third-party outside plant are required to deliver the Offerings, Zayo will use commercially reasonable efforts to meet the Specifications set forth in this Exhibit B, but failure of non-Zayo Facilities to meet the Specifications in this Exhibit B is not a violation.*

## 3.0. Span Loss Requirements

Each Strand within a Span will be measured Bi-Directionally using a recently calibrated and industry-accepted light (laser) source and Power Meter Units in order to measure Span Loss.

### 3.1. Attenuation per Fiber Strand Formula

The applicable formula to be applied will depend on distance - See Table 2 below.

*1550 Wavelength = [Span Length (km) * 0.25dB] + [Number of Splices * 0.15dB] + [Number of Mated Connectors * 0.5 dB] + [2dB]*
*1310 Wavelength = [Span Length (km) * 0.40dB] + [Number of Splices * 0.25dB] + [Number of Mated Connectors * 0.5 dB] + [2dB]*
**A 2db buffer is included to allow for fiber degradation and repairs over the life of the Dark Fiber.*

## 4.0. OTDR Testing

Each Strand will be tested bi-directionally using a recently calibrated OTDR. Zayo will use the appropriate settings as per the OTDR manufacturer's recommendation depending on dark fiber type and segment distance. Bi-directional OTDR Traces will be recorded using the same setting on the OTDR.

### 4.1. Fiber Span Traces

For each Fiber Strand delivered to the Customer, Zayo will perform Fiber Span Traces and Front End Connection ("FEC") Traces.

Fiber Span Traces will be measured bi-directional and used to ensure all splices and In-line connectors are visible and within spec and will be measured in the following wavelengths, depending on Distance.

1625nm testing will only be performed for Long Haul Dark Fiber services and Fiber Characterization testing.

Table 2 – Wavelength Test Parameters

| ***OTDR Testing Requirements by Span Length*** | |
|---|---|
| ***< 50KM*** | ***> 50KM*** |
| 1310 nm | 1550 nm |
| 1550 nm | 1625 nm |

### 4.2. Fiber Span Loss Thresholds

#### 4.2.1. Splice Loss

All splices will be performed by Fusion Splicing. The target allowance of a single splice event is 0.30 dB bi-directionally at 1550nm for homogeneous core types. The target allowance of a single splice event is 0.40 dB bi-directionally at 1550nm for heterogeneous core types.

In the event of an OOS, Zayo has the right to waive the target allowance provided the average splice loss on the entire Span does not exceed 0.15 dB bi-directionally at 1550nm. The Span will be considered to have met the splice loss criteria.

#### 4.2.2. Connector Loss

All In-line Connectors will be factory polished (hand polish is not acceptable). The maximum allowance of a Connector with a Pigtail Splice will not exceed a combined **0.50 dB** loss. Any In-line jumper (cross-connect) including the patch cord and two Connectors will not exceed a combined **1.00 dB** loss.

#### 4.2.3. Reflectance

The maximum allowance of any FEC or In-line Connector will not exceed a reflectance of **-45.0 dB**.

### 4.3. FEC Traces

FEC traces will be performed unidirectional at each side of the Strand (unless Zayo is handing off the Dark Fiber in the field via stub cable) to ensure any connectors within the first 500 feet are measurable and outside of the Dead Zone. FEC traces will be taken at low pulse width and range using a 1km Launch Reel between the OTDR and connector.

### 4.4. FEC Loss Thresholds

#### 4.4.1. Connector Loss

Maximum allowance of a Connector with Pigtail Splice will not exceed a combined **0.50 dB** loss.

## 5.0. Fiber Characterization

Zayo is not obligated to perform this test and additional charges may apply. Zayo will perform fiber characterization testing only upon Customer request, at Customer's sole cost and expense. Fiber Characterization testing includes Chromatic Dispersion and Polarization Mode Dispersion and Optical Return Loss.



**Confidential and Proprietary (6.21.23)**

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Community Development<br>Prepared By: Pablo De Lara<br>Staff Member Presenting: Scott Murphy, Executive Director Community Development<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 15 |

**SUBJECT:** **AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT (FILE NO. PDA21-010) BETWEEN THE CITY OF ONTARIO AND SL ONTARIO DEVELOPMENT COMPANY, LLC**

**RECOMMENDATION:** That the City Council consider and adopt an Ordinance approving a Development Agreement (File No. PDA21-010) between the City of Ontario and SL 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**
**Focus Resources in Ontario's Commercial and Residential Neighborhoods**
**Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)**
**Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch**

**FISCAL IMPACT:** There is not a direct fiscal impact associated with this action. The Development Agreement will provide funding from the formation of a Community Facilities District (CFD) for City services and facilities required to support the Subarea 29 Specific Plan (Specific Plan) development, thereby mitigating the increased costs associated with such services. In addition, the City will receive development impact, compliance processing, licensing, and permitting fees. No General Fund revenue will be used to support the Ontario Ranch development.

**BACKGROUND & ANALYSIS:** On June 18 2024, the City Council held a public hearing to introduce and waive further reading of an Ordinance approving the Development Agreement (File No. PDA21-010).

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

The Agreement proposes to include 62.69 acres of land within Planning Area 32 (Mixed-Residential) and Planning Area 34 (School) of the Subarea 29 Specific Plan, as shown on the attached Exhibit "A." The Agreement grants the Applicant a vested right to develop Tentative Tract Map 20562 (Map), provided the Owner complies with the terms and conditions of the Specific Plan and related EIR.

The Map, as shown on the attached Exhibit "B," is located at the southeast corner of Eucalyptus Avenue and Haven Avenue and proposes to subdivide 62.69 acres of land into 8 numbered lots and 3 lettered lots for residential uses, a public school, private drives, landscape edges, and common open space purposes.

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

In considering the Agreement at their meeting on May 28, 2024, the Planning Commission found the Agreement to be consistent with State law, The Ontario Plan, and the City's Development Agreement policies. As a result, the Planning Commission adopted Resolution No. PC24-012 with a 5 to 0 vote, recommending City Council approval of the Agreement.

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were previously reviewed in conjunction with an Amendment to the Subarea 29 Specific Plan (File No. PSPA21-005), for which a Subsequent Environmental Impact Report (SEIR) (State Clearinghouse No. 2004011009) was adopted by the City Council on November 21, 2023. This application introduces no new significant environmental impacts.

**Exhibit A:**
**SUBAREA 29 SPECIFIC PLAN LAND USE MAP (File No. PSPA21-005)**

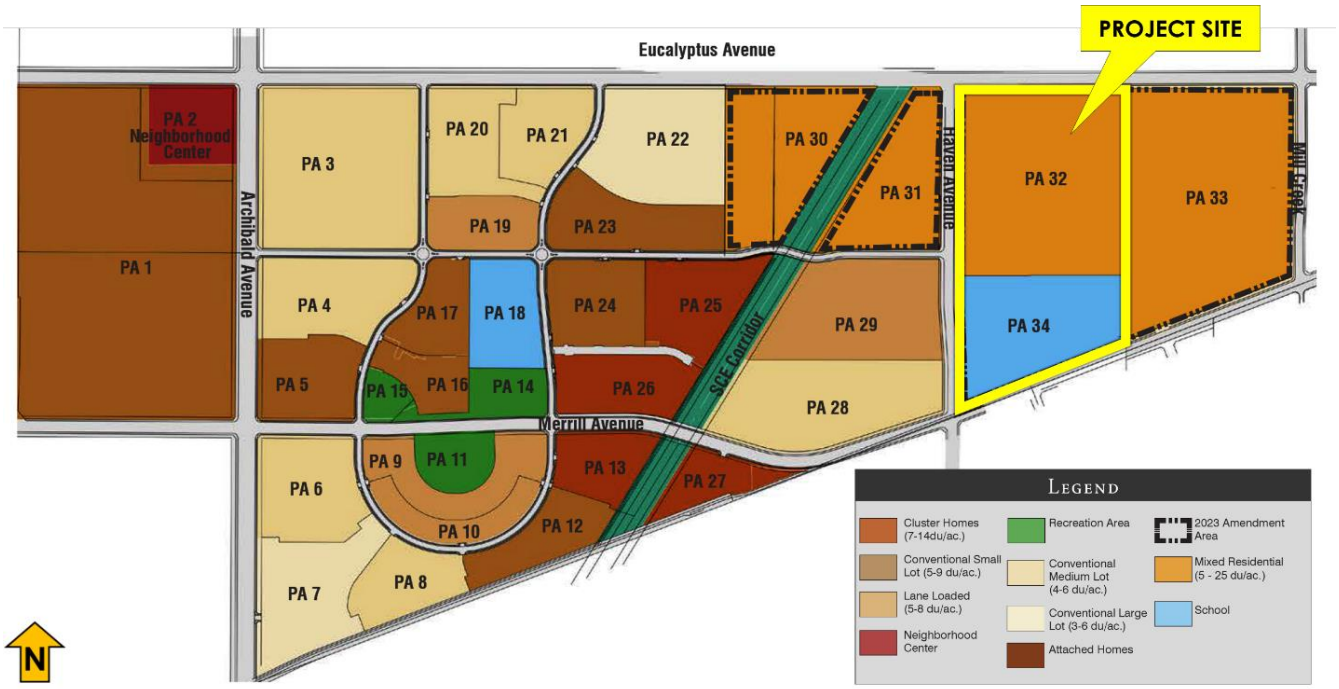
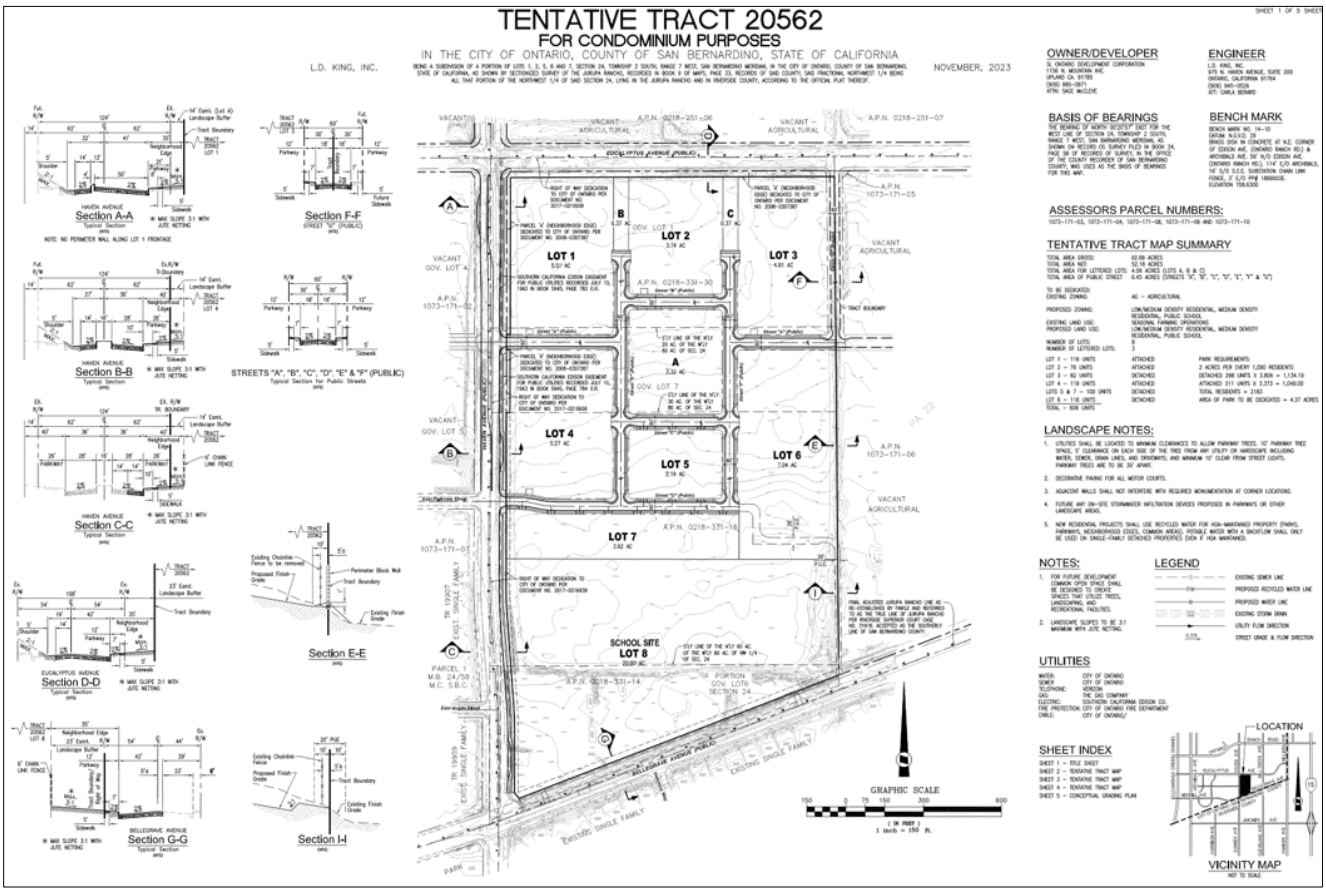


**Exhibit B:**
**TENTATIVE TRACT MAP NO. 20562**



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA21-010, A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND SL ONTARIO DEVELOPMENT COMPANY LLC, TO ESTABLISH THE TERMS AND CONDITIONS ASSOCIATED WITH TENTATIVE TRACT MAP 20562 (FILE NO. PMTT22-022), A 62.69 ACRE PROPERTY, LOCATED AT THE SOUTHEAST CORNER OF EUCALYPTUS AVENUE AND HAVEN AVENUE, WITHIN PLANNING AREA 32 (MIXED-RESIDENTIAL) AND PLANNING AREA 34 (SCHOOL) OF THE SUBAREA 29 SPECIFIC PLAN. (FILE NO. PSPA21-005), (APNS: 1073-171-04, 1073-171-08, 1073-171-09 AND 1073-171-10).

WHEREAS, SL Ontario Development Company, LLC ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA21-010, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 62.69 acres of located at the southeast corner of Eucalyptus Avenue and Haven Avenue, within Planning Area 32 (Mixed-Residential) and Planning Area 34 (School) of the Subarea 29 Specific Plan. (File No. PSPA21-005); and

WHEREAS, the Applicant submitted Tentative Tract Map No. 20562 (File No. PMTT22-022), subdividing 62.69 acres of land into 8 numbered lots and 3 lettered lots for residential uses, a public school, private drives, landscape edges, and common open space purposes; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with an Amendment to the Subarea 29 Specific Plan (File No. PSPA21-005), for which a Subsequent Environmental Impact Report (SEIR) (State Clearinghouse No. 2004011009) was adopted by the City Council on November 21, 2023. This application introduces no new significant environmental impacts; and

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

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

WHEREAS, the Project has been reviewed for consistency with the Housing Element of the Policy Plan component of The Ontario Plan, as State Housing Element

law (as prescribed in Government Code Sections 65580 through 65589.8) requires that development projects must be consistent with the Housing Element, if upon consideration of all its aspects, it is found to further the purposes, principals, goals, and policies of the Housing Element; and

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

WHEREAS, 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 May 28, 2024, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, on June 18, 2024, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

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

(1) The environmental impacts of this Project were previously reviewed in conjunction with File No. PSPA21-005, a Specific Plan Amendment for which a Subsequent Environmental Impact Report (SEIR) (State Clearinghouse No. 2004011009) was adopted by the City Council on November 21, 2023.This application introduces no new significant environmental impacts; and

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3: ***Housing Element 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 City Council finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is 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.

SECTION 4: ***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 authority 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, is will be consistent with the policies and criteria set forth within the ONT ALUCP; and

(2) On August 2, 2022, the City Council of the City of Ontario approved and adopted a Development Code Amendment to establish the Chino Airport ("CNO") Overlay Zoning District ("OZD") and Reference I, Chino Airport Land Use Compatibility Plan ("CNO ALUCP"). The CNO OZD and CNO ALUCP established the Airport Influence Area for Chino Airport, solely within the City of Ontario, and limits future land uses and development within the Airport Influence Area, as they relate to safety, airspace protection, and overflight impacts of current and future airport activity. The CNO ALUCP is consistent with policies and criteria set forth within the Caltrans 2011 California Airport Land Use Planning Handbook. The proposed Project is located within the Airport Influence Area of Chino Airport and was evaluated and found to be consistent with the California Airport Land Use Planning Handbook and the CNO ALUCP. As the recommending body for the Project, the City Council has reviewed and considered the facts

and information contained in the Application and supporting documentation against the CNO ALUCP compatibility factors, including Safety, Airspace Protection, Overflight. As a result, the City Council, therefore, finds and determines that the Project is consistent with the policies and criteria set forth within the California Airport Land Use Planning Handbook and the Chino ALUCP.

SECTION 5: ***Concluding Facts and Reasons.*** Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 4, above, the City Council hereby concludes as follows:

(1) The Development Agreement applies to approximately 62.69 acres of land located AT the southeast corner of Eucalyptus Avenue and Haven Avenue, within Planning Area 32 (Mixed-Residential) and Planning Area 34 (School) of the Subarea 29 Specific Plan. (File No. PSPA21-005); and

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

(3) The Development Agreement grants the Applicant a vested right to develop Tentative Tract Map 20562 (File No. PMTT22-022) as long as the Applicant complies with the terms and conditions of the Subarea 29 Specific Plan and EIR. Tentative Tract Map 20562 located at the southeast corner of Eucalyptus Avenue and Haven Avenue, within Planning Area 32 (Mixed-Residential) and Planning Area 34 (School) of the Subarea 29 Specific Plan, and proposes to subdivide 62.69 acres of land into 8 numbered lots and 3 lettered lots for residential uses, a public school, private drives, landscape edges, and common open space purposes; and

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

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

(6) This Development Agreement will promote the goals and objectives of the Land Use Element of the Policy Plan; and

(7) This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will not have a significant impact on the

environment or the surrounding properties a Specific Plan Amendment for which a Subsequent Environmental Impact Report (SEIR) (State Clearinghouse No. 2004011009) was adopted by the City Council on November 21, 2023.

SECTION 6: ***City Council Action.*** Based upon the findings and conclusions set forth in Sections 1 through 5, above, the City Council hereby APPROVES the Development Agreement (File No. PDA21-010), attached hereto as "Attachment A," and incorporated herein by this reference.

SECTION 7: **City Manager Administrative Authority.** The City Council acknowledges that refinements and further development of the Ontario Ranch development area may demonstrate that changes are appropriate with respect to the details and performance of the parties under the Development Agreement. The City Council desires to retain a certain degree of flexibility with respect to the details of the Ontario Ranch developments, and with respect to those items covered in general terms under the Development Agreement. If and when the City Manager (or designee) and the Developer mutually find that changes, adjustments, or clarifications are appropriate to further the intended purposes of the Development Agreement, and such are not materially inconsistent with the Development Agreement, they may, unless otherwise required by law, effectuate such changes, adjustments, or clarifications by written amendment to this Agreement, or through one or more memoranda which are mutually approved by the City Manager on behalf of the City and by the Developer, and, after execution, shall be attached to the Development Agreement and become a part thereof. Unless otherwise required by law, no such changes, adjustments, or clarifications shall require prior notice or hearing before the City Council. The City Manager, with the approval of the City Attorney, shall have the authority but not the obligation to execute amendments, memoranda or other documents, and may take any action necessary to implement the Development Agreement.

SECTION 8 ***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 9: ***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 10: ***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 11: ***Effective Date.*** This Ordinance shall become effective 30 days following its adoption.

SECTION 12: ***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 2nd day of July, 2024.

_____
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 June 18, 2024 and adopted at the regular meeting held July 2, 2024 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 July 2, 2024 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. PDA21-010**

**DEVELOPMENT AGREEMENT**

**By and Between**

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

**and**

**SL Ontario Development Company LLC**
**a Delaware limited liability company**

*(Development Agreement to follow this page)*

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

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

Exempt from Fees Per Gov. Code § 6103

Space above this line for Recorder's Use Only

# FILE NO. PDA21-010

# DEVELOPMENT AGREEMENT

## By and Between

## City of Ontario
## a California municipal corporation

## and

## SL Ontario Development Company LLC
## a Delaware limited liability company

## _____, 2024

## San Bernardino County, California

45774.0021C\7810652.1

**DEVELOPMENT AGREEMENT PDA21-010**

This Development Agreement (hereinafter "Agreement") is entered into effective as of the ____ day of _____, 2024 by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and SL Ontario Development Company, LLC., a Delaware limited liability company (hereinafter "OWNER"):

RECITALS

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

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

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

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

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

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement in that Subarea 29 Specific Plan (State Clearinghouse No. 2004011009 (the "FEIR"). The City Council found and determined that the FEIR was prepared in accordance with the requirements of the California Environmental Quality Act and adequately describes the impacts of the project described in the FEIR, which included consideration of this Agreement; and

WHEREAS, this Agreement and the Project are consistent with the CITY's Comprehensive General Plan and the Subarea 29 Specific Plan; and

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

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

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

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

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

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

## COVENANTS

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

1. DEFINITIONS AND EXHIBITS.

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

1.1.1 "Agreement" means this Development Agreement.

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

1.1.3 "Construction Agreement" means that certain Agreement for the Financing and Construction of Phases I and II Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony, entered into between the CITY and NMC Builders as of the 4th day of October, 2005, and all amendments thereto and "Construction Agreement Amendment" means that First Amended and Restated Agreement for the

Financing and Construction of Limited Infrastructure Improvements to Serve and Easterly Portion of the New Model Colony entered into between the CITY and NMC Builders as of the 21st day of August 2012.

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

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

(a) specific plans and specific plan amendments;

(b) tentative and final subdivision and parcel maps;

(c) development plan review;

(d) conditional use permits (including model home use permits), public use permits and plot plans;

(e) zoning;

(f) grading and building permits.

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

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

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

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

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

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

1.1.11 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Effective Date. Existing Land Use Regulations includes the Regulations incorporated herein as Exhibit "D" and all other Land Use Regulations that are in effect and a matter of public record on the Effective Date.

1.1.12 "General Plan" means the General Plan adopted on August 16, 2022

1.1.13 "Improvement" or "Improvements" means those public improvements required to support the development of the Project as described in the Tract Map conditions for Tract No(s). 20562 as further described in Exhibit "F" (the "Infrastructure Improvements Exhibit").

1.1.14 "Land Use Regulations" means all ordinances, resolutions, codes, rules, regulations and official policies of CITY governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable

to the development of the Property. “Land Use Regulations” does not include any CITY ordinance, resolution, code, rule, regulation or official policy, governing:

(a) the conduct of businesses, professions, and occupations;

(b) taxes and assessments;

(c) the control and abatement of nuisances;

(d) the granting of encroachment permits and the conveyance of similar rights and interests that provide for the use of or the entry upon public property;

(e) the exercise of the power of eminent domain.

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

1.1.16 “Net MDD” means net maximum daily water demand.

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

1.1.18 “Model Units” means a maximum of Thirty (30) model units, private common recreation facilities and sales facilities constructed by OWNER prior to the construction of any Production units and not offered for sale and occupancy for a period of time after the issuance of permits for Production Units.

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

1.1.20 “Production Unit(s)” means all units constructed for sale and occupancy by OWNER and excludes the specified number of Model Units constructed by OWNER for promotion of sales.

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

1.1.22 “Property” means the real property described on Exhibit “A” and shown on Exhibit “B” to this Agreement.

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

1.1.24 “Specific Plan” means that certain specific plan adopted by the City Council, and entitled, “Subarea 29 Specific Plan.”

1.1.25 "Storm Water Treatment Capacity Availability” means a designated portion of the total Storm Water Treatment Capacity Availability made available through the completion of construction of a Phase of regional storm water treatment facilities by the NMC Builders LLC as described in the Construction Agreement Amendment. The amount, in acres, of Storm Water Treatment Capacity Availability required for the issuance of a grading permit shall be based upon the factors and assumptions listed in the Construction Agreement Amendment.

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

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

1.1.28 “Water Availability Equivalent (WAE)” means a designated portion of the total Net MDD made available through the construction of each Phase described in the Water Phasing Plan of the Construction Agreement. The number of Water Availability Equivalents (of portions thereof) required for the issuance of each building permit shall be based upon water demand factors and assumptions listed in the Construction Agreement and Construction Agreement Amendment as “Water Availability Equivalents by Land Use” for each land use category.

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

Exhibit “A” — Legal Description of the Property.

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

Exhibit “C” — Existing Development Approvals.

Exhibit “D” — Existing Land Use Regulations.

Exhibit “E” — Description of Required Infrastructure Improvements

Exhibit “F” — Depiction of Required Infrastructure Improvements Exhibit

Exhibit “G” - Form of Plume Disclosure Letter

2. GENERAL PROVISIONS.

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

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

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

(a) OWNER provides at least 180 days written notice to CITY prior to expiration of the initial term; and

(b) In non-mixed use and residential use only projects, the OWNER shall have obtained, as applicable, building permits for at least seventy percent (70%) of the actual number of residential units permitted under this Agreement; and

(c) OWNER is not then in uncured default of this Agreement.

2.4 Assignment.

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

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

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

writing, of such sale, transfer or assignment and shall provide CITY with: (1) an executed agreement, in a form reasonably acceptable to CITY, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of OWNER under this Agreement with respect to the portion of the Property so sold, transferred or assigned; and (2) the payment of the applicable processing charge to cover the CITY's review and consideration of such sale, transfer or assignment.

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

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

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

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

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

(d) The purchaser, transferee or assignee provides CITY with security equivalent to any security previously provided by OWNER to secure performance of its obligations hereunder.

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

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

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

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

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

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

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

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

2.4.6 Partial Assignment and Assumption. CITY and OWNER agree OWNER may partially assign its obligations and rights under this Agreement, and all amendments hereto, to a purchaser, transferee or assignee of a lot, which has been subdivided subject to provisions of a partial assignment and assumption agreement in a form approved by CITY. Any such complete and executed partial assignment and assumption of this Agreement shall be submitted to CITY for approval pursuant to Section 2.4.1 of this Agreement. CITY shall review, and if the above conditions, including but not limited to, those conditions in Section 2.4.2, are satisfied, CITY may approve the partial assignment and release and notify the purchaser, transferee or assignee in writing thereof. No such release approved pursuant to this Subsection 2.4.6 shall cause, or otherwise affect, a release of OWNER from the duties and obligations under this Agreement that are retained by OWNER and excluded from the transfer or assignment.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section 65868.1. Any amendment of this Agreement, which amendment has been requested by OWNER, shall be considered by the CITY only upon the payment of the applicable processing charge. This provision shall not limit any remedy of CITY or OWNER as provided by this Agreement. Either Party or successor in interest, may propose an amendment to or cancellation, in whole or in part, of this Agreement. Any amendment or cancellation shall be by mutual consent of the parties or their successors

in interest except as provided otherwise in this Agreement or in Government Code Section 65865.1. For purposes of this section, the term "successor in interest" shall mean any person having a legal or equitable interest in the whole of the Property, or any portion thereof as to which such person wishes to amend or cancel this Agreement. The procedure for proposing and adopting an amendment to, or cancellation of, in whole or in part, this Agreement shall be the same as the procedure for adopting and entering into this Agreement in the first instance. Notwithstanding the foregoing sentence, if the CITY initiates the proposed amendment to, or cancellation of, in whole or in part, this Agreement, CITY shall first give notice to the OWNER of its intention to initiate such proceedings at least sixty (60) days in advance of the giving the public notice of intention to consider the amendment or cancellation.

2.5.1 Amendment to Reflect Consistency With Future Amendments to the Construction Agreement. To the extent any future amendment to the Construction Agreement provides for modifications to rights or obligations that differ from or alter the same or similar rights or obligations contained in this Development Agreement, OWNER reserves the right to request an amendment to the Development Agreement to reflect any or all of such modifications.

2.5.2 Minor Modification. Upon the written application of OWNER, minor modifications and changes to the Development Plan including modifications to building design or footprint (not affecting minimum setbacks), parking layout and design, and landscape area design may be approved by the Director of the Planning Department without the need to amend this Development Agreement. Other changes in the Development Plan shall be processed pursuant to the City Zoning Ordinance. It is also contemplated by CITY and OWNER that OWNER may, from time to time, seek amendments to one or more of the Development Approvals. Any such amendments are contemplated by CITY and OWNER as being within the scope of this Agreement as long as they are consistent with the Land Use Regulations and shall, upon approval by CITY, continue to constitute the Development Approvals as referenced herein. The parties agree that any such modifications or amendments shall not constitute an amendment to this Agreement nor require an amendment to this Agreement.

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

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

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

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

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

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

2.7 Notices.

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

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

**If to CITY**:
Scott Ochoa, City Manager
City of Ontario
303 East "B" Street
Ontario, CA 91764

**If to OWNER**:
SL Ontario Development Company, LLC
c/o Lewis Management Corp.
Attn: Sage McCleve
1156 N. Mountain Avenue
Upland, CA 91786

**with a copy to**:
Ruben Duran, City Attorney
Best Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

**with a copy to**:
Lewis Management Corp.
Attn: Brad Franke
Aa56 N. Mountain Avenue
Upland, CA 91786

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

3. DEVELOPMENT OF THE PROPERTY.

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

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

3.3 Timing of Development. The parties acknowledge that OWNER cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of OWNER, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Ca1. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that OWNER shall have the right to develop the Property in such order and at such rate and at such times as OWNER deems appropriate within the exercise of its subjective business judgment.

3.4 Requirement for Public Infrastructure Improvements. Development of the Property is contingent in part on the phasing of area-wide infrastructure improvements over which the OWNER has control. The issuance of building permits by CITY for Model Units and Production Units is, in general, contingent on OWNER's completion of needed infrastructure improvements and the availability of improvements and services to serve the Property.

3.4.1 Attached hereto as Exhibits "E" and "F" are a description and depiction, respectively, of the improvements needed for development of the Property. In

the event of any discrepancy between Exhibit E and Exhibit F, Exhibit F shall control.

3.4.2 Subject to the prior submittal by OWNER and approval by CITY of a plan to provide sufficient public infrastructure for the construction of a maximum number of Thirty (30) Model Units, private common recreation facilities and sales facilities. CITY may issue a maximum of Thirty (30) building permits for Model Units, private common recreation facilities and sales facilities. The plan to be submitted by OWNER for CITY approval shall describe the utilities and other infrastructure necessary to provide sufficient fire protection and other public health and safety requirements for the Model Units and other facilities.

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event OWNER finds that a change in the Existing Development Approvals is necessary or appropriate, OWNER shall apply for a Subsequent Development Approval to effectuate such change and CITY shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. If approved, any such change in the Existing Development Approvals shall be incorporated herein as an addendum to Exhibit "C", and may be further changed from time to time as provided in this Section. Unless otherwise required by law, as determined in CITY's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of the Property as a whole; or,

(b) Increase the density or intensity of use of the Property as a whole; or,

(c) Increase the maximum height and size of permitted buildings; or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the CITY shall not be prevented from applying new rules, regulations and policies upon the OWNER, nor shall a development agreement prevent the CITY from denying or conditionally approving any

subsequent development project application on the basis of such new rules, regulations and policies where the new rules, regulations and policies consist of the following:

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

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

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

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

(e) Regulations that do not conflict with those rules, regulations and policies set forth in this Agreement or the Development Plan;

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

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

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and

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

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

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

3.7.1 OWNER agrees that development of the Project shall require the construction of storm drain improvements as described in Exhibit E and depicted in Exhibit F. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the storm drain improvements for each Phase, as described in Exhibit E and depicted in Exhibit F.

3.7.2 OWNER agrees that development of the Project shall require the construction of street improvements as described in Exhibit E and depicted in Exhibit F. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the street improvements for each Phase, as described in Exhibit E and depicted in Exhibit F.

3.7.3 OWNER agrees that development of the Property shall require the construction of potable water and recycled water improvements as described in Exhibit E and depicted in Exhibit F. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the potable

water and recycled water improvements for each Phase, as described in Exhibit E and depicted in Exhibit F. OWNER also agrees that recycled water shall be available and utilized by OWNER for all construction-related water uses including prior to, and during, any grading of the Property.

3.7.4 OWNER agrees that development of the Property shall require the construction of sewer improvements, as described in the attached Exhibit E and depicted in Exhibit F. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the sewer improvements for each Phase, as described in Exhibit E and depicted in Exhibit F.

3.7.5 OWNER agrees that development of the Property shall require the extension of fiber optic communications improvements as described in the attached Exhibit E and depicted in Exhibit F. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the fiber optic communication improvements for each Phase, as described in Exhibit E and depicted in Exhibit F.

3.7.6 OWNER shall pay their fair share contribution, for the design and construction of one (1) non-DIF traffic signal at Bellegrave Avenue and Delicious Way (50%). OWNER shall provide CITY with the estimated costs of the one (1) non-DIF traffic signal improvements and OWNER shall make such fair share contribution payment to CITY, prior to and as a condition precedent to, CITY's issuance of the 330th building permit for Production Units.

3.8 Acquisition of Offsite Provision of Real Property Interests. In any instance where OWNER is required by any Development Approval or Land Use Regulation and the Construction Agreement to construct any public improvement on land not owned by OWNER ("Offsite Improvements"), the CITY and OWNER shall cooperate in acquiring the necessary legal interest ("Offsite Property") in accordance with the procedures set forth in Section 2.4 of the Construction Agreement. This section 3.8 is not intended by the parties to impose upon the OWNER an enforceable duty to acquire land or construct any public improvements on land not owned by OWNER, except to the extent that the OWNER elects to proceed with the development of the Project, and then only in accordance with valid conditions imposed by the CITY upon the development of the Project under the Subdivision Map Act or other legal authority.

3.8.1 CITY Acquisition of Non-Construction Agreement Offsite Property. In the event OWNER is required to construct any public improvements on land not owned by OWNER, but such requirement is not based upon the Construction Agreement, Sections 3.8.1 and 3.8.2 shall control the acquisition of the necessary property interest(s) ("Non-Construction Agreement Offsite Property"). If the OWNER is unable to acquire such Non-Construction Agreement Offsite Property, and following the written request from the OWNER to CITY, CITY agrees to use reasonable and diligent good faith efforts to acquire the Non-

Construction Agreement Offsite Property from the owner or owners of record by negotiation to the extent permitted by law and consistent with this Agreement. If CITY is unable to acquire the Non-Construction Agreement Offsite Property by negotiation within thirty (30) days after OWNER'S written request, CITY shall, initiate proceedings utilizing its power of eminent domain to acquire that Non-Construction Agreement Subject Property at a public hearing noticed and conducted in accordance with California Code of Civil Procedure Section 1245.235 for the purpose of considering the adoption of a resolution of necessity concerning the Non-Construction Agreement Offsite Property, subject to the conditions set forth in this Section 3.8. The CITY and OWNER acknowledge that the timelines set forth in this Section 3.8.1 represent the maximum time periods which CITY and OWNER reasonably believe will be necessary to complete the acquisition of any Non-Construction Agreement Offsite Property. CITY agrees to use reasonable good faith efforts to complete the actions described within lesser time periods, to the extent that it is reasonably able to do so, consistent with the legal constraints imposed upon CITY.

3.8.2 Owner's Option to Terminate Proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to making an offer to the owner of the Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease all acquisition proceedings with respect to that Non-Construction Agreement Offsite Property, whereupon CITY shall cease such proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to the date of the hearing on CITY'S intent to consider the adoption of a resolution of necessity as to any Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease condemnation proceedings, whereupon CITY shall cease such proceedings. If OWNER does not notify CITY to cease condemnation proceedings within said fifteen (15) day period, then the CITY may proceed to consider and act upon the Non-Construction Agreement Offsite Property resolution of necessity. If CITY adopts such resolution of necessity, then CITY shall diligently institute condemnation proceedings and file a complaint in condemnation and seek an order of immediate possession with respect to the Non-Construction Agreement Offsite Property.

3.9 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies. CITY agrees to cooperate fully, at no cost to CITY, with OWNER in obtaining any required permits or compliance with the regulations of other public agencies provided such cooperation is not in conflict with any laws, regulations or policies of the CITY.

3.10 Tentative Tract Maps; Extension. With respect to applications by OWNER for tentative subdivision maps for portions of the Property, CITY agrees that OWNER may file and process tentative maps in accordance with Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the California Government Code and the applicable provisions of CITY's subdivision ordinance, as the same may be amended from time to time. In accordance with the provisions of Section 66452.6 of the Government Code, each tentative subdivision map or tentative parcel map, heretofore or hereafter approved in connection with development of the Property, shall be deemed to have been granted an extension of time to and until the date that is five (5) years following the Effective Date of this Agreement.; The CITY's City Council may, in its discretion, extend any such map for an additional period of up to five (5) years beyond its original term, so long as the subdivider files a written request for an extension with the City prior to the expiration of the initial five (5) year term.

4. PUBLIC BENEFITS.

4.1 Intent. The parties acknowledge and agree that development of the Property will result in substantial public needs that will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on OWNER that should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on OWNER by providing more fully for the satisfaction of the public needs resulting from the Project.

4.2 Development Impact Fees.

4.2.1 Amount of Development Impact Fee. Development Impact Fees (DIF) shall be paid by OWNER. The Development Impact Fee amounts to be paid by OWNER shall be the amounts that are in effect at the time such amounts are due. Nothing contained in this Agreement shall affect the ability of the CITY to impose new Development Impact Fees or amend the amounts of existing Development Impact Fees. Additionally, nothing contained in this Agreement shall affect the ability of other public agencies that are not controlled by CITY to impose and amend, from time to time, Development Impact Fees established or imposed by such other public agencies, even though such Development Impact Fees may be collected by CITY.

4.2.2 Time of Payment. The Development Impact Fees required pursuant to Subsection 4.2.1 shall be paid to CITY prior to the issuance of building permit for each applicable residential or other unit, except for the Open Space and Habitat Acquisition Development Impact fee, which shall be paid by OWNER to CITY prior to the issuance of a grading permit. Deferral of the payment of Development Impact Fees may be granted pursuant to a separate agreement approved by City pursuant to City policy.

4.2.3 Parkland and Quimby Act Fees. Pursuant to the General Plan (Ontario Plan) Goal PR1, Policy PR1-5 (achievement of a park standard of 5 acres of parkland per 1,000 residents) OWNER shall provide improved parks, developed in accordance with the City's park standards in an amount equal to two (2) acres per 1,000 of projected population without credit, reimbursement, offset or consideration from City. Such areas shall either be dedicated to the City or transferred to a homeowners' association. If approved by the City Manager, OWNER may satisfy this requirement through the development of non-public recreation facilities such as private recreational clubhouses or pool facilities. Credit for such private recreational facilities areas shall be limited to a maximum of 50% of the foregoing park development requirement. If OWNER's Project does not provide dedicated and developed park acreage equal to two (2) acres per 1,000 projected population, OWNER shall pay a fee in-lieu equal to the per acre estimated costs of acquisition and development of parkland in the City's Development Impact Fee for the calculated park acreage deficiency. Such in-lieu fee shall be due and payable prior to the issuance of the first building permit for Production Units issued to OWNER. Any park dedication and/or improvements in excess of such two (2) acres per thousand standard, provided such park has been developed in accordance with the City's park standards and is open to the public generally, shall entitle OWNER to a credit toward its obligations under the Quimby Act (Gov. Code, § 64477) and the City's implementing ordinance and/or resolution (collectively "**Quimby Act Obligations**"), and to the extent OWNER's Quimby Act Obligations are satisfied, OWNER shall be entitled to have the City acquire such developed and publicly available parks as Non-Program Interests in accordance with Section 4.3.3 below.

4.3 Responsibility for Construction of Public Improvements.

4.3.1 Timely Construction of Public Infrastructure. The phasing of the areawide infrastructure construction within Ontario Ranch will be as approved by the CITY. OWNER shall be responsible for the timely construction and completion of all public infrastructure required for the Project as shown on the attached Exhibit "F" and any and all tentative tract map conditions. Unless otherwise specified in the Subdivision Agreement/Tract Map conditions, all other required Improvements for each Tract Map, shall be completed and operational prior to, and as a condition precedent to, OWNER requesting and CITY's granting of the first building permit for Production Units for each such Tract Map. All Infrastructure and Improvements shall be completed as required by the Subdivision Agreement/Tract Map conditions for Tract No(s). 20562.

4.3.2 Construction of DIF Program Infrastructure (Construction Agreement). To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program and the Construction Agreement between CITY and NMC Builders LLC, CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of the

Construction Agreement and any amendments thereto. Use of DIF Credit issued to OWNER as a member of NMC Builders LLC to offset OWNER's DIF payment obligations shall also be subject to the provisions of the Construction Agreement and any amendments thereto.

4.3.3 Construction of DIF Program Infrastructure (Non-Construction Agreement). To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program and such public improvements are not included the Construction Agreement between CITY and NMC Builders LLC, CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of a separate Fee Credit Agreement between CITY and OWNER. Limitation on the use of DIF Credit issued to OWNER to offset OWNER's DIF payment obligations shall also be subject to the provisions of a separate Fee Credit Agreement. CITY and OWNER agree that the Fee Credit Agreement between CITY and OWNER shall comply with CITY's adopted policies applicable to such agreements.

4.4 Affordable Housing Requirement.

4.4.1 Affordable Housing- Number of Units. OWNER shall provide a minimum number of affordable housing units, equivalent to 10% of the OWNER's total approved residential units within the Project, that are affordable to very low, low- and moderate-income households. Such requirement for affordable housing shall be met through one, or a combination of one or more, of the options provided in the following Sections 4.4.2.1 through 4.4.2.5. For the purposes of this Section, any term not defined in this Agreement shall be as defined by California Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.).

4.4.2 Affordability Spread. Of the total number of residential dwelling units specified in Section 4.4.1, to be constructed or rehabilitated pursuant to Sections 4.4.2.1 or 4.4.2.2 respectively, thirty percent (30%) shall be available to very low income, thirty percent (30%) shall be available to low income and forty percent (40%) shall be available to moderate income households. "**Households**" shall be as defined by California Health and Safety Code Section 50053.

4.4.2.1 New Construction. If OWNER elects to fully or partially satisfy the affordable housing requirement by the construction of new residential units, it shall construct and restrict the affordability of residential dwelling units within its Project or, at OWNER's option and with the approval of the City, within another project elsewhere within the City. The affordable units constructed shall be intermingled with other units as part of the Project, and shall be built to the same construction, design and aesthetic standards, as well as number of rooms, as other units constructed as part of that OWNER's Project. In addition, the percentage ratio of affordable units offered for sale versus those offered for rent shall equal the percentage

ratio of other units offered for sale versus for rent within OWNER's Project. Such construction shall be completed no later than the date that is five (5) years following the issuance of the first building permit for OWNER's Project; provided however that to the extent OWNER has not constructed the required percentage of units, based on the number of building permits for non-restricted units, OWNER shall, prior to the issuance of such building permits, provide security (in the form and substance approved by the City Manager and City Attorney) to City in order to ensure the faithful completion of such required percentage of construction of affordable units. If OWNER elects the option of constructing new affordable units, a detailed Affordable Housing Agreement specifying terms for the allowable monthly housing costs or rents (as applicable) and maintenance and occupancy standards shall be prepared, executed and recorded against such units as a condition to the issuance of a building permit. The Affordable Housing Agreement shall hold a recorded priority position senior to any other non-statutory lien or encumbrance affecting the unit.

4.4.2.2 Rehabilitation. If OWNER elects to fully or partially satisfy the affordable housing requirement by the substantial rehabilitation of existing residential units in the City, it shall substantially rehabilitate and restrict the affordability of, the number of residential units specified in Section 4.4.1, provided that such units shall be provided elsewhere within the City. The rehabilitation work shall be substantial and of high quality and shall also address any deferred property maintenance issues on the property. "**Substantial rehabilitation**" shall mean rehabilitated multi-family rented dwelling units with three or more units and the value of the rehabilitation constitutes 25 percent of the after rehabilitation value of the dwelling, inclusive of land value pursuant to Health and Safety Code Section 33413(b)(2)(A)(iii-iv) as such section exists as of the Effective Date of this Agreement. If OWNER chooses the option of rehabilitation of existing housing units within the City, a detailed Affordable Housing Agreement specifying the terms for the allowable month housing costs or rents (as applicable) and maintenance and occupancy standards shall be prepared, executed and recorded against such units as a condition to the issuance of a building permit. Such rehabilitation shall be completed no later than the date that is five (5) years following the issuance of the first building permit for OWNER's Project; provided however that to the extent OWNER has not rehabilitated the required percentage of units, based on the number of building permits, OWNER shall, prior to the issuance of such building permits, provide security (in the form and substance approved by the City Manager and City Attorney) to the City in order to ensure the faithful completion of such required percentage of rehabilitation.

4.4.2.3 In-Lieu Fee. If OWNER has not fully complied with the requirements of Section 4.4.1 by providing the minimum number of

affordable units through the construction of new affordable units or by the substantial rehabilitation of existing units, shall pay an "**Affordability In-Lieu Fee**". If OWNER has not provided any affordable residential units by construction or rehabilitation, the Affordability In-Lieu fee shall be equal to Three Dollars Twenty Four Cents ($3.24) per square foot of residential development within OWNER's Project or, if pre-paid as set forth below, Two Dollars Eighty Five Cents ($2.85) per square foot of residential development within OWNER's Project. If OWNER has partially complied with the requirements of Section 4.4.1 by construction or rehabilitation of less than the minimum number of units, then the Affordability In-lieu Fee shall be recalculated and reduced in consideration of the number and type of affordable units provided. The Affordability In-Lieu Fee shall be paid by OWNER to City no later than prior to the issuance of each building permit within OWNER's Project based on the square footage of the residential unit for which such building permit is sought; provided however that OWNER may, at OWNER's election, pre-pay such Affordability In-Lieu Fee by paying such Affordability In-Lieu Fee within thirty (30) days following the earliest discretionary approval by the City for OWNER's Project, including, but not limited to, any general plan amendment, specific plan adoption, development agreement, tentative map approval, variance, conditional use permit, or resolution of intention to form any public financing mechanism. The Three Dollars Twenty Four ($3.24) and the Two Dollars Eighty Five Cents ($2.85) per square foot amounts shall automatically be increased annually, commencing on July 1, 2024, and automatically each July 1 thereafter. Such adjustment shall be based on the percentage increase (but no decrease) in the Consumer Price Index (Riverside - San Bernardino - Ontario, CA), (December 2017=100) over the preceding year. The pre-paid Affordability In-Lieu Fee shall be calculated based on the maximum floor area ratio (FAR) permitted within the General Plan and any applicable FAR contained within the applicable specific plan, whichever is greater, and the Maximum Development Density. For purposes of this Agreement, "**Maximum Development Density**" shall be determined by multiplying the OWNER's Project's density for residential development potential as set forth in the General Plan or the applicable Specific Plan, whichever is less, by the net acreage of land within OWNER's Project. All "Affordability In-Lieu Fees" collected by the City shall be used to promote the construction of affordable housing within the City.

4.4.2.4 Affordability Covenants. Prior to the issuance of the first building permit for any affordable unit, the CITY and OWNER shall enter into an Affordable Housing Agreement Affordability shall be assured for a period of forty-five (45) years for for-sale units and fifty-five (55) years for rentals. For rental units, base rents shall be established by the CITY and rental adjustments required by the CITY shall be performed on an annual basis. In addition, the Affordable Housing Agreement shall impose maximum

occupancy limits of two (2) occupants per bedroom plus one (1) additional occupant per dwelling unit, and a requirement for the owner or tenant to properly maintain each dwelling unit.

4.4.2.5 Transfer of Affordable Project. No transfer of title to any affordable housing project shall occur without the prior written consent of the CITY. In the event OWNER transfers title to any affordable housing project required to be constructed pursuant to this Agreement to a non-profit entity, or other entity, that receives an exemption from ad valorem real property taxes, the CITY shall be required to assure payment of an annual in lieu fee to the CITY on July 1 of each year equal to one-tenth of one percent (0.1%) of the assessed value of such project. The CITY may permit OWNER to satisfy this obligation by recorded covenants against the property and enforceable against said entity by the CITY. Any such covenants shall be approved by the Planning Director and the City Attorney.

4.5 Schools Obligations.

4.5.1 Written Evidence of Compliance with Schools Obligations.
OWNER shall, either through joint or individual agreements between OWNER and the applicable school district(s), shall satisfy its new school obligations. The new school obligations for the Mountain View School District in the Ontario Ranch area have been projected to include the acquisition or dedication of school sites for, and construction of, up to eight (8) schools. Of these eight (8) schools, six (6) are to be elementary (K-5) grade schools and two (2) are to be middle grade schools. The new school obligations for the Chaffey Joint Union High School District in the Ontario Ranch area have been projected to include the dedication of a school site for, and construction of, an additional high school. The new school obligations for the applicable school district shall be met by a combination of the following: (1) designating and dedicating school site(s) within the Property as set forth in the General Plan, and/or (2) paying school impact fees, (3) entering into a joint mitigation agreement or individual mitigation agreements, or (4) any combination of the foregoing. Written evidence of approval by the applicable school district that OWNER has met their school obligations may be required by the City as the condition to the issuance by the City of any entitlements for OWNER's Project. In the event OWNER is unable to provide such written evidence from the applicable school district(s), the City shall have the right to decline to honor any DIF Credit, Certificates of MDD Availability, Certificates of Storm Water Treatment Capacity Availability, or any combination thereof, presented by such OWNER, without liability to the City. To the extent that a joint mitigation agreement is approved by the applicable school district(s), and OWNER is a participant in good standing in such mitigation agreement, OWNER shall be deemed to have mitigated its new school obligations under this Section 4.4.1.

4.6 Net MDD/Water Availability Equivalents.

4.6.1 Assigned Net MDD/Water Availability Equivalents. The City has agreed with NMC Builders LLC to reserve exclusively for Members of NMC Builders, including OWNER, Net MDD made available through the construction of water system improvements funded by NMC Builders LLC. NMC Builders has assigned to OWNER its allocable share of the Net MDD issued by City. The provisions of the Construction Agreement Amendment requires that the City shall not approval a final tract map or issue building permits or certificates of occupancy for the area of development within the New Model Colony served by the water system improvements funded by NMC Builders LLC, except to the bearer of an Assignment of Net MDD Water Availability.

4.6.2 Use of Assigned Net MDD Water Availability. OWNER shall provide evidence of sufficient Net MDD Water Availability Equivalents (or portions thereof) prior to and as a condition precedent to, the City's approval of any and all tract maps for the Property. The amount of Net MDD Water Availability Equivalents required for City's approval of a tract map shall be based upon water demand factors and assumptions listed in Exhibit C-2R of the Construction Agreement Amendment as "Water Demand Equivalents by Land Use" for each land use category.

4.6.3 Requirement for other Water System Improvements. A Certificate of Net MDD Availability is evidence only of available water capacity and does not satisfy any other conditions applicable to an OWNER's Project, including those relating to design and construction of master-planned potable water and recycled water transmission and distribution system for the respective pressure zone and other public infrastructure requirements.

4.6.4 Effectiveness of Agreement. Notwithstanding anything set forth in this Agreement, CITY and OWNER each acknowledge, confirm, and agree that (i) the CITY approval of this Agreement and (ii) the effectiveness of this Agreement, in each case, are conditioned upon OWNER's admission to NMC Builders as a "Member" (if not already a Member) thereof pursuant to the terms and conditions of the operating agreement of NMC Builders within thirty (30) days following the Effective Date of this Agreement. OWNER'S failure to maintain membership in NMC Builders LLC is and shall be a Default under this Agreement

4.7 Storm Water Capacity Availability.

4.7.1 Requirement for Storm Water Treatment Capacity Availability. OWNER shall provide evidence of sufficient Storm Water Treatment Capacity Availability as reserved in a Certificate of Storm Water Treatment Capacity Availability the same manner and subject to the same limitations as provided for the assignment of Certificates of Net MDD Availability in Section 4.6 of this Agreement.

4.72 Use of Storm Water Treatment Capacity Availability. The amount of Storm Water Treatment Capacity Availability required for the issuance of a grading

permit to OWNER shall be based upon the Net Residential Acreage of the area to be graded regardless of the corresponding use.

4.7.3 Requirement for other Storm Water Improvements. The Certificate of Storm Water Treatment Capacity Availability is evidence only of available storm water treatment capacity and does not satisfy any other conditions applicable to a particular development project, including those relating to on-site water treatment, water quality, connection to the storm water collection system, or other public infrastructure requirements.

4.8 Maintenance of Open Space. OWNER shall provide for the ongoing maintenance of all park, common areas and open space areas within the Project as more particularly set forth in the Specific Plan, through a homeowners' association as approved by the CITY. Covenants, conditions and restrictions establishing any homeowners' association shall be approved by the Planning Director and City Attorney.

4.9 Compliance with Public Benefits Requirements.

4.9.1 Failure to Provide Public Benefits. In the event OWNER fails or refuses to comply with any condition referenced in Section 4.1 through 4.9, or challenges (whether administratively or through legal proceedings) the imposition of such conditions, OWNER shall be deemed in default of this Agreement pursuant to Section 8.4 hereof, thereby entitling the City to any and all remedies available to it, including, without limitation, the right of the City to withhold OWNER's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. FINANCING OF PUBLIC IMPROVEMENTS.

5.1 Financing Mechanism(s). In accordance with the Memorandum of Agreement between the CITY and NMC Builders, CITY will cooperate with OWNER in the formation of a CFD, or CFDs, to include all of the Project, to provide a financing mechanism to reimburse the OWNER for funds paid to NMC Builders LLC for OWNER's share of the costs of public infrastructure pursuant to the Construction Agreement and to acquire other public facilities constructed by OWNER subject to the provisions of the Memorandum of Agreement between CITY and NMC Builders LLC. Notwithstanding such reimbursements and acquisitions, OWNER shall remain entitled to DIF Credits as provided for in Article 3 of the Construction Agreement and/or as provided for in a separate Fee Credit Agreement between CITY and OWNER. OWNER agrees that, prior to the recordation of any Tract Map for the Property, the Property shall be included in a CFD to finance City services through annual special taxes that will initially be $1,443.71 per Single Family Detached Dwelling Unit, $1,251.15 per Multiple-Family Dwelling Unit, $1,048.96 per Gated Apartment Community Dwelling Unit, and $.27 per square foot for Non-Residential buildings. These amounts shall be subject to an automatic increase at a rate not to exceed four (4%) percent per year, unless otherwise modified by the CITY. CITY shall be the sole and exclusive lead agency in

the formation of any CFD, assessment district or other public financing mechanism within the Property; provided however, that the proceeds of any such CFD, assessment district, or financing mechanism may be used, subject to restrictions that may be imposed by applicable law, for the purposes of acquiring, constructing or maintaining public facilities to be owned or operated by other public agencies, including, without limitation those facilities owned or operated by a school district. In addition to the rights of the CITY pursuant to section 5.2 hereof, CITY shall have the right, but not the obligation, to condition the formation of any CFD, assessment district or other public financing mechanism within the Property on the OWNER mitigating all Project-related impacts to the applicable school district(s) as required by such school district(s). Written evidence by such school district(s) may be required by the CITY as the condition to the formation of any CFD, assessment district or other public financing mechanism within the Property, or any steps preliminary thereto, including, without limitation, the adoption of any resolution of intention to form such CFD, assessment district or other public financing mechanism within the Property. It is not the intent of the parties hereto, by this provision, to prohibit or otherwise limit the City's ability to take any and all necessary steps requisite to the formation of the CFD to finance City services through annual special taxes as set forth in this Section 5.1. Formation of any CFD, assessment district or other public financing mechanism within the Property, shall be subject to CITY's ability to make all findings required by applicable law and complying with all applicable legal procedures and requirements including, without limitation, CITY's public financing district policies as such policies may be amended from time to time. Notwithstanding the foregoing, it is acknowledged and agreed by the parties that nothing contained in this Agreement shall be construed as requiring CITY or the City Council to form any such district or to issue and sell bonds.

6. REVIEW FOR COMPLIANCE.

6.1 Periodic and Special Reviews.

6.1.1 Time for and Initiation of Periodic Review. The CITY shall review this Agreement every twelve (12) months from the Effective Date in order to ascertain the good faith compliance by the OWNER with the terms of this Agreement. The OWNER shall submit an Annual Monitoring Report to CITY, in a form acceptable to the City Manager, along with any applicable processing charge within ten (10) days after each anniversary date of the Effective Date of this Agreement. Within fifteen (15) days after the receipt of the Annual Monitoring Report, CITY shall review the Annual Monitoring Report. Prior to the expiration of the fifteen (15) day review period, CITY shall either issue a notice of continuing compliance or a notice of non-compliance and a notice of CITY's intent to conduct a Special Review pursuant to Sections 6.1.2 through 6.1.6. Issuance of a notice of continuing compliance may be issued by the City Manager or his designee.

6.1.2 Initiation of Special Review. A special review may be called either by agreement between the parties or by initiation in one or more of the following ways:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) Affirmative vote of at least three (3) members of the City Council.

6.1.3 Notice of Special Review. The City Manager shall begin the special review proceeding by giving notice that the CITY intends to undertake a special review of this Agreement to the OWNER. Such notice shall be given at least ten (10) days in advance of the time at which the matter will be considered by the Planning Commission.

6.1.4 Public Hearing. The Planning Commission shall conduct a hearing at which the OWNER must demonstrate good faith compliance with the terms of this Agreement. The burden of proof on this issue is upon the OWNER.

6.1.5 Findings Upon Public Hearing. The Planning Commission shall determine upon the basis of substantial evidence whether or not the OWNER has, for the period under review, complied in good faith with the terms and conditions of this Agreement.

6.1.6 Procedure Upon Findings.

(a) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has complied in good faith with the terms and conditions of this Agreement during the period under review, the review for that period is concluded.

(b) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has not complied in good faith with the terms and conditions of this Agreement during the period under review, the Planning Commission may recommend to the City Council to modify or terminate this Agreement.

(c) The OWNER may appeal a determination pursuant to paragraph (b) to the City Council in accordance with the CITY's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Modification or Termination. If, upon a finding under Section 6.1.6(b), the CITY determines to proceed with modification or termination of this

Agreement, the CITY shall give notice to the property OWNER of its intention so to do. The notice shall contain:

(a) The time and place of the hearing;

(b) A statement as to whether or not the CITY proposes to terminate or to modify this Agreement; and

(c) Other information that the CITY considers necessary to inform the OWNER of the nature of the proceeding.

6.3 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, the OWNER shall be given an opportunity to be heard. The OWNER shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on the OWNER. If the City Council finds, based upon substantial evidence in the administrative record, that the OWNER has not complied in good faith with the terms and conditions of the agreement, the City Council may terminate or modify this Agreement and impose those conditions to the action it takes as it considers necessary to protect the interests of the CITY. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

6.4 Certificate of Agreement Compliance. If, at the conclusion of a Periodic or Special Review, OWNER is found to be in compliance with this Agreement, CITY shall, upon written request by OWNER, issue a Certificate of Agreement Compliance ("Certificate") to OWNER stating that after the most recent Periodic or Special Review and based upon the information known or made known to the Planning Director and City Council that (1) this Agreement remains in effect and (2) OWNER is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a Periodic or Special Review and shall state the anticipated date of commencement of the next Periodic Review. OWNER may record the Certificate with the County Recorder. Whether or not the Certificate is relied upon by assignees or other transferees or OWNER, CITY shall not be bound by a Certificate if a default existed at the time of the Periodic or Special Review, but was concealed from or otherwise not known to the Planning Director or City Council.

7. [RESERVED]

8. DEFAULT AND REMEDIES.

8.1 Remedies in General. It is acknowledged by the parties that CITY would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that CITY shall not be liable in damages to OWNER, or to any successor in interest of OWNER, or to any other person, and OWNER covenants not to sue for damages or claim any damages:

(a) For any breach of this Agreement or for any cause of action which arises out of this Agreement; or

(b) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

(c) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.2 Specific Performance. The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties for the following reasons:

(a) Money damages are unavailable against CITY as provided in Section 8.1 above.

(b) Due to the size, nature and scope of the project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, OWNER may be foreclosed from other choices it may have had to utilize the Property or portions thereof. OWNER has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate OWNER for such efforts.

8.3 Release. Except for nondamage remedies, including the remedy of specific performance and judicial review as provided for in Section 6.5, OWNER, for itself, its successors and assignees, hereby releases the CITY, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the CITY because it entered into this Agreement or because of the terms of this Agreement.

8.4 Termination or Modification of Agreement for Default of OWNER. Subject to the provisions contained in Subsection 6.3 herein, CITY may terminate or modify this Agreement for any failure of OWNER to perform any material duty or obligation of

OWNER under this Agreement, or to comply in good faith with the terms of this Agreement (hereinafter referred to as "default"); provided, however, CITY may terminate or modify this Agreement pursuant to this Section only after providing written notice to OWNER of default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured, OWNER has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

8.5 Termination of Agreement for Default of CITY. OWNER may terminate this Agreement only in the event of a default by CITY in the performance of a material term of this Agreement and only after providing written notice to CITY of default setting forth the nature of the default and the actions, if any, required by CITY to cure such default and, where the default can be cured, CITY has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. CITY has determined that this Agreement is consistent with its Comprehensive General Plan, as such General Plan exists as of the Effective Date ("General Plan"), and that the General Plan meets all requirements of law. OWNER has reviewed the General Plan and concurs with CITY's determination. CITY shall have no liability in damages under this Agreement for any failure of CITY to perform under this Agreement or the inability of OWNER to develop the Property as contemplated by the Development Plan of this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

9.2 Third Party Litigation Concerning Agreement. OWNER shall defend, at its expense, including attorneys' fees, indemnify, and hold harmless CITY, its agents, officers and employees from any claim, action or proceeding against CITY, its agents, officers, or employees to attack, set aside, void, or annul the approval of this Agreement or the approval of any permit granted pursuant to this Agreement. CITY shall promptly notify OWNER of any such claim, action or proceeding, and CITY shall cooperate in the defense. If CITY fails to promptly notify OWNER of any such claim, action or proceeding, or if CITY fails to cooperate in the defense, OWNER shall not thereafter be responsible to defend, indemnify, or hold harmless CITY. CITY may in its discretion participate in the defense of any such claim, action or proceeding.

9.3 Indemnity. In addition to the provisions of 9.2 above, OWNER shall indemnify and hold CITY, its officers, agents, employees and independent contractors free and harmless from any liability whatsoever, based or asserted upon any act or omission of OWNER, its officers, agents, employees, subcontractors and independent contractors, for property damage, bodily injury, or death (OWNER's employees included) or any other element of damage of any kind or nature, relating to or in any way connected with or arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, failure and conveyance of the public improvements, save and except claims for damages arising through the sole active negligence or sole willful misconduct of CITY. OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. CITY may in its discretion participate in the defense of any such legal action.

9.4 Environment Assurances. OWNER shall indemnify and hold CITY, its officers, agents, and employees free and harmless from any liability, based or asserted, upon any act or omission of OWNER, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents and employees in any action based or asserted upon any such alleged act or omission. CITY may in its discretion participate in the defense of any such action.

9.5 Reservation of Rights. With respect to Sections 9.2, 9.3 and 9.4 herein, CITY reserves the right to either (1) approve the attorney(s) which OWNER selects, hires or otherwise engages to defend CITY hereunder, which approval shall not be unreasonably withheld, or (2) conduct its own defense, provided, however, that OWNER shall reimburse CITY forthwith for any and all reasonable expenses incurred for such defense, including attorneys' fees, upon billing and accounting therefor.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement.

10. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit OWNER, in any manner, at OWNER's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. CITY acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with OWNER and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. CITY will not unreasonably withhold its consent to any

such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the CITY in the manner specified herein for giving notices, shall be entitled to receive written notification from CITY of any default by OWNER in the performance of OWNER's obligations under this Agreement.

(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to OWNER under the terms of this Agreement, CITY shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to OWNER. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of OWNER's obligations or other affirmative covenants of OWNER hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by OWNER is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.4 of this Agreement.

11. MISCELLANEOUS PROVISIONS.

11.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the San Bernardino County Recorder by the City Clerk within the ten (10) days after the CITY executes this Agreement, as required by Section 65868.5 of the Government Code. If the parties to this Agreement or their successors in interest amend or cancel this Agreement as provided for herein and in Government Code Section 65868, or if the CITY terminates or modifies the agreement as provided for herein and in Government Code Section 65865.1 for failure of the applicant to comply in good faith with the terms or conditions of this Agreement, the City Clerk shall have notice of such action recorded with the San Bernardino County Recorder.

11.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

11.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provision of the Public Benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and CITY would not have entered into this Agreement but for such provisions, and therefore in the event such provisions are determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

11.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

11.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.6 Singular and Plural. As used herein, the singular of any word includes the plural.

11.7 Joint and Several Obligations. Subject to section 2.4, if at any time during the term of this Agreement the Property is owned, in whole or in part, by more than one owner, all obligations of such owners under this Agreement shall be joint and several, and the default of any such owner shall be the default of all such owners. Notwithstanding the foregoing, no owner of a single lot which has been finally subdivided and sold to such owner as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement except as provided under Section 4 hereof.

11.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

11.9 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

11.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

11.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

11.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

11.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

11.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

11.15 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

11.16 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and OWNER is that of a government entity regulating the development of private property and the owner of such property.

11.17 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement. The City Manager may delegate his powers and duties under this Agreement to an Assistant City Manager or other management level employee of the CITY.

11.18 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by CITY of its power of eminent domain.

11.19 Agent for Service of Process. In the event OWNER is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer resident of the State of California, or it is a foreign corporation, then in any such event, OWNER shall file with the Planning Director, upon its execution of this Agreement, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon OWNER. If for any reason service of such process upon such agent is not feasible, then in such event OWNER may be personally served with such process out of this County and such service shall constitute valid service upon OWNER. OWNER is amenable to the process so served, submits to the jurisdiction of the Court so obtained and waives any and all objections and protests thereto. OWNER for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) business days following a written request by any of the parties, the other party shall execute and deliver to the requesting party a statement certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the

Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the responding party alleges that specified (date and nature) defaults exist. The statement shall also provide any other reasonable information requested. The failure to timely deliver this statement shall constitute a conclusive presumption that this Agreement is in full force and effect without modification except as may be represented by the requesting party and that there are no uncured defaults in the performance of the requesting party, except as may be represented by the requesting party. OWNER shall pay to CITY all costs incurred by CITY in connection with the issuance of estoppel certificates under this Section 11.20 prior to CITY's issuance of such certificates.

11.21 Authority to Execute. The person or persons executing this Agreement on behalf of OWNER warrants and represents that he or she/they have the authority to execute this Agreement on behalf of his or her/their corporation, partnership or business entity and warrants and represents that he or she/they has/have the authority to bind OWNER to the performance of its obligations hereunder.

11.22 Prevailing Wage. OWNER, for itself, its successors, and assigns, agrees, covenants, and warrants that the development of the Property, if any, shall comply with all applicable federal and state labor laws (including, without limitation, the requirement under California law to pay prevailing wages and hire apprentices), and all obligations as set forth herein.

11.22.1 CITY makes no representations concerning prevailing wages in compliance with California Labor Code Section 1770 et seq.

11.22.2 OWNER acknowledges and agrees that it shall be independently responsible for reviewing the applicable laws and regulations with respect to the payment of prevailing wages and complying therewith. OWNER shall bear all risks of payment or non-payment of prevailing wages under California law and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law.

11.22.3 The foregoing indemnity shall survive termination of this Agreement and shall continue after completion of the construction and development of the Property by OWNER, its successors or assigns. OWNER shall be solely responsible for determining and effectuating compliance with such laws.

11.22.4 OWNER, ON BEHALF OF ITSELF, ITS SUCCESSORS, AND ASSIGNS, WAIVES AND RELEASES CITY FROM ANY RIGHT OF ACTION THAT MAY BE AVAILABLE TO OWNER PURSUANT TO LABOR CODE SECTION 1781 OR THE DAVIS BACON ACT. RELATIVE TO THE WAIVER AND RELEASE CONTAINED IN THIS SECTION 11.22, OWNER ACKNOWLEDGES THE PROTECTIONS OF CIVIL CODE SECTION 1542, WHICH READS AS FOLLOWS: 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, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

INITIALS. BY INITIALING BELOW, OWNER KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES:

_____

(Owner's Initials)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

**[SIGNATURES CONTAINED ON FOLLOWING PAGE]**

**SIGNATURE PAGE**
**TO DEVELOPMENT AGREEMENT PDA21-010**

**"OWNER"**

SL Ontario Development Company, LLC a Delaware limited liability company

By: _____
Name: Bryan Goodman
Its: Authorized Lewis Agent

By: _____
Name: Jeff Evans
Its: Authorized Stratham Agent

**"CITY"**

CITY OF ONTARIO

By:_____
Scott Ochoa
City Manager

Date: _____

**ATTEST**:

_____
City Clerk, Ontario

**APPROVED AS TO FORM**:
BEST BEST KRIEGER, LLP

_____
City Attorney

## ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )
COUNTY OF_____ )

On _____, 20_____, before me,_____,
*Date* *Insert Name and Title of the Officer*

personally appeared _____
*Name(s) of Signer(s)*
_____, who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____
*Signature of Notary Public*

*Place Notary Seal Above*

## ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )
COUNTY OF_____ )

On _____, 20_____, before me_____,
*Date* *Insert Name and Title of the Officer*

personally appeared _____
*Name(s) of Signer(s)*

_____,
who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____
*Signature of Notary Public*

*Place Notary Seal Above*

**EXHIBIT "A"**
**TO DEVELOPMENT AGREEMENT**

## Legal Description of Property

Parcel 1:
The North 20 acres of the West 80 acres of the following described property: Lots 1, 2, 5, 6 and 7, Section 24, Township 2 South, Range 7 West, San Bernardino Meridian, and the fractional Northwest 1/4 of Section 24, Township 2 South, Range 7 West, San Bernardino Meridian, in the City of Ontario, County of San Bernardino, State of California, as shown by Sectionized Survey of the Jurupa Rancho, recorded in Book 9 of Maps, Page 33, Records of said County; said fractional Northwest 1/4 being all that portion of the Northwest 1/4 of said Section 24, lying in the Jurupa Rancho and in Riverside County, according to the Official Plat thereof. Excepting therefrom that portion conveyed to the City of Ontario by deeds recorded July 8, 2008 as Instrument No. 2008-0307387and 2008-0307388 of Official Records.

Parcel 2:
The North 1/2 of the South 20 acres of the North 40 acres of the West 80 acres of the following described property: Lots 1, 2, 5, 6 and 7, Section 24, Township 2 South, Range 7 West, San Bernardino Meridian, and the fractional Northwest 1/4 of Section 24, Township 2 South, Range 7 West, San Bernardino Meridian, in the City of Ontario, County of San Bernardino, State of California, as shown by Sectionized Survey of the Jurupa Rancho, recorded in Book 9 of Maps, Page 33, Records of said County; said fractional Northwest 1/4 being all that portion of the Northwest 1/4 of said Section 24, lying in the Jurupa Rancho and in Riverside County, according to the Official Plat thereof. Excepting therefrom that portion conveyed to the City of Ontario by Deeds recorded July 8, 2008 as Instrument No. 2008-0307387 and 2008-0307388 and be Deed recorded May 25, 2017, as Instrument No. 2017-216939, all of Official Records.
Parcel 3: The South 30 acres of the North 60 acres of the West 80 acres of the land comprised of Lots 1, 2, 5, 6 and 7, Section 24, Township 2 South, Range 7 West, San Bernardino Meridian, in the City of Ontario, County of San Bernardino, State of California, and the fractional Northwest 1/4 of Section 24, Township 2 South, Range 7 West, San Bernardino Meridian, as shown by Sectionized Survey of the Jurupa Rancho, recorded in Book 9, Page 33 of Maps, in the office of the County Recorder of said County, said fractional Northwest 1/4 being all that portion of the Northwest 1/4 of said Section 24, lying in the Jurupa Rancho, and in Riverside County, according to the Official Plat thereof. Except therefrom that portion conveyed to the City of Ontario by Deed recorded May 25, 2017 as Instrument No. 2017-216939 of Official Records.

Parcel 3:
The west 80 acres of the following described property: Lots 1, 2, 5, 6 and 7, Section 24, Township 2 South, Range 7 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Plat of said land filed in the District Land Office July 9, 1887 and the fractional northwest quarter, Section 24, Township 2 South, Range 7 West, San Bernardino Meridian, as shown by Sectionized Survey of the Jurupa Rancho, recorded in Book 9 of Maps, page 33 in the office of the County Recorder of San Bernardino, State of California, said fractional northwest quarter being all that portion of the northwest quarter of said Section 24, lying in the Jurupa Rancho and in Riverside County, EXCEPTING from said 80 acres the North 60 acres thereof. ALSO EXCEPTING any portion lying with the boundaries of Tract 30633 as filed in book 350, page(s) 51 through 61, inclusive, of maps records of Riverside County, State of California.

Assessor's Parcel Numbers(s):
1: 1073-171-04
2: 1073-171-08
3: 1073-171-09
4: 0218-331-14

**EXHIBIT "B"**
**TO DEVELOPMENT AGREEMENT**

**Map showing Property and its location**

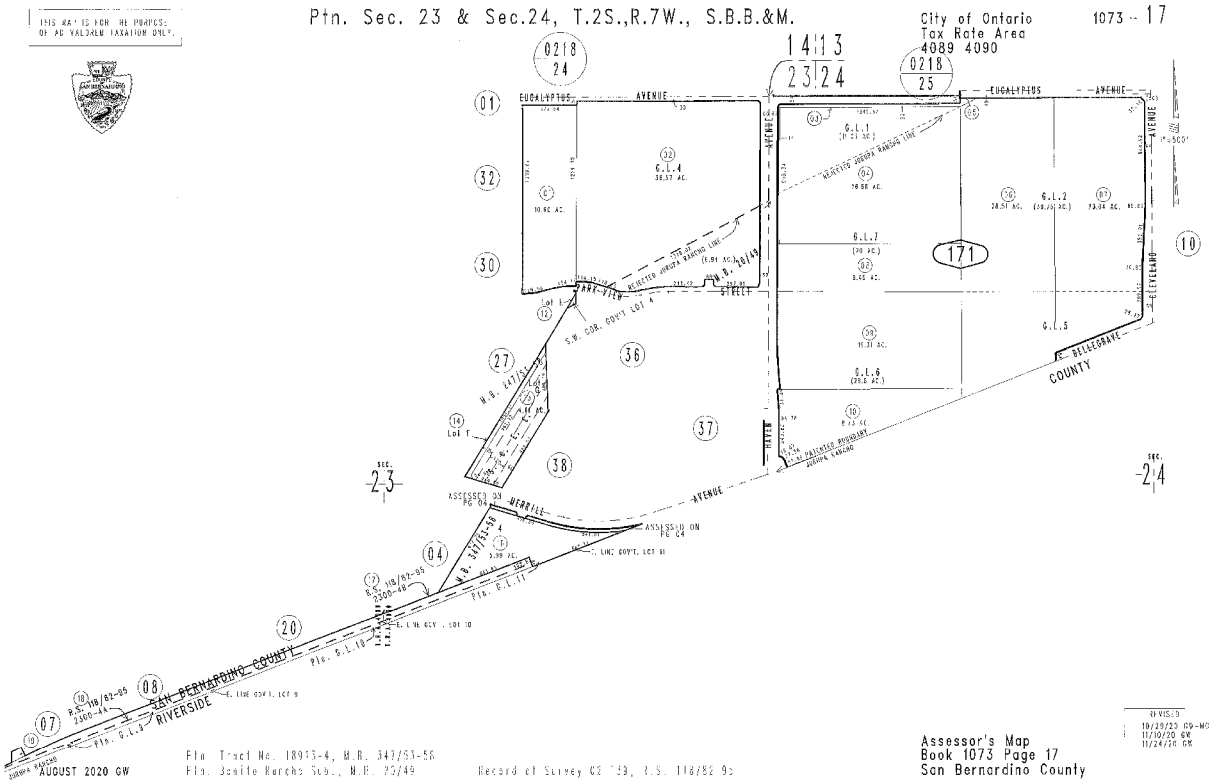


**EXHIBIT "C"**
**TO DEVELOPMENT AGREEMENT**

**Existing Development Approvals**

On September 26, 2006, the Planning Commission:

a) Issued Resolution No. PC06-095 recommending City Council adopt and certify the Subarea 29 (Park place) Environmental Impact Report;
b) Issued Resolution No. PC06-096 recommending City Council approval of the General Plan Amendment (PGPA06-003); and
c) Issued Resolution No. PC06-097 recommending City Council approval of the Subarea 29 (Park Place) Specific Plan (PSP03-003).

On October 19, 2006, the City Council:

a) Issued Resolution No. 2006-089 certifying the Subarea 29 (Park place) Environmental Impact Report; and
b) Issued Resolution No. 2006-090 approving the General Plan Amendment (PGPA06-003).

On November 7, 2006, the City Council:

a) Issued Ordinance No. 2845 approving of the Subarea 29 (Park Place) Specific Plan (PSP03-003).

On March 27, 2007, the Planning Commission:

a) Issued Resolution No. PC07-036 recommending City Council approval of an amendment to the Subarea 29 Specific Plan (PSPA07-007).

On May 1, 2007, the City Council:

a) Issued Resolution No. 2007-053 approving an amendment to the Subarea 29 Specific Plan.

On August 28, 2013, the Zoning Administrator:

a) Issued Decision No. 2013-025 approving a minor amendment to the Subarea 29 Specific Plan (PSPA13-002).

**EXHIBIT "C"**
**TO DEVELOPMENT AGREEMENT**

**Existing Development Approvals (Continued)**

On March 24, 2015, the Planning Commission:

a) Issued Resolution No. PC15-035 recommending City Council approval of an amendment to the Subarea 29 Specific Plan (PSPA14-002).

On April 21, 2015, the City Council:

a) Issued Resolution No. 2015-030 approving an amendment to the Subarea 29 Specific Plan.

**EXHIBIT "D"**
**TO DEVELOPMENT AGREEMENT**

## Existing Land Use Regulations

These documents are listed for reference only:

1. Subarea 29 (Park place) Environmental Impact Report, Resolution No. 2006-089
2. Subarea 29 (Park Place) General Plan Amendment (PGPA06-003), Resolution No. 2006-090
3. Subarea 29 (Park Place) Specific Plan (PSP03-003), Ordinance No. 2845
4. Amendment to the Subarea 29 Specific Plan (PSPA07-003), Resolution No. 2007-053
5. Amendment to the Subarea 29 Specific Plan (PSPA13-002), Decision No. 2013-025
6. Amendment to the Subarea 29 Specific Plan (PSPA14-002), Resolution No. 2015-030
7. City of Ontario Municipal Code
    a. Six – Sanitation & Health
    b. Seven – Public Works
    c. Eight – Building Regulations
    d. Nine – Development Code
    e. Ten – Parks & Recreation

**EXHIBIT "E"**
**TO DEVELOPMENT AGREEMENT**

**Description of Required Infrastructure Improvements**

OWNER shall design, construct, and complete all improvements including but not limited to Sewer (SW), Potable Water (PW), Recycled Water (RW), Storm Drain (SD), Fiber Optic (FO), and Street (ST) improvements necessary to serve the Property, prior to the request of any Production Units.

PHASE 1 IMPROVEMENTS

1. PW on Haven Avenue, between Eucalyptus Avenue and Bellegrave Avenue.
2. RW on Haven Avenue, between Eucalyptus Avenue and Bellegrave Avenue.
3. FO on Haven Avenue, between Eucalyptus Avenue and Bellegrave Avenue.
4. FO on Streets “A”, “B”, “C”, “D”,“E”, “F”, and “G”.
5. ST improvements on Haven Avenue, between Eucalyptus Avenue and Bellegrave Avenue.
6. SD on Haven Avenue and Street “A”.
7. Traffic Signal at Haven Avenue and Street “D”.
8. Traffic Signal at Haven Avenue and Street “A”.
9. Traffic Signal at Haven Avenue and Eucalyptus Avenue.

PHASE 2 IMPROVEMENTS

1. All Phase 1 Improvements are required for Phase 2.
2. SW on Eucalyptus Avenue, between Haven Avenue and Street “G”
3. ST improvements on Eucalyptus Avenue, between Haven Avenue and Street “G”.
4. Traffic Signal at Eucalyptus Avenue and Street “G”.

PHASE 3 IMPROVEMENTS

1. PW on Bellegrave Avenue, between Haven Avenue and Mill Creek Avenue.
2. RW on Bellegrave Avenue, between Haven Avenue and Mill Creek Avenue.
3. ST improvements on Bellegrave Avenue, between Haven Avenue and easterly tract boundary.
4. ST improvements on Bellegrave Avenue, between Haven Avenue and easterly tract boundary.
5. Traffic Signal at Bellegrave Avenue and Haven Avenue.
6. Traffic Signal at Bellegrave Avenue and Delicious Way.

**EXHIBIT "F"**
**TO DEVELOPMENT AGREEMENT**

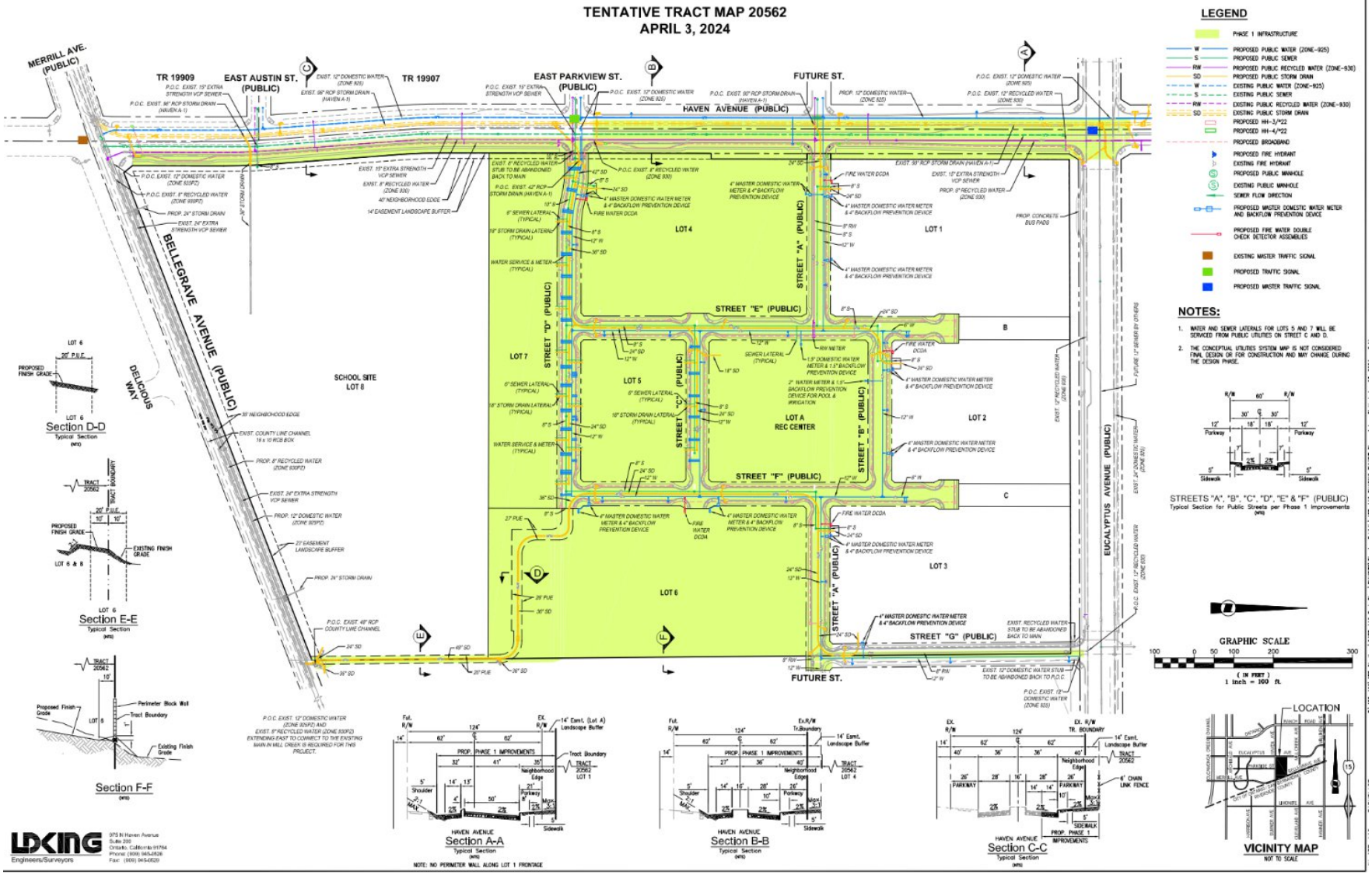
**Depiction of required Infrastructure Improvements**

**(SEE ATTACHED EXHIBITS)**

# PHASE 1 INFRASTRUCTURE EXHIBIT

## TENTATIVE TRACT MAP 20562

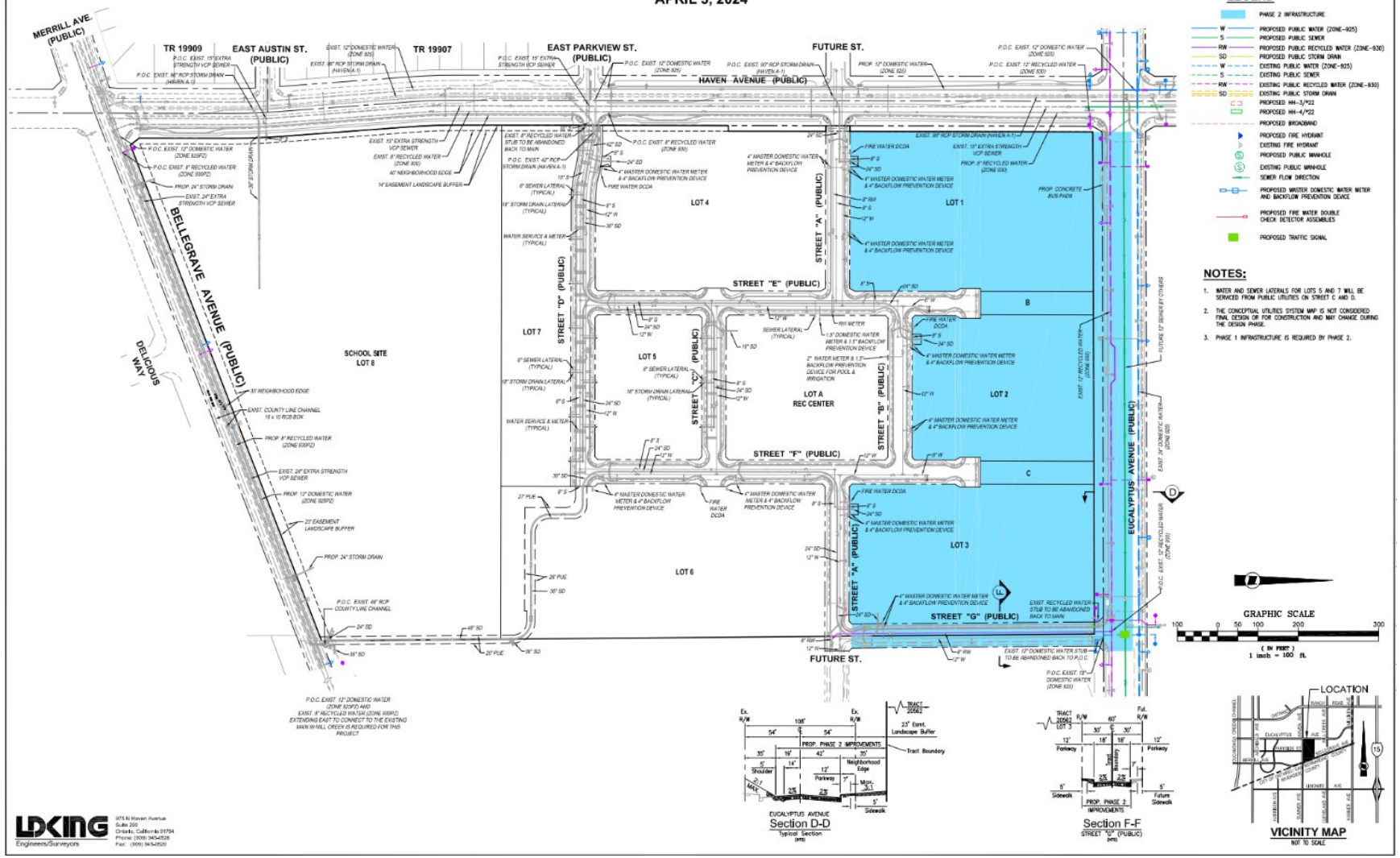
## APRIL 3, 2024



# PHASE 2 INFRASTRUCTURE EXHIBIT

**TENTATIVE TRACT MAP 20562**

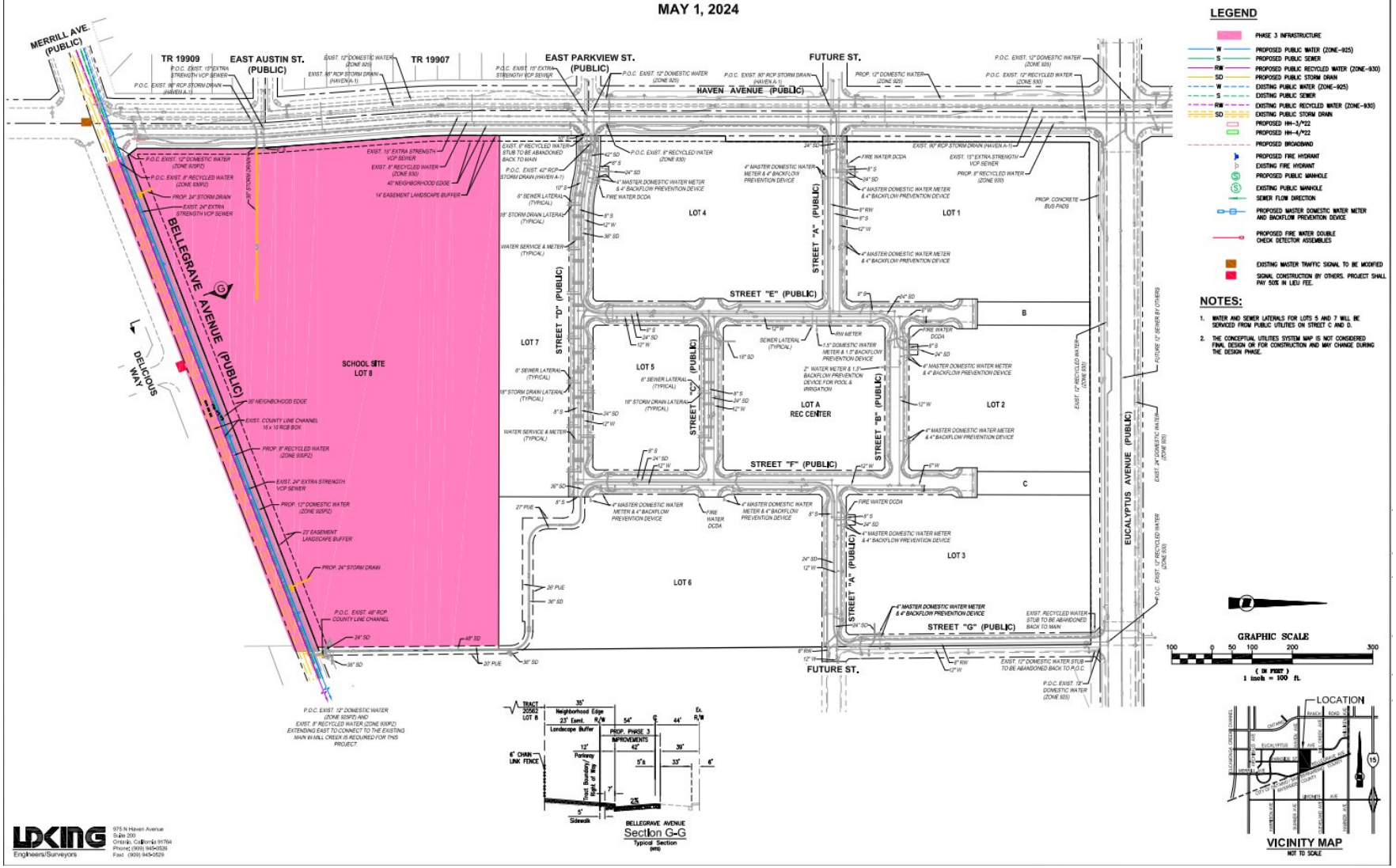
**APRIL 3, 2024**



# PHASE 3 INFRASTRUCTURE EXHIBIT

## TENTATIVE TRACT MAP 20562

## MAY 1, 2024



# PHASING INFRASTRUCTURE EXHIBIT

## TENTATIVE TRACT MAP 20562

MAY 1, 2024

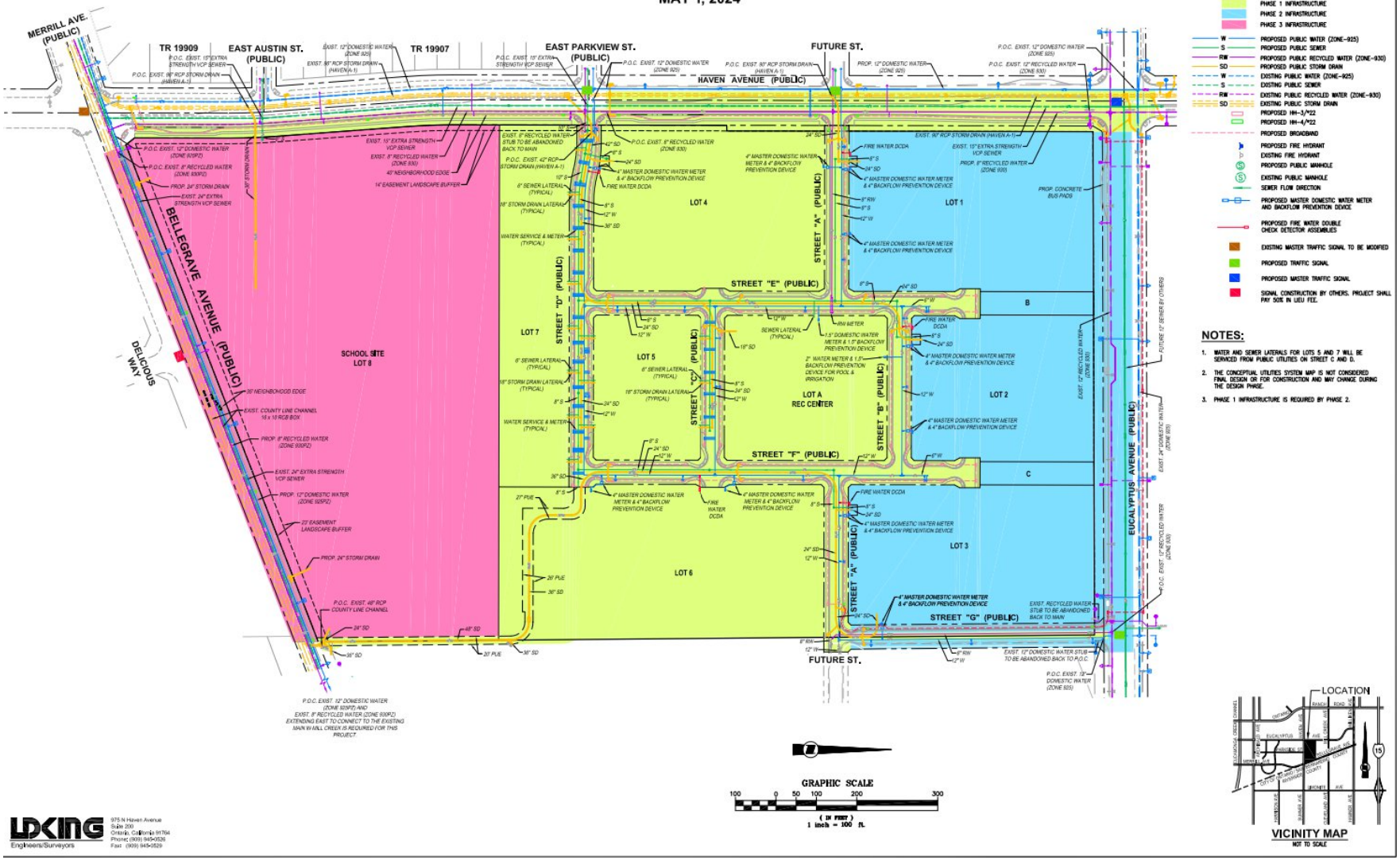


**EXHIBIT "G"**
**TO DEVELOPMENT AGREEMENT**

**Form of Plume Disclosure Letter**

# CITY OF ONTARIO

ONTARIO MUNICIPAL UTILITIES COMPANY

PAUL S. LEON
MAYOR

DEBRA DORST-PORADA
MAYOR PRO TEM

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

AL C. BOLING
CITY MANAGER

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT BURTON
UTILITIES GENERAL MANAGER

March 2017

**DISCLOSURE NOTICE**
**SOUTH ARCHIBALD TRICHLOROETHYLENE PLUME**

Dear Property Owner/Developer/Applicant:

The City of Ontario ("City") has approved or will be approving development in the Ontario Ranch area in the next few years, subject to the appropriate and required statutory process. This letter is intended to serve as notice to all potential property owners of the existence of a groundwater plume, known as the South Archibald Trichloroethylene (TCE) Plume which may exist in, under or near owner's property.

The groundwater plume is in an area in the central Chino Basin south of the Pomona Freeway, west of Turner Avenue, east of Grove Avenue, and north of Kimball Avenue. The plume primarily consists of TCE, a discontinued industrial solvent, and is subject to a clean-up under the oversight and direction of the Santa Ana Regional Water Quality Control Board ("Regional Board").

The Regional Board's approved clean-up procedure involves the removal and treatment of groundwater containing TCE via groundwater wells to reduce the plume concentrations and control its migration. In addition, the City is providing potable water supplies for domestic purposes to residences with private domestic wells affected by the plume. Finally, the Regional Board will continue to monitor all impacted areas and private domestic wells to ensure that residents' health and the environment are properly safeguarded. These remedial actions are documented in a Remedial Action Plan approved by the Regional Board in September 2016.

Further and current information may be found on the Regional Board's Geotracker website at https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000004658.

Property owners may wish to include this letter as a part of a Real Estate Transfer Disclosure under California Civil Code Section 1102 et seq.

1425 SOUTH BON VIEW - ONTARIO, CALIFORNIA 91761-4406 - (909) 395-2605 - FAX (909) 395-2601

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Recreation & Community Services<br>Prepared By: Danielle Guevara<br>Staff Member Presenting: Nicholas S. Gonzalez, Recreation & Community Services Director<br>Reviewed By: Lacey A Rightmer<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 16 |

**SUBJECT: STUDENT REPRESENTATIVE AND ALTERNATIVE APPOINTMENTS TO THE RECREATION & PARK COMMISSION FOR FY 2024-2025**

**RECOMMENDATION:** That the City Council confirm Krisha Shah, Ontario resident and student at Colony High School as the Student Representative and Alyssa Marquez, Ontario resident and student at Chaffey High School as the second Student Representative to the Recreation & Parks Commission for the term set to expires on June 30, 2025.

**THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:**
**Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities**

**FISCAL IMPACT:** There is no direct fiscal impact associated with this action.

**BACKGROUND & ANALYSIS:**

The City Council approved the Student Representative to the Recreation & Parks Commission Program on March 5, 2002. The Student Representative is a non-voting member of the Recreation & Parks Commission. Since its inception, thirty-seven (37) students have participated in the program.

A recruitment was conducted through all local high schools, various city-wide teen programs and multiple social media platforms. The Recreation & Community Services Department interviewed candidates and made recommendations to the Recreation & Parks Commission. At a meeting held on June 24, 2024, the Recreation & Parks Commission voted 7-0 to recommend the City Council ratify the appointments of Krisha Shah and Alyssa Marquez as non-voting members of the Recreation & Parks Commission for FY 2024-25.

**CANDIDATE'S INFORMATION:**
*Krisha Shah* **–** Krisha is an Ontario resident and student at Colony High School entering her junior year. She is involved in various activities in her high school, such as soccer, tennis, key club, AP funding, Red Cross, Asian Pacific Alliance Club, and Academic Decathlon. She has also maintained

on Honor Roll since elementary school. Krisha is eager to represent the teen community and voice the concerns of the community. Upon graduation, Krisha plans to attend college to obtain a bachelor's degree in engineering and computer science.

*Alyssa Marquez* – Alyssa is an Ontario resident and student at Chaffey High School, entering her senior year. Additionally, she is a dual-enrollment student at Chaffey College. Alyssa actively participates in the City of Ontario's Recreation & Community Services Department programming and is a member of Promise Scholars and the National Honor Society for her high school. Alyssa is extremely passionate about helping youth in foster care and hopes to bring programming to those in need. She is also eager to be a voice and advocate for her peers. Upon graduation, Alyssa plans to attend college in Pennsylvania, where she hopes to receive her bachelor's degree and become a social worker so that she can continue to help those in need.

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Recreation & Community Services<br>Prepared By: Danielle Guevara<br>Staff Member Presenting: Nicholas S. Gonzalez, Recreation & Community Services Director<br>Reviewed By: Lacey A Rightmer<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 17 |

**SUBJECT:** **A RESOLUTION APPROVING THE ADMINISTRATIVE POLICY SETTING FORTH THE APPLICATION AND SELECTION PROCESS, TERM, AND DUTIES OF NON-VOTING STUDENT MEMBERS OF THE RECREATION & PARKS COMMISSION**

**RECOMMENDATION:** That the City Council approve the Administrative Policy setting forth the application and selection process, term, and duties of non-voting student members of the Recreation & Parks Commission.

**THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:**
**Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities**

**FISCAL IMPACT:** There is no direct fiscal impact associated with this action.

**BACKGROUND & ANALYSIS:** The City Council approved the Student Representative to the Recreation & Parks Commission Program on March 5, 2002. The Student Representative is a non-voting member of the Recreation & Parks Commission. The student member provides valuable input and unique perspectives that assist the Recreation & Parks Commission in making decisions affecting recreation and parks in Ontario.
On March 24, 2024, the Recreation & Parks Commission voted to recommend a revision to the application process and duties to the Non-Voting Student Representatives to the Recreation & Parks Commission. This new policy updates to the application process, age requirements, term, duties, and benefits of the non-voting student representatives. The student representative will serve a one-year term and is expected to attend regular meetings of the Commission. The administrative policy incorporates the Recreation & Parks Commission recommendation and allows for relative ease of administration.

The Non-Voting Student Representatives to the Recreation & Parks Commission are expected to follow the guidelines outlined in the City Boards, Commissions and Committees Handbook, as well as the Recreation & Parks Commission Bylaws.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN ADMINISTRATIVE POLICY PERTAINING TO THE SELECTION AND PARTICIPATION OF NON-VOTING STUDENT REPRESENTATIVES ON THE RECREATION & PARKS COMMISSION.

WHEREAS, the City Council of the City of Ontario desires to establish an administrative policy pertaining to the selection and participation of non-voting student representatives serving on the City's Recreation and Parks Commission.

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

SECTION 1. The City Council hereby approves the Administrative Policy attached hereto and incorporated herein by this reference as Exhibit "A"," as may be amended from time to time, setting forth the application process, term, duties, and benefits pertaining to the participation of non-voting student representatives on the Recreation & Parks Commission.

SECTION 2. The City Council finds this Resolution is not subject to the California Environmental Quality Act (CEQA) in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as in this case, 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.

SECTION 3. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Resolution are declared to be severable.

SECTION 4. This Resolution shall become effective immediately.

SECTION 5. 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 July, 2024.

_____
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. 2024- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 2, 2024 by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2024- duly passed and adopted by the Ontario City Council at their regular meeting held July 2, 2024.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

Exhibit “A”

Non-Voting Student Representatives to the Recreation & Parks Commission – Application Process

(Following this Page)

# Non-Voting Student Representatives to the Recreation & Parks Commission – Application Process

Application process and duties related to the Non-Voting Student Representatives to the Recreation & Parks Commission.

In 2002, the Ontario City Council approved an application process to add non-voting student members to the Recreation & Parks Commission. The student members provide valuable input and unique perspectives that assist the Recreation & Parks Commission in making decisions affecting recreation and parks in Ontario. This new policy provides an update to the application process, age requirement, term, duties, and benefits of the non-voting student representatives.

## Application Process

1. Applications are sent to superintendents, principals, and advisors of local public and private high schools, Teen Action Committee boards, and staff.
2. Interested applicants ages 13-18 enrolled in high school or applicants 18-20 years old enrolled in college and are residents of Ontario may submit an application to the Recreation & Community Services Department expressing their desire to serve as a student representative member on the Recreation & Parks Commission.
3. Candidates will then be scheduled for their first interview, and candidates selected to move forward in the process will be scheduled for their second interview.
4. The Recreation & Community Services department will select two students from the above process to be appointed, upon ratification by the Mayor & City Council, to serve as members of the Recreation & Parks Commission for a one-year term.

## Term

The term of the student representative shall be a year term from July 1 – June 30.

## Duties

It shall be the duty of the student representative to:

1. Attend the monthly and special meetings of the Recreation & Parks Commission;

2. Attend special Recreation & Community Services events and ceremonies in the City of Ontario;
3. Express opinions and participate in discussions regarding matters that affect Recreation & Community Services programs, facilities, and parks;
4. Participate in Recreation & Community Services programs; and
5. Not miss more than two (2) consecutive meetings.

## Benefits

The student representative shall benefit by receiving:

1. An invitation to the annual California Parks & Recreation Society Conference;
2. An invitation to the annual Volunteer Recognition Banquet;
3. Recognition by the Mayor & City Council at an official meeting; and
4. A Recreation & Parks Commissioner Badge.

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Public Works<br>Prepared By: Manuel Rebolledo<br>Staff Member Presenting: Tito Haes, Executive Director Public Works<br>Reviewed By: Andrea Ampig, Bonnie Tam<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 18 |

**SUBJECT:** **AN AMENDMENT TO THE GOODS AND SERVICES AGREEMENT WITH LONG BEACH BMW MOTORCYCLES FOR PARTS AND REPAIRS OF POLICE MOTORCYCLES**

**RECOMMENDATION:** That the City Council authorize the City Manager or his designee to execute Amendment No. 5 to the Goods and Services Agreement with Long Beach BMW Motorcycles, of Long, California, for the procurement of parts and repairs for Police BMW Motorcycles in the amount of $50,000, for a total not-to-exceed contract amount of $300,000, and extend the agreement to June 30, 2025.

**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 2024-25 Adopted Budget includes appropriations in the Equipment Services Fund for the procurement of parts and repairs of Police BMW Motorcycles. The proposed Amendment will increase the contract amount by $50,000 for a total not-to-exceed contract amount of $300,000.

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

On July 2, 2019, the City Council approved Long Beach BMW Motorcycles as a pre-authorized vendor for the supply of parts and repairs of Police BMW Motorcycles and approved a five-year Goods and Service Agreement. Since then, Long Beach BMW Motorcycles has provided excellence service to the Fleet Services Department for both parts supply and repairs of the Police BMW Motorcycle Fleet. Staff recommends increasing the total authorized compensation and extend the agreement for an additional one-year term to ensure the Fleet Services Department can continue to maintain and repair vehicles and keep them operational so they can provide services to the City of Ontario residents.

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

PAUL S. LEON
MAYOR

DEBRA PORADA
MAYOR PRO TEM

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT OCHOA
CITY MANAGER

# AMENDMENT NO. 5 TO THE GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND LONG BEACH BMW MOTORCYCLES

## 1. Parties and Date.

This Amendment No. 5 to the Agreement (as defined herein) is made and entered as of _____, by and between the City of Ontario ("City") and **Long Beach BMW Motorcycles, Inc, a 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 "Goods and Services" dated July 1, 2019 ("Agreement").

2.2 Amendment Purpose. The City and Contractor desire to amend the Agreement to **extend term to June 30, 2025 and increase compensation by Fifty Thousand Dollars ($50,000).** The Parties have heretofore entered into Amendment No.1 dated July 1, 2020, Amendment No.2 dated June 15, 2021, Amendment No.3 dated March 7, 2022, and Amendment No.4 dated August 4, 2023.

2.3 Amendment Authority. This Amendment No. 5 is authorized pursuant to Section 2.1, 12.9, and 12.17 of the Agreement.

## 3. Terms.

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

"Term 2.1 The term of this Agreement shall be from **July 1, 2019,** to **June 30, 2025**, based on needs and offeror' performance, 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."

"Compensation. 3.1 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 **Three Hundred Thousand Dollars ($300,000)** 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."

Exhibit "C" is hereby deleted in its entirety and replaced with Attachment "A" attached hereto and incorporated herein by reference.

3.2 Continuing Effect of Agreement. Except as amended by this Amendment No. 5, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this Amendment No. 5. From and after the date of this Amendment No.5, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Amendment No. 5.

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. 5.

3.4 Severability. If any portion of this Amendment No. 5 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. 5 TO GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND LONG BEACH BMW MOTORCYCLES**

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 5 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

**LONG BEACH MOTORCYCLES, INC.**

By:_____

Its:_____

Printed Name:_____

By:_____

Its:_____

Printed Name:_____

## ATTACHMENT "A"
## Compensation

A. Rate per Hour Compensation

| No. | Labor Rate | Per Hour |
|---|---|---|
| 1. | Labor Rate per Hour | $142.00 |

B. Vendor Mark Ups / Discounts

Parts markup percentage or discount percentage -10%

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Public Works<br>Prepared By: Manuel Rebolledo<br>Staff Member Presenting: Tito Haes, Executive Director Public Works<br>Reviewed By: Andrea Ampig, Bonnie Tam<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 19 |

**SUBJECT:** **AN AMENDMENT TO THE GOODS AND SERVICES AGREEMENTS WITH CITRUS MOTORS ONTARIO, INC., MARK CHRISTOPHER CHEVROLET, INC., AND FORD OF UPLAND FOR FORD, GMC, AND CHEVROLET PARTS AND REPAIRS**

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

A. Authorize the City Manager or his designee to execute Amendment No. 4 to the Goods and Services Agreement with Mark Christopher Chevrolet, Inc., of Ontario, California, for the procurement of GMC and Chevrolet OEM parts in the amount of $100,000, for a total not-to-exceed contract amount of $460,000, and extend the agreement to June 30, 2025, and
B. Authorize the City Manager or his designee to execute Amendment No. 6 to the Goods and Services Agreement with Citrus Motors Ontario, Inc., of Ontario, California, for the procurement of Ford Original Equipment Manufacturer (OEM) parts and repair services in the amount of $300,000, for a total not-to-exceed contract amount of $990,000, and extend the agreement to June 30, 2025; and
C. Authorize the City Manager or his designee to execute Amendment No. 6 to the Goods and Services Agreement with Ford of Upland, of Upland, California, for the procurement of Ford original equipment manufacturer (OEM) parts and repair services in the amount of $130,000, for a total not-to-exceed contract amount of $500,000, and extend the agreement to June 30, 2025.

**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 2024-25 Adopted Budget includes appropriations in the Equipment Services Fund for purchase of Ford, GMC, and Chevrolet OEM parts and repairs.

**BACKGROUND & ANALYSIS:** The City owns, operates, and routinely maintains and repairs over 700 vehicles and pieces of equipment to keep them safe and operational. The Fleet Services Department relies on its vendors to supply parts and perform certain repairs to our fleet.

In July 2019, the City solicited bids for GMC and Chevrolet OEM parts and repairs for the City's fleet. 139 vendors were notified but no bids were received through the City's electronic bid management system. Under title 2 Chapter 6 Section 2-6.20 of the Ontario Municipal Code, if no bids are received through the formal or informal procedure, the project may be performed by the employees of the City force account or negotiated contract without further complying with this Chapter. After researching several firms and performing reference checks, Staff recommended awarding a one-year agreement with four (4) additional one-year terms to Mark Christopher Chevrolet, Inc. for GMC and OEM Parts and Services.

In August 2019, the City Council awarded Bid No. 1151 for Ford OEM parts and repair services to Citrus Motors Ontario, Inc., of Ontario, California, and Ford of Upland, of Upland, California. Since then, they have met or exceeded expectations of the Fleet Services Department for Ford OEM parts and repair services.

Staff recommends increasing the total authorized compensation and extending the agreements with Mark Christopher Chevrolet, Inc., Citrus Motors Ontario, Inc., and Ford of Upland for an additional one-year term to ensure the Fleet Services Department can continue to maintain and repair vehicles and keep them operational so they can provide services to the City of Ontario residents.

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

PAUL S. LEON
MAYOR

DEBRA PORADA
MAYOR PRO TEM

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT OCHOA
CITY MANAGER

# AMENDMENT NO. 6 TO THE GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND CITRUS MOTORS ONTARIO, INC.

## 1. Parties and Date.

This Amendment No. 6 to the Agreement (as defined herein) is made and entered as of _____, by and between the City of Ontario ("City") and Citrus Motors Ontario, Inc., a Corporation. 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 "Goods and Services" dated July 1, 2019 ("Agreement").

2.2 Amendment Purpose. The City and Contractor desire to amend the Agreement to **extend term and increase compensation by Three Hundred Thousand Dollars ($300,000)**. The Parties have heretofore entered into Amendment No.1 dated July 1, 2020, Amendment No. 2 dated June 28, 2021, Amendment No. 3 dated September 23, 2022, Amendment No. 4 dated August 4, 2023. and Amendment No. 5 dated January 16, 2024.

2.3 Amendment Authority. This Amendment No. 6 is authorized pursuant to Section 2.1, 12.9, and 12.17 of the Agreement.

## 3. Terms.

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

"The term 2.1 of this Agreement shall be from **July 1, 2019,** to **June 30, 2025**, based on needs and offeror's performance, 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."

"Compensation. 3.1 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 **Nine Hundred Ninety Thousand Dollars ($990,00)** 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."

Exhibit "C" is hereby deleted in its entirety and replaced with Attachment "A" attached hereto and incorporated herein by reference.

3.3 Continuing Effect of Agreement. Except as amended by this Amendment No.6, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this Amendment No. 6. From and after the date of this Amendment No. 6, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Amendment No.6.

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. 6.

3.5 Severability. If any portion of this Amendment No. 6 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. 6 TO GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND CITRUS MOTORS ONTARIO, INC.**

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 6 as of the day and year first above written.

**CITY OF ONTARIO**

*Approved By:*

_____
Scott Ochoa
City of Ontario

*Approved as to Form:*

_____
Best Best & Krieger LLP
City Attorney

*Attested By:*

_____
City Clerk

**CITRUS MOTORS ONTARIO, INC.**

By:_____

Its:_____

Printed Name:_____

By:_____

Its:_____

Printed Name:_____

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

## ATTACHMENT "A"
## Compensation

| Description | Unit of Measure | Unit Price |
|---|---|---|
| Option A: Ford OEM Parts and Repairs with Pick-Up and delivery of vehicles | | |
| Hourly Labor Rate | Hours | $180.00 |
| Parts and Materials Mark Up % | Each | 8% |
| Option B: Ford OEM Parts and Repairs without Pick-Up and delivery of vehicles | | |
| Hourly Labor Rate | Hours | $180.00 |
| Parts and Materials Mark Up % | Each | 8% |
| | | |

**Price and Fee**

Below Is a sample price list. Prices shall Include, but not be limited to, overhead costs, freight, and delivery. No additional cost will be paid except applicable taxes.

1. BRAKE ROTOR Front INTECEPTOR EXPLORER Each $122.04
2. BRAKE ROTOR REAR INTECEPTOR EXPLORER Each $79.38
3. FRONT DISC PADS Each $49.80
4. REAR DISC PADS INTECEPTOR EXPLORER Each $72.04
5. SWAY BAR LINK KIT RIGHT PASS EXPLORER Each $39.20
6. GASKET CATALYTIC CONVERTER Each $15.90
7. WHEEL EXPLORER INTERCEPTOR Each $397.53
8. DISC BRAKE REAR CALIPER EXPLORER PIN KIT Each $11.45
9. DISC BRAKE CALIPER PIN KIT EXPLORER Each $18.58

CITY OF ONTARIO
303 EAST B STREET | ONTARIO, CALIFORNIA 91764
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MAYOR

DEBRA PORADA
MAYOR PRO TEM

ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT OCHOA
CITY MANAGER

# AMENDMENT NO. 6 TO THE GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND FORD OF UPLAND

## 1. Parties and Date.

This Amendment No. 6 to the Agreement (as defined herein) is made and entered as of _____, by and between the City of Ontario ("City") and **Ford of Upland, LLC, a Proprietorship**. 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 "Goods and Services" dated July 1, 2019 ("Agreement").

2.2 Amendment Purpose. The City and Contractor desire to amend the Agreement to **extend term and increase compensation by One Hundred Thirty Thousand Dollars ($130,000).** The Parties have heretofore entered into Amendment No.1 dated July 1, 2020, Amendment No. 2 dated June 15, 2021, Amendment No. 3 dated June 13, 2022, Amendment No. 4 dated August 4, 2023. and Amendment No. 5 dated February 6, 2024.

2.3 Amendment Authority. This Amendment No. 6 is authorized pursuant to Section 2.1, 12.9, and 12.17 of the Agreement.

## 3. Terms.

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

"The term 2.1 of this Agreement shall be from **July 1, 2019, to June 30, 2025**, based on needs and offeror' performance, 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."

"Compensation. 3.1 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 **Five 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."

Exhibit "C" is hereby deleted in its entirety and replaced with Attachment "A" attached hereto and incorporated herein by reference.

3.2 Continuing Effect of Agreement. Except as amended by this Amendment No. 6, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this Amendment No. 6. From and after the date of this Amendment No. 6, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Amendment No.6.

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. 6.

3.4 Severability. If any portion of this Amendment No. 6 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. 6 TO GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND FORD OF UPLAND**

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 6 as of the day and year first above written.

**CITY OF ONTARIO**

*Approved By:*

_____
Scott Ochoa
City of Ontario

*Approved as to Form:*

_____
Best Best & Krieger LLP
City Attorney

*Attested By:*

_____
City Clerk

**FORD OF UPLAND, LLC.**

By:_____

Its:_____

Printed Name:_____

By:_____

Its:_____

Printed Name:_____

**ATTACHMENT "A"**
**Compensation**

| **Description** | Unit of Measure | Model # | Unit Price |
|---|---|---|---|
| **Option A: Ford OEM Parts and Repairs with Pick-Up and delivery of vehicles** | | | |
| Hourly Labor Rate | Hours | | $90.00 |
| Pick-up and delivery charge, per vehicle | Per | | $0.00 |
| Parts and Materials markup percentage | Each | | 15% |
| **Option B: Ford OEM Parts and Repairs without Pick-Up and delivery of vehicles** | | | |
| Hourly Labor Rate | Hours | | $90.00 |
| Parts and Material mark-up percentage | Each | | 15% |
| **Price and Fee** | | | |
| BRAKE ROTOR Front INTECEPTOR EXPLORER | Each | BRRF318 | $72.51 |
| BRAKE ROTOR REAR INTECEPTOR EXPLORER | Each | BRRF92 | $59.33 |
| FRONT DISC PADS | Each | BRF1475 | $49.80 |
| REAR DISC PADS INTECEPTOR EXPLORER | Each | BRF1383 | $61.24 |
| SWAY BARK LINK KIT RIGHT PASS EXPLORER | Each | GB5Z-5K484-A | $33.12 |
| GASKET CATALYTIC CONVERTER | Each | DG1Z-9448-A | $10.90 |
| WHEEL EXPLORER INTERCEPTOR | Each | DG1Z-1015-A | $155.60 |

| | | | |
|---|---|---|---|
| DISC BRAKE REAR CALIPER PIN KIT EXPLORER | Each | BKCF9 | $10.34 |
| DISC BRAKE CALIPER PIN KIT EXPLORER FRONT | Each | BKCF8 | $10.58 |

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CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT OCHOA
CITY MANAGER

# AMENDMENT NO. 4 TO THE GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND MARK CHRISTOHER CHEVROLET

## 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 Mark Christopher Chevrolet, a 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 "Goods and Services" dated July 1, 2019 ("Agreement").

2.2 Amendment Purpose. The City and Contractor desire to amend the Agreement to extend term, and increase compensation by $100,000. The Parties have heretofore entered into Amendment No. 1 dated July 1, 2020, and Amendment No. 2 dated June 1, 2021, and Amendment No. 3 dated January 16, 2024.

2.3 Amendment Authority. This Amendment No. 3 is authorized pursuant to Section 2.1, 12.9, and 12.17 of the Agreement.

## 3. Terms.

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

"The term of this Agreement shall be from July 1, 2019 to June 30, 2025, based on needs and offeror' performance, 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 3.1 of the Agreement is hereby amended in its entirety to read as follows:

"“Compensation. Vendor 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 **Four Hundred and Sixty Thousand Dollars ($460,000)** 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.”

Exhibit “C” is hereby deleted in its entirety and replaced with Attachment A attached hereto and incorporated herein by reference.

3.3 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.

3.4 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. 4.

3.5 Severability. If any portion of this Amendment No. 4 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. 4 TO THE GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND MARK CHRISTOPHER CHEVROLET**

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 4 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

**MARK CHRISTOPHER CHEVROLET**

By:_____

Its:_____

Printed Name:_____

By:_____

Its:_____

Printed Name:_____

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

## Attachment A
## Compensation

| DESCRIPTION | UNIT OF MEASURE | UNIT PRICE |
|---|---|---|
| Option A: OEM Parts and Repairs with Pick-Up and Delivery of vehicles | | |
| Hourly Labor Rate | Hours | $191.00 |
| Pick-up and delivery charge, per vehicle | Per | $0.00 |
| Parts and Materials Mark up percentage | Each | 25% |
| Option B; OEM Parts and Repairs without Pick-Up and delivery of vehicles | | |
| Hourly Labor Rate | Hours | $191.00 |
| Parts and Material mark up percentage | Each | 25% |
| Price and Fee | | |
| Front Disc Brake Pad PD Tahoe Spec | Each | $223.49 |
| Front Disc Brake Rotor | Each | $140.15 |
| Spark Plug Wires | Each | $79.94 |
| Rear Disc Brake Pad Kit Tahoe | Each | $111.14 |

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**CONSENT CALENDAR** |
|---|---|
| Department: Public Works<br>Prepared By: Manuel Rebolledo<br>Staff Member Presenting: Tito Haes, Executive Director Public Works<br>Reviewed By: Andrea Ampig, Bonnie Tam<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 20 |

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

**RECOMMENDATION:** That the City Council authorize the City Manager or his designee to execute Amendment No. 4 to the Goods and Services Agreement with AMREP Manufacturing Company, of Ontario, California, for the procurement of parts and repairs of refuse truck bodies in the amount of $500,000, for a total not-to-exceed contract amount of $2,510,000, and extend the agreement to June 30, 2025.

**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 2024-25 Adopted Budget includes appropriations in the Equipment Services Fund for the procurement of parts and repairs of refuse truck bodies. The proposed Amendment to the Goods and Services Agreement with AMREP Manufacturing Company will increase the contract amount by $500,000 for a total not-to-exceed contract amount of $2,510,000.

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

On July 2, 2019, City Council approved AMREP Manufacturing Company as a pre-authorized vendor for the supply of parts and manufacturing of refuse truck bodies and approved a five-year Goods and Services Agreement. Since then, AMREP Manufacturing Company has provided excellence service to the Fleet Services Department for both parts supply and repairs of the Integrated Waste fleet. The goods and services can only be procured directly from the manufacturer. Staff recommends increasing the total authorized compensation and extend the agreement for an additional one-year term to ensure the Fleet Services Department can continue to maintain and repair vehicles and keep them operational so they can provide services to the City of Ontario residents.

CITY OF ONTARIO
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DEBRA PORADA
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ALAN D. WAPNER
JIM W. BOWMAN
RUBEN VALENCIA
COUNCIL MEMBERS

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT OCHOA
CITY MANAGER

# AMENDMENT NO. 4 TO THE GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND AMREP MANUFACTURING COMPANY, 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 AMREP Manufacturing Company, LLC. 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 "Goods and Services" dated July 1, 2019 ("Agreement").

2.2 Amendment Purpose. The City and Contractor desire to amend the Agreement to extend term and increase compensation by $500,000. The Parties have heretofore entered into Amendment No.1 dated January 9, 2021, Amendment No. 2 dated July 19, 2022, and Amendment No. 3 dated February 29, 2024.

2.3 Amendment Authority. This Amendment No. 4 is authorized pursuant to Section 2.1, 12.9, and 12.17 of the Agreement.

## 3. Terms.

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

""The term of this Agreement shall be from **July 1, 2019** to **June 30, 2025**, based on needs and offeror' performance, 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 3.1 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 **Two Million Five Hundred Ten Thousand Dollars ($2,510,000)** 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."

Exhibit "C" is hereby deleted in its entirety and replaced with Attachment "A" attached hereto and incorporated herein by reference.

3.3 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.

3.4 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. 4.

3.5 Severability. If any portion of this Amendment No. 4 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. 4 TO THE GOODS AND SERVICES AGREEMENT BETWEEN THE CITY OF ONTARIO AND AMREP MANUFACTURING COMPANY, LLC.**

IN WITNESS WHEREOF, the Parties have entered into this Amendment No. 4 as of the day and year first above written.

**CITY OF ONTARIO**

*Approved By:*

_____
Scott Ochoa
City of Ontario

*Approved as to Form:*

_____
Best Best & Krieger LLP
City Attorney

*Attested By:*

_____
City Clerk

**AMREP MANUFACTURING COMPANY, LLC**

By:_____

Its:_____

Printed Name:_____

By:_____

Its:_____

Printed Name:_____

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

## Attachment "A"
## Compensation

Prices charged to the City are based on a percentage discount from to the attached manufacturer's price list. Percentage discount is to remain firm for the duration of the contract.

Subsequently, any price increase must be in writing and received by the City a minimum of thirty (30) days prior to scheduled expiration date of the annual agreement term and approved by the City prior to implementation. If City agrees, vendor may be allowed to adjust prices provided proof of manufacturer's price increase can be furnished to the City. A new manufacturer's price list must be sent, emailed or portal access must be granted to City Staff if any changes are made.

Any service, parts or materials not identified in this agreement that are required by the City to ensure the safe operation of its fleet shall be available for purchase at an equivalent discount.

**Parts, Refuse Collection Body, O.E.M., Amrep**

PRICE LIST DISCOUNTS/MARK UPS:
Percentage discount (-) offered to the City: - 14%

Manufacturer: Amrep Price list no./date: LA2014

The "Price Agreement Conditions" herein shall apply to discounts/mark ups quoted.

**Remanufactured Amrep Cylinders**

PRICE LIST DISCOUNTS/MARK UPS:

Percentage discount (-) offered to the City: - 14%

Manufacturer: Amrep

Price list no./date: LA2014

The "Price Agreement Conditions" herein shall apply to discounts/mark ups quoted.

**Labor, Regular Working Hours, Repair of Amrep Refuse Collection Body**

LABOR: Labor for work performed in accordance with the RFO/Contract specifications and requirements.

Regular rate: $100/hr.

Overtime& rate: $100/hr.

Labor rates shall be subject to change in accordance with the applicable prevailing wage, living wage, or minimum wage, and upon Vendor's written notification to the City.

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**PUBLIC HEARINGS** |
|---|---|
| Department: Financial Services<br>Prepared By: Stephanie Castro<br>Staff Member Presenting: Armen Harkalyan, Executive Director of Finance<br>Reviewed By: Claudia Hernandez<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 21 |

**SUBJECT:** **A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 71 (NEUHOUSE PHASE 2); ADOPTION OF A RESOLUTION DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS; AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES**

**RECOMMENDATION:** That the City Council consider and:

A. Adopt a Resolution of Formation of Community Facilities District No. 71 (Neuhouse Phase 2), proposing that the community facilities district be authorized to levy a special tax and proposing that an appropriations limit of the community facilities district be established;
B. Adopt a Resolution deeming it necessary for the district to incur bonded indebtedness within Community Facilities District No. 71 (Neuhouse Phase 2);
C. Adopt a Resolution calling a special election for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2);
D. Adopt a Resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
E. Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2); and
F. Adopt a Resolution authorizing the execution and delivery of an acquisition and funding agreement with LS-ONTARIO II LLC, a Delaware limited liability company.

**THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:**
**Operate in a Businesslike Manner**
**Focus Resources in Ontario's Commercial and Residential Neighborhoods**
**Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)**
**Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch**

**FISCAL IMPACT:** The use of Mello-Roos financing in the Neuhouse Phase 2 residential development

is projected to generate approximately $415,627 per year, at buildout, to fund administrative fees and municipal services; and approximately $15.9 million in bond proceeds to be used to fund a portion of the public infrastructure improvements needed to serve the project. Mello-Roos bonds are not a direct obligation of the City and are paid from special taxes levied on each taxable parcel in the district; therefore, there is no fiscal impact to the General Fund from the issuance of Mello-Roos bonds. City Council approval will be required in future years to process annual special tax levies.

**BACKGROUND & ANALYSIS:** The Mello-Roos Community Facilities Act of 1982 provides local government, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to finance various kinds of public infrastructure facilities and municipal services. Under the Mello-Roos Act, the initial steps in the formation of a community facilities district to finance public improvements and municipal services are to adopt resolutions declaring the intention to establish a community facilities district, authorize the levy of special taxes, and issue bonds. Accordingly, on May 21, 2024, the City Council approved Resolution No. 2024-031, a Resolution of Intention to establish City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) and authorize the levy of special taxes; and Resolution No. 2024-032 declaring the City Council's intention to issue bonds for the district. The Resolution of Intention set the public hearing date for the regularly scheduled City Council meeting on July 2, 2024, to consider formation matters.

In the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony ("First Amended and Restated Construction Agreement") between the City and NMC Builders, LLC, the City agreed to cooperate with the members of NMC Builders, LLC in the formation of community facilities districts to assist in the financing of the public improvements included in the agreement. The Neuhouse Phase 2 project addresses the development of two zones: Zone 1 is approximately 9.18 gross acres located west of Mill Creek Avenue, east of Twinkle Avenue, south of Chino Avenue, and north of Schaefer Avenue; and Zone 2 is approximately 19.73 gross acres located west of Haven Avenue, east of Clover Place, south of Riverside Drive, and north of Chino Avenue. At build-out, the project is expected to include a total of 335 residential units, comprised of 144 attached units in Zone 1, and 191 units in Zone 2 (96 attached and 95 detached).

Included, as part of the Resolution of Formation, is the proposed Rate and Method of Apportionment of Special Tax for the District. Under the proposed Rate and Method of Apportionment, the portion of the maximum annual special tax rates, which will be used to fund debt service payments on the bonds, is fixed and will not increase over time. As proposed, the amount of bonds authorized for the district ($65 million) is set intentionally higher than the current estimated bond amount (approximately $15.9 million) in order to allow future City Council, the option, without increasing the amount of the annual special taxes, to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund municipal services. The term and structure of the Rate and Method of Apportionment of Special Tax for the Neuhouse Phase 2 project is consistent with those of previously adopted Rates and Methods of Apportionment for Ontario Ranch community facilities districts. This ensures that the special tax rates levied on all residential property owners in community facilities districts in Ontario Ranch are developed in a consistent and equivalent manner. In addition, under the provisions of

the Mello-Roos Act, to ensure that home buyers are making an informed decision, all residential builders in the Ontario Ranch districts will be required to disclose the maximum annual special tax amount to each homeowner before entering into a sales contract.

Attached are five Resolutions and one Ordinance. The first attached Resolution establishes the community facilities district, with the rate and method of apportionment of special taxes and authorizes the levy of special taxes within the district. The second attached Resolution is deeming it necessary to incur bonded indebtedness for the district. The third attached Resolution calls for a special landowner election to be held on July 2, 2024. The fourth attached Resolution declares the results of the election, including a statement from the City Clerk as to the canvass of ballots, and directs the recording of the Notice of Special Tax Lien. The attached Ordinance authorizes the levying of special taxes, and the attached final and fifth Resolution authorizes the execution and delivery of an acquisition and funding agreement with LS-ONTARIO II LLC.

RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 71 (NEUHOUSE PHASE 2), PROPOSING THAT THE COMMUNITY FACILITIES DISTRICT BE AUTHORIZED TO LEVY A SPECIAL TAX AND PROPOSING THAT AN APPROPRIATIONS LIMIT OF THE COMMUNITY FACILITIES DISTRICT BE ESTABLISHED

WHEREAS, on May 21, 2024, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District Proposed to be Named City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) and to Authorize the Levy of a Special Tax Therein" (the "Resolution of Intention"), stating its intention to establish City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) (the "Community Facilities District"), to authorize the Community Facilities District to levy a special tax within the Community Facilities District for the purpose of financing certain public facilities and services and setting the date for a public hearing to be held on the establishment of the Community Facilities District; and

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

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

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

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

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

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

WHEREAS, there has been filed with the City Clerk of the City a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of May 28, 2024, which demonstrates that 12 or more persons have not been registered to vote within the territory of the proposed Community Facilities District for each of the 90 days preceding the close of said public hearing; and

WHEREAS, Section 53314.9 of the Act provides that, at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a community facilities district; and

WHEREAS, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative body, with or without interest, under all the following conditions: (a) the proposal to repay the funds is included in both the resolution of intention to establish a community facilities district adopted pursuant to Section 53321 of the Act and in the resolution of formation to establish a community facilities district pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify that if the qualified electors of the community facilities district do not approve the proposed special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds; and

WHEREAS, the City and LS-ONTARIO II LLC ("LS-ONTARIO II"), have entered into the Deposit and Reimbursement Agreement, dated as of June 1, 2023 (the "Deposit Agreement"), that provides for the advancement of funds by LS-ONTARIO II to be used to pay costs incurred in creating the Community Facilities District and the incurrence of bonded indebtedness thereby, and provides for the repayment to LS-ONTARIO II of such funds advanced, without interest, from the proceeds of any such bonded indebtedness incurred by the Community Facilities District; and

WHEREAS, the City desires to include in this Resolution, in accordance with Section 53314.9 of the Act, the proposal to repay funds pursuant to the Deposit Agreement;

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

SECTION 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

SECTION 2. The Community Facilities District is hereby established.

SECTION 3. The name for the Community Facilities District is "City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2)."

SECTION 4. The public facilities (the "Facilities") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Facilities" on Exhibit A hereto, which is by this reference incorporated herein. Those Facilities proposed to be purchased as completed public facilities are identified under the caption "Facilities to be Purchased" on Exhibit A hereto. The services (the "Services") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Services" on Exhibit A hereto. The incidental expenses proposed to be incurred are identified under the caption "Incidental Expenses" on Exhibit A hereto. All or any portion of the Facilities may be financed through a financing plan, including, but not limited to, a lease, lease-purchase or installment-purchase arrangement.

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

SECTION 6. The City Council proposes that, except where funds are otherwise available, the Community Facilities District be authorized to annually levy within the Community Facilities District a special tax (the "Special Tax") sufficient to pay for all Facilities and Services, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District. The rate, method of apportionment and manner of collection of the Special Tax in sufficient detail to allow each landowner or resident within the proposed Community Facilities District to estimate the maximum amount that he or she will have to pay, is specified in the Rate and Method of Apportionment of Special Tax (the "Rate and Method") attached hereto as Exhibit B, which is by this reference incorporated herein. The conditions under which the obligation to pay the Special Tax to be levied to pay for Facilities may be prepaid and permanently satisfied are specified in the Rate and Method. The Special Tax will be collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

SECTION 7. The Special Tax may only finance the Services to the extent that they are in addition to those provided in the territory of the Community Facilities District before the date the Community Facilities District is created. The Services may not supplant services already available within that territory when the Community Facilities District is created. Bonds of the Community Facilities District may not be issued to fund any of the Services.

SECTION 8. The tax year after which no further Special Tax to pay for Facilities shall be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the Special Tax to pay for Facilities in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the Community Facilities District by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For purposes of this paragraph, a parcel shall be considered "used for private residential purposes" not later than the date on which an occupancy permit for private residential use is issued. The Special Tax to pay for Services will be levied in perpetuity, as provided in the Rate and Method.

SECTION 9. Pursuant to Section 53344.1 of the Act, the City Council hereby reserves to itself the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the Community Facilities District treasurer in full payment or part payment of any installment of the Special Tax or the interest or penalties thereon that may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

SECTION 10. The name, address and telephone number of the office, department or bureau that will be responsible for preparing annually a current roll of Special Tax levy obligations by assessor's parcel number and that will be responsible for estimating further Special Tax levies pursuant to Section 53340.2 of the Act are as follows: Management Analyst, Financial Services, City of Ontario, 303 East B Street, Ontario, California 91764, (909) 395-2341.

SECTION 11. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all nonexempt real property in the Community Facilities District and this lien shall continue in force and effect until the Special Tax obligation is prepaid, permanently satisfied and canceled in accordance with law or until the Special Tax ceases to be levied and a notice of cessation of the Special Tax is recorded in accordance with Section 53330.5 of the Act.

SECTION 12. The boundary map of the Community Facilities District has been recorded in San Bernardino County in Book 91 at Pages 64 through 66 of Maps of Assessments and Community Facilities Districts in the San Bernardino County Recorder's Office (Document No. 2024-0119793).

SECTION 13. The City Council proposes that the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the Community Facilities District be established at $65,000,000.

SECTION 14. Pursuant to the provisions of the Act, the propositions to authorize the Community Facilities District to levy the Special Tax and to establish the appropriations limit of the Community Facilities District specified above shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of May 28, 2024, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the Special Tax. The voting procedure shall be by mailed or hand-delivered ballot.

SECTION 15. LS-ONTARIO II has heretofore advanced certain funds, and may advance additional funds, that have been or may be used to pay costs incurred in creating the Community Facilities District and the incurrence of bonded indebtedness thereby. The City Council has previously approved the acceptance of such funds for the purpose of paying costs incurred in creating the Community Facilities District and the incurrence of bonded indebtedness thereby. The City Council proposes to repay LS-ONTARIO II all or a portion of such funds so advanced, without interest, solely from the proceeds of any such bonded indebtedness incurred by the Community Facilities District, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

SECTION 16. The City Council hereby finds and determines that all proceedings, up to and including the adoption of this Resolution, were valid and in conformity with the requirements of the Act. In accordance with Section 53325.1 of the Act, such finding shall be final and conclusive.

SECTION 17. All actions heretofore taken by the officers, employees and agents of the City with respect to the establishment of the Community Facilities District, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 18. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things that they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 19. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 2nd day of July 2024.

_____
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. 2024- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 2, 2024 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2024- duly passed and adopted by the Ontario City Council at their regular meeting held July 2, 2024.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

## EXHIBIT A

## FACILITIES, SERVICES AND INCIDENTAL EXPENSES

### Facilities

The types of public facilities to be financed by the Community Facilities District are street and bridge improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, domestic and recycled water distribution facilities, sewer collection facilities, solid waste facilities, storm drainage facilities, park and recreation facilities and equipment, aquatic facilities and equipment, fire facilities and equipment, police facilities and equipment, library facilities and equipment, fiber optic telecommunication, wireless communication and public safety camera facilities and equipment, general governmental office, administrative and meeting facilities, and land, rights-of-way and easements necessary for any of such facilities.

### Facilities to be Purchased

The types of public facilities to be purchased as completed facilities are street and bridge improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, domestic and recycled water distribution facilities, sewer collection facilities, solid waste facilities, storm drainage facilities, and land, rights-of-way and easements necessary for any of such facilities.

### Services

The types of City services to be financed by the Community Facilities District are police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance and lighting of parks, parkways, streets, roads and open space, flood and storm protection services, maintenance and operation of fiber optic telecommunication, wireless communication and public safety camera systems and maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the City.

### Incidental Expenses

The incidental expenses proposed to be incurred include the following:

(a) the cost of planning and designing public facilities to be financed, including the cost of environmental evaluations of those facilities;

(b) the costs associated with the creation of the Community Facilities District, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District; and

(c) any other expenses incidental to the construction, completion, and inspection of the authorized work.

# EXHIBIT B

# RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

# CITY OF ONTARIO
# COMMUNITY FACILITIES DISTRICT NO. 71
# (NEUHOUSE PHASE 2)

## RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

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Special Taxes shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) ("CFD No. 71") and collected each Fiscal Year, commencing in Fiscal Year 2024-25, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 71, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

## A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

**"Acre"** or **"Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Subdivision Map, parcel map, condominium plan, or other recorded County map.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code.

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of CFD No. 71: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 71 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City or CFD No. 71 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 71 of complying with City, CFD No. 71, or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 71 related to the analysis and reduction, if any, of the Special Tax A on Single Family Property in accordance with Section C.1 herein; the costs of the City or CFD No. 71 related to an appeal of the Special Tax; the costs associated with the release of funds from any escrow account; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead relating to CFD No. 71; and amounts estimated or advanced by the City or CFD No. 71 for any other administrative purposes of the CFD, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Assessor's Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

**"Assessor's Parcel Map"** means an official map of the Assessor of the County designating parcels by Assessor's Parcel Number.

**"Assessor's Parcel Number"** means, with respect to an Assessor's Parcel, that number assigned to such Assessor's Parcel by the County for purposes of identification.

**"Assigned Special Tax A"** means the Special Tax A for each Land Use Class of Developed Property, as determined in accordance with Section C.1.a.2 below.

**"Backup Special Tax A"** means the Special Tax A for each Land Use Class of Developed Property, as determined in accordance with Section C.1.a.3 below.

**"Bonds"** means any bonds or other debt (as defined in Section 53317(d) of the Act) issued by CFD No. 71 under the Act and payable from Special Tax A.

**"Buildable Lot"** means an individual lot, within a Final Subdivision Map or an area expected by CFD No. 71 to become Final Mapped Property, such as the area within a Tentative Tract Map, for which a building permit may be issued without further subdivision of such lot.

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

**"CFD No. 71"** means City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2).

**"City"** means the City of Ontario, California.

**"City Council"** means the City Council of the City, acting as the legislative body of CFD No. 71.

**"Contractual Impositions"** means (a) a voluntary contractual assessment established and levied on an Assessor's Parcel pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.10 *et seq.*), as amended from time to time, (b) a special tax established and levied on an Assessor's Parcel pursuant to Section 53328.1 of the California Government Code and related provisions of the Act, as amended from time to time, and (c) any other fee, charge, tax, or assessment established and levied on an individual Assessor's Parcel pursuant to a contractual agreement or other voluntary consent by the owner thereof (e.g., property owner association assessments).

**"County"** means the County of San Bernardino.

**"Designated Buildable Lot"** means a Buildable Lot for which a building permit has not been issued by the City as of the date of calculation of the Backup Special Tax A.

**"Developed Property"** means for each Fiscal Year, all Taxable Property, exclusive of Final Mapped Property, Taxable Property Owner Association Property, and Taxable Public Property, for which a building permit or other applicable permit for new construction was issued after January 1, 2023, and before May 1 of the prior Fiscal Year.

**"Expected Residential Lot Count"** means 144 Buildable Lots of Single Family Property in Tax Zone 1 and 191 Buildable Lots of Single Family Property in Tax Zone 2, or, as determined by the CFD Administrator, the number of Buildable Lots of Single Family Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

**"Facilities"** means the public facilities authorized to be financed, in whole or in part, by CFD No. 71.

**"Final Mapped Property"** means, for each Fiscal Year, all Taxable Property, exclusive of Developed Property, Taxable Property Owner Association Property, and Taxable Public Property, which as of January 1 of the previous Fiscal Year was located within a Final Subdivision Map. The term Final Mapped Property shall include any parcel map or Final Subdivision Map, or portion thereof, that creates individual lots for which a building permit may be issued, including Parcels that are designated as a remainder Parcel (i.e., one where the size, location, etc., precludes any further subdivision or taxable use).

**"Final Subdivision Map"** means a final tract map, parcel map, or lot line adjustment approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or a condominium plan recorded pursuant to California Civil Code Section 4285 that, in either case, creates individual lots for which building permits may be issued without further subdivision.

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

**"Gated Community Attached Dwelling Unit"** means, with respect to Special Tax B, a Unit within any residential building containing two or more dwelling units (including attached condominiums, townhouses, duplexes, triplexes, and apartments) within a gated community that, within such community, is primarily served by private interior streets.

**"Indenture"** means the indenture, fiscal agent agreement, resolution, or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time.

**"Land Use Class"** means any of the classes listed in Tables 1, 2, and 3 below.

**"Lower Income Household Welfare Exemption Property"** means, for each Fiscal Year, an Assessor's Parcel within the boundaries of CFD No. 71 that is subject to a welfare exemption under subdivision (g) of Section 214 of the California Revenue and

Taxation Code (or any successor statute), as indicated in the most recent County assessor's roll finalized prior to such Fiscal Year.

**"Maximum Special Tax A"** means, with respect to an Assessor's Parcel of Taxable Property, the Maximum Special Tax A determined in accordance with Section C.1 below that can be levied in any Fiscal Year on such Assessor's Parcel of Taxable Property.

**"Maximum Special Tax B"** means, with respect to an Assessor's Parcel of Taxable Property, the Maximum Special Tax B determined in accordance with Section C.2 below that can be levied in any Fiscal Year on such Assessor's Parcel of Taxable Property.

**"Minimum Sale Price"** means the minimum price at which Units of a given Land Use Class have sold or are expected to be sold in a normal marketing environment and shall not include prices for such Units that are sold at a discount to expected sales prices for the purpose of stimulating the initial sales activity with respect to such Land Use Class.

**"Multiple Family Dwelling Unit"** means, with respect to Special Tax B, a Unit within any residential building containing two or more dwelling units, including attached condominiums, townhomes, duplexes, triplexes, and apartments, but excluding Gated Community Attached Dwelling Units.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property for which a building permit was issued by the City permitting the construction of one or more non-residential structures or facilities.

**"Other Residential Property"** means, with respect to Special Tax A, all Assessor's Parcels of Developed Property for which a building permit was issued by the City for purposes of constructing Units, excluding Single Family Attached Property and Single Family Detached Property.

**"Outstanding Bonds"** means all Bonds which are outstanding under and in accordance with the provisions of the Indenture.

**"Price Point Consultant"** means any consultant or firm of such consultants selected by CFD No. 71 that (a) has substantial experience in performing price point studies for residential units within community facilities districts established under the Act or otherwise estimating or confirming pricing for residential units in such community facilities districts, (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of residential units in such community facilities districts, (c) is in fact independent and not under the control of CFD No. 71 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 71, (ii) the City, (iii) any owner of real property in CFD No. 71, or (iv) any real property in CFD No. 71, and (e) is not connected with CFD No. 71 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 71 or the City.

**"Price Point Study"** means a price point study or a letter updating a previous price point study prepared by the Price Point Consultant pursuant to Section C herein.

**"Property Owner Association Property"** means, for each Fiscal Year, any property within the boundaries of CFD No. 71 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

**"Proportionately"** means (a) for Developed Property in the first step of Section D.1 below, that the ratio of the actual Special Tax A levy to the Maximum Special Tax A is equal for all Assessor's Parcels of Developed Property; however, for Developed Property in the fourth step of Section D.1 below, Proportionately means that the amount of the increase above the Assigned Special Tax A, if necessary, is equal for all Assessor's Parcels of Developed Property, except that if the Backup Special Tax A limits the increase on any Assessor's Parcel(s), then the amount of the increase shall be equal for the remaining Assessor's Parcels; (b) with respect to Special Tax B, that the ratio of the actual Special Tax B levy to the Maximum Special Tax B is equal for all Assessor's Parcels of Developed Property; (c) for Final Mapped Property, that the ratio of the actual Special Tax A levy to the Maximum Special Tax A is equal for all Assessor's Parcels of Final Mapped Property; (d) for Undeveloped Property, that the ratio of the actual Special Tax A levy to the Maximum Special Tax A is equal for all Assessor's Parcels of Undeveloped Property; (e) for Taxable Property Owner Association Property, that the ratio of the actual Special Tax A levy to the Maximum Special Tax A is equal for all Assessor's Parcels of Taxable Property Owner Association Property; and (f) for Taxable Public Property, that the ratio of the actual Special Tax A levy to the Maximum Special Tax A is equal for all Assessor's Parcels of Taxable Public Property.

**"Public Property"** means, for each Fiscal Year, property within the boundaries of CFD No. 71 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public or utility right-of-way that makes impractical its use for any purpose other than that set forth in such easement; provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

**"Rate and Method of Apportionment"** means this Rate and Method of Apportionment of Special Tax.

**"Residential Floor Area"** means all of the Square Footage of living area within the perimeter of a Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor's Parcel, or as set forth in other official records maintained by the City's Building Department or other appropriate means selected by CFD No. 71. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor's Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

**"Residential Property"** means, for each Fiscal Year, an Assessor's Parcel for which a building permit for new construction of one or more Units was issued after January 1, 2023, and before May 1 of the prior Fiscal Year.

**"Services"** means the services authorized to be financed, in whole or in part, by CFD No. 71.

**"Single Family Attached Property"** means all Assessor's Parcels of Developed Property for which a building permit or use permit was issued for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor's Parcel Numbers assigned to them (except for a duplex unit, which may share an Assessor's Parcel with another duplex unit), and may be purchased by individual homebuyers (which shall still be the case even if the Units are purchased and subsequently offered for rent by the owner of the Unit), including such residential structures within a condominium project as defined in Civil Code Section 4125.

**"Single Family Detached Dwelling Unit"** means a Unit of Single Family Detached Property.

**"Single Family Detached Property"** means all Assessor's Parcels of Developed Property for which a building permit was issued for construction of a Unit, on one legal lot, that does not share a common wall with another Unit.

**"Single Family Property"** means all Assessor's Parcels of Single Family Attached Property and Single Family Detached Property.

**"Special Taxes"** means, collectively, Special Tax A and Special Tax B.

**"Special Tax A"** means the special tax authorized by the qualified electors of CFD No. 71 to be levied within the boundaries of CFD No. 71 to pay for Facilities and Services.

**"Special Tax A Requirement"** means for any Fiscal Year that amount required, after taking into account available amounts held in the funds and accounts established under the Indenture, for CFD No. 71 to: (i) pay debt service on all Outstanding Bonds which is due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay a pro rata share of Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax A levy on Final Mapped Property or Undeveloped Property; and (vi) provide an amount equal to Special Tax A delinquencies based on the historical delinquency rate for Special Tax A as determined by the CFD Administrator.

**"Special Tax B"** means the special tax authorized by the qualified electors of CFD No. 71 to be levied within the boundaries of CFD No. 71 to pay for Services.

**"Special Tax B Requirement"** means for any Fiscal Year that amount required, after taking into account available amounts in any funds and accounts established to pay for Services, to pay the cost of Services, a pro rata share of Administrative Expenses, and an

amount equal to Special Tax B delinquencies based on the historical delinquency rate for Special Tax B as determined by the CFD Administrator.

**"Square Footage"** or **"Sq. Ft."** means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City's Building Department or other appropriate means selected by CFD No. 71, issued for construction of Residential Property or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

**"State"** means the State of California.

**"Taxable Property"** means, for each Fiscal Year, all of the Assessor's Parcels within the boundaries of CFD No. 71 that are not exempt from the Special Taxes pursuant to law or Section E below.

**"Taxable Property Owner Association Property"** means, for each Fiscal Year, all Assessor's Parcels of Property Owner Association Property that are not exempt from the Special Taxes pursuant to Section E below.

**"Taxable Public Property"** means, for each Fiscal Year, all Assessor's Parcels of Public Property that are not exempt from the Special Taxes pursuant to law or Section E below.

**"Tax Zone"** means a mutually exclusive geographic area, within which particular Special Taxes may be levied pursuant to this Rate and Method of Apportionment. Attachment 1 identifies the two Tax Zones in CFD No. 71.

**"Tax Zone 1"** means the geographic area designated in Attachment 1 of this Rate and Method of Apportionment as Tax Zone 1, is consistent with the boundaries of TTM 20530, and was commonly referred to as the Neuhouse II project at the time of formation of CFD No. 71.

**"Tax Zone 2"** means the geographic area designated in Attachment 1 of this Rate and Method of Apportionment as Tax Zone 2, is consistent with the boundary of TTM 20452, and was commonly referred to as the DUSA project at the time of formation of CFD No. 71.

**"Tentative Tract Map"** means a map: (i) showing a proposed subdivision of an Assessor's Parcel(s) and the conditions pertaining thereto; (ii) that may or may not be based on a detailed survey; and (iii) that is not recorded by the County to create legal lots.

**"Total Tax Burden"** means, for a Unit within a Land Use Class, for the Fiscal Year in which the Total Tax Burden is being calculated, the sum of (a) the Assigned Special Tax A for such Land Use Class for such Fiscal Year, plus (b) the Special Tax B for such Land Use Class for such Fiscal Year, plus (c) the *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities districts, and any other governmental fees, charges (other than fees or charges for services such as sewer and trash), taxes, and assessments (which do not include Contractual

Impositions) collected by the County on *ad valorem* tax bills, plus (d) property owner association assessments (but excluding the refuse collection portion of such assessments), and that the CFD Administrator estimates would be levied or imposed on such Unit in such Fiscal Year if the residential dwelling unit thereon or therein had been completed and sold, and was subject to such fees, charges, taxes, and assessments in such Fiscal Year.

**"Trustee"** means the trustee or fiscal agent under the Indenture.

**"TTM 20452"** means Tentative Tract Map No. 20452, the area of which is located within CFD No. 71.

**"TTM 20530"** means Tentative Tract Map No. 20530, the area of which is located within CFD No. 71.

**"Undeveloped Property"** means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Final Mapped Property, Taxable Public Property, or Taxable Property Owner Association Property.

**"Unit"** means an individual single-family detached or attached home, townhome, condominium, apartment, or other residential dwelling unit, including each separate living area within a half-plex, duplex, triplex, fourplex, or other residential structure.

## B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2024-25, all Taxable Property within CFD No. 71 shall be organized into Tax Zone 1 or Tax Zone 2, and then classified as Developed Property, Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property, and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below.

Assessor's Parcels of Developed Property shall be further classified as: Single Family Property (and further classified as Single Family Attached Property or Single Family Detached Property, as needed) or Other Residential Property (for Special Tax A); Single Family Detached Dwelling Unit, Multiple Family Dwelling Unit, or Gated Community Attached Dwelling Unit (for Special Tax B); or Non-Residential Property. For Special Tax A, Assessor's Parcels of Single Family Property in Tax Zone 1 shall be assigned to Land Use Classes 1 through 7, and Single Family Property in Tax Zone 2 shall be assigned to Land Use Classes 10 through 18, as listed in Tables 1 and 2 below based on the Residential Floor Area of the Units on such Assessor's Parcels. Also for Special Tax A, Other Residential Property and Non-Residential Property shall be assigned to Land Use Classes 8 and 9, respectively, in Tax Zone 1, and to Land Use Classes 19 and 20 in Tax Zone 2.

## C. MAXIMUM SPECIAL TAX

### 1. Special Tax A

At least 30 days prior to the issuance of Bonds, the Assigned Special Tax A on Developed Property (set forth in Tables 1 and 2 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At such time, CFD No. 71 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class.

If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden, excluding property owner association assessments, applicable to Units within one or more Land Use Classes of Single Family Property to be constructed within CFD No. 71 exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax A shall be reduced to the extent necessary to cause the Total Tax Burden, excluding property owner association assessments, that shall apply to Units within such Land Use Class(es) not to exceed 1.95% of the Minimum Sale Price of such Units.

Each Assigned Special Tax A reduction for a Land Use Class shall be calculated by the CFD Administrator separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Special Tax A, the Backup Special Tax A shall also be reduced by the CFD Administrator based on the percentage reduction in Maximum Special Tax A revenues within the Tentative Tract Map area(s) where the Assigned Special Tax A reductions occurred. Upon determining the reductions, if any, in the Assigned Special Tax A and Backup Special Tax A required pursuant to this Section C, the CFD Administrator shall complete the Certificate of Modification of Special Tax substantially in the form attached hereto as Exhibit A (the "Certificate of Modification"), shall execute such completed Certificate of Modification, and shall deliver such executed Certificate of Modification to CFD No. 71. Upon receipt thereof, if in satisfactory form, CFD No. 71 shall execute such Certificate of Modification. The reduced Assigned Special Tax A and Backup Special Tax A specified in such Certificate of Modification shall become effective upon the execution of such Certificate of Modification by CFD No. 71.

The Special Tax A reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien, which CFD No. 71 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 71. The reductions in this section apply to Single Family Property, but not to Other Residential Property or Non-Residential Property.

***a. Developed Property***

1) *Maximum Special Tax A*

The Maximum Special Tax A that may be levied in any Fiscal Year for each Assessor's Parcel classified as Developed Property shall be the greater of (i) the amount derived by application of the Assigned Special Tax A or (ii) the amount derived by application of the Backup Special Tax A. The Maximum Special Tax A shall not increase in future years, other than as calculated pursuant to Section C.1.a.3 below.

2) *Assigned Special Tax A*

The Assigned Special Tax A that may be levied in any Fiscal Year for each Land Use Class is shown below in Tables 1 and 2.

**TABLE 1**
**TAX ZONE 1**
**ASSIGNED SPECIAL TAX A – DEVELOPED PROPERTY**

| Land Use Class | Description | Residential Floor Area (Square Footage) | Assigned Special Tax A |
|---|---|---|---|
| 1 | Single Family Property | < 901 | $3,037 per Unit |
| 2 | Single Family Property | 901 – 1,050 | $3,063 per Unit |
| 3 | Single Family Property | 1,051 – 1,200 | $3,628 per Unit |
| 4 | Single Family Property | 1,201 – 1,350 | $3,798 per Unit |
| 5 | Single Family Property | 1,351 – 1,500 | $3,879 per Unit |
| 6 | Single Family Property | 1,501 – 1,650 | $4,083 per Unit |
| 7 | Single Family Property | > 1,650 | $4,229 per Unit |
| 8 | Other Residential Property | | $96,400 per Acre |
| 9 | Non-Residential Property | | $96,400 per Acre |

**TABLE 2**
**TAX ZONE 2**
**ASSIGNED SPECIAL TAX A – DEVELOPED PROPERTY**

| Land Use Class | Description | Residential Floor Area (Square Footage) | Assigned Special Tax A |
|---|---|---|---|
| 10 | Single Family Property | < 1,101 | $3,686 per Unit |
| 11 | Single Family Property | 1,101 – 1,300 | $3,888 per Unit |
| 12 | Single Family Property | 1,301 – 1,500 | $4,058 per Unit |
| 13 | Single Family Property | 1,501 – 1,700 | $4,163 per Unit |
| 14 | Single Family Property | 1,701 – 1,900 | $4,229 per Unit |
| 15 | Single Family Property | 1,901 – 2,100 | $4,956 per Unit |
| 16 | Single Family Property | 2,101 – 2,300 | $5,080 per Unit |
| 17 | Single Family Property | 2,301 – 2,500 | $5,376 per Unit |
| 18 | Single Family Property | > 2,500 | $5,676 per Unit |
| 19 | Other Residential Property | | $86,658 per Acre |
| 20 | Non-Residential Property | | $86,658 per Acre |

*3) Backup Special Tax A*

The Backup Special Tax A shall be $3,693 per Unit for Single Family Property in Tax Zone 1 and $4,598 in Tax Zone 2. However, if the Expected Residential Lot Count of Single Family Property does not equal 144 in Tax Zone 1 and 191 in Tax Zone 2, and the City has not issued Bonds, then the Backup Special Tax A for Designated Buildable Lots of Single Family Property in each Tax Zone shall be calculated according to the following formulas:

Tax Zone 1 = $531,840 ÷ Expected Residential Lot Count in Tax Zone 1 for Single Family Property

Tax Zone 2 = $878,188 ÷ Expected Residential Lot Count in Tax Zone 2 for Single Family Property

If any portion of a Final Subdivision Map, or any area expected by CFD No. 71 to become Final Mapped Property – such as the area within TTM 20452, TTM 20530, or any other Tentative Tract Map – changes any time after the City has issued Bonds, causing an adjustment to the number of Designated Buildable Lots, then the Backup Special Tax A for all Designated Buildable Lots of Single Family Property subject to the change shall be calculated according to the following steps:

***Step 1:*** Determine the total Backup Special Tax A that could have been collected from Designated Buildable Lots of Single Family Property within the applicable Tax Zone, prior to the Final Subdivision Map or expected Final Mapped Property change.

***Step 2:*** Divide the amount determined in Step 1 by the number of Designated Buildable Lots of Single Family Property that exists in the applicable Tax Zone after the Final Subdivision Map or expected Final Mapped Property change.

***Step 3:*** Apply the amount determined in Step 2 as the Backup Special Tax A per Unit for Single Family Property in the applicable Tax Zone.

***The Backup Special Tax A for an Assessor's Parcel shall not change once an Assessor's Parcel is classified as Developed Property.***

***b. Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property***

The Maximum Special Tax A for Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property shall be $96,400 per Acre in Tax Zone 1 and $86,658 per Acre in Tax Zone 2, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

**2. Special Tax B**

The Maximum Special Tax B for each Assessor's Parcel classified as Developed Property shall be determined by reference to Table 3 below.

**TABLE 3**
**MAXIMUM SPECIAL TAX B – DEVELOPED PROPERTY**

| Land Use Class | Maximum Special Tax B Fiscal Year 2024-25 |
|---|---|
| **Residential Property** | |
| Single Family Detached Dwelling Unit | $1,501.46 per Unit |
| Multiple Family Dwelling Unit | $1,301.51 per Unit |
| Gated Community Attached Dwelling Unit | $1,091.38 per Unit |
| **Non-Residential Property** | $0.273800 per Sq. Ft. |

On January 1 of each Fiscal Year, commencing January 1, 2025, the Maximum Special Tax B to be applied in the next Fiscal Year shall be subject to an automatic increase at a rate equal to 4.0% of the amount in effect for the prior Fiscal Year.

**3. Multiple Land Use Classes on an Assessor's Parcel**

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax A levied on such Assessor's Parcel shall be the sum of the Maximum Special Tax A for all Units of Single Family Property and Acres of Other Residential Property and Non-Residential Property (based on the pro rata share of Square Footage between Other Residential Property and Non-Residential Property, according to the applicable building permits, Final Subdivision Map, parcel map, condominium plan, or other recorded County map) located on that Assessor's Parcel. The Maximum Special Tax B levied on such Assessor's Parcel shall be the sum of the Maximum Special Tax B for all Units of Residential Property and all Square Footage of Non-Residential Property (based on the applicable building permits, Final Subdivision Map, parcel map, condominium plan, or other recorded County map) located on that Assessor's Parcel.

**4. Developed Property Special Tax Obligation**

Once an Assessor's Parcel has been taxed in any Fiscal Year as Developed Property, the Assessor's Parcel shall continue to be taxed as Developed Property regardless of changes to or expiration of the original building permit, and regardless of revisions to or destruction of the structure that was, or was expected to be, constructed pursuant to the original building permit.

## D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

### 1. Special Tax A

Each Fiscal Year, beginning with Fiscal Year 2024-25, the CFD Administrator shall determine the Special Tax A Requirement for such Fiscal Year. The Special Tax A shall then be levied as follows:

***First:*** If needed to satisfy the Special Tax A Requirement, Special Tax A shall be levied Proportionately on each Assessor's Parcel of Developed Property up to 100% of the applicable Assigned Special Tax A;

***Second:*** If additional monies are needed to satisfy the Special Tax A Requirement after the first step has been completed, then Special Tax A shall be levied Proportionately on each Assessor's Parcel of Final Mapped Property up to 100% of the Maximum Special Tax A for Final Mapped Property;

***Third:*** If additional monies are needed to satisfy the Special Tax A Requirement after the first two steps have been completed, then Special Tax A shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property up to 100% of the Maximum Special Tax A for Undeveloped Property;

***Fourth***: If additional monies are needed to satisfy the Special Tax A Requirement after the first three steps have been completed, then the levy of Special Tax A on each Assessor's Parcel of Developed Property whose Maximum Special Tax A is determined through the application of the Backup Special Tax A shall be increased Proportionately from the Assigned Special Tax A up to the Maximum Special Tax A for each such Assessor's Parcel;

***Fifth:*** If additional monies are needed to satisfy the Special Tax A Requirement after the first four steps have been completed, then Special Tax A shall be levied Proportionately on each Assessor's Parcel of Taxable Property Owner Association Property up to the Maximum Special Tax A for Taxable Property Owner Association Property;

***Sixth:*** If additional monies are needed to satisfy the Special Tax A Requirement after the first five steps have been completed, then Special Tax A shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property up to the Maximum Special Tax A for Taxable Public Property.

Notwithstanding the above, under no circumstances shall Special Tax A levied in any Fiscal Year on any Assessor's Parcel of Single Family Property or Other Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 71 by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults.

### 2. Special Tax B

Each Fiscal Year, beginning with Fiscal Year 2024-25, the CFD Administrator shall determine the Special Tax B Requirement. The Special Tax B shall then be levied Proportionately on each Assessor's Parcel of Developed Property up to 100% of the applicable Maximum Special Tax B for such Assessor's Parcel, until the Special Tax B Requirement is satisfied. However, the Special Tax B levied in any Fiscal Year shall not increase by more than 4.0% of the amount of the Special Tax B levied in the prior Fiscal Year.

## E. EXEMPTIONS

In Tax Zone 1, no Special Tax shall be levied on up to 3.06 Acres of Property Owner Association Property. In Tax Zone 2, no Special Tax shall be levied on up to 4.25 Acres of Public Property and up to 4.22 Acres of Property Owner Association Property. Tax-exempt status in each Tax Zone will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property.

Property Owner Association Property or Public Property that is not exempt from the Special Tax A under this section shall be subject to the levy of Special Tax A and shall be taxed Proportionately as part of the fifth or sixth step, respectively, in Section D above, up to 100% of the applicable Maximum Special Tax A for Taxable Property Owner Association Property and Taxable Public Property. No Special Tax A shall be levied in any Fiscal Year on Assessor's Parcels that have fully prepaid the Special Tax A obligation pursuant to the formula set forth in Section H.

No Special Tax shall be levied on Lower Income Household Welfare Exemption Property; provided, however, that if, in any Fiscal Year, applicable law does not require that Lower Income Household Welfare Exemption Property be exempt from some portion, or all, of the Special Tax, such portion, or all, of the Special Tax shall be levied on such property in accordance with this Rate and Method of Apportionment based on the Land Use Class to which the Assessor's Parcel is assigned.

## F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 71 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent decision shall be final and binding on all interested parties. If the decision of the CFD Administrator or subsequent decision by the City Council requires the Special Tax to be modified or changed in favor of the property owner, then the CFD Administrator shall determine if sufficient Special Tax revenue is available to make a cash refund. If a cash refund cannot be made, then an adjustment shall be made to credit future Special Tax levy(ies).

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

## G. MANNER OF COLLECTION

The Special Taxes shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the Special Taxes may be collected in such other manner as the City Council shall determine, including direct billing of affected property owners.

## H. PREPAYMENT OF SPECIAL TAX A

The following definitions apply to this Section H:

**"CFD Public Facilities"** means $17,673,000 for each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 71.

**"Expenditures Fund"** means funds or accounts, regardless of their names, that are established to hold moneys that are available to acquire or construct Facilities and to fund Services.

**"Future Facilities Costs"** means the CFD Public Facilities minus (i) Facilities and Services costs previously paid from the Expenditures Fund during the Prepayment Period in which the prepayment is being made, (ii) moneys currently on deposit in the Expenditures Fund from deposits made during the Prepayment Period in which the prepayment is being made, and (iii) moneys currently on deposit in an escrow fund that are expected to be available to finance Facilities costs. In no event shall the amount of Future Facilities Costs be less than zero.

**"Prepayment Period"** means one of three periods of time during which a Special Tax prepayment may be made.

**"Prepayment Period 1"** means July 1, 2024, through June 30, 2058.

**"Prepayment Period 2"** means July 1, 2058, through June 30, 2091.

**"Prepayment Period 3"** means July 1, 2091, through June 30, 2125.

*Only Special Tax A may be prepaid; Special Tax B shall continue to be levied on an annual basis on all Developed Property in CFD No. 71.*

**1. Prepayment in Full**

The obligation of an Assessor's Parcel to pay the Special Tax A may be prepaid as described herein, provided that a prepayment may be made only for Assessor's Parcels for which a building permit for new construction was issued after January 1, 2023, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax A obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge a fee for providing this service. Prepayment in any six month period must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

The Special Tax A Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

| | |
|---|---|
| Bond Redemption Amount | |
| plus | Redemption Premium |
| plus | Future Facilities Amount |
| plus | Defeasance Amount |
| plus | Administrative Fees and Expenses |
| less | Reserve Fund Credit |
| Total | Prepayment Amount |

As of the proposed date of prepayment, the Special Tax A Prepayment Amount (defined below) shall be calculated by the CFD Administrator as follows:

**Paragraph No.**

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel, and determine the Prepayment Period for the proposed prepayment.

2. Compute the Assigned Special Tax A and Backup Special Tax A for the Assessor's Parcel to be prepaid based on the Developed Property Special Tax A which is, or could be, charged in the current Fiscal Year. For Assessor's Parcels of Final Mapped Property (for which a building permit has been issued but which is not yet classified as Developed Property) to be prepaid, compute the Assigned Special Tax A and Backup Special Tax A for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.

3. (a) Divide the Assigned Special Tax A computed pursuant to Paragraph 2 by the total estimated Assigned Special Tax A for CFD No. 71 based on the Developed Property Special Tax A which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 71, excluding any Assessor's Parcels which have been prepaid, and

   (b) Divide the Backup Special Tax A computed pursuant to Paragraph 2 by the estimated total Backup Special Tax A at buildout of CFD No. 71, excluding any Assessor's Parcels which have been prepaid.

4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").

5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").

6. Compute the Future Facilities Costs for the applicable Prepayment Period.

7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").

8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.

9. Determine the Special Tax A levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.

10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".

11. Verify the administrative fees and expenses of CFD No. 71, including the costs to compute the prepayment, the costs to invest the prepayment proceeds, the costs to redeem Bonds, and the costs to record any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").

12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement on the prepayment date or the redemption date.

13. The Special Tax A prepayment is equal to the sum of the amounts computed pursuant to Paragraphs 4, 5, 7, 10, and 11, less the amount computed pursuant to Paragraph 12 (the "Prepayment Amount").

14. From the Prepayment Amount, the amounts computed pursuant to Paragraphs 4, 5, 10, and 12 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to Paragraph 7 shall be deposited into the Expenditures Fund. The amount computed pursuant to Paragraph 11 shall be retained by CFD No. 71.

The Special Tax A Prepayment Amount may be sufficient to redeem other than a $5,000 increment of Bonds. In such cases, the increment above $5,000, or integral multiple thereof, will be retained in the appropriate fund established under the Indenture to be used with the next prepayment of Bonds or to make debt service payments.

As a result of the payment of the current Fiscal Year's Special Tax A levy as determined under Paragraph 9 (above), the CFD Administrator shall remove the current Fiscal Year's Special Tax A levy for such Assessor's Parcel from the County tax rolls. With respect to any Assessor's Parcel that is prepaid during Prepayment Period 3, the CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act to indicate that Special Tax A has been prepaid and that the obligation of such Assessor's Parcel to pay Special Tax A shall cease.

With respect to Special Tax A for any Assessor's Parcel that is prepaid during Prepayment Period 1 or Prepayment Period 2, the obligation of such Assessor's Parcel to pay Special Tax A shall be tolled, or suspended, through the end of such Prepayment Period, but shall resume in the first Fiscal Year of the subsequent Prepayment Period. The CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act to indicate that Special Tax A has been satisfied for the remainder of the applicable Prepayment Period but has not been permanently satisfied and the obligation to pay Special Tax A will resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the prepayment was made. Once the obligation of an Assessor's Parcel to pay Special Tax A resumes, Special Tax A for the then applicable Prepayment Period may be prepaid.

Notwithstanding the foregoing, no Special Tax A prepayment shall be allowed unless the amount of Maximum Special Tax A that may be levied on Taxable Property within CFD No. 71 (after excluding 4.25 Acres of Public Property and 7.28 acres of Property Owner Association Property) both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

**2. Prepayment in Part**

The Special Tax A on an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2023, may be partially prepaid. The amount of

the prepayment shall be calculated as in Section H.1, except that a partial prepayment shall be calculated by the CFD Administrator according to the following formula:

$$PP = (PF - AE) \times \% + AE.$$

The terms above have the following meaning:

PP = the partial prepayment
PF = the Prepayment Amount (full prepayment) for Special Tax A calculated according to Section H.1
AE = the Administrative Fees and Expenses determined pursuant to paragraph 11 above
% = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying Special Tax A

The Special Tax A partial prepayment amount must be sufficient to redeem at least a $5,000 increment of Bonds.

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay Special Tax A and the percentage by which Special Tax A shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of Special Tax A for an Assessor's Parcel within thirty (30) days of the request and may charge a fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute the remitted prepayment funds according to Section H.1, and (ii) indicate in the records of CFD No. 71 that there has been a partial prepayment of Special Tax A and that a portion of Special Tax A with respect to such Assessor's Parcel, equal to the outstanding percentage (100% - "%", as defined above) of the Maximum Special Tax A, shall continue to be levied on such Assessor's Parcel pursuant to Section D during the Prepayment Period in which the partial prepayment is made.

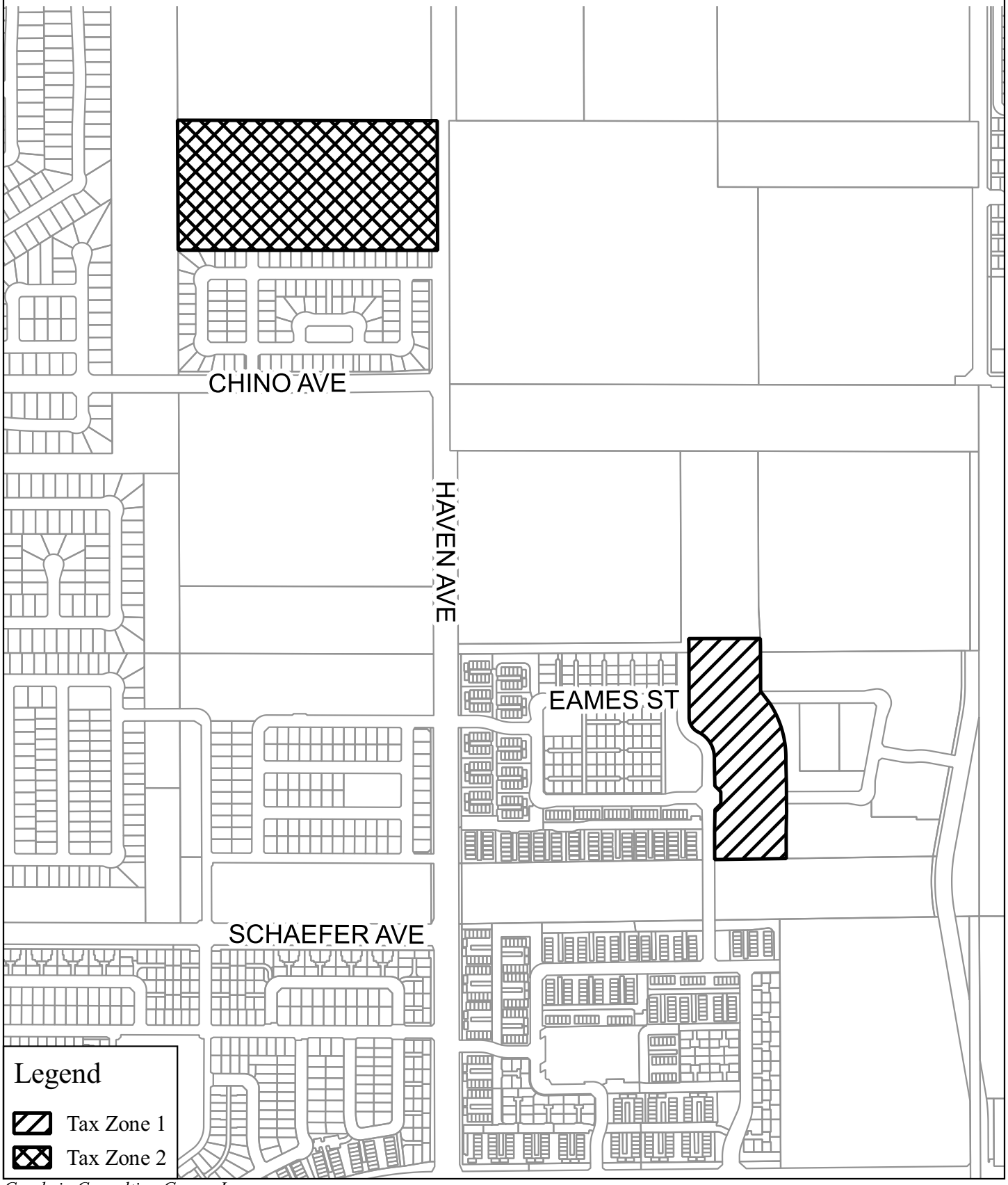
For partial prepayments made during Prepayment Period 1 or Prepayment Period 2, the full amount of Special Tax A shall resume in the first Fiscal Year of the Prepayment Period following the Prepayment Period in which the partial prepayment was made. Once the obligation of an Assessor's Parcel to pay Special Tax A resumes, Special Tax A for the then applicable Prepayment Period may be prepaid.

## I. TERM OF SPECIAL TAX

The Fiscal Year after which no further Special Tax A shall be levied or collected is Fiscal Year 2124-2125, except that Special Tax A that was lawfully levied in or before such Fiscal Year and that remains delinquent may be collected in subsequent years. Special Tax B shall continue to be levied indefinitely on an annual basis on all Developed Property in CFD No. 71.

Attachment 1
City of Ontario
CFD No. 71 (Neuhouse Phase 2)

Identification of Tax Zones




*Goodwin Consulting Group, Inc.*

**EXHIBIT A**

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX A**
**(PAGE 1 OF 3)**

**CITY OF ONTARIO AND CFD NO. 71 CERTIFICATE**

1. Pursuant to Section C.1 of the Rate and Method of Apportionment of Special Tax (the "Rate and Method") for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) ("CFD No. 71"), the Assigned Special Tax A and the Backup Special Tax A for Developed Property within CFD No. 71 has been modified.

    a. The information in Tables 1 and 2 relating to Assigned Special Tax A for Developed Property within CFD No. 71, as stated in Section C.1.a.2 of the Rate and Method of Apportionment, has been modified as follows:

**TABLE 1**
**TAX ZONE 1**
**ASSIGNED SPECIAL TAX A – DEVELOPED PROPERTY**

| Land Use Class | Description | Residential Floor Area (Square Footage) | Assigned Special Tax A |
|---|---|---|---|
| 1 | Single Family Property | < 901 | $[ ] per Unit |
| 2 | Single Family Property | 901 – 1,050 | $[ ] per Unit |
| 3 | Single Family Property | 1,051 – 1,200 | $[ ] per Unit |
| 4 | Single Family Property | 1,201 – 1,350 | $[ ] per Unit |
| 5 | Single Family Property | 1,351 – 1,500 | $[ ] per Unit |
| 6 | Single Family Property | 1,501 – 1,650 | $[ ] per Unit |
| 7 | Single Family Property | > 1,650 | $[ ] per Unit |
| 8 | Other Residential Property | | $[ ] per Acre |
| 9 | Non-Residential Property | | $[ ] per Acre |

**EXHIBIT A**

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX A**
**(PAGE 2 OF 3)**

**TABLE 2**
**TAX ZONE 2**
**ASSIGNED SPECIAL TAX A – DEVELOPED PROPERTY**

| Land Use Class | Description | Residential Floor Area (Square Footage) | Assigned Special Tax A |
|---|---|---|---|
| 10 | Single Family Property | < 1,101 | $[ ] per Unit |
| 11 | Single Family Property | 1,101 – 1,300 | $[ ] per Unit |
| 12 | Single Family Property | 1,301 – 1,500 | $[ ] per Unit |
| 13 | Single Family Property | 1,501 – 1,700 | $[ ] per Unit |
| 14 | Single Family Property | 1,701 – 1,900 | $[ ] per Unit |
| 15 | Single Family Property | 1,901 – 2,100 | $[ ] per Unit |
| 16 | Single Family Property | 2,101 – 2,300 | $[ ] per Unit |
| 17 | Single Family Property | 2,301 – 2,500 | $[ ] per Unit |
| 18 | Single Family Property | > 2,500 | $[ ] per Unit |
| 19 | Other Residential Property | | $[ ] per Acre |
| 20 | Non-Residential Property | | $[ ] per Acre |

b. The Backup Special Tax for Developed Property, as stated in Section C.1.a.3, shall be modified as follows:

The Backup Special Tax A shall be $[___] per Unit for Single Family Property in Tax Zone 1 and $[___] in Tax Zone 2. However, if the Expected Residential Lot Count of Single Family Property does not equal 144 in Tax Zone 1 and 191 in Tax Zone 2, and the City has not issued Bonds, then the Backup Special Tax A for Designated Buildable Lots of Single Family Property in each Tax Zone shall be calculated according to the following formulas:

Tax Zone 1 = $[_____] ÷ Expected Residential Lot Count in Tax Zone 1 for Single Family Property

**EXHIBIT A**

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX A**
**(PAGE 3 OF 3)**

| | | |
|---|---|---|
| Tax Zone 2 | = | $[_____] ÷ Expected Residential Lot Count in Tax Zone 2 for Single Family Property |

2. The Special Tax A for Developed Property may only be modified prior to the first issuance of CFD No. 71 Bonds.

3. Upon execution of this certificate by CFD No. 71, CFD No. 71 shall cause an amended notice of Special Tax lien for CFD No. 71 to be recorded reflecting the modifications set forth herein.

Capitalized undefined terms used herein have the meanings ascribed thereto in the Rate and Method. The modifications set forth in this Certificate have been calculated by the CFD Administrator in accordance with the Rate and Method.

GOODWIN CONSULTING GROUP, INC.
CFD ADMINISTRATOR

By:_____ Date:_____

The undersigned acknowledges receipt of this Certificate and of the modification of the Assigned Special Tax A and Backup Special Tax A for Developed Property as set forth in this Certificate.

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 71
(NEUHOUSE PHASE 2)

By:_____ Date:_____

RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 71 (NEUHOUSE PHASE 2) TO INCUR BONDED INDEBTEDNESS.

WHEREAS, on May 21, 2024, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District Proposed to be Named City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) and to Authorize the Levy of a Special Tax Therein," stating its intention to establish City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) (the "Community Facilities District") and to authorize the Community Facilities District to levy a special tax (the "Special Tax") within the Community Facilities District for the purpose of financing certain public facilities (the "Facilities") and services; and

WHEREAS, on May 21, 2024, the City Council also adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Declaring it Necessary for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) to Incur Bonded Indebtedness" (the "Resolution Declaring Necessity"), declaring it necessary for the Community Facilities District to incur bonded indebtedness and setting the date for a public hearing to be held on the proposed debt authorization; and

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

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

WHEREAS, at said public hearing, any person interested, including persons owning property within the area and desiring to appear and present any matters material to the questions set forth in the Resolution Declaring Necessity appeared and presented such matters; and

WHEREAS, oral or written protests against the proposed debt issue were not made or filed at or before said public hearing by 50% or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the Community Facilities District, or the owners of one-half or more of the area of land in the territory proposed to be included in the Community Facilities District and not exempt from the Special Tax; and

WHEREAS, the City Council deems it necessary for the Community Facilities District to incur bonded indebtedness; and

WHEREAS, on this date, the City Council adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2), Proposing that the Community Facilities District Be Authorized to Levy a Special Tax and Proposing that an Appropriations Limit of the Community Facilities District Be Established;" and

WHEREAS, the City Clerk of the City (the "City Clerk") is the election official that will conduct the special election on the proposition to authorize the Community Facilities District to incur bonded indebtedness; and

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the Community Facilities District as of May 28, 2024, which demonstrates that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of said public hearing; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District consenting to the waiver of, and waiving, any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on July 2, 2024, and consenting to the waiver of, and waiving, any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on July 2, 2024;

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

SECTION 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

SECTION 2. The City Council deems it necessary for the Community Facilities District to incur the bonded indebtedness.

SECTION 3. The bonded indebtedness will be incurred for the purpose of financing the costs of the Facilities, including all costs and estimated costs incidental to, or connected with, the accomplishment of said purpose, including, but not limited to, such costs and estimated costs as are described in Section 53345.3 of the Act.

SECTION 4. In accordance with the previous determination of the City Council, the whole of the Community Facilities District will pay for the bonded indebtedness.

SECTION 5. The maximum amount of debt to be incurred is $65,000,000.

SECTION 6. The maximum term the bonds to be issued shall run before maturity is 40 years.

SECTION 7. The maximum annual rate of interest to be paid shall not exceed the maximum interest rate permitted by applicable law at the time of sale of the bonds, payable semiannually or at such times as the City Council or its designee shall determine, the actual rate or rates and times of payment of such interest to be determined by the City Council or its designee at the time or times of sale of the bonds.

SECTION 8. The proposition to authorize the Community Facilities District to incur the bonded indebtedness shall be submitted to the qualified electors of the Community Facilities District.

SECTION 9. The City Council hereby finds and determines that no persons were registered to vote within the territory of the Community Facilities District as of May 28, 2024, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing held by the City Council on the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the Special Tax.

SECTION 10. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have (a) unanimously consented to the waiver of, and have waived, any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), (b) unanimously consented to the holding of said election on July 2, 2024, and (c) unanimously consented to the waiver of, and have waived, any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on July 2, 2024.

SECTION 11. The date of the special community facilities district election (which shall be consolidated with the special district election to authorize the Community Facilities District to levy the Special Tax) at which time the proposition to authorize the Community Facilities District to incur the bonded indebtedness shall be submitted to the voters is July 2, 2024.

SECTION 12. As authorized by Section 53353.5 of the Act, the propositions to authorize the Community Facilities District to incur such bonded indebtedness, to authorize the Community Facilities to levy the Special Tax and to establish an appropriations limit of the Community Facilities District shall be combined into one ballot proposition.

SECTION 13. Pursuant to Section 53326 of the Act, the election shall be conducted by mail or hand-delivered ballot. The voted ballots are required to be received in the office of the City Clerk no later than 7:30 p.m. on July 2, 2024; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 14. All actions heretofore taken by the officers, employees and agents of the City with respect to the incurrence of bonded indebtedness by the Community Facilities District, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 15. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things that they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 16. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 2nd day of July, 2024.

_____
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. 2024- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 2, 2024 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2024- duly passed and adopted by the Ontario City Council at their regular meeting held July 2, 2024.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

**CITY OF ONTARIO**
**COMMUNITY FACILITIES DISTRICT NO. 71**
**(NEUHOUSE PHASE 2)**

**CONCURRENCE OF ELECTION OFFICIAL**

I, Sheila Mautz, City Clerk of the City of Ontario (the "City"), hereby certify as follows:

(a) that I am the election official responsible for conducting special elections in the City; and

(b) that, pursuant to Section 53326(a) of the Mello-Roos Community Facilities Act of 1982 (the "Act"), I do hereby concur in (i) the holding on the date hereof of the special election to submit to the qualified electors of City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) (the "Community Facilities District") the combined ballot proposition to authorize the Community Facilities District to incur bonded indebtedness, to authorize the Community Facilities District to levy a special tax and to establish an appropriations limit of the Community Facilities District, as provided in the resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2)," proposed to be adopted by the City Council of the City on the date hereof, and (ii) the waiving by the unanimous consent of the qualified electors of the Community Facilities District of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of the election, including any time limit or requirement applicable to any election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act).

Dated: July 2, 2024

_____
Sheila Mautz, City Clerk

RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 71 (NEUHOUSE PHASE 2).

WHEREAS, on this date, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2), Proposing that the Community Facilities District be Authorized to Levy a Special Tax and Proposing that an Appropriations Limit of the Community Facilities District Be Established" (the "Resolution of Formation"), establishing City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) (the "Community Facilities District"), proposing that the Community Facilities District be authorized to levy a special tax (the "Special Tax") within the Community Facilities District for the purpose of financing certain public facilities (the "Facilities") and services and proposing that an appropriations limit of the Community Facilities District be established at $65,000,000; and

WHEREAS, on this date, the City Council also adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) to Incur Bonded Indebtedness" (the "Resolution Deeming Necessity"), deeming it necessary for the Community Facilities District to incur bonded indebtedness in a maximum amount of $65,000,000; and

WHEREAS, pursuant to the provisions of the Act and said resolutions, the propositions to authorize the Community Facilities District to incur such bonded indebtedness, to authorize the Community Facilities District to levy the Special Tax and to establish such appropriations limit of the Community Facilities District are to be submitted to the qualified electors of the Community Facilities District at a special election; and

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

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the Community Facilities District as of May 28, 2024, which demonstrates that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings on the establishment of the Community Facilities District and the proposed debt issue for the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District consenting to the waiver of, and waiving, any time limit specified by Section 53326 of the Act and any requirement

pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on July 2, 2024 and consenting to the waiver of, and waiving, any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on July 2, 2024;

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

SECTION 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

SECTION 2. Pursuant to Sections 53351, 53326 and 53325.7 of the Act, the propositions to authorize the Community Facilities District to incur bonded indebtedness, to authorize the Community Facilities District to levy the Special Tax and to establish the appropriations limit of the Community Facilities District shall be submitted to the qualified electors of the Community Facilities District at an election called therefor as provided below.

SECTION 3. The City Clerk is hereby designated as the official to conduct said election.

SECTION 4. As authorized by Section 53353.5 of the Act, the propositions to authorize the Community Facilities District to incur such bonded indebtedness, to authorize the Community Facilities District to levy the Special Tax and to establish such appropriations limit of the Community Facilities District shall be combined into one ballot proposition.

SECTION 5. The City Council hereby finds and determines that no persons were registered to vote within the territory of the Community Facilities District as of May 28, 2024, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings heretofore held by the City Council on the establishment of the Community Facilities District and the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the Special Tax.

SECTION 6. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have (a) unanimously consented to the waiver of, and have waived, any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with

Section 53345 of the Act), (b) unanimously consented to the holding of said election on July 2, 2024, and (c) unanimously consented to the waiver of, and have waived, any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on July 2, 2024.

SECTION 7. The City Council hereby calls a special election to submit to the qualified electors of the Community Facilities District the combined ballot proposition to authorize the Community Facilities District to incur bonded indebtedness in a maximum amount of $65,000,000, to authorize the Community Facilities to levy the Special Tax and to establish the appropriations limit of the Community Facilities District at $65,000,000, which election shall be held at 303 East B Street, Ontario, California, on July 2, 2024, provided, that, in the event the July 2, 2024 City Council meeting is held via teleconference and/or videoconference only, the means by which the public may observe such public hearings and offer public comment would be as prescribed in the notice and agenda for such City Council meeting. The City Council has caused to be provided to the City Clerk, as the official to conduct the election, the Resolution of Formation, the Resolution Deeming Necessity, a certified map of sufficient scale and clarity to show the boundaries of the Community Facilities District and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk not later than 7:30 p.m. on July 2, 2024; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 8. Pursuant to Section 53326 of the Act, the election shall be conducted by mail or hand-delivered ballot pursuant to Section 4000 *et. seq.* of the California Elections Code. Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, shall govern the election.

SECTION 9. The form of the ballot for the election, which sets forth the measure to be submitted to the voters, is attached hereto as Exhibit A and by this reference incorporated herein, and such form of ballot is hereby approved. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form, together with all supplies and written instructions necessary for the use and return of the ballot. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

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

Analysis and arguments with respect to the measure submitted to the voters are hereby waived, as provided in Section 53327 of the Act.

SECTION 10. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, to and including 7:30 p.m. on July 2, 2024, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots that may be marked at said location on the election day by said qualified electors.

SECTION 11. The City Council hereby determines that the facilities and services financed by the Community Facilities District are necessary to meet increased demands placed upon local agencies as a result of development occurring in the Community Facilities District.

SECTION 12. The specific purpose of the bonded indebtedness that the Community Facilities District is proposed to be authorized to incur is the financing of the Facilities, including all costs and estimated costs incidental to, or connected with, the accomplishment of such purpose, and the proceeds of such bonded indebtedness shall be applied only to such specific purpose.

Upon approval of the proposition to authorize the Community Facilities District to incur bonded indebtedness, and the sale of any bonds evidencing such indebtedness, the City Council shall take such action as may be necessary to cause to be established an account for deposit of the proceeds of sale of the bonds. For so long as any proceeds of the bonds remain unexpended, the Management Analyst, Financial Services of the City shall cause to be filed with the City Council, no later than January 1 of each year, a report stating (a) the amount of bond proceeds received and expended during the preceding year, and (b) the status of any project funded or to be funded from bond proceeds. Said report may relate to the calendar year, fiscal year, or other appropriate annual period, as the Management Analyst, Financial Services of the City shall determine, and may be incorporated into the annual budget, audit, or other appropriate routine report to the City Council.

SECTION 13. All actions heretofore taken by the officers, employees and agents of the City with respect to the special election called pursuant hereto, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 14. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things that they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 15. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 2nd day of July 2024.

_____
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. 2024- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 2, 2024 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2024- duly passed and adopted by the Ontario City Council at their regular meeting held July 2, 2024.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

**EXHIBIT A**

# OFFICIAL BALLOT

## CITY OF ONTARIO
## July 2, 2024

### SPECIAL ELECTION

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

# INSTRUCTIONS TO VOTERS:

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

**CITY OF ONTARIO**
**COMMUNITY FACILITIES DISTRICT NO. 71**
**(NEUHOUSE PHASE 2)**

MEASURE: Shall the measure to authorize City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) (the "Community Facilities District") to incur bonded indebtedness in a maximum amount of $65,000,000, to authorize the Community Facilities District to levy a special tax in order to finance certain facilities and services and to establish the annual appropriations limit of the Community Facilities District at $65,000,000, as specified in the resolutions adopted by the City Council of the City of Ontario on July 2, 2024 entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2), Proposing that the Community Facilities District Be Authorized to Levy a Special Tax and Proposing that an Appropriations Limit of the Community Facilities District Be Established" and "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) to Incur Bonded Indebtedness," be adopted?

Yes: ☐

No: ☐

RESOLUTION NO. 2024-

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

WHEREAS, on July 2, 2024, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2)" (the "Resolution Calling Election"), calling a special election to submit to the qualified electors of City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) (the "Community Facilities District") the combined ballot proposition to authorize the Community Facilities District to incur bonded indebtedness, to authorize the Community Facilities District to levy a special tax and to establish the appropriations limit of the Community Facilities District; and

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on July 2, 2024; and

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

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

SECTION 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

SECTION 2. The City Council has received, reviewed and hereby accepts the Canvass.

SECTION 3. The City Council hereby finds and declares that the ballot proposition submitted to the qualified electors of the Community Facilities District pursuant to the Resolution Calling Election has been passed and approved by such electors in accordance with Section 53355, Section 53328 and Section 53325.7 of the Act.

SECTION 4. The City Clerk is hereby directed to execute and cause to be recorded in the office of the County Recorder of the County of San Bernardino a notice of special tax lien in the form required by the Act, said recording to occur no later than 15 days following adoption by the City Council of this Resolution.

SECTION 5. All actions heretofore taken by the officers, employees and agents of the City with respect to the special election, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 6. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things that they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 7. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 2nd day of July, 2024.

_____
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. 2024- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 2, 2024 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2024- duly passed and adopted by the Ontario City Council at their regular meeting held July 2, 2024.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

**EXHIBIT A**

**CITY OF ONTARIO**
**COMMUNITY FACILITIES DISTRICT NO. 71**
**(NEUHOUSE PHASE 2)**

**CANVASS AND STATEMENT OF RESULTS OF ELECTION**

I hereby certify that on July 2, 2024, I canvassed the returns of the special election for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) held on July 2, 2024, that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the combined ballot proposition submitted to the qualified electors of the Community Facilities District are as follows and that the totals as shown for and against such proposition are true and correct:

| | Qualified Landowner Votes | Votes Cast | YES | NO |
|---|---|---|---|---|
| City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) Special Election, July 2, 2024 | 19 | | | |

MEASURE: Shall the measure to authorize City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) (the "Community Facilities District") to incur bonded indebtedness in a maximum amount of $65,000,000, to authorize the Community Facilities District to levy a special tax in order to finance certain facilities and services and to establish the annual appropriations limit of the Community Facilities District at $65,000,000, as specified in the resolutions adopted by the City Council of the City of Ontario on July 2, 2024 entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2), Proposing that the Community Facilities District Be Authorized to Levy a Special Tax and Proposing that an Appropriations Limit of the Community Facilities District Be Established" and "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) to Incur Bonded Indebtedness," be adopted?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 2nd day of July, 2024.

BY: _____
SHEILA MAUTZ, CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING A SPECIAL TAX WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 71 (NEUHOUSE PHASE 2)

WHEREAS, on May 21, 2024, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District Proposed to be Named City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) and to Authorize the Levy of a Special Tax Therein," stating its intention to establish City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) (the "Community Facilities District") and to authorize the Community Facilities District to levy a special tax (the "Special Tax") within the Community Facilities District for the purpose of financing certain public facilities (the "Facilities") and services (the "Services"); and

WHEREAS, on July 2, 2024, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2), Proposing that the Community Facilities District Be Authorized to Levy a Special Tax and Proposing that an Appropriations Limit of the Community Facilities District Be Established" (the "Resolution of Formation"), "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) to Incur Bonded Indebtedness" and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2)," which resolutions established the Community Facilities District, proposed that the Community Facilities District be authorized to levy the Special Tax within the Community Facilities District, proposed that an appropriations limit of the Community Facilities District be established and called a special election to submit to the qualified electors of the Community Facilities District the combined ballot proposition to authorize the Community Facilities District to incur bonded indebtedness, to authorize the Community Facilities District to levy the Special Tax and to establish the appropriations limit of the Community Facilities District; and

WHEREAS, on July 2, 2024, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act; and

WHEREAS, the City Council is the legislative body of the Community Facilities District;

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

**Section 1.** The City Council hereby authorizes and levies the Special Tax within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method"). The Special Tax is hereby levied commencing in fiscal year 2024-25 and in each fiscal year thereafter until the last fiscal year in which the Special Tax is authorized to be levied pursuant to the Rate and Method.

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

**Section 3.** The Special Tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method.

**Section 4.** The proceeds of the Special Tax shall only be used to pay, in whole or in part, the cost of providing the Facilities and Services and incidental expenses pursuant to the Act.

**Section 5.** The Special Tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

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

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

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

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2024.

_____
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 _____, 2024 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

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

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

# RESOLUTION NO. 2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AND FUNDING AGREEMENT WITH LS-ONTARIO II LLC

WHEREAS, certain real property within the boundaries of the City located generally south of State Route 60 is commonly known as the New Model Colony; and

WHEREAS, the City has approved a General Plan Amendment for the New Model Colony, which has been supplemented by certain water, recycled water and sewer master plans (as so supplemented, the "General Plan Amendment") and has certified an Environmental Impact Report and adopted a Mitigated Negative Declaration in connection with the General Plan Amendment (together, the "Environmental Impact Report"); and

WHEREAS, the City has specified in the General Plan Amendment and the Environmental Impact Report the major backbone transportation, water, sewer, storm drainage, parks, public safety infrastructure and fiber optic systems required to serve the New Model Colony; and

WHEREAS, the New Model Colony is now commonly referred to as Ontario Ranch; and

WHEREAS, LS-ONTARIO II LLC, a Delaware limited liability company ("LS-ONTARIO II"), is developing certain of the property within Ontario Ranch (the "Property"); and

WHEREAS, certain of such major backbone infrastructure is required to serve the Property; and

WHEREAS, the City and LS-ONTARIO II desire to provide a mechanism to fund, in a timely manner, the costs of certain of such major backbone infrastructure required to serve Ontario Ranch (the "Facilities") so that such development may occur; and

WHEREAS, in order to provide such a mechanism, the City has, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 (the "Act"), established City of Ontario Community Facilities District No. 71 (Neuhouse Phase 2) (the "Community Facilities District"), the boundaries of which include the Property; and

WHEREAS, the Community Facilities District is authorized to levy a special tax (the "Special Tax") within the Community Facilities District and issue special tax bonds (the "Bonds") secured by the Special Tax in order to finance certain of the Facilities; and

WHEREAS, it is anticipated that the Special Tax will be levied by the Community Facilities District and that, from time to time, Bonds will be issued by the Community Facilities District; and

WHEREAS, LS-ONTARIO II proposes to construct, or cause to be constructed, certain of the Facilities proposed to be financed by the Community Facilities District pursuant to the Act, and the City proposes to purchase such Facilities from LS-ONTARIO II pursuant to an Acquisition and Funding Agreement by and between the City and LS-ONTARIO II (such Acquisition and Funding Agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Acquisition Agreement"); and

WHEREAS, the City Council is the legislative body of the Community Facilities District;

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

SECTION 1. The Acquisition Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. Each of the Mayor of the City, and such other member of the City Council as the Mayor may designate, the City Manager of the City and the Executive Director of Finance of the City, and such other officer or employee of the City as the City Manager may designate (the "Authorized Officers") is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the City, to execute and deliver the Acquisition Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Acquisition Agreement by such Authorized Officer.

SECTION 2. All actions heretofore taken by the officers, employees and agents of the City with respect to the Acquisition Agreement, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

SECTION 3. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things that they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 4. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 2nd day of July 2024.

_____

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. 2024- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 2, 2024 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2024- duly passed and adopted by the Ontario City Council at their regular meeting held July 2, 2024.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

| CITY OF ONTARIO<br>*Agenda Report*<br>**July 2, 2024** | **SECTION:**<br>**PUBLIC HEARINGS** |
|---|---|
| Department: Planning<br>Prepared By: Diane Ayala<br>Staff Member Presenting: Scott Murphy, Executive Director Community Development<br>Approved By: | Submitted To: Council/OHA<br>Approved: _____<br>Continued To: _____<br>Denied: _____<br>Item No: 22 |

**SUBJECT:** **A PUBLIC HEARING TO CONSIDER FILE NO. PUD23-004, A PLANNED UNIT DEVELOPMENT FOR 21.58 ACRES OF LAND GENERALLY LOCATED SOUTH OF E SREET, NORTH OF HOLT BOULEVARD, WEST OF EUCLID AVENUE, EAST OF PALM AVENUE AND THE NORTHERN PORTION OF THE BLOCK BETWEEN FERN AND PALM AVENUES AND C AND D STREETS**

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

A. Consider and adopt a Resolution approving a Mitigated Negative Declaration in accordance with the California Environmental Quality Act and adopting a related Mitigation Monitoring and Reporting Program for File No. PUD23-004; and
B. Introduce and waive further reading of an Ordinance approving File No. PUD23-004, the Downtown West Planned Unit Development (PUD), to establish a set of planning and design principles, development regulations and performance standards to govern future development of 21.58 acres, generally located south of E Street, north of Holt Boulevard, west of Euclid Avenue, east of Palm Avenue and the northern portion of the block between Fern and Palm Avenues and C and D Streets, within the LUA-1 (Euclid Avenue Entertainment) of the MU-1 (Downtown Mixed Use) zoning district.

**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. Implementation of the Planned Unit Development would result in an increase in property taxes from future development and the one-time payment to the City for plan check fees and development impacts fees.

**BACKGROUND & ANALYSIS:** The City has initiated a PUD to facilitate the revitalization of downtown Ontario, streamline development, encourage historic preservation and adaptive reuse, and provide development flexibility to achieve the City's goals to economically revitalize and

aesthetically enhance the Project area. The MU-1 (Downtown Mixed-Use) zoning district requires the preparation and approval of a PUD to establish a set of planning and design principles, development regulations and performance standards to govern future development. The proposed Downtown West Planned Unit Development is appended to the attached Ordinance as "Attachment A." The Project area is envisioned as a district with a mixture of retail, office, and residential uses in a pedestrian friendly atmosphere, with the most intensive uses envisioned along Euclid Avenue and Holt Boulevard. A maximum intensity of 2.0 Floor Area Ratio and a density range of 25.0 to 75.0 dwelling units per acre is allowed as provided by the MU-1 (Downtown Mixed-Use) zoning district.

The District and Block Plans of the PUD establishes 3 land use subdistricts and includes context sensitive development standards that are specific to each block and location. The Downtown Mixed-Use Retail Core (MU-RC) zone is comprised of 4 City blocks (Blocks A thru D) that front onto Euclid Avenue from Holt Boulevard to D Street and is envisioned as an 18-hour entertainment, shopping, and dining destination. Holt Boulevard, a future multi-modal corridor, is envisioned as the primary east-west connection from the Ontario International Airport/Hospitality district to the downtown. The goals of the MU-RC zone are to enable a mixture of commercial uses with strategic multiple-family residential infill development to activate storefronts to generate pedestrian foot traffic, create an enhanced, vibrant, and active public realm and streetscape along Euclid Avenue, create mid-block connections along Euclid Avenue to increase walkability and activity where public art and outdoor dining are encouraged, and to transform the north-south running public alley into a pedestrian-friendly enhanced connection with entrances, outdoor dining, and “greening” (landscape and enhanced paving) that collectively creates a lively and dynamic atmosphere.

The Downtown Mixed-Use Transitional (MU-T) zone is comprised of 4 City blocks (Blocks E thru H), bordered by Laurel Avenue to the east, Palm Avenue to the west, D Street to the north and Holt Boulevard to the south and is envisioned to enable a mix of commercial uses, multiple-family residential housing types, and mixed-use development. The goals of the MU-T zone are to support development flexibility by allowing variations in building heights to respond to the surrounding context, identifying B Street as an extension of Euclid Avenue as a more walkable retail “Main Street” atmosphere, enhancing the public realm with decorative crosswalks, “bulb out” curb extensions, public art, bicycle infrastructure, and introducing new “placemaking” elements such as suspended lighting and parklets.

The Downtown Residential (DR) zone is a half city block (Block I) located west of Palm Avenue, east of Fern Avenue, south of D Street and north of the public alley. The primary goal of the DR zone is to ensure compatible housing types with the existing surrounding residential neighborhood and create an appropriate transition of land uses and building scale.

**COMMUNITY MEETINGS:** Community and stakeholder engagement for the PUD included 3 rounds of community outreach conducted through in-person pop-up events as part of existing community events, 2 rounds of targeted stakeholder conversations via roundtable sessions and one in-person showcase. The community and participants displayed overall support for the vision and goals, highlighting the unique character of Ontario’s historic downtown. In addition, they advocated for mobility options to promote accessibility, active transportation infrastructure for safer connections, and public realm enhancements.

**PLANNING COMMISSION REVIEW AND ACTION:** On May 28, 2024, the Planning Commission conducted a public hearing to consider the proposed PUD. Upon conclusion of the public hearing, the Planning Commission voted unanimously (5-0) to approve Resolution No. PC24-015, recommending the City Council approve the proposed PUD.

**COMPLIANCE WITH THE ONTARIO PLAN:** The proposed Project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of TOP. Goals and policies of TOP that are furthered by the proposed PUD are addressed in the attached Planning Commission backup material.

**AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE:** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land Use Compatibility Plan ("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. Staff 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, staff has concluded that the proposed PUD is consistent with the policies and criteria set forth within the ONT ALUCP.

**ENVIRONMENTAL REVIEW:** The proposed PUD is a “project” pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts. On the basis of the initial study, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of insignificance, a Mitigated Negative Declaration was prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines. Furthermore, to ensure that the mitigation measures are implemented, a Mitigation Monitoring and Reporting Program has been prepared for the Project pursuant to CEQA Guidelines Section 15097, which specifies responsible agencies/departments, monitoring frequency, timing and method of verification and possible sanctions for non-compliance with mitigation measures. The environmental documentation for this Project is available for review at the Planning Department.

# PLANNING COMMISSION AGENDA REPORT

**May 28, 2024**

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

**FILE NO:** PUD23-004

**SUBJECT:** A Planned Unit Development to establish a set of planning and design principles, development regulations and performance standards to govern future development of 21.58 acres of land, generally located south of E Street, north of Holt Boulevard, west of Euclid Avenue, east of Palm Avenue, and the northern portion of the block between Fern and Palm Avenues and C and D Streets, within the MU-1 (Downtown Mixed Use) zoning district. **City initiated. City Council action is required.**

**PROPERTY OWNERS:** Various

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**RECOMMENDED ACTION:** That the Planning Commission consider and recommend that the City Council approve a Mitigated Negative Declaration, adopting a Mitigation Monitoring Report Program, and approve File No. PUD23-004, pursuant to the facts and reasons contained in the staff report and attached Resolutions.

**PROJECT SETTING:** The Project site is comprised of 21.58 acres of land generally located south of E Street, north of Holt Boulevard, west of Euclid Avenue, east of Palm Avenue, and the northern portion of the block between Fern and Palm Avenues and C and D Streets, within the MU-1 (Downtown Mixed Use) zoning district (see Figure 1: Project Location). The Project area is situated within the City of Ontario's historic downtown and is adjacent to the City's Civic Center. The existing surrounding land uses, zoning, and Policy Plan (general plan) and specific plan land use designations are summarized in the "Surrounding Zoning & Land Uses" table located in the Technical Appendix of this report.

***Figure 1: Project Location***

**PROJECT ANALYSIS:**

(1) Background — The Downtown West Planned Unit Development ("PUD") builds upon the vision, development and

| | |
|---|---|
| Case Planner: | Diane Ayala |
| Planning Director Approval: | |
| Submittal Date: | N/A |

| Hearing Body | Date | Decision | Action |
|---|---|---|---|
| PC | 5/28/2024 | Approval | Recommend |
| CC 1st reading | 7/2/2024 | | Introduction |
| CC 2nd reading | 7/16/2024 | | Final |

design principles for Downtown Ontario as outlined in the Policy Plan (General Plan) The Ontario Plan (TOP). The Community Design Element of the Policy Plan establishes "Districts" that have been categorized as "Place Types," which are geographically large, culturally unique, and regionally significant areas of the City that fulfill different but complementary roles in creating a complete community. As regional destinations, districts serve as the "face of the city." Each district has a distinct identity that reflects its role within the City context and establishes a defined sense of place through the creation of an amenity-rich, transit-accessible, mixed-use environments where people can live, work, shop, dine, and have many of their daily needs met within a comfortable and convenient walk or bike ride from their residence, transit stop, or parked vehicle.

The PUD area is located within the "Downtown District," which is envisioned as the place-based, people-focused, commercial, and cultural "heart" of the City and features several designated historic districts and landmarks. Downtown will support a variety of businesses, housing opportunities for residents with a variety of income levels, creative spaces, entertainment options, and institutional and civic uses, while preserving its historic character, buildings, neighborhoods, and places. Complementing the wide mix of uses are designs, layouts and public spaces that give residents, visitors, and businesses a strong sense of connection and creates a place where people want to spend time.

Other previous City initiated efforts and plans that contribute to downtown revitalization include; 1] The Downtown Ontario Design Guidelines, adopted by City Council in 1998 and is reference to the Development Code, establishes a set of architectural, graphic, and lighting design principles, to provide guidance to business owners, homeowners, City staff, and design professionals, for the development and/or rehabilitation of properties within the City's historic original downtown area; 2] Historic Resource Surveys completed in 1983 and in 2003 to assess and evaluate historic significance; 3] the Downtown Civic Center PUD adopted in 2006, and the D Block PUD and Laurel Avenue Townhomes PUD adopted in 2023 which replaced the underlying MU-1 Zoning designation to facilitate development; 4] West Euclid Activation Look Book which examined development strategies to the activated properties, many of which are City-acquired, to help achieve the long-term goal of re-visioning the area as the cultural and entertainment heart of Ontario; and 5] the Euclid Avenue Historic Property Treatment and Management Plan developed by Caltrans in partnership with the City in February 2024 to support the relinquishment of Euclid Avenue to the City.

(2) <u>Downtown West Planned Unit Development</u> — The purpose of the PUD is to facilitate the revitalization of downtown Ontario, streamline development, encourage historic preservation and adaptive reuse, and provide development flexibility to achieve the City's goals to economically revitalize and aesthetically enhance the Project area. The MU-1 (Downtown Mixed-Use) zoning district, requires the preparation and approval of a PUD to establish a set of planning and design principles, development regulations and performance standards to govern future development. The proposed Downtown West Planned Unit Development, appended to the attached Resolution as "Attachment A," identifies the following components:

(a) Land Use — The Project area is envisioned as an intensive vertical and horizontal district with a mixture of retail, office, and residential uses in a pedestrian friendly atmosphere, with the most intensive uses envisioned along Euclid and Holt Avenues. A maximum intensity of 2.0 Floor Area Ratio and a density range of 25.0 to 75 dwelling units per acre is allowed as required by the MU-1 (Downtown Mixed-Use) zoning district.

(b) Urban Design — The District and Block Plan establishes 3 land use subdistricts. The Downtown Mixed-Use Retail Core (MU-RC) zone is comprised of 4 City blocks (Blocks A-D) that front onto Euclid Avenue from Holt Boulevard to D Street and is envisioned as an 18-hour entertainment, shopping, and dining destination, whereas Holt Boulevard, a future multi-modal corridor, is envisioned as the primary east-west connection from the Ontario International Airport/Hospitality district to the downtown. The goals of the MU-RC zone are to enable a mixture of commercial uses with strategic multiple-family residential infill development, activate storefronts to generate pedestrian foot traffic, such as retail, restaurant, and entertainment, as well as design treatments that support a lively and comfortable public realm, create an enhanced, vibrant, and active public realm and streetscape along Euclid Avenue, create mid-block connections along Euclid Avenue to increase walkability and activity where public art and outdoor dining are encouraged, and to transform the north-south running public alley into a pedestrian-friendly enhanced alley with entrances, outdoor dining, and "greening" (landscape and enhanced paving) that collectively creates a lively and dynamic atmosphere.

The Downtown Mixed-Use Transitional (MU-T) zone is comprised of 4 City blocks (Blocks E-H), bordered by Laurel Avenue to the east, Palm Avenue to the west, D Street to the north and Holt Boulevard to the south and is envisioned to enable a mix of commercial uses, a variety of multiple-family residential housing types, and mixed-use development. The goals of the MU-T zone are to support development flexibility with allowing a variation of building heights to respond to the surrounding context, identifying B Street as an extension of Euclid Avenue as a more walkable retail "Main Street" atmosphere, enhancing the public realm with decorative crosswalks, "bulb out" curb extensions, public art, bicycle infrastructure, and introducing new "placemaking" elements such as suspended lighting and parklets.

The Downtown Residential (DR) zone is a half city block (Block I) located west of Palm Avenue, east of Fern Avenue, south of D Street and north of the public alley. The primary goal of the DR zone is to ensure compatible housing types with the surrounding residential neighborhood and create an appropriate transition of land uses and building scale.

(c) Development and Design Standards — The PUD allows for new infill development, redevelopment of underutilized sites, adaptive reuse of historic and existing buildings. Block-specific standards were created that respond to place-based conditions and goals.

(i) Height Limits:

- Up to 65 feet (5 stories) along Holt Boulevard to create a southern gateway and enable additional height along this future multi-modal transit corridor to promote housing near transit, as well as along Laurel Avenue and west of the alley, between B Street (north of east-west running alley) and D Street, to focus height within the downtown core of the PUD area.
- Up to 50 feet (4 stories) along Laurel Avenue in strategic areas to focus height within the downtown core of the PUD area while responding to the existing scale and character.
- Up to 45 feet (4 stories) along Euclid Avenue with required 15' upper story "stepbacks" to promote additions to historic resources while preserving character defining features.
- Up to 40 feet (3 stories) west of Laurel Avenue and north of D Street (Block H), as well as along Palm Avenue to support mid-rise multi-family residential projects and respect neighboring lower-scale residential.
- Transitional height districts are in place to reduce height of development surrounding residential neighborhood to the west of the PUD boundary for parcels fronting Palm and Fern Avenues.

(ii) Street Setbacks:

- Three feet maximum setbacks to support commercial-only ground floor character and active public realm while promoting some variation on blocks that front Euclid Avenue, Holt Boulevard, and B Street.

- Three to five feet setbacks to support a commercial or residential ground floor character while promoting some variation.

- Five to ten feet setbacks to support a variety of residential product types and to preserve residential ground floor character on blocks that front Fern Avenue, Palm Avenue, D Street and Laurel Avenue.

(ii) Building Stepbacks: Upper level stepbacks or terracing of 15 feet from the façade are required for additions to historic buildings and 10 feet for new residential development on Block I.

(vi) Parking: Residential uses require one parking space per bedroom, 2 parking spaces per 3 bedroom-units, and 0.20 parking spaces per unit for guests and commercial uses require one parking spaces per 250 square feet of gross floor area. In order to achieve the preferred density and building intensities, the PUD allows for a combination of on-site, street, and off-site parking to provide an adequate parking supply to meet the anticipated parking demand for new development. All required resident parking will be provided on site, while guest parking and retail visitor spaces may be provided on-street. Up to 50 percent of required residential on-site parking may be

provided for in a tandem parking configuration with an approved parking management plan.

(d) Architectural Character and Design — The PUD includes architectural design guidelines, specific to the downtown location and residential building type, and establishes the following design principles:

(i) Create an architectural character that reflects the various styles within the historic downtown. New buildings should appear to fit in contextually with existing historic buildings by using similar proportions, articulation, building details and building material.

(iii) The overall character should feel like a modern interpretation of a traditional American small town.

(iv) Create compatibility between the mixed-use, residential, and commercial architecture within the downtown area; the introduction of unifying elements such as similar materials and colors should be considered; however, "sameness" is discouraged.

(e) Historic Preservation — Approximately 57 of the 76 properties located within the Project area have been surveyed and evaluated for historic significance or are eligible for survey. There are 50 properties that are listed on the Ontario Register of Historic Resources and 14 properties that have been designated by City Council as local landmarks. Additionally, the Project area is part of a proposed local historic district.

The guiding architectural principles in the PUD are ingrained Section *7.01.065: Guidelines for the Treatment of Historic Properties* of the Development Code, which are supported by the Secretary of the Interior Standards for the Treatment of Historic Properties (Standards), and the Downtown Design Guidelines and intended to provide appropriate design solutions that avoid adverse impacts to historic resources located within the PUD area.

To ensure that projects within the plan area that propose new construction (infill) or additions, alterations or demolition (full or partial) to existing buildings are appropriate, a Certificate of Appropriateness is required. This will further promote the preservation of the historic character of the downtown.

**COMMUNITY MEETINGS:** Community and stakeholder engagement for the PUD included 3 rounds of community outreach, 2 rounds of targeted stakeholder conversations via roundtable sessions and one in-person showcase. Broad community outreach was conducted through in-person pop-up events as part of existing community events. The community displayed overall support for the vision and goals, highlighting the unique character of Ontario's historic downtown. In addition, they advocated for mobility

options to promote accessibility, active transportation infrastructure for safer connections, and public realm enhancements.

The roundtable sessions consisted of key stakeholders, including property and business owners, residents, representatives from the downtown Ontario Improvement Association, developers, and others. Stakeholders stressed the importance of effective waste management systems and ample parking to support local businesses in downtown Ontario. Suggestions from stakeholders included the enhancement of community parking accessibility and reimagining alleys to facilitate social activities. Moreover, leveraging the West Valley Connector Bus Rapid Transit (BRT) Project, a 19-mile zero emission BRT that is estimated to open in 2026 connecting the Ontario International Airport (ONT) to two Metrolink lines (San Bernardino and Riverside), and multiple major activity centers, including Downtown Ontario via Holt Boulevard, would promote connectivity to mass transit and encourage the use of alternative transportation methods, reducing car-dependence in the area.

On January 30, 2024, staff conducted an in-person community meeting to present and receive comments on the PUD. Approximately 20 community members that resided or owned property located within the Project area or within a minimum of 300 feet from the boundaries of the Project attended. Overall, participants were excited about the vision outlined in the plan and the opportunity to improve their property with flexible development standards and key design elements.

**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.

**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 authority 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.

**COMPLIANCE WITH THE ONTARIO PLAN:** The proposed Project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (general plan), and City Council Priorities components of The Ontario Plan ("TOP"). More specifically, the goals and policies of TOP that are furthered by the proposed Project are as follows:

(1) City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Maintain the Current High Level of Public Safety
- Operate in a Businesslike Manner
- Pursue City's Goals and Objectives by Working with Other Governmental Agencies
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
- Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

(2) Vision.

**Distinctive Development:**

- Commercial and Residential Development

  - Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

(3) Governance.

**Decision Making:**

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.

  - G 1-2. 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-2.6 Infrastructure Compatibility. We require infrastructure to be aesthetically pleasing and in context with the community character.

**Housing Element:**

- Goal H-2 Housing Supply & Diversity: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.

  - H-2.5 Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices, and other best practices.

**Community Economics Element:**

- Goal CE-1 Complete Community: A complete community that provides for all incomes and stages of life.

  - CE-1.6 Diversity of Housing. We collaborate with residents, housing providers, and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to encourage the development of housing supportive of our efforts to attract business in growing sectors of the community while being respectful of existing viable uses.

- 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-2.4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

**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-1.1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing, enhancing, and preserving the character of our existing viable neighborhoods.

  - CD-1.2 Growth Areas. We establish Place Types in urban, mixed use, and transit-oriented areas to foster the City's identity as a premier community and require new development within each Place Type to incorporate prescribed urban patterns, forms, and placemaking priorities.

  - CD-1.3 Existing Neighborhoods. We require the existing character of viable residential and non-residential neighborhoods be preserved, protected, and enhanced.

- 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-3.2 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-3.3 Complete and Connected Network. We require that pedestrian, vehicular, and bicycle circulation on both public and private property be coordinated to provide connections internally and externally to adjacent neighborhoods and properties (existing and planned) through a system of local roads and trails that promote walking and biking to nearby destinations (including existing and planned parks, commercial areas, and transit stops) and are designed to maximize safety, comfort, and aesthetics.

- 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 Application is a "project" pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") and an initial study has been prepared to determine possible environmental impacts. On the basis of the initial study, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of insignificance, a Mitigated Negative Declaration was prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines. Furthermore, to ensure that the mitigation measures are implemented, a Mitigation Monitoring and Reporting Program has been prepared for the Project pursuant to CEQA Guidelines Section 15097, which specifies responsible agencies/departments, monitoring frequency, timing and method of verification and possible sanctions for non-compliance with mitigation measures. The environmental documentation for this Project is available for review at the Planning Department public counter.

## TECHNICAL APPENDIX:

**Surrounding Zoning and Land Use:**

| | ***Existing Land Use*** | **Policy Plan Designation** | **Zoning Designation** |
|---|---|---|---|
| *Site* | Mixed Uses- residential, office, commercial and retail | Mixed Use (MU)- Downtown | Downtown Mixed-Use (MU-1) and High Density Residential (HDR-45) |
| *North* | Mixed Uses- office, and residential | Mixed Use (MU)- Downtown, Office Commercial (OC), and HDR | Downtown Mixed-Use (MU-1), Low Intensity Office (OL), and High Density Residential (HDR-45) |
| *South* | Mixed Uses- office, retail, commercial | Mixed Use (MU)- Downtown | Downtown Mixed-Use (MU-1) |
| *East* | Mixed Uses- office, retail, commercial | Mixed Use (MU)- Downtown | Downtown Mixed-Use (MU-1), Civic Center PUD, D Block PUD, and the Euclid Avenue Overlay (EA)) |
| *West* | Mixed uses- school, church, and residential | Mixed Use (MU)- Downtown, Low Medium Density Residential (LMDR), Medium Density Residential (MDR), and High Density Residential (HDR) | Medium Density Residential (MDR-25), and High Density Residential (HDR-45) |

**Exhibit A: PROJECT LOCATION MAP**

**Exhibit B: LAND USE SUBDISTRICTS/ZONES**

**Exhibit C: GROUND FLOOR LAND USE**

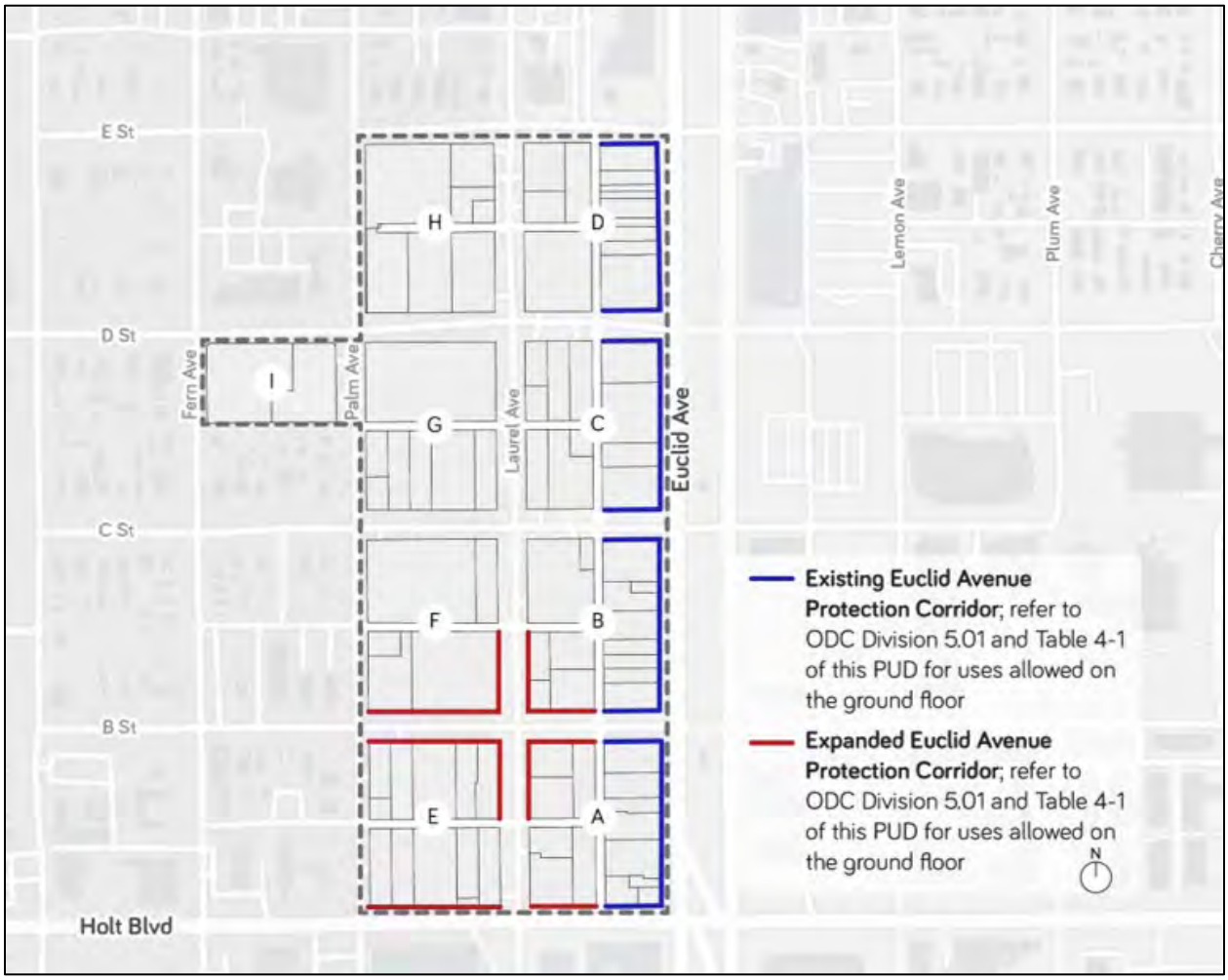
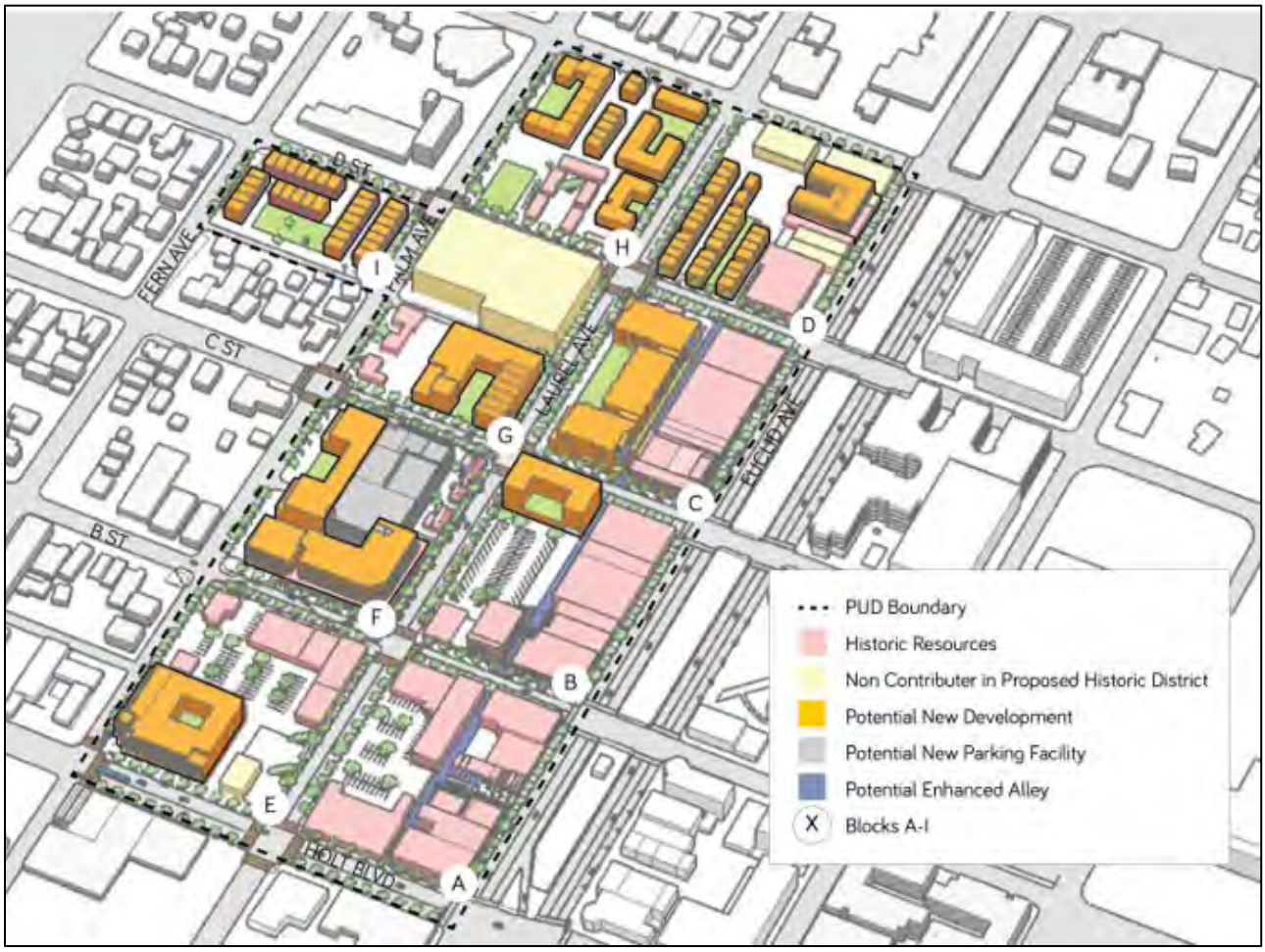


**Exhibit D: ALLOWED HEIGHTS**

**Exhibit E: STREET SETBACKS**

**Exhibit F: CONCEPTUAL URBAN DESIGN**



RESOLUTION NO. PC24-014

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO APPROVING A MITIGATED NEGATIVE DECLARATION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM FOR FILE NO. PUD23-004

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study, and approved for circulation, a Mitigated Negative Declaration for File No. PUD23-004 (hereinafter referred to as "MND"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively referred to as "CEQA"); and

WHEREAS, File No. PUD23-004 analyzed under the MND consists of a Planned Unit Development to establish planning and design principles, development regulations and performance standards to govern future development of 21.58 acres of land, generally located south of E Street, north of Holt Boulevard, west of Euclid Avenue, east of Palm Avenue, and the northern portion of the block between Fern and Palm Avenues and C and D Streets, within the LUA-1 (Euclid Avenue Entertainment) of the MU-1 (Downtown Mixed Use) zoning district, in the City of Ontario, California (hereinafter referred to as the "Project"); and

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

WHEREAS, in connection with the approval of a project involving the preparation of a MND that identifies one or more significant environmental effects, CEQA requires the approving authority of the lead agency to incorporate feasible mitigation measures that would reduce those significant environment effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation, and such a Mitigation Monitoring and Reporting Program has been prepared for the Project for consideration by the approving authority of the City of Ontario as lead agency for the Project (hereinafter referred to as the "MMRP"); and

WHEREAS, the City of Ontario is the lead agency on the Project, and the Planning Commission is the approving authority for the proposed approval to construct and otherwise undertake the Project; and

WHEREAS, the Planning Commission has reviewed and considered the MND and related MMRP for the Project, and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

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

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 MND and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the MND and the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission finds as follows:

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

(2) The MND contains a complete and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment of the Planning Commission; and

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

(4) All environmental impacts of the Project are either insignificant or can be mitigated to a level of insignificance pursuant to the mitigation measures outlined in the MND and the related MMRP.

SECTION 2: ***Planning Commission Action.*** The Planning Commission does hereby find that based upon the entire record of proceedings before it, and all information received, that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby recommend the City Council adopt the MND and related MMRP prepared for the Project, attached hereto as "Attachment A," and incorporated herein by this reference.

SECTION 3: ***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 4: ***Custodian of Records.*** The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 5: ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

- - - - - - - - - - - - - -

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of May, 2024, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Nicola Ricci
Planning Commission Chairperson

ATTEST:

Henry K. Noh
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. PC24-014, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on May 28, 2024, by the following roll call vote, to wit:

AYES: Anderson, DeDiemar, Del Turco, Lampkin, Ricci

NOES: None

ABSENT: Dean, Gage

ABSTAIN: None

Gwen Berendsen

Gwen Berendsen
Secretary Pro Tempore

# ***ATTACHMENT A:***

## *Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program*

*(Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program follows this page)*

City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909-395-2036
ontarioca.gov/Planning

***ATTACHMENT A***

***California Environmental Quality Act***

# *Mitigation Monitoring and Reporting Program*

**Project Title:** Downtown West Planned Unit D

**Project File No.:** PUD23-004

**Project Sponsor:** City of Ontario

**Lead Agency/Contact Person:** Diane Ayala, Senior Planner, City of Ontario, Planning Department, 303 East B Street, Ontario, California 91764 (909) 395-2036

| *Mitigation Measures/Implementing Action* | *Responsible for Monitoring* | *Monitoring Frequency* | *Timing of Verification* | *Method of Verification* | *Verified (Initial/Date)* | *Sanctions for Non-Compliance* |
|---|---|---|---|---|---|---|
| **Cultural Resources** | | | | | | |
| MM-CUL-1. Issuance of a Certificate of Appropriateness pursuant to City's Development Code (Chapter 4, Permits, Actions, and Decisions) is required for all exterior alterations to existing buildings, and new construction on vacant or redeveloped sites that are located within the PUD boundary area prior to plan or development project approval. | Planning Dept | Building Permit Issuance | Prior to issuance of Building Permit | Plan Check | | Withhold Building Permit |
| MM-CUL-2. Historic or potentially historic resources located within the PUD boundary shall be evaluated for historic significance through the City's tier system prior to the issuance of plan or development approvals. | Planning Dept | Project Approval | Prior to project approval | Tier Determination | | Withhold Approval |
| MM-CUL-3.<br>A. Partial Demolition of Tier I, II, or III Historic Resources that do not result in loss of character defining features or cause adverse impacts to the integrity of the historic resource shall be documented pursuant to the Historic American Building Survey (HABS) standards to include photographs and cataloging of the exterior and interior of the resource prior to issuance of a building permit. | Planning Dept | Project Approval | Prior to issuance of Building permit | Plan Check | | Withhold Building Permit |

| ***Mitigation Measures/Implementing Action*** | ***Responsible for Monitoring*** | ***Monitoring Frequency*** | ***Timing of Verification*** | ***Method of Verification*** | ***Verified (Initial/Date)*** | ***Sanctions for Non-Compliance*** |
|---|---|---|---|---|---|---|
| B. As established in the TOP SEIR 2050, mitigation measures for demolition (full or in part) of Tier III Historic Resources shall include the following:<br>1) Each historic resource shall be fully documented and cataloged pursuant to Historic American Building Survey/Historic American Engineering Record (HABS/HAER) standards, to provide a record of the resource, including, but not limited to: [i] the preparation of site plans, floor plans, exterior and interior elevations, and detail drawings of character defining features (such as moldings, stairs, etc.); and [ii] photographs of the resource, including the exterior, interior, and interior and exterior character defining features (such as moldings, light fixtures, trim patterns, etc.).<br>2) A mitigation fee established pursuant to Section 7.01.030 (Historic Preservation Mitigation Fee) shall be paid to the City prior to the issuance of a demolition permit for Tier III historic resources.<br>3) A Certificate of Appropriateness shall not be issued for the demolition of an historic resource, either in whole or in part, until such time that a demolition permit application and a replacement structure has been approved by the City, and appropriate permits have been issued for its construction, a deferral of the replacement structure requirement is granted pursuant to Subsection G(Replacement Structure Deferral) of Section 4.02.050; or [iii] demolition is required pursuant to Section 7.01.050 (Unsafe or Dangerous Conditions) of this Development Code.<br>4) In an effort to preserve features and artifacts from historic resources, a determination whether items within or on the resource should be salvaged must be made by the Planning Department and may include the local historical society prior to the issuance of the demolition permit. The applicant shall be | | | | | | |

| ***Mitigation Measures/Implementing Action*** | ***Responsible for Monitoring*** | ***Monitoring Frequency*** | ***Timing of Verification*** | ***Method of Verification*** | ***Verified (Initial/Date)*** | ***Sanctions for Non-Compliance*** |
|---|---|---|---|---|---|---|
| responsible for the removal, relocation, storage, and donation of such items selected for salvaging. The applicant shall provide an inventory of salvaged items to the Planning Department, and shall include a list of each item name, description, and dimension (as necessary), and the location of each item on a floor plan.<br>C. Full Demolition or partial demolition which results in loss or adverse impacts to character defining features of a Tier I or Tier II Historic Resource shall require preparation of and EIR or Focus EIR. | | | | | | |
| MM-CUL-4. In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed within TCR-1, regarding any pre-contact finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment. | Planning Dept & Building Dept | During Construction | During Construction | Site Inspection | | Withhold Building Permit |
| MM-CUL-5. If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to YSMN for review and comment, as detailed within TCR-1. The archaeologist shall | Planning Dept & Building Dept | During Construction | During Construction | Site Inspection | | Withhold Building Permit |

| ***Mitigation Measures/Implementing Action*** | ***Responsible for Monitoring*** | ***Monitoring Frequency*** | ***Timing of Verification*** | ***Method of Verification*** | ***Verified (Initial/Date)*** | ***Sanctions for Non-Compliance*** |
|---|---|---|---|---|---|---|
| monitor the remainder of the project and implement the Plan accordingly. | | | | | | |
| MM-CUL-6. If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project. | Planning Dept & Building Dept | During Construction | During Construction | Site Inspection | | Withhold Building Permit |
| **Noise** | | | | | | |
| MM-NOI-1 Construction Noise Abatement. Construction activities associated with new development that occurs near sensitive receptors shall be evaluated for potential noise impacts. Construction contractors shall implement the following measures for construction activities in the City of Ontario. Construction plans submitted to the City shall identify these measures on demolition, grading, and construction plans. The City of Ontario Planning and Building Departments shall verify that grading, demolition, and/or construction plans submitted include these notations prior to issuance of demolition, grading, and/or building permits:<br><br>1. Construction activity is limited to the hours between 7:00 am and 6:00 pm Monday through Friday and 9:00 am to 6:00 pm Saturdays and Sundays, as prescribed in Municipal Code Section 5-29.09.<br><br>2. During the entire active construction period, equipment and trucks used for project construction shall use the best-available noise control techniques wherever feasible (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, | Planning Dept & Building Dept | During Construction | During Construction | Site Inspection | | Withhold Building Permit |

| ***Mitigation Measures/Implementing Action*** | ***Responsible for Monitoring*** | ***Monitoring Frequency*** | ***Timing of Verification*** | ***Method of Verification*** | ***Verified (Initial/Date)*** | ***Sanctions for Non-Compliance*** |
|---|---|---|---|---|---|---|
| engine enclosures, and acoustically attenuating shields or shrouds).<br><br>3. Impact tools (e.g., jack hammers and hoe rams) shall be hydraulically or electrically powered wherever possible. Where the use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used along with external noise jackets on the tools.<br><br>4. Stationary equipment such as generators and air compressors shall be located as far as feasible from nearby noise-sensitive uses.<br><br>5. Stockpiling shall be located as far as feasible from nearby noise-sensitive receptors.<br><br>6. Construction traffic shall be limited, to the extent feasible, to approved haul routes established by the City's Engineering Department.<br><br>7. At least 10 days prior to the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the public, that includes permitted construction days and hours as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, he/she shall investigate, take appropriate corrective action, and report the action to the City.<br><br>8. Signs shall be posted at the job site entrance(s), within the onsite construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment shall be turned off if not in use for more than 5 minutes. | | | | | | |

| ***Mitigation Measures/Implementing Action*** | ***Responsible for Monitoring*** | ***Monitoring Frequency*** | ***Timing of Verification*** | ***Method of Verification*** | ***Verified (Initial/Date)*** | ***Sanctions for Non-Compliance*** |
|---|---|---|---|---|---|---|
| 9. During the entire active construction period and to the extent feasible, the use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only. The construction manager shall use smart back-up alarms, which automatically adjust the alarm level based on the background noise level or switch off back-up alarms and replace with human spotters in compliance with all safety requirements and laws.<br><br>10. Erect temporary noise barriers (at least as high as the exhaust of equipment and breaking line-of-sight between noise sources and sensitive receptors), as necessary and feasible, to maintain construction noise levels at or below the performance standard of 80 dBA Leq. Barriers shall be constructed with a solid material that has a density of at least 1.5 pounds per square foot with no gaps from the ground to the top of the barrier and may be lined on the construction side with an acoustical blanket, curtain, or equivalent absorptive material (City of Ontario 2022a). | | | | | | |
| <u>MM-NOI-2.</u> Construction Vibration Abatement. Prior to issuance of a building permit, individual projects that involve vibration intensive construction activities, such as pile drivers, jack hammers, and vibratory rollers near sensitive receptors shall be evaluated for potential vibration impacts. For construction within 135 feet of fragile structures, such as historical resources, within 100 feet of nonengineered timber and masonry buildings (e.g., most residential buildings), or within 75 feet of engineered concrete and masonry (no plaster); or a vibratory roller within 25 feet of any structure, the project applicant shall prepare a noise and vibration | Planning Dept & Building Dept | During Construction | During Construction | Site Inspection | | Withhold Building Permit |

| ***Mitigation Measures/Implementing Action*** | ***Responsible for Monitoring*** | ***Monitoring Frequency*** | ***Timing of Verification*** | ***Method of Verification*** | ***Verified (Initial/Date)*** | ***Sanctions for Non-Compliance*** |
|---|---|---|---|---|---|---|
| analysis to assess and mitigate potential noise and vibration impacts related to these activities. This noise and vibration analysis shall be conducted by a qualified and experienced acoustical consultant or engineer. The vibration levels shall not exceed Federal Transit Administration (FTA) architectural damage thresholds (e.g., 0.12 inches per second [in/sec] peak particle velocity [PPV] for fragile or historical resources, 0.2 in/sec PPV for nonengineered timber and masonry buildings, and 0.3 in/sec PPV for engineered concrete and masonry). If vibration levels would exceed this threshold, alternative uses shall be used, such as drilling piles as opposed to pile driving and static rollers as opposed to vibratory rollers. If necessary, construction vibration monitoring shall be conducted to ensure vibration thresholds are not exceeded. | | | | | | |
| **Tribal Cultural Resources** | | | | | | |
| MM-TCR-1. The Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in CUL-4, of any pre-contact cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site. | Building Dept & Planning Dept | During Construction | Upon discovery | Copy of executed contract | | Withhold grading permit |
| MM-TCR-2. Any and all archaeological/cultural documents created as a part of the project (isolate | Building Dept & Planning Dept | During Construction | Upon discovery | Copy of executed contract | | Withhold grading permit |

| ***Mitigation Measures/Implementing Action*** | ***Responsible for Monitoring*** | ***Monitoring Frequency*** | ***Timing of Verification*** | ***Method of Verification*** | ***Verified (Initial/Date)*** | ***Sanctions for Non-Compliance*** |
|---|---|---|---|---|---|---|
| records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.<br>Note: Yuhaaviatam of San Manuel Nation realizes that there may be additional tribes claiming cultural affiliation to the area; however, Yuhaaviatam of San Manuel Nation can only speak for itself. The Tribe has no objection if the agency, developer, and/or archaeologist wishes to consult with other tribes in addition to YSMN and if the Lead Agency wishes to revise the conditions to recognize additional tribes. | | | | | | |

Draft Initial Study/Mitigated Negative Declaration

# Downtown West Planned Unit Development

**APRIL 2024**

*Prepared for:*


CITY OF ONTARIO PLANNING DEPARTMENT

303 East B Street
Ontario, California 91764
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# Table of Contents

**SECTION** **PAGE**


Acronyms and Abbreviations ..... iii

Introduction ..... 1
- Project Overview ..... 1
- California Environmental Quality Act Compliance ..... 1
- Public Review Process ..... 1

Project Description ..... 3
- Project Location ..... 3
- Environmental Setting ..... 3
- Project Characteristics ..... 3
- Project Construction and Phasing ..... 4

Initial Study Checklist ..... 6

Environmental Factors Potentially Affected ..... 8
- Explanation of Issues ..... 19
- Aesthetics ..... 19
- Agriculture and Forestry Resources ..... 21
- Air Quality ..... 22
- Biological Resources ..... 30
- Cultural Resources ..... 32
- Energy 42
- Geology and Soils ..... 44
- Greenhouse Gas Emissions ..... 45
- Hazards and Hazardous Materials ..... 50
- Hydrology and Water Quality ..... 52
- Land Use and Planning ..... 54
- Mineral Resources ..... 55
- Noise 56
- Population and Housing ..... 60
- Public Services ..... 60
- Recreation ..... 62
- Transportation ..... 63
- Tribal Cultural Resources ..... 66
- MM-CUL-4. ..... 67
- MM-TCR-1. ..... 67
- Utilities and Service Systems ..... 68

Wildfire ..... 70
Mandatory Findings of Significance ..... 71
References and Preparers ..... 73
References Cited ..... 73
List of Preparers ..... 75

## APPENDICES

A Air Quality, Greenhouse Gas Emissions, and Energy Memorandum
B Noise Memorandum
C Transportation Memorandum

## FIGURES

1 Regional Location
2 PUD Project Area
3 Site Plan
4 PUD Project Areas Historic Resources

## TABLES

1 Downtown West Land Use and Urban Design Concept ..... 4
2 Estimated Maximum Daily Construction Criteria Air Pollutant Emissions ..... 25
3 Estimated Combined Construction and Operational Criteria Air Pollutant Emissions ..... 26
4 Construction Localized Significance Thresholds Analysis ..... 28
5 Estimated Annual Construction GHG Emissions ..... 47
6 Project GHG Efficiency - Commercial ..... 48
7 Project GHG Efficiency - Residential ..... 49
8 Downtown West PUD TOP Consistency ..... 54
9 TOP Future Buildout Table ..... 55

## ACRONYMS AND ABBREVIATIONS

| Acronym/Abbreviation | Definition |
|---|---|
| AQMP | air quality management plan |
| BMP | best management practice |
| CAAQS | California Ambient Air Quality Standards |
| CalEEMod | California Emissions Estimator Model |
| CALGreen | California Green Building Standards |
| CARB | California Air Resources Board |
| CBC | California Building Code |
| CCAP | Community Climate Action Plan |
| CEQA | California Environmental Quality Act |
| CFC | California Fire Code |
| CO | carbon monoxide |
| $CO_2e$ | carbon dioxide equivalent |
| DPM | diesel particulate matter |
| EIR | environmental impact report |
| GHG | greenhouse gas |
| IEUA | Inland Empire Utilities Agency |
| in/sec | inches per second |
| IS | initial study |
| MND | mitigated negative declaration |
| MRZ | Mineral Resource Zone |
| MT | metric ton |
| NAAQS | National Ambient Air Quality Standards |
| NAHC | Native American Heritage Commission |
| $NO_x$ | oxides of nitrogen |
| OPD | Ontario Police Department |
| $PM_{10}$ | particulate matter with an aerodynamic diameter equal to or less than 10 microns |
| $PM_{2.5}$ | particulate matter with an aerodynamic diameter equal to or less than 2.5 microns |
| PPV | peak particle velocity |
| PRC | California Public Resources Code |
| PUD | Planned Unit Development |
| SB | Senate Bill |
| SCAG | Southern California Association of Governments |
| SCAQMD | South Coast Air Quality Management District |
| SLF | Sacred Lands File |
| $SO_x$ | sulfur oxides |
| TAC | toxic air contaminant |
| TAZ | traffic analysis zone |
| TCR | tribal cultural resource |
| TOP | The Ontario Plan |
| VMT | vehicle miles traveled |
| VOC | volatile organic compound |

INTENTIONALLY LEFT BLANK

# INTRODUCTION

Project Overview

The City of Ontario (City) is proposing the Downtown West Planned Unit Development (PUD) in Ontario.[1] The Downtown West PUD is intended to function as a set of development regulations and planning and design principles to govern the development or redevelopment of an eight-and-a-half block area in downtown Ontario, California. The Downtown West PUD would support a variety of businesses, housing opportunities for residents, open spaces, entertainment uses, and institutional uses while preserving its historic character, buildings, neighborhoods, and places.

California Environmental Quality Act Compliance

The Downtown West PUD is a project subject to compliance with the California Environmental Quality Act (CEQA), with the City serving as the lead agency responsible for the environmental impact review and the approval of the proposed Downtown West PUD. Based on the findings of this initial study (IS), the City has made the determination that a mitigated negative declaration (MND) is the appropriate environmental document to be prepared in compliance with CEQA (California Public Resources Code [PRC], Section 21000 et seq.).

The City has directed and supervised the preparation of this MND and is in conformance with Section 15070(a) of the CEQA Guidelines (14 CCR 15000 et seq.). The purpose of the MND and the IS checklist is to determine any potentially significant impacts associated with the Downtown West PUD and to incorporate mitigation measures into the project design, as necessary, to reduce or eliminate the significant or potentially significant effects. As determined in this IS/MND, there is no substantial evidence, in light of the whole record before the agency, that the Downtown West PUD would have a significant effect on the environment.

Public Review Process

In accordance with CEQA and the CEQA Guidelines, a 30-day public review period for this IS/MND commenced on April 26, 2024 and will conclude on May 28, 2024. The IS/MND was distributed for review to interested and involved public agencies, responsible/trustee agencies, organizations, and private individuals that have requested in writing to be informed of the proposed Downtown West PUD. In addition, consistent with CEQA Guidelines Section 15072, the City is required to provide a notice of intent to adopt this IS/MND to the public, responsible agencies, trustee agencies, and the County Clerk, and will mail a notice of intent to adopt this IS/MND to the last known name and address of all organizations and individuals who have previously requested such notice.

An electronic copy of this IS/MND can be viewed at the following web address:

https://www.ontarioca.gov/Planning

[1] All analysis is based on project description and project plans provided by the City as of [Placeholder Date].

During the 30-day public review period, the public will have the opportunity to provide written comments on the information contained within this IS/MND. The City's discretionary approval/denial of the proposed Downtown West PUD will be based on the information contained in this document.

In reviewing this IS/MND, interested members of the public should focus on the sufficiency of the document in identifying and analyzing potential project impacts on the environment, as well as the sufficiency of any mitigation measures proposed to reduce potential impacts to a less-than-significant level. Comments on the IS/MND should be submitted by the end of the 30-day public review period and must be postmarked by May 28, 2024. Submit written comments by mail or email with the subject line "Downtown West Planned Unit Development" to the following address:

City of Ontario, Planning Department
303 East B Street, Ontario, CA 91764
Attn: Diane Ayala, Senior Planner
dayala@ontarioca.gov

## PROJECT DESCRIPTION

Project Location

The Downtown West PUD project area (PUD project area) is located in the City of Ontario and within the "Downtown District Place Type" as defined by The Ontario Plan (TOP) 2050. The City is approximately 40 miles from downtown Los Angeles, 20 miles from downtown San Bernardino, and 30 miles from Orange County, as shown in Figure 1, Regional Location. The PUD project area is between E Street to the north, Holt Boulevard to the south, Palm Avenue to the west, and Euclid Avenue to the east, in addition to the portion of the block between D Street connecting Fern Avenue and Palm Avenue, as shown in Figure 2, PUD Project Area. The PUD project area is within the City's historic downtown and is adjacent to the civic center area.

Environmental Setting

The PUD project area consists of eight-and-a-half blocks (21.58 acres) in downtown Ontario, California. Within certain blocks, the existing building fabric contains potentially historic resources. The PUD project area consists of underlying mixed use development and comprises a mixture of commercial uses, vacant land, paved parking lots, and residential units.

The PUD project area is designated as TOP Mixed Use–Downtown Land Use. TOP 2050 was adopted in August 2022 and includes a Policy Plan (general plan) and defines the intention or vision of the Mixed Use–Downtown Land Use as follows (City of Ontario 2023a):

> As the historic center of Ontario, the Downtown District, is envisioned as the placed-based, people-focused, commercial, and cultural "heart" of the City and features several designated historic districts and landmarks. Downtown will support a variety of businesses, housing opportunities for residents with a variety of income levels, creative spaces, entertainment options, and institutional and civic uses while preserving its historic character, buildings, neighborhoods, and places. Complementing the wide mix of uses are designs, layouts and public spaces that give residents, visitors, and businesses a strong sense of connection and creates a place where people want to spend time.

The PUD project area currently contains 66,785 square feet of existing residential in 52 residential units, and 510,347 square feet of existing commercial.

Project Characteristics

The City seeks to further define and create the Downtown West PUD to streamline the PUD process for developers and property owners in efforts to revitalize downtown Ontario. The Downtown West PUD contains the following sections: (1) Introduction, (2) Vision and Guiding Principles, (3) District and Block Plan, (4) Zoning and Land Use Plan, (5) Development Regulations and Guidelines, (6) Public Realm Standards and Guidelines, and (7) Administration.

The Downtown West PUD would facilitate development of a mix of uses and historic preservation; transformation of select existing buildings through adaptive reuse; and design guidelines for new development, Euclid Avenue, alleys, managed infrastructure, and the public realm. Proposed development and private investments would include new mixed use/infill and façade improvements.

Proposed public realm improvement areas of focus include improvements along B Street, Euclid Avenue streetscape, alley improvements, a consolidated trash area, and public art. The Downtown West PUD encourages "activation," which can include pop-up events, Euclid Avenue programs, B Street Farmer's Market, alley art and signage, gateway signage, and a potential paseo connection. The Downtown West PUD establishes blocks A-I, shown in Figure 3, Site Plan. Table 1 shows the proposed land use and urban design concept for each block. The PUD project if fully implemented, has the potential to increase residential square footage by 578,157 square feet and decrease commercial by 472,461 square feet.

Table 1. Downtown West Land Use and Urban Design Concept

| Site | Residential Units | Density (du/acre) | Residential GSF | Commercial GSF | Parking Provision |
|---|---|---|---|---|---|
| A[1] | n/a | n/a | 0 sf | 7,500 sf | n/a |
| B | 22 | 75 | 22,544 sf | 1,500 sf | 32 |
| C[2] | 90 | 75 | 93,260 sf | 4,386 sf | 219 |
| D[3] | 29 | 39 | 52,200 sf | 0 sf | 58 |
| E | 58 | 75 | 59,746 sf | 2,000 sf | 78 |
| F | 141 | 60 | 144,898 sf | 0 sf | 460[4] |
| G | 59 | 75 | 60,370 sf | 0 sf | 80 |
| H | 47 | 30 | 48,296 sf | 0 sf | 78 |
| I | 35 | 30 | 63,628 sf | 0 sf | 70 |
| Fronting Euclid Avenue [5] | 100 | 75 max. | 100,000 sf | 22,500 sf | 145 |
| **Total** | **581** | **n/a** | **644,942 sf** | **37,886 sf** | **1,220** |

**Source:** Downtown West PUD.
**Notes:** du = dwelling unit; GSF = gross square feet; n/a = not applicable; sf = square feet.
1 Potential for new retail use/building in existing cactus garden.
2 New development proposed with some public parking (84 stalls).
3 Townhomes.
4 Potential new shared garage with public parking.
5 Potential for new development on top of existing historic structures or redevelopment of non-contributing buildings.

Project Construction and Phasing

The Downtown West PUD contains standards for development and private investments, public realm improvements, activation, and art. Any Project with the PUD The Downtown West PUD would be implemented in phases over time. Project construction and characteristics would be project-specific and not included in the PUD.

Project Approvals

The Downtown West PUD provides development standards and requirements for Projects within the PUD project area.

Development Plan approval, pursuant to the requirements of Ontario Development Code Section 4.02.025 (Development Plans), shall be required for any Project within the Downtown West PUD that entails the physical alteration of any lot, construction of a building, or addition or significant alteration of an existing building in the PUD area as required by the Ontario Development Code. For each Project, a Development Plan application shall be submitted to the Planning Department on a City application form pursuant to the requirements of Ontario Development Code Division 2.02 (Application Filing and

Processing), commencing with Subsection B (Discretionary Permits and Actions) of Section 2.02.015 (Application Processing Procedures). Development plans are approved by the Planning Commission or Development Advisory Board.

To ensure proper implementation of the historic resource preservation and mitigation measures established in the Mitigated Negative Declaration for the PUD, an application for a Certificate of Appropriateness ("C of A") shall be submitted and approved in conjunction with each private or public project. The C of A is approved by the Historic Preservation Subcommittee or the full Historic Preservation Commission (or the Planning Director may issue waivers for minor projects). Encroachment and easements are processed by the City Engineer.

## INITIAL STUDY CHECKLIST

1. Project Title: Downtown West PUD

2. Lead agency name and address: City of Ontario, Planning Department, 303 East B Street, Ontario California 91764

3. Contact person and phone number: Diane Ayala, Senior Planner, 909.395.2428

4. Project Sponsor: City of Ontario

5. Project Location: The PUD project area is located in the Downtown District of the City of Ontario. The City of Ontario is approximately 40 miles from downtown Los Angeles, 20 miles from downtown San Bernadino, and 30 miles from Orange County. As illustrated on Figure 2, the project is bordered by Euclid Avenue to the east, Holt Boulevard to the south, Palm Avenue and Fern Avenue to the west, and E Street to the north.

6. General Plan designation: Mixed Use- Downtown

7. Zoning: MU-1 (Downtown Mixed Use)

8. Description of project. The City seeks to create the Downtown West PUD to streamline the PUD process for developers and property owners in efforts to revitalize downtown Ontario. The Downtown West PUD contains guidelines for development and private investments, public realm improvements, and activations and public art.

   Building Characteristics and Operations

   Section 5 of the Downtown West PUD sets forth development standards to govern the placement, height, and bulk of permitted buildings and other structures, as well as to establish requirements for vehicular access, parking and loading, open space, landscaping, and signs for commercial uses to be incorporated into development plans. The standards and guidelines would apply to future development projects within the PUD project area for any new construction, addition, remodel, or reallocation requiring a building permit or other similar entitlement by the City. Regulations and standards in the Ontario Development Code that are not covered by the Downtown West PUD would continue to be applicable to future development within the PUD project area.

   Circulation and Parking

   The total parking provided at each site is shown in Table 1. A total of 1,220 parking stalls would be provided, which is over the required amount for the number of residential units and commercial space. As described in the Downtown West PUD, parking standards are consistent (Residential – 1 space per bedroom up to 2 bedrooms, 2 spaces per unit for 3 bedrooms and above, 0.20 spaces per unit for guest/visitor parking. Commercial – 1 space per 250 sf gross floor area for all permitted or conditionally permitted use.)

Implementation of the Downtown West PUD would facilitate improvements to B Street and utilize the addition of a West Valley Connector Bus Rapid Transportation Station at the corner of E. Holt Boulevard and N. Plum Avenue.

Landscaping, Walls, and Lighting

The Downtown West PUD contains various standards and guidelines for development in the PUD project area including within Section 5.5, Building Design, and Section 6.3, Design Guidelines. Landscaping, walls, and lighting standards in the Ontario Development Code that are not covered by the Downtown West PUD would continue to be applicable to future development within the PUD project area.

9. Surrounding land uses and setting:

The PUD project area is currently developed with a mix of commercial uses, vacant land, and residential units. The area surrounding the PUD project area consists of mixed office, residential, commercial, and open space uses (see Table 2).

Table 2. Surrounding Land Uses and Setting

| | Existing Land Use | General Plan Designation | Zoning Designation |
|---|---|---|---|
| Site: | Mixed uses and residential[1] | Mixed Use (MU)-Downtown | Downtown Mixed-Use (MU-1)and High Density Residential (HDR-45) |
| North: | Mixed uses, office, and residential[2] | Mixed Use (MU)-Downtown, Office Commercial (OC), and HDR | MU-1, Low Intensity Office (OL), and HDR-45 |
| South: | Mixed uses[3] | Mixed Use (MU)-Downtown | MU-1 (Downtown Mixed-Use) |
| East: | Mixed uses and open space[4] | MU and Open Space – Recreation (OS-R) | MU-1 and PUD(Euclid Avenue Overlay) |
| West: | Mixed uses and residential[5] | Mixed Use (MU) Downtown, Low Medium Density Residential (LMDR), Medium Density Residential (MDR), and HDR | MU-1, Low Density Residential (LDR-5), Medium Density Residential (MDR-25), and HDR-45 |

**Sources:** City of Ontario 2015a, 2023b.
**Notes:**
1 MU: Retail stores, dental offices, parking lots, medical offices, bank, restaurant, general offices, residences on commercial, multiple family residential, religious structure, storage warehouse, car lots, vacant land
2 MU: Religious structure, vacant land, fast food, general offices, and retail stores
OC: General offices and residences on commercial
HDR: Religious structure
3 MU: Vacant land, retail stores, and car lots
4 MU: Service station, retail stores, parking lots, vacant land, and bank
OS-R: Parking lot, vacant land, and Ontario Town Square
5 MU: Triplex, single-family residential, vacant land, duplex, parking lots, and retail stores
LMDR: Single-family residential, quad, triplex, and apartments
MDR: Duplex, single-family residential, apartments, and vacant land
HDR: Religious structure and parking lot

10. Other public agencies whose approval is anticipated include (e.g., permits, financing approval, or participation agreement):

None.

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1?

☒ Yes ☐ No

If "yes", has consultation begun? ☐ Yes ☐ No ☒ Completed

## ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact," as indicated by the checklist on the following pages.

| | | | | | |
|---|---|---|---|---|---|
| ☐ | Aesthetics | ☐ | Agriculture and Forestry Resources | ☐ | Air Quality |
| ☐ | Biological Resources | ☒ | Cultural Resources | ☐ | Energy |
| ☐ | Geology and Soils | ☐ | Greenhouse Gas Emissions | ☐ | Hazards and Hazardous Materials |
| ☐ | Hydrology and Water Quality | ☐ | Land Use and Planning | ☐ | Mineral Resources |
| ☒ | Noise | ☐ | Population and Housing | ☐ | Public Services |
| ☐ | Recreation | ☐ | Transportation | ☒ | Tribal Cultural Resources |
| ☐ | Utilities and Service Systems | ☐ | Wildfire | ☒ | Mandatory Findings of Significance |

Determination (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

| | |
|---|---|
| Signature: Diane Ayala | Date: 4/26/2024 |
| Printed Name: Diane Ayala | |

Evaluation of Environmental Impacts

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project would not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an Environmental Impact Report (EIR) is required.

4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level.

5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

   a. Earlier Analysis Used. Identify and state where they are available for review.

   b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

   c. Mitigation Measures. For effects that are "Less Than Significant With Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9. The explanation of each issue should identify:

   a. the significance criteria or threshold, if any, used to evaluate each question; and

   b. the mitigation measure identified, if any, to reduce the impact to less than significance

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| I. AESTHETICS – Except as provided in Public Resources Code Section 21099, would the project: | | | | |
| a) Have a substantial adverse effect on a scenic vista? | ☐ | ☐ | ☒ | ☐ |
| b) Substantially damage scenic resources including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | ☐ | ☐ | ☒ | ☐ |
| c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality? | ☐ | ☐ | ☒ | ☐ |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | ☐ | ☐ | ☒ | ☐ |
| II. AGRICULTURE AND FORESTRY RESOURCES – In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project: | | | | |
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | ☐ | ☐ | ☐ | ☒ |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | ☐ | ☐ | ☐ | ☒ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))? | ☐ | ☐ | ☐ | ☒ |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ☒ |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ☒ |
| III. AIR QUALITY – Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project: | | | | |
| a) Conflict with or obstruct implementation of the applicable air quality plan? | ☐ | ☐ | ☒ | ☐ |
| b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard? | ☐ | ☐ | ☒ | ☐ |
| c) Expose sensitive receptors to substantial pollutant concentrations? | ☐ | ☐ | ☒ | ☐ |
| d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people? | ☐ | ☐ | ☒ | ☐ |
| IV. BIOLOGICAL RESOURCES – Would the project: | | | | |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | ☐ | ☐ | ☒ | ☐ |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | ☐ | ☐ | ☐ | ☒ |
| c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, | ☐ | ☐ | ☐ | ☒ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| filling, hydrological interruption, or other means? | | | | |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | ☐ | ☐ | ☐ | ☒ |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | ☐ | ☐ | ☒ | ☐ |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | ☐ | ☐ | ☐ | ☒ |
| V. CULTURAL RESOURCES – Would the project: | | | | |
| a) Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5? | ☐ | ☒ | ☐ | ☐ |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5? | ☐ | ☐ | ☒ | ☐ |
| c) Disturb any human remains, including those interred outside of dedicated cemeteries? | ☐ | ☐ | ☐ | ☒ |
| VI. Energy – Would the project: | | | | |
| a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation? | ☐ | ☐ | ☒ | ☐ |
| b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency? | ☐ | ☐ | ☒ | ☐ |
| VII. GEOLOGY AND SOILS – Would the project: | | | | |
| a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| ii) Strong seismic ground shaking? | ☐ | ☐ | ☒ | ☐ |
| iii) Seismic-related ground failure, including liquefaction? | ☐ | ☐ | ☒ | ☐ |
| iv) Landslides? | ☐ | ☐ | ☐ | ☒ |
| b) Result in substantial soil erosion or the loss of topsoil? | ☐ | ☐ | ☒ | ☐ |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | ☐ | ☐ | ☒ | ☐ |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property? | ☐ | ☐ | ☒ | ☐ |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | ☐ | ☐ | ☒ | ☐ |
| f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | ☐ | ☐ | ☒ | ☐ |
| VIII. GREENHOUSE GAS EMISSIONS – Would the project: | | | | |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | ☐ | ☐ | ☒ | ☐ |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | ☐ | ☐ | ☒ | ☐ |
| IX. HAZARDS AND HAZARDOUS MATERIALS – Would the project: | | | | |
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | ☐ | ☐ | ☒ | ☐ |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | ☐ | ☐ | ☒ | ☐ |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| d) Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | ☐ | ☐ | ☒ | ☐ |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area? | ☐ | ☐ | ☒ | ☐ |
| f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | ☐ | ☐ | ☒ | ☐ |
| g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires? | ☐ | ☐ | ☒ | ☐ |
| X. HYDROLOGY AND WATER QUALITY – Would the project: | | | | |
| a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality? | ☐ | ☐ | ☒ | ☐ |
| b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin? | ☐ | ☐ | ☒ | ☐ |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: | | | | |
| i) result in substantial erosion or siltation on or off site; | ☐ | ☐ | ☒ | ☐ |
| ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site; | ☐ | ☐ | ☒ | ☐ |
| iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or | ☐ | ☐ | ☒ | ☐ |
| iv) impede or redirect flood flows? | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation? | ☐ | ☐ | ☒ | ☐ |
| e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan? | ☐ | ☐ | ☐ | ☒ |
| XI. LAND USE AND PLANNING – Would the project: | | | | |
| a) Physically divide an established community? | ☐ | ☐ | ☒ | ☐ |
| b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect? | ☐ | ☐ | ☐ | ☒ |
| XII. MINERAL RESOURCES – Would the project: | | | | |
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | ☐ | ☐ | ☐ | ☒ |
| b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan? | ☐ | ☐ | ☐ | ☒ |
| XIII. NOISE – Would the project result in: | | | | |
| a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | ☐ | ☒ | ☐ | ☐ |
| b) Generation of excessive groundborne vibration or groundborne noise levels? | ☐ | ☒ | ☐ | ☐ |
| c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | ☐ | ☐ | ☐ | ☒ |
| XIV. POPULATION AND HOUSING – Would the project: | | | | |
| a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | ☐ | ☐ | ☒ | ☐ |
| b) Displace substantial numbers of existing people or housing, necessitating the | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| construction of replacement housing elsewhere? | | | | |
| XV. PUBLIC SERVICES – Would the project: | | | | |
| a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services: | | | | |
| i) Fire protection? | ☐ | ☐ | ☒ | ☐ |
| ii) Police protection? | ☐ | ☐ | ☒ | ☐ |
| iii) Schools? | ☐ | ☐ | ☒ | ☐ |
| iv) Parks? | ☐ | ☐ | ☒ | ☐ |
| v) Other public facilities? | ☐ | ☐ | ☒ | ☐ |
| XVI. RECREATION | | | | |
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | ☐ | ☐ | ☒ | ☐ |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | ☐ | ☐ | ☒ | ☐ |
| XVII. TRANSPORTATION – Would the project: | | | | |
| a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities? | ☐ | ☐ | ☒ | ☐ |
| b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)? | ☐ | ☐ | ☒ | ☐ |
| c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | ☐ | ☐ | ☒ | ☐ |
| d) Result in inadequate emergency access? | ☐ | ☐ | ☒ | ☐ |
| XVIII. TRIBAL CULTURAL RESOURCES | | | | |
| Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: | | | | |
| a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. | ☐ | ☒ | ☐ | ☐ |
| XIX. UTILITIES AND SERVICE SYSTEMS – Would the project: | | | | |
| a) Require or result in the relocation or construction of new or expanded water, waste water treatment, or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects? | ☐ | ☐ | ☒ | ☐ |
| b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years? | ☐ | ☐ | ☒ | ☐ |
| c) Result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | ☐ | ☐ | ☒ | ☐ |
| d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals? | ☐ | ☐ | ☒ | ☐ |
| e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste? | ☐ | ☐ | ☐ | ☒ |
| XX. WILDFIRE – If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project: | | | | |
| a) Substantially impair an adopted emergency response plan or emergency evacuation plan? | ☐ | ☐ | ☒ | ☐ |
| b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire? | ☐ | ☐ | ☒ | ☐ |
| c) Require the installation or maintenance of associated infrastructure (such as roads, fuel | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment? | | | | |
| d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes? | ☐ | ☐ | ☒ | ☐ |
| XXI. MANDATORY FINDINGS OF SIGNIFICANCE | | | | |
| a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory? | ☐ | ☒ | ☐ | ☐ |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.) | ☐ | ☒ | ☐ | ☐ |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | ☐ | ☒ | ☐ | ☐ |

Explanation of Issues

Aesthetics

a) Would the project have a substantial adverse effect on a scenic vista?

Less-than-Significant Impact. The dominant scenic resource in Ontario is the San Gabriel Mountain range to the north, visible from the Upper Santa Ana River. Other prominent scenic resources are the Jurupa Mountains and the San Bernardino Mountains to the east, the Santa Ana Mountains to the south, and the Chino Hills to the southwest (City of Ontario 2022a). The PUD project area is currently developed with mixed use and residential uses. The proposed Downtown West PUD contains height limits that are consistent with the Ontario Development Code development standards. Additionally, the San Gabriel Mountains peaks rise to 7,000 feet above

mean sea level (City of Ontario 2022a); therefore, development with the maximum height of 65 feet would not alter the scenic views of Ontario significantly compared to the existing conditions. Impacts to scenic vistas would be less than significant.

b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

Less-than-Significant Impact. There are no designated state scenic highways located near the PUD project area. The closest eligible state scenic highway is a portion of State Route 142 in Chino Hills, approximately 7 miles southwest of the PUD project area (Caltrans 2018). The City's General Plan identifies Euclid Corridor and the Mission Boulevard Corridor as the primary scenic corridors in Ontario (City of Ontario 2022a). The PUD project area is bordered by Euclid Avenue to the east and would include Euclid Avenue Streetscapes and Euclid Avenue Programs. The Downtown West PUD would contain guidelines for these improvements such as streetscape design standards, historic preservation, and adaptive reuse to ensure scenic resources would not be substantially damaged. Therefore, the Downtown West PUD would have less than significant impacts on state scenic highways.

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Less-than-Significant Impact. Per PRC Section 21071, an "urbanized area" is defined as follows:

> (a) An incorporated city that meets either of the following criteria:
>
> > (1) Has a population of at least 100,000 persons.
> >
> > (2) Has a population of less than 100,000 persons if the population of that city and not more than two contiguous incorporated cities combined equals at least 100,000 persons.

As of the 2020 U.S. Census, the City has a population of 175,265 (U.S. Census Bureau 2020). The population exceeds 100,000, so the site would be considered an urbanized area for purposes of responding to this impact prompt.

TOP 2050 is the primary planning document for the City and contains various goals and policies governing the scenic quality of the City. Land Use Element Section 2, Compatibility, requires infrastructure to be aesthetically pleasing and in context with the community character (Policy LU-2.6). Community Design Element Section 1, Image & Identity, aims to preserve the existing character of neighborhoods (Policy CD-1.1 and Policy CD-1.3) and preserve the City's view corridors (Policy CD-1.5). Community Design Element Section 2, Design Quality, ensures a high level of design quality that is attractive, safe, functional, human-scale, and distinct (Policy CD-2.1 through Policy CD-2.10). Community Design Element Section 3, Urban, Mixed Use, and Transit-Oriented Place Types, promotes development that heightens the unique character of each place type (Policy CD-3.1) and maximizes safety, comfort, and aesthetics (Policy CD-3.2, Policy CD-3.3, and Policy CD-3.5). Community Design Element Section 4, Historic Preservation, aims to preserve

the character of the City's historic buildings, streetscapes, and unique neighborhoods (Policy CD-4.2) (City of Ontario 2023a). Adherence to the Land Use Element and Community Design Element policies described above would reduce visual impacts.

In addition, the Ontario Development Code includes development requirements related to scenic quality such as development density, screening and setback, signing, landscaping, lighting, and height limitations. The Downtown West PUD would be consistent with the aesthetic requirements outlined in TOP 2050 and the Ontario Development Code. Therefore, this impact would be less than significant.

d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Less-than-Significant Impact. New development facilitated by the Downtown West PUD would result in new sources of light and glare through increased development in the PUD project area. However, the PUD project area is currently developed and urban, consisting of large amounts of light and glare affecting daytime and nighttime views in the area. Any new development would adhere to the design standards of the Ontario Development Code to ensure that light and glare from new developments would be minimized and that significant impacts would not occur. Therefore, the Downtown West PUD would not create a significant light or glare impact beyond what already exists, and impacts would be less than significant.

Agriculture and Forestry Resources

a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

No Impact. According to the California Important Farmland Finder database, the PUD project area is classified as "Urban and Built-Up Land" (DOC 2023a). Additionally, Figure 5.2-1, Important Farmland, in The Ontario Plan 2050 Final Supplemental EIR (TOP Supplemental EIR) designates the PUD project area and surrounding areas as Developed Land (City of Ontario 2022a). The Downtown West PUD would not be located on land classified as Farmland pursuant to the Farmland Mapping and Monitoring Program and would therefore not convert any Farmland to non-agricultural use. No impact would occur.

b) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

No Impact. As shown in Figure 5.2-2, Williamson Act Land, in the TOP Supplemental EIR, the PUD project area does not contain land under a Williamson Act Contract (City of Ontario 2022a). The PUD project area is zoned as MU and HDR (City of Ontario 2015a). Therefore, the Downtown West PUD would not conflict with existing zoning for agricultural use or a Williamson Act contract. No impact would occur.

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?

No Impact. The PUD project area is not zoned for forest land, timberland, or timberland zoned Timberland Production. Therefore, there is no impact.

d) Would the project result in the loss of forest land or conversion of forest land to non-forest use?

No Impact. The PUD project area does not contain forest land. Therefore, there is no impact.

e) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

No Impact. As described above, the PUD project area does not contain farmland or forest land. Therefore, there is no impact.

Air Quality

This section is based on technical analysis conducted by Dudek and attached to this MND as Appendix A, Air Quality, Greenhouse Gas Emissions, and Energy Memorandum. See Appendix A for complete results.

a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

Less-than-Significant Impact. The PUD project area is located within the South Coast Air Basin, which includes the non-desert portions of Los Angeles, Riverside, and San Bernardino Counties and all of Orange County, and is within the jurisdictional boundaries of the South Coast Air Quality Management District (SCAQMD). SCAQMD administers the South Coast Air Basin's air quality management plan (AQMP), which is a comprehensive document outlining an air pollution control program for attaining the California Ambient Air Quality Standards (CAAQS) and National Ambient Air Quality Standards (NAAQS). SCAQMD has established criteria for determining consistency with the currently applicable AQMP in Chapter 12, Sections 12.2 and 12.3 of the SCAQMD CEQA Air Quality Handbook. These criteria are as follows (SCAQMD 1993):

- **Consistency Criterion No. 1:** Whether the project would result in an increase in the frequency or severity of existing air quality violations, cause or contribute to new violations, or delay timely attainment of the ambient air quality standards or interim emission reductions in the AQMP.
- **Consistency Criterion No. 2:** Whether the project would exceed the assumptions in the AQMP or increments based on the year of project buildout and phase.

Regarding Consistency Criterion No.1, it was determined that construction of future development projects from implementation of the Downtown West PUD would not exceed the SCAQMD mass daily construction thresholds for all criteria air pollutants. In addition, the operation of any future development projects, as allowed by the Downtown West PUD, would not exceed the SCAQMD

mass daily operational thresholds for all criteria air pollutants for full operational buildout of the Downtown West PUD and for a combined construction and operational scenario.

Because the total anticipated development associated with implementation of the Downtown West PUD would not exceed the SCAQMD mass daily regional thresholds, the Downtown West PUD would not result in an increase in the frequency or severity of existing air quality violations. As such, the Downtown West PUD would be consistent with Consistency Criterion No. 1 of the SCAQMD CEQA Air Quality Handbook.

While no specific development projects are proposed at this time, implementation of the Downtown West PUD would facilitate additional population growth, additional housing units, and a decrease in density of commercial space within the PUD project area. Changes in the population, housing, or employment growth projections associated with the Downtown West PUD have the potential to affect the demographic projections of the Southern California Association of Governments (SCAG), and therefore, the assumptions of the SCAQMD's AQMP. However, development that occurs from implementation of the Downtown West PUD would be consistent with SCAG's regional goals of providing infill housing, improving the jobs-to-housing balance, and integrating land uses near major transportation corridors.

In the SCAG 2020 Regional Transportation Plan/Sustainable Communities Strategy Demographics and Growth Forecast, it was predicted that between 2016 and 2045, the City's population would increase by 96,900, households would increase by 28,500, and employment would increase by 55,400 (SCAG 2020). Downtown West PUD implementation, which would facilitate the development of 581 dwelling units and 37,886 square feet of commercial space at buildout in 2045, would not result in growth that would exceed these growth forecasts or change the underlying land use assumptions utilized in the 2022 AQMP. It is important to note that, while the more recent SCAG 2024 RTP/SCS was approved in April 2024, this project uses the 2020 RTP/SCS as a reference for air quality impact analysis because it provides consistency with the relevant AQMP from 2022. As such, the Downtown West PUD would not conflict with Consistency Criterion No. 2 of the SCAQMD CEQA Air Quality Handbook.

While the Downtown West PUD consists of a policy document that does not propose any direct development, the Downtown West PUD's proposed land use changes would allow for greater densities than are currently allowed within the PUD project area. Approval of the Downtown West PUD would not provide any goals, policies, or programs that would significantly conflict with or obstruct implementation of the applicable air quality plan. Future development resulting from implementation of the Downtown West PUD would not exceed the SCAQMD's criteria pollutant mass daily thresholds for construction and operations. Therefore, the Downtown West PUD would not conflict with Consistency Criterion No. 1.

Additionally, the Downtown West PUD would not conflict with Consistency Criterion No. 2, as implementation of the Downtown West PUD would not exceed the demographic growth forecasts in the SCAG 2020 Regional Transportation Plan/Sustainable Communities Strategy. Potential impacts related to the Downtown West PUD's potential to conflict with or obstruct implementation of the applicable air quality plan would be less than significant.

b) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

Less-than-Significant Impact. A quantitative analysis was conducted to determine whether the project might result in emissions of criteria air pollutants that may cause exceedances of the NAAQS or CAAQS or cumulatively contribute to existing nonattainment of ambient air quality standards. See Appendix A for full analysis.

The Downtown West PUD would result in emissions of criteria air pollutants for which the California Air Resources Board (CARB) and U.S. Environmental Protection Agency have adopted ambient air quality standards (i.e., the NAAQS and CAAQS). Projects that emit these pollutants have the potential to cause, or contribute to, violations of these standards.

The significance criteria used to evaluate the project impacts to air quality are based on the recommendations provided in Appendix G of the CEQA Guidelines. For the purposes of this air quality analysis, a significant impact would occur if the Downtown West PUD would (14 CCR 15000 et seq.):

1. Conflict with or obstruct implementation of the applicable air quality plan.
2. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.
3. Expose sensitive receptors to substantial pollutant concentrations.
4. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

Appendix G of the CEQA Guidelines (14 CCR 15000 et seq.) indicates that, where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to determine whether the project would have a significant impact on air quality.

SCAQMD has established air quality significance thresholds, as revised in April 2019, that set forth quantitative emission significance thresholds below which a project would not have a significant impact on ambient air quality (SCAQMD 2019). The project's "regional" emissions refer to emissions that will be evaluated based on regional significance thresholds established by SCAQMD, also known as the criteria pollutant mass daily thresholds. The SCAQMD air quality significance thresholds also provide toxic air contaminant (TAC) thresholds and ambient air quality standards for criteria pollutants that are to be utilized for localized significance determination. The quantitative air quality analysis provided herein applies the SCAQMD thresholds identified in Appendix A of this MND to determine the potential for the Downtown West PUD to result in a significant impact under CEQA.

**Construction Emissions**

Construction scenario assumptions are detailed in Appendix A. Construction activities resulting from potential future projects developed under Downtown West PUD implementation would result in the temporary addition of pollutants to the local airshed caused by on-site sources (e.g., off-road construction equipment, soil disturbance, and volatile organic compound [VOC] off-gassing from architectural coatings and asphalt pavement application) and off-site sources (e.g., vendor trucks, haul trucks, and worker vehicle trips). Specifically, entrained dust results from the exposure of earth surfaces to wind from the direct disturbance and movement of soil, resulting in emissions of particulate matter with an aerodynamic diameter equal to or less than 10 microns ($PM_{10}$) and particulate matter with an aerodynamic diameter equal to or less than 2.5 microns ($PM_{2.5}$). Internal combustion engines used by construction equipment, haul trucks, vendor trucks (i.e., delivery trucks), and worker vehicles would result in emissions of VOCs, oxides of nitrogen ($NO_x$), carbon monoxide (CO), sulfur oxides ($SO_x$), $PM_{10}$, and $PM_{2.5}$.

For purposes of estimating Project emissions, construction is assumed to start in 2025 and have a duration of 20 years, reaching completion in December 2044. To estimate a single year of construction, the entire Project buildout land use quantities was scaled by 20-years of construction (i.e., 5% of total buildout) and then compressed to a 1-year period. Construction emissions were calculated for the estimated worst-case day over the construction period associated with each phase and reported as the maximum daily emissions estimated during construction of the 5% development scenario. Table 3 presents the estimated maximum daily construction emissions generated during construction of the 5% construction scenario for the first year of construction. Details of the emission calculations are provided in Appendix A.

Table 3. Estimated Maximum Daily Construction Criteria Air Pollutant Emissions

| Year | VOC | $NO_x$ | CO | $SO_x$ | $PM_{10}$ | $PM_{2.5}$ |
|---|---|---|---|---|---|---|
| | Pounds per day | | | | | |
| **Summer** | | | | | | |
| 1 Year of Construction (5% of total construction) | 1.21 | 9.35 | 12.52 | 0.02 | 0.79 | 0.42 |
| **Winter** | | | | | | |
| 1 Year of Construction (5% of total construction) | 21.22 | 41.44 | 29.88 | 0.17 | 9.73 | 3.85 |
| **Maximum** | **21.22** | **41.44** | **29.88** | **0.17** | **9.73** | **3.85** |
| *SCAQMD Threshold* | *75* | *100* | *550* | *150* | *150* | *55* |
| **Threshold Exceeded?** | **No** | **No** | **No** | **No** | **No** | **No** |

**Source:** Appendix A.
**Notes:** VOC = volatile organic compound; $NO_x$ = oxides of nitrogen; CO = carbon monoxide; $SO_x$ = sulfur oxides; $PM_{10}$ = coarse particulate matter; $PM_{2.5}$ = fine particulate matter; SCAQMD = South Coast Air Quality Management District.
These estimates reflect control of fugitive dust required by SCAQMD Rule 403.

As shown in Table 3, daily construction emissions would not exceed the SCAQMD significance thresholds for VOC, $NO_x$, CO, $SO_x$, $PM_{10}$, or $PM_{2.5}$ during the 5% construction scenario, and short-term construction impacts would be less than significant.

## Operational Emissions

Operation scenario assumptions are detailed in Appendix A. While the Downtown West PUD consists of a policy document and does not propose any direct development, the Downtown West PUD's proposed land-use changes would allow for new or more dense development than is currently allowed within the PUD project area. Operation of the Downtown West PUD, due to future development within the PUD project area, could potentially generate VOC, $NO_x$, CO, $SO_x$, $PM_{10}$, and $PM_{2.5}$ emissions from mobile sources, including vehicular traffic; energy sources such as natural gas usage; area sources, including the use of landscaping equipment and consumer products; and architectural coatings.

Table 4 presents the maximum daily area, energy, and mobile sources associated with total operational buildout of the Downtown West PUD as compared to the SCAQMD's thresholds. The SCAQMD operational thresholds are expressed as mass daily thresholds in pounds per day. Details of the emission calculations are provided in Appendix A.

Table 4. Estimated Combined Construction and Operational Criteria Air Pollutant Emissions

| Estimated Maximum Net Daily Operational Emissions for Project Implementation[1] | | | | | | |
|---|---|---|---|---|---|---|
| **Emission Source** | **VOC** | **$NO_x$** | **CO** | **$SO_x$** | **$PM_{10}$** | **$PM_{2.5}$** |
| | **Pounds per day** | | | | | |
| Area | 3.90 | 9.04 | 54.42 | 0.05 | 0.39 | 0.39 |
| Energy | 0.11 | 1.84 | 0.77 | 0.01 | 0.15 | 0.15 |
| Mobile | −4.56 | −4.92 | −27.62 | −0.02 | 4.87 | 1.18 |
| **Total** | **−0.55** | **5.95** | **27.57** | **0.05** | **5.41** | **1.73** |
| *SCAQMD Operational Threshold (Appendix A)* | *55* | *55* | *550* | *150* | *150* | *55* |
| **Threshold Exceeded?** | **No** | **No** | **No** | **No** | **No** | **No** |
| **Combined Construction and Operational Emissions (Worst-Case)** | | | | | | |
| Construction Emissions (Table 3) | 21.22 | 41.44 | 29.88 | 0.17 | 9.73 | 3.85 |
| Operational Emissions (above) | −0.55 | 5.95 | 27.57 | 0.05 | 5.41 | 1.73 |
| **Combined Construction and Operation Emissions** | **20.67** | **47.39** | **57.45** | **0.22** | **15.14** | **5.58** |
| *SCAQMD Operational Threshold (Appendix A)* | *55* | *55* | *550* | *150* | *150* | *55* |
| **Threshold Exceeded?** | **No** | **No** | **No** | **No** | **No** | **No** |

**Notes:** VOC = volatile organic compound; $NO_x$ = oxides of nitrogen; CO = carbon monoxide; $SO_x$ = sulfur oxides; $PM_{10}$ = coarse particulate matter; $PM_{2.5}$ = fine particulate matter; SCAQMD = South Coast Air Quality Management District; <0.01 = reported value less than 0.01.
The values shown are the maximum summer or winter daily emissions results from CalEEMod.
See Appendix A for complete results.
[1] Emissions were calculated by subtracting the proposed Downtown West PUD's emissions by the existing scenario emissions. The existing scenario is 5 dwelling units and 56,171 square feet of commercial space.

As shown in Table 4, maximum daily operational emissions from full buildout of the Downtown West PUD would not exceed the SCAQMD daily significance thresholds for all criteria air pollutants during operations. In addition, the combined construction and operational emissions would not exceed the SCAQMD's operational emissions threshold for all criteria pollutants. Therefore,

impacts regarding cumulatively considerable net increases of any criteria pollutant for which the project region is non-attainment would be less than significant.

Cumulative localized impacts would potentially occur if construction associated with the development future development facilitated by the Downtown West PUD were to occur concurrently with another construction project or with another off-site, unrelated project. In addition to the speculative nature of the Downtown West PUD implementation, construction schedules for potential future projects unrelated to the Downtown West PUD are currently unknown; therefore, potential construction impacts associated with two or more simultaneous projects would be considered speculative. Criteria air pollutant emissions associated with construction activity of future projects would be reduced through implementation of control measures required by the SCAQMD, as applicable.

The Downtown West PUD would not result in a cumulatively considerable increase in emissions of nonattainment pollutants, and impacts would be less than significant during construction and operation.

**Health Effects of Criteria Air Pollutants**

Construction and operation of the project would generate criteria air pollutant emissions; however, estimated construction and operational emissions would not exceed the SCAQMD mass-emission daily thresholds as shown in Tables 3 and 4, respectively.

Because construction and operation of the project would not result in ozone precursor emissions (i.e., VOCs or $NO_X$) that would exceed the SCAQMD thresholds, as shown in Tables 3 and 4, the project is not anticipated to substantially contribute to regional ozone concentrations and their associated health impacts.

As described in threshold (c), below, CO hotspots were determined to be a less-than-significant impact. Thus, the project's CO emissions would not contribute to the health effects associated with this pollutant.

As with ozone and $NO_X$, and as shown in Tables 3 and 4, the project would not generate emissions of $PM_{10}$ or $PM_{2.5}$ that would exceed the SCAQMD's thresholds. Accordingly, the project's $PM_{10}$ and $PM_{2.5}$ emissions are not expected to cause an increase in related health effects for this pollutant.

In summary, the Downtown West PUD would not result in any potentially significant contribution to local or regional concentrations of nonattainment pollutants and would not result in a significant contribution to the adverse health impacts associated with those pollutants. Impacts would be less than significant.

c) Would the project expose sensitive receptors to substantial pollutant concentrations?

Less-than-Significant Impact. The project would not expose sensitive receptors to substantial pollutant concentrations, as evaluated below.

**Sensitive Receptors**

Sensitive receptors are those individuals more susceptible to the effects of air pollution than the population at large. People most likely to be affected by air pollution include children, the elderly, and people with cardiovascular and chronic respiratory diseases. According to SCAQMD, sensitive receptors include residences, schools, playgrounds, childcare centers, long-term healthcare facilities, rehabilitation centers, convalescent centers, and retirement homes (SCAQMD 1993). The nearest sensitive-receptor land use are residences located approximately 50 feet south and west of the Downtown West PUD site boundary.

**Localized Significance Thresholds**

The SCAQMD recommends a localized significance threshold analysis to evaluate localized air quality impacts to sensitive receptors in the immediate vicinity of the project as a result of project activities. The impacts were analyzed using methods consistent with those in the SCAQMD's Final Localized Significance Threshold Methodology (SCAQMD 2009). The project is located within Source-Receptor Area 33 (Southwest San Bernardino Valley). The maximum daily on-site emissions generated by construction of the project in each construction year are presented in Table 5 and compared to the SCAQMD localized significance criteria for Source-Receptor Area 33 to determine whether project-generated on-site emissions would result in potential localized significance threshold impacts.

Table 5. Construction Localized Significance Thresholds Analysis

| | $NO_2$ | CO | $PM_{10}$ | $PM_{2.5}$ |
|---|---|---|---|---|
| | Pounds per Day (On Site) | | | |
| *Maximum* | *18.87* | *18.56* | *3.82* | *1.96* |
| *SCAQMD LST Criteria*[a] | *118* | *863* | *5* | *4* |
| **Threshold Exceeded?** | **No** | **No** | **No** | **No** |

**Source:** SCAQMD 2009; Appendix A.
**Notes:** $NO_2$ = nitrogen dioxide; CO = carbon monoxide; $PM_{10}$ = particulate matter with a diameter less than or equal to 10 microns (coarse particulate matter); $PM_{2.5}$ = particulate matter with a diameter less than or equal to 2.5 microns (fine particulate matter); SCAQMD = South Coast Air Quality Management District; LST = localized significance threshold. Represents maximum emissions from summer and winter.
[a] LST are shown for a 1-acre disturbed area corresponding to a distance to a sensitive receptor of 25 meters in Source-Receptor Area 33 (southwest San Bernardino Valley).

As shown in Table 5, proposed construction activities would not generate emissions more than site-specific localized significance thresholds for $NO_x$, CO, $PM_{10}$, and $PM_{2.5}$. Thus, impacts would be less than significant.

**Carbon Monoxide Hotspots**

Traffic-congested roadways and intersections have the potential to generate localized high levels of CO. As discussed in the transportation memo (Appendix C to this MND), the proposed project is forecast to generate 13 AM peak hour trips and 16 PM peak hour trips (passenger car equivalent–adjusted).

Accordingly, CO concentrations at congested intersections would not exceed the 1-hour or 8-hour CO CAAQS unless projected daily traffic would be at least over 100,000 vehicles per day.

Because the Downtown West PUD is not anticipated to increase daily traffic volumes at any study intersection to more than 100,000 vehicles per day, a CO hotspot is not anticipated to occur.

Based on these considerations, the Downtown West PUD would not generate traffic that would contribute to potential adverse traffic impacts that may result in the formation of CO hotspots. This conclusion is supported by the analysis in the Transportation section, which demonstrates that traffic impacts would be less than significant. In addition, due to continued improvement in vehicular emissions at a rate faster than the rate of vehicle growth and/or congestion, the potential for CO hotspots in the South Coast Air Basin is steadily decreasing. Based on these considerations, the project would result in a less-than-significant impact to air quality with regard to potential CO hotspots.

**Toxic Air Contaminants**

TACs are defined as substances that may cause or contribute to an increase in deaths or in serious illness or that may pose a present or potential hazard to human health. The greatest potential for TAC emissions during construction would be diesel particulate matter (DPM) emissions from heavy equipment operations and use of heavy-duty trucks.

The following measures are required by state law to reduce DPM emissions:

- Fleet owners of mobile construction equipment are subject to the CARB Regulation for In-use Off-road Diesel Vehicles (13 CCR 2449), the purpose of which is to reduce DPM and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles.
- All commercial diesel vehicles are subject to Title 13, Section 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to 5 minutes; electric auxiliary power units should be used whenever possible.

Exhaust $PM_{10}$ is typically used as a surrogate for DPM. As shown in Table 5, which presents total $PM_{10}$ from fugitive dust and exhaust, project-generated construction $PM_{10}$ emissions are anticipated to be minimal and well below the SCAQMD threshold. Furthermore, the nearest sensitive receptors are located upwind of the PUD project area, as shown by the most recent Ontario Airport meteorological station data from 2012–2016 (SCAQMD 2023). Due to the meteorological data and minimal DPM emissions on site, TACs generated during construction would not be expected to result in concentrations causing significant health risks.

No residual TAC emissions and corresponding cancer health risks are anticipated after construction, and no long-term sources of TAC emissions are anticipated during operation of the project. As such, the Downtown West PUD would not result in substantial TAC exposure to sensitive receptors in the vicinity of the proposed Downtown West PUD, and impacts would be less than significant.

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Less-than-Significant Impact. While the Downtown West PUD consists of a policy document that does not propose and direct development, the land use changes proposed as part of the Downtown West PUD would allow for greater densities than are currently allowed within the PUD project area, and the Downtown West PUD would result in indirect impacts. Development allowed

for by the Downtown West PUD would generate odors from vehicles and/or equipment exhaust emissions. As these odors would be short-term (e.g., only emitted during a future development project's demolition/construction phase), intermittent, limited to on-site or site-adjacent areas, and typically emitted in an outdoor setting subject to wind and other dissipating elements, such odors would disperse rapidly and would generally occur at magnitudes that would not affect substantial numbers of people. Therefore, impacts associated with odors during construction of the Downtown West PUD would be less than significant.

While the Downtown West PUD identifies the general locations (e.g., zones) where future development is likely to occur, and can make certain assumptions based on the permitted use types, the precise nature (e.g., the particular tenant[s]) and site-specific location(s) of future development projects implemented under the Downtown West PUD have not yet been identified. Therefore, odor sources associated with Downtown West PUD buildout and their potential to cause a specific impact to nearby sensitive receptors also cannot be completely identified. However, land uses and operations associated with odor complaints include agricultural uses, wastewater treatment plants, food-processing plants, chemical plants, composting operations, refineries, landfills, dairies, and fiberglass molding facilities (SCAQMD 1993). The project would not include these land uses. However, any development within the PUD project area would be required to comply with SCAQMD Rule 402, Nuisance, which prohibits the discharge of air pollutants from a facility that cause injury, detriment, nuisance, or annoyance to the public or damage to business or property. Further, new development and/or redevelopment projects in the PUD project area requiring a Conditional Use Permit—including new commercial and vehicle-related uses within 500 feet of a sensitive use—would be required to comply with applicable Zoning Code measures related to odor abatement. Therefore, the Downtown West PUD would not result in new or more substantial odor emissions that could adversely affect a substantial number of people, and impacts would be less than significant.

Biological Resources

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Less-than-Significant Impact. The PUD project area consists of developed land, with few vacant parcels. The surrounding areas are also developed with urban uses. The PUD project area is in proximity to known sensitive species locations including Crotch's bumble bees, pallid bats, California glossy snakes, and various sensitive bird species, as shown in Figure 5.4-1 in the TOP Supplemental EIR (City of Ontario 2022a). Development facilitated by the proposed Downtown West PUD would be located on currently developed land with a mix of commercial uses, vacant land, and residential units. Vacant land in the City may contain habitat; however, because much of it is barren ground and does not support vegetation, and because many areas of vacant land are small, surrounded by developed urban uses, and isolated from other vacant land, the habitat value is low. Because there is very little native habitat remaining in the City and the PUD project area would be located on developed, urban land, impacts to special-status species would be less than significant.

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

No Impact. The PUD project area is not located on or near any riparian areas (USFWS 2023). The PUD project area is developed, urban land that does not support riparian habitat or other sensitive native habitat. Therefore, there no impacts would occur.

c) Would the project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No Impact. The PUD project area is not located on or near any wetlands (USFWS 2023). Therefore, no impacts to federally protected wetlands would occur.

d) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

No Impact. The PUD project area is developed and paved and is located within a large urban area. No water features are located on or near the site. Therefore, the site would not interfere with the movement of any native resident or migratory fish or wildlife species, or with migratory wildlife corridors or wildlife nursery sites. No impacts would occur.

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Less-than-Significant Impact. Section 6.05.020 of the Ontario Development Code, Tree Protection Policy and Protection Measures, contains policies and measures to preserve, protect, and maintain established and healthy heritage trees within the City. The Tree Inventory and Preservation Plan requires proposed development that contains an existing Heritage Tree to submit of a Tree Inventory and Preservation Plan prepared by a licensed landscape architect, horticulturalist, certified arborist, or other related professional (City of Ontario 2022a).

The City of Ontario Landscape Development Standards contains tree protection notes, such as establishing a Tree Protection Zone around existing trees during construction. Preliminary Landscape Plans shall include a tree report provided by a qualified landscape architect or certified arborist for trees on site proposed to be removed. Replacement trees shall be 60-inch-box trees or as approved. Two new trees shall be replaced for each removed (City of Ontario 2015b). Development under the Downtown West PUD would be required to comply with local polices or ordinances protecting biological resources and impacts would be less than significant.

f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No Impact. The PUD project area consists of developed land with few vacant parcels. As described above, many areas of vacant land are small, surrounded by developed urban uses,

and isolated from other vacant land; therefore, the habitat value is low. Policy ER-5.1 in the General Plan describes the protection of biological resources through the establishment, restoration, and conservation of high-quality habitat areas. The PUD project area is located on land designated as Mixed Use and High Density Residential (City of Ontario 2023a). Therefore, the PUD project area does not contain areas for habitat conservation. The PUD project area would be located on developed, urban land that would not conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. No impact would occur.

Cultural Resources

a) Would the project cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?

Less-than-Significant Impact with Mitigation Incorporated. The PUD project area is in an area of the City that has several known and potential historical resources. The State of California awarded a grant to fund a citywide survey between 1983 and 1984 to identify potentially historic resources located within the City. Between 1986 and 1987, the City continued the survey efforts, which resulted in documentation and evaluation of the historic significance of nearly 3,000 properties and the creation of the City's Historic Resource Inventory, in which 835 properties were formally listed. In 1991, the City retained Architectural Resources Group to further analyze historic properties located within Downtown, a former redevelopment area, and recommend an improvement strategy to revitalize the area, which led to the creation and City Council adoption of the Downtown Design Guidelines. An additional intensive level Downtown survey was conducted in 2003 that updated information on buildings and identified four potential historic districts. The City currently has 100 designated local landmarks, 14 of which are located Downtown; 8 designated historic districts; 5 historic properties listed on the National Register of Historic Places; and nearly 1,500 historic resources on the City's Historic Resource Inventory that have been determined to be eligible, nominated, or designated for landmark or historic district listing.

The Downtown West PUD considers the historic context-sensitivity of Downtown and requires projects to implement the Secretary of Interior Standards (federal preservation standards), the Ontario Development Code (Historic Preservation Ordinance), Downtown Design Guidelines, and best practices for managing development and growth on private property and within the public realm. It also encourages adaptive reuse of buildings and preservation of the potential downtown historic district. Additionally, the Downtown West PUD requires issuance of a Certificate of Appropriateness pursuant to City's Development Code (Chapter 4, Permits, Actions, and Decisions) for all exterior alterations to existing buildings and new construction on vacant or redeveloped sites that are located within the PUD boundary area to lessen or avoid impacts to historic resources. Projects that meet the PUD requirements and the Development Code will be in compliance with the Secretary of Interior Standards, thereby avoiding adverse impacts to historic resources.

The purpose of the Downtown West PUD is to approve the PUD document, which sets forth development standards, design guidelines, and regulations for future development of an eight-and-a-half block area located Downtown. The Downtown West PUD in itself will not result in a direct physical impact on historic resources. However, implementation of the Downtown West PUD land use plan may result in development project impacts to known, potential, or future historic

resources if activities propose inappropriate alterations to historical resources including, but not limited to, demolition (in whole or in part), rehabilitation, or new infill construction. Figure 4, PUD Project Area Historic Resources, identifies parcels with known historical resources, buildings over the age of 45 years that have not been evaluated for historic significance, and newer buildings that have not yet reached 45 years of age.

Chapter 4 of the Development Code contains significance criteria and procedures for the designation of historic resources such as Historic Landmarks, Historic Districts, Architectural Conservation Areas, and Automatic Designations; however, not all properties within the PUD boundary have been assessed and evaluated for historic significance.

As previously stated, all plans and development projects require issuance of a Certificate of Appropriateness. Upon acceptance of the application or request, planning staff or the Historic Preservation Subcommittee will evaluate the property for historic significance and eligibility for listing on the National Register of Historic Places, the California Register of Historic Resources, or the City's Historic Resource Inventory. The review may also include the preparation of a historic resource survey, at the intensive level, pursuant to the standards set forth by the California Office of Historic Preservation. The proposed plan or project will then be evaluated for compliance with the Downtown West PUD and require findings to lessen or avoid potential impacts to historic resources (the property or proposed downtown historic district) and make findings pursuant to Chapter 4. Plans or development projects that propose alterations or demolition that threatened the integrity of the historic resource shall require historic resource tiering prior to approval of the Certificate of Appropriateness.

To provide a greater level of certainty regarding the City's preservation goals, the Development Code includes a tier system with standard criteria and procedures for evaluating the significance of historic or potentially historic resources that are 45 years old and are threatened by major modifications or demolition.

The Development Code establishes criteria for Tier I, Tier II, and Tier III properties, with Tier I and II being of the highest value. The tier system identifies resources that have the highest preservation value in terms of their architectural and/or historical contribution to the City and the method to evaluate the significance of their loss in the case of major modification or demolition. The tier system also includes minimum mitigation measures and a mitigation fee structure for Tier III. Tier I consists of properties that should not be demolished or significantly altered under any circumstances, regardless of their designation status. Tier II consists of properties where demolition of these properties should be avoided. Given this strong policy of the City and the programmatic nature of the Downtown West PUD and this MND, it is not reasonably foreseeable at this time that any projects would be proposed and approved by the City that would require the full demolition of Tier I or Tier II resources or that would not be in compliance with the Downtown West PUD. Thus, on a programmatic level, implementation of the PUD would not result in significant impacts to Tier II or Tier I historic resources. Tier III consists of all properties that are Designated Historic Landmarks, are contributing structures in Designated Historic Districts, or are Eligible Historical Resources, as defined by the Development Code. Demolition of these properties should be avoided where possible, but may be appropriate under certain circumstances. If demolition occurs, the City requires historic resources to be documented and historic features to be salvaged and requires a

demolition mitigation fee. Therefore, the Development Code does not provide a high level of protection for Tier III resources.

As a result, on January 27, 2010, TOP 2050, File No. PGPA06-001, for which an EIR (State Clearinghouse No. 2008101140) was adopted by City Council, determined that demolition of Tier III historic resources would result in significant and unavoidable impacts that cannot be fully mitigated to a level of less than significant, despite the imposition of all feasible mitigation measures identified in the TOP EIR, for which a Statement of Overriding Consideration was documented. The mitigation measures for historic resources are included as MM-CUL-1, MM-CUL-2, and MM-CUL-3 below.

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **1** | 437 N. Euclid Ave. | 104835403 | Unicare Community Health Center | 1967 | NS |
| **2** | 429 N. Euclid Ave. | 104835404 | Immigration Attorney | c.1948 (NETR) | NS |
| **3** | 427 N. Euclid Ave. | 104835405 | Aktiva Nutrition | 1946 | E/5S3 |
| **4** | 425 N. Euclid Ave. | 104835406 | Downtown Ontario Improvement Association | 1948 | E/5S3 |
| **5** | 421 N. Euclid Ave. | 104835407 | Work Boot Warehouse | c. 1930 | E/5S3 |
| **6** | 417 and 419 N. Euclid Ave. | 104835408, -09 | Optometrist | c. 1950 | E/5D1 |
| **7** | 413 and 415 N. Euclid Ave. | 104835410 | Rogers Flower Shop and Barber Shop | c. 1930 | NS |
| **8** | 401 N. Euclid Ave. | 104835411 | Gloria's Cocina Mexicana | 1937 | OL/5D1 |
| **9** | 120 W. D St. | 104835412 | Paved Parking | — | — |
| **10** | 123 W. E St. and 420 N. Laurel Ave. | 104835401,-02, 104835413 | Unicare Community Health Center, Parking | c. 1960 | NS |

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **11** | 201 W. E St. 425 N. Laurel Av. 421 N. Laurel Av. | 104835304/5/6 | Paved Parking | — | — |
| **12** | 221 W. E St. | 104835314 | Paved Parking | — | — |
| **13** | 206 W. D St. | 104835313 | Paved Parking | — | — |
| **14** | 210-220 W. D St. | 104835309 | Multiple-family residential | 1946 | E/5S3 |
| **15** | 322 W. D St. | 104834403 | St. George School Playground | Shared property with Church (c.1920) | — |
| **16** | 331 and 333 N. Euclid Av. | 104856604 | U.S. Bank Branch | 1965 | E/5S3 |
| **17** | 317 N. Euclid | 104856605 | Treasure Banquet Hall | 1950 | E/5S3 |
| **18** | 311, 313, 315 N. Euclid Ave. | 104856606 | Cancha Verde/ Strum Brewing | c. 1931 | E/5D1 |
| **19** | 108 W. C St.. 301/303 N. Euclid | 104856607 | Emmon's Building/Granada Theater | 1926 | OL-T1/5S3/5D1 |
| **20** | 114 W. C St. | 104856609 | Paved Parking | — | — |
| **21** | 126 W. C St. | 104856610 | Paved Parking | — | — |
| **22** | 112 W. C St. | 104856608 | Paved Parking | — | — |
| **23** | 115 W. D St. | 104856603 | Paved Parking | — | — |
| **24** | (123 W. D St) 121 W. D St. | 104856602 | Associated Telephone Company Building | 1936 | Nom-T2/ 5S2 |

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **25** | 123 W. D St. | 104856601 | Paved Parking | — | — |
| **26** | 324 N. Laurel Ave. | 104856611 | Paved undeveloped lot | — | — |
| **27** | 211 W. D St./ 207 W. D St. | 104856113 | Frontier Communications | c.1959 (NETR) | NS |
| **28** | 303-305 and 311-315 N. Laurel Av. | 104856107 | Multiple-family residential | c. 1920 | E/5S3 |
| **29** | 210- 212 W. C St. | 104856108 | Dental Kidz Club | 1954 | R/6XM |
| **30** | 218 W. C St. | 104856109 | Single Family residence | 1908 | E/5S3 |
| **31** | 220 W. C St. | 104856110 | Vacant land | — | — |
| **32** | 312 N. Palm Av. | 104856112 | Single Family residence and commercial building | 1920 | E/5S3 |
| **33** | 228 W. C St. | 104856111 | Superior Justice Law Group | 1955 | NS |
| **34** | 245 N. Euclid Av. | 104856503 | Valley Dept Store | 1950 | E/5S3 |
| **35** | 233 N. Euclid Av. 223 N. Euclid Av. 235 N Euclid Av. | 104856504 | The Golden Web Boutique store | 1916 | OL/5D1 |
| **36** | 231 N. Euclid Av. | 104856505 | Unique Café | 1904 | OL/5D1 |
| **37** | 219 N. Euclid Av. | 104856506 | Herradura De Oro | 1948 | E/5S3 |
| **38** | 215 N. Euclid Av. | 104856507 | Newsboy books | 1946 | E/5S3 |

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **39** | 211 N. Euclid Av. | 104856508 | Euclid Family Dentistry | c.1925 | E/5S3 |
| **40** | 207 N. Euclid Av. | 104856509 | Vacant Commercial Building | 1910 | OL/5S1/5D3 |
| **41** | 106 W. B St. 203 N. Euclid Av | 104856510 | Furniture Dreams (Residential on second floor) | 1908 | OL/5S1/5D3 |
| **42** | 236 N. Laurel Av. | 104856501 | Paved Parking | — | — |
| **43** | N/A | 104856513, 104856514 | Paved Parking | — | — |
| **44** | 126 W. B St. | 104856512 | Beautiful Smiles Ontario | c. 1930 | E/5S3/5D1 |
| **45** | 108 W. C St. 115 W St. | 104856502 | Bank Building (Vacant) | 1936 | E-T3/5S3 |
| **46** | 120 W. B St. 112 W. B St. | 104856511 | Nightmare on B Street/ Dance Studio/ Odd fellows - Eligible (Aria Kabob, Electric Beauty Salon - Historic LL) | 1922 | OL/5S1/5D3 |
| **47** | 223, 225, 229, 235 N. Laurel Ave. | 104856202 | Centro Legal De Accidentes & Cedar Pointe Chiropractic | 1947 | E/5D1 |
| **48** | 206,208,210, 214,216,218, 220 W. B St./ 205, 207,209,211,213,215 N Laurel Ave | 104856203 | Multiple shops including barber, Fitness, beauty, | 1947 | E/5S3 |
| **49** | 222 W. B St. | 104856207 | Ministerio Pan de Vida (Religious Institution) | 1945 | R/6XM |
| **50** | 212, 214, 216, 218 N. Palm Av. | 104856206 | Small shops (Tax services and fitness) | 1957 | S |
| **51** | 215 W. C St. | 104856201 | Great Commission Church International (Christian Church) | 1948 (additions 1955,1959,1966) | E/5S3 |

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **52** | 137, 139, 143, 141 N. Euclid Ave. and 105 W. B St. | 104856403 | Gemmel Pharmacy | 1889 | N/5S3/5D1 |
| **53** | 129 and133 N. Euclid Ave. | 104856404 | DolEx Financial Services | c. 1907 | E/5S3 |
| **54** | 125 N. Euclid Ave. | 104856405 | Bravo's Store | 1910 | E/5S3 |
| **55** | 121 and 123 N. Euclid Ave. | 104856406 | Demolished- vacant | 1894 | OL/Demolished in 2001 |
| **56** | 105, 109, 111, 115, 117 N. Euclid Av. | 104856407 | Verizon, Bally Spa, Night club, Motorcycle run | 1889 | OL/5S1/5D3 |
| **57** | 104,108, 110 & 112 W. Holt Blvd. | 104856410 | Botanica, Sabor Honduren, Beauty and Barber | 1895 | OL-T2/5S1/5D3 |
| **58** | 105 N. Euclid Ave. | 104856408 | Xolos Birria | 1888 | OL/5S1/5D3 |
| **59** | 101 N. Euclid Ave. | 104856409 | T Mobile | 1895 | OL-T2/5S1/5D3 |
| **60** | 121, 123, 125,127 W. B St | 104856401 | B St. Professional Bldg.; Document Preparation Services Inc., Logan's Candies, Isaprint, | c. 1930 | E/5D1 |
| **61** | N/A | 104856414 | Paved Parking | — | — |
| **62** | 115 W. B St. 117 & 119 W. B St. | 104856402 | Income Tax office and residential upper floor | 1922 | OL/5S3/5D1 |
| **63** | 114, 116, 118 W. Holt Blvd | 104856411 | Pirate staffing, Ontario Boxing Club | c. 1915 | E-T3/ 5D1 |
| **64** | 108 N. Laurel Ave./ 120, 122, 124, 126 W. Holt Blvd. | 104856412 and 1048564 13 | Jobs, Insurance, Pawnshop, paved parking | C 1910 (addition c. 1950) | E-T3/ 5D1 |
| **65** | 203 W. B St./ 123, 127, 129 N. Laurel Ave | 104856313 | Body X Beauty, Pet grooming, Spa, Karate | 1922 (retail commercial addition c. 1940) | E/5S3 |

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **66** | 207 W. B St. | 104856312 | Iglesia Fuente and paved parking | 1949 | E/5S3 |
| **67** | 211, 213, 215, 217 W. B St. | 104856303 | Majestic Trophy, Boxing Club, Mary Kay, office | 1953 | E/5S3 |
| **68** | N/A | 104856302 | Paved Parking | — | — |
| **69** | 225-227-229 W. B St. and 128-130 N Palm Ave. | 104856301 | Evc Insurance & Services and the Vault Barbershop and Home | c. 1915 (commercial additions c. 1950) | E/5S3 |
| **70** | 120 N. Palm Ave. | 104856311 | House | c. 1915 | E/5S3 |
| **71** | 220 W. Holt Blvd. | 104856310 and 104856309 | Fiesta Motors (Parking Lot) | — | Rem/6W |
| **72** | 210, 212, 214, 216, 218 W. Holt Blvd. | 104856308 | Eagles Aere and Sams Liquor | 1920 | E-T3/ 5D1 |
| **73** | 202 W. Holt Blvd. | 104856307 | Flores Barber Shop, Singular Insurance Services | 2004 | — |
| **74** | N/A | 104856306 | Paved Parking | — | — |
| **75** | 315 W. D St. | 104857601 | Paved Parking | — | — |
| **76** | 325 N. Palm Ave | 104857602 | Paved Parking | — | — |

Local Key: NS- Not Surveyed, E- Eligible, N- Nominated, OL- Ontario Landmark, T1- Tier 1, T2- Tier 2, T3- Tier 3, REM- removed from inventory, S- Surveyed. CA status codes are available at ohp.parks.ca

Mitigation Measures:

MM-CUL-1. Issuance of a Certificate of Appropriateness pursuant to City's Development Code (Chapter 4, Permits, Actions, and Decisions) is required for all exterior alterations to existing buildings, and new construction on vacant or redeveloped sites that are located within the PUD boundary area prior to plan or development project approval.

MM-CUL-2. Historic or potentially historic resources located within the PUD boundary shall be evaluated for historic significance through the City's tier system prior to the issuance of plan or development approvals.

MM-CUL-3.

A. Partial Demolition of Tier I, II, or III Historic Resources that do not result in loss of character defining features or cause adverse impacts to the integrity of the historic resource shall be documented pursuant to the Historic American Building Survey (HABS) standards to include photographs and cataloging of the exterior and interior of the resource prior to issuance of a building permit.

B. As established in the TOP SEIR 2050, mitigation measures for demolition (full or in part) of Tier III Historic Resources shall include the following:

1) Each historic resource shall be fully documented and cataloged pursuant to Historic American Building Survey/Historic American Engineering Record (HABS/HAER) standards, to provide a record of the resource, including, but not limited to: [i] the preparation of site plans, floor plans, exterior and interior elevations, and detail drawings of character defining features (such as moldings, stairs, etc.); and [ii] photographs of the resource, including the exterior, interior, and interior and exterior character defining features (such as moldings, light fixtures, trim patterns, etc.).

2) A mitigation fee established pursuant to Section 7.01.030 (Historic Preservation Mitigation Fee) shall be paid to the City prior to the issuance of a demolition permit for Tier III historic resources.

3) A Certificate of Appropriateness shall not be issued for the demolition of an historic resource, either in whole or in part, until such time that a demolition permit application and a replacement structure has been approved by the City, and appropriate permits have been issued for its construction, a deferral of the replacement structure requirement is granted pursuant to Subsection G (Replacement Structure Deferral) of Section 4.02.050; or [iii] demolition is required pursuant to Section 7.01.050 (Unsafe or Dangerous Conditions) of this Development Code.

4) In an effort to preserve features and artifacts from historic resources, a determination whether items within or on the resource should be salvaged must be made by the Planning Department and may include the local historical society prior to the issuance of the demolition permit. The

applicant shall be responsible for the removal, relocation, storage, and donation of such items selected for salvaging. The applicant shall provide an inventory of salvaged items to the Planning Department, and shall include a list of each item name, description, and dimension (as necessary), and the location of each item on a floor plan.

C. Full Demolition or partial demolition which results in loss or adverse impacts to character defining features of a Tier I or Tier II Historic Resource shall require preparation of and EIR or Focus EIR.

Implementation of MM-CUL1, MM-CUL-2, and MM-CUL-3 would reduce potentially significant impacts to cultural resources (historic era-built environment) to a less-than-significant level.

b) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Less-than-Significant. The PUD project area consists of developed land with few vacant parcels. Implementation of the Downtown West PUD could allow development, including grading, that requires more intensive soil exaction than in the past, which could cause the disturbance of archeological resources. However, the potential to encounter subsurface intact deposits within native soils to the depths of proposed ground disturbance within the PUD project area is considered low. In an abundance of caution, Standard Conditions of Approval (City Council Resolution No. 2010-021) are required for development plan approval, which would address unanticipated archaeological resource discovery during construction by enacting the following (City of Ontario 2010):

> If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

c) Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

Less-than-Significant Impact. There are known Native American gravesites and cemeteries in the City, including Bellevue Memorial Park on the north side of G Street, between Benson Avenue and Mountain Avenue (City of Ontario 2022a). These sites are not located in the PUD project area; therefore, there are no known human remains located in the PUD project area. Should human remains be unexpectedly encountered during ground-disturbing activities, they shall be treated consistent with applicable law including, without limitation, California Health and Safety Code Section 7050.5, PRC Section 5097.98, and CEQA Guidelines Section 15064.5(e). In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the county coroner shall be immediately notified of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains can occur until the county coroner has determined the appropriate treatment and disposition of the human remains. If the county coroner determines that the remains are, or are believed to be,

Native American, the county coroner shall follow all required protocols according to PRC Section 5097.98. Compliance with these regulations would ensure that impacts to human remains resulting from the Downtown West PUD would be less than significant.

Energy

This section is based on technical analysis conducted by Dudek and attached to this MND as Appendix A. See Appendix A for complete results.

a) Would the project result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Less-than-Significant Impact. The electricity and natural gas used for construction of the proposed Downtown West PUD would be temporary, would be substantially less than that required for project operation, and would have a negligible contribution to the project's overall energy consumption. Although the Downtown West PUD would see an increase in petroleum use during construction and operation, vehicles would use less petroleum due to advances in fuel economy and potential reduction in vehicle miles traveled (VMT) over time.

Natural gas and electricity usage would increase due to the implementation of the Downtown West PUD; however, the Downtown West PUD would be subject to the State Building Energy Efficiency Standards. Therefore, impacts to energy resources during operation would be less than significant.

Over the lifetime of the Downtown West PUD, the fuel efficiency of the vehicles being used by the residents and employees of the Downtown West PUD is expected to increase. As such, gasoline consumption would initially increase due to the implementation of the Downtown West PUD; however, the amount of gasoline consumed as a result of vehicular trips to and from the PUD project area during operation would decrease over time. There are numerous regulations in place that require and encourage increased fuel efficiency. For example, CARB has adopted a new approach to passenger vehicles by combining the control of smog-causing pollutants and greenhouse gas (GHG) emissions into a single coordinated package of standards. The new approach also includes efforts to support and accelerate the number of plug-in hybrids and zero-emission vehicles in California (CARB 2017). Additionally, in response to Senate Bill (SB) 375, CARB has adopted the goal of reducing per-capita GHG emissions from 2005 levels by 8% by the year 2020 and 13% by the year 2035 for light-duty passenger vehicles in the SCAG planning area. This reduction would occur by reducing VMT through the integration of land use planning and transportation. As such, operation of the Downtown West PUD is expected to use decreasing amounts of petroleum over time, due to advances in fuel economy.

The Downtown West PUD would create additional electricity and natural gas demand by adding 581 dwelling units, 37,886 square feet of commercial space, and 1,220 provisional parking spaces. New facilities associated with the proposed Downtown West PUD would be subject to the State Building Energy Efficiency Standards, embodied in Title 24 of the California Code of Regulations. The efficiency standards apply to new construction of non-residential buildings and regulate energy consumed for heating, cooling, ventilation, water heating, and lighting. The Downtown West PUD will meet applicable Title 24 requirements. Other renewable energy systems including wind turbine generation, geothermal generation, energy storage, and other renewable energy generation features are not considered technically or economically feasible and/or demonstrated for a similar

project. Additionally, site constraints include limited land availability and incompatibility with land use for large scale power generation facilities, as well as unknown interconnection feasibility and compatibility with utility provider systems. For these reasons, other on-site renewable energy systems are not considered feasible for the proposed Downtown West PUD.

In summary, implementation of the Downtown West PUD would increase the demand for electricity and natural gas at the PUD project area and petroleum consumption in the region during construction and decrease petroleum consumption during operation. As the Downtown West PUD would be consistent with current regulations and policies, the Downtown West PUD would not be wasteful or inefficient and would not result in unnecessary energy resource consumption. The project's energy consumption demands during construction and operation would conform to the state's Title 24 standards such that the Downtown West PUD would not be expected to wastefully use gas and electricity. Since the proposed Downtown West PUD would comply with Title 24 conservation standards, the proposed Downtown West PUD would not directly require the construction of new energy generation or supply facilities or result in wasteful, inefficient, or unnecessary consumption of energy. Moreover, vehicle usage associated with the Downtown West PUD would use less petroleum due to advances in fuel economy and potential reduction in VMT over time. Therefore, impacts would be less than significant.

b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Less-than-Significant Impact. The Downtown West PUD would be subject to and would comply with, at a minimum, the California Building Energy Efficiency Standards (24 CCR Part 6). Part 6 of Title 24 of the California Code of Regulations and all applicable rules and regulations would reduce energy demand and increase energy efficiency related to future residential development facilitated by the Downtown West PUD. Part 6 of Title 24 of the California Code of Regulations establishes energy efficiency standards for residential and non-residential buildings constructed in California to reduce energy demand and consumption. Part 6 is updated periodically (every 3 years) to incorporate and consider new energy efficiency technologies and methodologies.

Title 24 also includes Part 11, the California Green Building Standards, also known as CALGreen, which sets forth voluntary and mandatory energy measures that are applicable to the Downtown West PUD under. CALGreen institutes mandatory minimum environmental performance standards for all ground-up, new construction of commercial, low-rise residential, high-rise residential, state-owned buildings, schools, and hospitals, as well as certain residential and non-residential additions and alterations. On this basis, the Downtown West PUD would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, impacts would be less than significant.

Various existing local plans would reduce energy use including SCAG's 2024–2050 Regional Transportation Plan/Sustainable Communities Strategy and CARB's Scoping Plan. Furthermore, approval of the Downtown West PUD itself, as a policy document update, would not change these regulations and would not provide any goals, policies, or programs that would conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, impacts would be less than significant.

Geology and Soils

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

and

ii) Strong seismic ground shaking?

Less-than-Significant Impact. The City is not within any Alquist-Priolo Earthquake Fault Zone. The southern section of the San Andreas Fault, located approximately 14 to 22 miles from the City, is estimated to be capable of generating the greatest magnitude earthquake (City of Ontario 2022a). However, development facilitated by the Downtown West PUD would be required to comply with seismic safety provisions of the California Building Code (CBC) (Title 24, Part 2 of the California Code of Regulations). Compliance with the CBC would reduce hazards from seismic ground shaking to less than significant.

iii) Seismic-related ground failure, including liquefaction?

Less-than-Significant Impact. Groundwater levels throughout the City are greater than 50 feet below ground surface (City of Ontario 2022a). Additionally, development facilitated by the Downtown West PUD would be required to meet the most current seismic safety requirements in the CBC. Therefore, the Downtown West PUD would have a less-than-significant impact on seismic-related ground failure, including liquefaction.

iv) Landslides?

No Impact. Landslides typically occur on moderate to steep slopes that are affected by physical factors such as slope height, slope steepness, shear strength, and orientation of weak layers in the underlying geologic units. The PUD project area and surroundings area are generally flat with soils stabilized by development and landscaping. The Downtown West PUD would not result in the creation of moderate to steep slopes that may become susceptible to landslides. As such, no impact would occur.

b) Would the project result in substantial soil erosion or the loss of topsoil?

Less-than-Significant Impact. The PUD project area is mostly developed and paved and is generally on level ground. Proposed development would result in ground surface disruption during grading and excavation, which could result in erosion, siltation, or flooding impacts. Construction activities on the PUD project area larger than 1 acre are required to prepare a stormwater pollution prevention plan that details best management practices (BMPs) to reduce the potential for erosion during construction activities. In addition, compliance with the safety provisions of the CBC would reduce the potential for erosion or loss of topsoil to a level of less than significant.

c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Less-than-Significant Impact. Unstable geologic units or soils are characterized by materials lacking in sufficient integrity to support urban development (e.g., poorly consolidated fill). The PUD project area, along with majority of the City, is located in a subsidence zone due to groundwater pumping (City of Ontario 2023a). However, the PUD project area consists of existing development, which indicates that geologic conditions in the area can support the proposed development. Individual projects facilitated by the Downtown West PUD would be required to comply with the CBC and grading plans would be reviewed by the City engineer; therefore, impacts would be less than significant.

d) Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Less-than-Significant Impact. The PUD project area is located in the northern portion of the City, which consists of primarily silty sand, sand, and gravel; such sediments are usually non-expansive or have very low expansion potential (City of Ontario 2022a). Compliance with the CBC and review of grading plans for individual projects by the City engineer would ensure that impacts would be less than significant.

e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

Less-than-Significant Impact. Wastewater from the City is treated at wastewater treatment facilities owned and operated by the Inland Empire Utilities Agency (IEUA) (City of Ontario 2022a), and any new development would connect to the existing wastewater treatment facilities. The Downtown West PUD does not include the use of septic tanks. Therefore, no impact to soils relative to supporting use of septic tanks would occur.

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Less-than-Significant Impact. The possibility of finding paleontological resources in the City is moderate to high at depths of 10 feet or more below ground surface (City of Ontario 2022a). However, the PUD project area is mostly developed and paved. Proposed development would be infill development on sites that have been previously disturbed. Development would not involve ground disturbing activities at depths of 10 feet or more; therefore, impacts would be less than significant.

Greenhouse Gas Emissions

This section is based on technical analysis conducted by Dudek and attached to this MND as Appendix A. See Appendix A for complete results.

a) Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Less-than-Significant Impact. The City adopted their Community Climate Action Plan (CCAP) on August 16, 2022. The 2022 CCAP is an update to the City's 2014 CCAP and accounts for SB 32, which provides statewide targets to reduce GHG emissions to 40% below 1990 levels by 2030 (City of Ontario 2022d, 2023e). The 2022 CCAP is consistent with TOP 2050 and with the CEQA Guidelines for Plans for the Reduction of Greenhouse Gas Emissions (California Code of Regulations Section 15183.5). Because the 2022 CCAP addresses GHG emissions reductions and is consistent with the requirements of AB 32, SB 32, and international efforts to reduce GHG emissions, projects that comply with the CCAP Update would have a less-than-significant GHG impact. This allows the 2022 CCAP to support and streamline environmental review of GHG emissions for future development projects in the City.

The 2022 CCAP outlines two pathways to compliance at the project development level. The first pathway consists of screening tables, which aim to provide guidance in measuring the reduction of GHG emissions attributable to certain design and construction measures incorporated into development projects. The second pathway consists of efficiency metric thresholds.

This analysis applies the GHG efficiency metric threshold of 1.53 metric tons (MT) of carbon dioxide equivalent ($CO_2e$)/dwelling unit for residential development completed after 2030, and 3.61 MT $CO_2e$/2,500 square feet of conditioned space developed after 2030 to the Downtown West PUD (City of Ontario 2022d). These metrics can be used in lieu of the CCAP's screening tables, which require project-level specific information that is not currently available for the proposed Downtown West PUD. These GHG efficiency metrics are appropriate in that they would achieve per capita emissions for the City that align with the state's reduction goals of 40% below 1990 levels of emissions by 2030 and 80% below 1990 levels by 2050. Because the Downtown West PUD includes both residential and nonresidential space, the residential and nonresidential components were assessed separately against their respective applicable thresholds.

**Construction Emissions**

Construction of future development that would be facilitated by the Downtown West PUD would result in GHG emissions, which are primarily associated with use of off-road construction equipment, on-road haul trucks, on-road vendor trucks, and worker vehicles. The SCAQMD has not proposed or adopted relevant quantitative GHG thresholds for construction-generated emissions.

Table 6 presents the estimated GHG emissions generated during construction of the 5% development scenario. Details of the emission calculations are provided in Appendix A.

Table 6. Estimated Annual Construction GHG Emissions

| Year | $CO_2$ | $CH_4$ | $N_2O$ | $CO_2e$ |
|---|---|---|---|---|
| | Metric Tons | | | |
| 2025 (one full year) | 0.02 | 0.02 | 0.16 | 344.67 |
| **Total over 20 years[1]** | **0.38** | **0.35** | **3.22** | **6,893.40** |
| **Total Amortized Emissions** | | | | **229.78** |
| *Residential Amortized Emissions[2]* | | | | *217.47* |
| *Commercial Amortized Emissions[3]* | | | | *12.31* |

**Notes:** $CO_2$ = carbon dioxide; $CH_4$ = methane; $N_2O$ = nitrous oxide; $CO_2e$ = carbon dioxide equivalent.
See Appendix A for complete results.
Amortized construction GHG emissions represent total construction GHG emissions (in MT of $CO_2e$) divided 30 years, which is the assumed project operational lifetime consistent with SCAQMD guidance (SCAQMD 2008).

1 Totals may not add due to rounding.

2 The construction emissions associated with the residential land uses was calculated by multiplying total amortized emissions (229.78) by 95%, which represents the residential square footage divided by the proposed project's total square footage, to get 217.47.

3 The construction emissions associated with the commercial land use was calculated by multiplying total amortized emissions (229.78) by 5%, which represents the commercial square footage divided by the proposed project's total square footage, to get 12.31.

As shown in Table 6, the estimated total GHG emissions during construction of future projects that would be facilitated by the Downtown West PUD would be approximately 6,893 MT $CO_2e$ over the 20-year construction period. Estimated project-generated construction emissions amortized over 30 years would be approximately 230 MT $CO_2e$ per year.

Because the residential and commercial uses of the Downtown West PUD were evaluated separately to determine their respective GHG efficiency metrics, the amortized construction emissions were split between residential and commercial based on square footage of the proposed Downtown West PUD. The 581 residential dwelling units make up 669,342 square feet of the proposed Downtown West PUD, which is 95% of the total proposed Downtown West PUD's square footage. The commercial square footage totals 37,886 square feet, which makes up 5% of the total proposed project's square footage. Therefore, 95% of the total amortized construction emissions is 217.47 MT CO2e, which was added to the residential operational GHG emissions. The remaining 5% or 12.31 MT CO2e was added to the commercial operational GHG emissions.

**Operational Emissions**

Operation of the future development that would be facilitated by the Downtown West PUD would generate GHG emissions through motor vehicle trips; landscape equipment operation and hearths (area sources); energy use (natural gas and electricity); solid waste disposal; water supply, treatment, and distribution; and refrigerants. As with the air quality analysis, mobile source GHG emissions were estimated using the California Emissions Estimator Model (CalEEMod) based on EMFAC 2021 emission factors. Emissions from each category are discussed in the following text with respect to the Downtown West PUD. CalEEMod was used to calculate the annual GHG emissions. Operational year 2045 was assumed to be the first full year of operation following completion of construction.

The operational emissions associated with the commercial portion of the Downtown West PUD were evaluated separately against their respective efficiency threshold. The estimated

operational commercial project-generated GHG emissions from area sources, energy usage, motor vehicles, solid waste generation, water usage and wastewater generation, and refrigerants are shown in Table 7.

Table 7. Project GHG Efficiency - Commercial

| Emission Source | $CO_2$ | $CH_4$ | $N_2O$ | $CO_2e$ |
|---|---|---|---|---|
| | Metric Tons per Year[1] | | | |
| Area | 0.77 | <0.01 | <0.01 | 0.77 |
| Energy | 55.45 | 0.01 | <0.01 | 55.82 |
| Mobile | 1,960.07 | 0.063 | 0.09 | 1,988.21 |
| Waste | 3.55 | 0.35 | 0 | 12.42 |
| Water | 3.15 | 0.09 | <0.01 | 6.10 |
| Refrigerants | 0 | 0 | 0 | 0.04 |
| **Total** | **2,022.99** | **0.52** | **0.09** | **2,063.36** |
| *Amortized construction emissions (Table 6)* | | | | *12.31* |
| **Total operational + amortized construction emissions** | | | | **2,075.67** |
| **Existing Emissions[2]** | | | | **2,021.06** |
| **Total Net Emissions[3]** | | | | **54.61** |
| **Project Efficiency (MT $CO_2e$/2,500 SF)[4]** | | | | **3.60** |
| *Ontario CAP Post-2030 Commercial Efficiency Threshold* | | | | *3.61* |
| **Threshold Exceeded?** | | | | **No** |

**Notes:** GHG = greenhouse gas; $CO_2$ = carbon dioxide; $CH_4$ = methane; $N_2O$ = nitrous oxide; $CO_2e$ = carbon dioxide equivalent; SF = square feet; <0.01 = less than 0.01.
See Appendix A for complete results.

1 The Downtown West PUD emissions reflect operational year 2045.

2 CalEEMod was used to calculate the GHG emissions associated with existing residential and commercial space to be redeveloped as a result of this project. The existing scenario to be redeveloped includes 5 dwelling units and 56,171 square feet of commercial building space.

3 Net emissions were calculated by subtracting the existing emissions from the total operational and amortized emissions associated with the project.

4 Project efficiency is calculated by dividing the net emissions (54.61 MT $CO_2e$) by 2,500 SF and multiplying by the proposed project's commercial square footage (37,886 SF) to get 3.60 MT $CO_2e$/2,500 SF.

As shown in Table 7, estimated annual GHG emissions generated by future commercial development that would be facilitated by the Downtown West PUD would be approximately 2,063 MT $CO_2e$ per year as a result of Downtown West PUD operation. Estimated annual project-generated operational emissions in 2045 and amortized Downtown West PUD construction emissions would be approximately 2,076 MT $CO_2e$ per year. The estimated annual net operational emissions after removal of existing operational emissions would be approximately 54.61 MT $CO_2e$ per year. As explained previously, the efficiency metric threshold used is 3.61 MT $CO_2e$/2,500 square feet per year. The proposed Downtown West PUD is anticipated to facilitate a maximum of 37,886 square feet of commercial building space by 2045. Accordingly, the proposed Downtown West PUD would result in an efficiency of 3.60 MT $CO_2e$/2,500 square feet per year, which would not exceed the applied efficiency metric threshold of 3.61 MT $CO_2e$/2,500 square feet per year.

The operational emissions associated with the residential portion of the Downtown West PUD were evaluated separately against their respective efficiency metric threshold. The estimated operational project-generated GHG emissions from area sources, energy usage, motor vehicles,

solid waste generation, water usage and wastewater generation, and refrigerants are shown in Table 8.

Table 8. Project GHG Efficiency - Residential

| Emission Source | $CO_2$ | $CH_4$ | $N_2O$ | $CO_2e$ |
|---|---|---|---|---|
| | Metric Tons per Year[1] | | | |
| Area | 144.74 | <0.01 | <0.01 | 144.94 |
| Energy | 901.06 | 0.10 | 0.01 | 906.07 |
| Mobile | 1,666.18 | 0.05 | 0.08 | 1,690.41 |
| Waste | 38.33 | 3.83 | 0 | 134.11 |
| Water | 27.18 | 0.79 | 0.02 | 52.61 |
| Refrigerants | 0 | 0 | 0 | 0.77 |
| **Total** | **2,777.50** | **4.78** | **0.10** | **2,928.91** |
| *Amortized construction emissions (Table 6)* | | | | *217.47* |
| **Total operational + amortized construction emissions** | | | | **3,146.38** |
| **Existing Emissions[2]** | | | | **1,946.38** |
| **Total net emissions[3]** | | | | **1,200.00** |
| **Project Efficiency (MT $CO_2e$/du)[4]** | | | | **2.07** |
| *Ontario CAP Post-2030 Residential Efficiency Threshold* | | | | *1.53* |
| **Threshold Exceeded?** | | | | **Yes** |

**Notes:** GHG = greenhouse gas; $CO_2$ = carbon dioxide; $CH_4$ = methane; $N_2O$ = nitrous oxide; $CO_2e$ = carbon dioxide equivalent; du = dwelling unit; <0.01 = less than 0.01.
See Appendix A for complete results.

1 The Downtown West PUD emissions reflect operational year 2045.

2 CalEEMod was used to calculate the GHG emissions associated with existing residential and commercial space to be redeveloped as a result of this project. The existing scenario is 5 dwelling units and 56,171 square feet of commercial building space.

3 Net emissions were calculated by subtracting the existing emissions from the total operational and amortized emissions associated with the project.

4 Project efficiency is calculated by dividing the total operational and amortized construction emissions (3,146.38 MT $CO_2e$) by the Downtown West PUD's number of dwelling units (581) to get 2.07 MT $CO_2e$/du.

As shown in Table 8, estimated annual GHG emissions generated by future residential development that would be facilitated by the Downtown West PUD would be approximately 2,929 MT $CO_2e$ per year as a result of Downtown West PUD operation. Estimated annual project-generated operational emissions in 2045 and amortized Downtown West PUD construction emissions would be approximately 3,146 MT $CO_2e$ per year. The estimated annual net operational emissions after removal of existing operational emissions would be approximately 1,200 MT $CO_2e$ per year. As explained previously, the efficiency metric threshold used is 1.53 MT $CO_2e$/dwelling unit per year. The proposed Downtown West PUD is anticipated to facilitate a maximum of 581 dwelling units by 2045. Accordingly, the proposed Downtown West PUD would result in an efficiency of 2.07 MT $CO_2e$/ dwelling unit per year, which would exceed the applied efficiency metric threshold of 1.53 MT $CO_2e$/du/year. Therefore, GHG emissions generated by the Downtown West PUD would have a potentially significant impact; however, future project development proposals under the scope of the Downtown West PUD shall implement screening table measures that achieve the requisite points per the City's CCAP screening tables. With implementation of the screening tables measures, impacts would be less than significant.

b) Would the project generate conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Less-than-Significant Impact. A project's consistency with the CCAP is projected to result in emissions that would meet the GHG reduction target established under SB 32 and Executive Order S-03-05 and progress towards the state's carbon neutrality goal. The Downtown West PUD would be consistent with the CCAP and would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. Therefore, impacts would be less than significant.

Hazards and Hazardous Materials

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less-than-Significant Impact. Development facilitated by the Downtown West PUD would increase commercial and residential uses in the City, therefore increasing the amount of hazardous materials being transported, used, or disposed of in the City. These materials would be transported and handled in accordance with all federal, state, and local laws regulating the management and use of hazardous materials. Consequently, use of these materials for their intended purpose would not pose a significant risk to the public or environment. With adherence to state and local regulations, impacts associated with routine transport, use, and disposal of hazardous materials would be less than significant.

b) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Less-than-Significant Impact. Construction and operation under the Downtown West PUD would involve relatively small amounts of commonly used hazardous substances such as gasoline, diesel fuel, lubricating oil, grease, adhesive materials, and solvents. These materials are not considered acutely hazardous and are used routinely throughout urban environments for both construction and operation of typical projects. Further, these materials would be transported, handled, and disposed in accordance with all federal, state, and local laws regulating the management and use of hazardous materials. Impacts would be less than significant.

c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Less-than-Significant Impact. The closest school to the PUD project area is St. George School, located approximately 0.02 miles northwest of the PUD project area. As described above, construction and operation under the proposed Downtown West PUD would involve use, storage, and disposal of small amounts of hazardous materials on the PUD. These materials would be transported and handled in accordance with all federal, state, and local laws regulating the management and use of hazardous materials. Consequently, use of these materials for their intended purpose would not pose a significant risk to the public or environment. With adherence to state and local regulations, impacts associated with routine transport, use, and disposal of hazardous materials would be less than significant.

d) Would the project be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Less-than-Significant Impact. The California Department of Toxic Substances Control's EnviroStor database tracks cleanup, permitting, enforcement, and investigation efforts at hazardous waste facilities and sites with known contamination. According to the database search, no cleanup sites are located in the PUD project area. Three evaluation cleanup sites that have been referred to a local agency are located approximately 0.05 miles south of the PUD project area (DTSC 2023). The State Water Resources Control Board's GeoTracker database identifies leaking underground storage tanks, waste discharge sites, oil and gas sites, and other waste or cleanup sites. A review of GeoTracker identified one closed leaking underground storage tank cleanup site within the PUD project area (GTE Ontario ID No. T0607100264). This site was closed in 1993.

Two more closed leaking underground storage tank cleanup sites were identified surrounding the PUD project area including Imperial Thrift and Loan Prop. (ID No. T0607100428), located approximately 0.5 miles west of the PUD project area, and TOSCO/76 Station #5606 (ID No. T0607100482), located approximately 0.5 miles northeast of the PUD project area (SWRCB 2023). The PUD project area is not located on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and the nearby sites are closed cases; therefore, no impact would occur.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

Less-than-Significant Impact. The PUD project area is located approximately 1.5 miles northwest of the Ontario International Airport. The PUD project area is not within an airport safety zone and is located in the 60-65 decibel community noise equivalent level noise contour zone, as depicted in the Ontario International Airport Land Use Compatibility Plan. The PUD project area is within the Airspace Avigation Easement Area and the allowable height for the PUD project area is 70 feet to 100 feet, as shown in the Airspace Protection Zones Map in the Ontario International Airport Land Use Compatibility Plan (Ontario Airport Planning 2018). The highest height proposed for development under the Downtown West PUD is 65 feet. The proposed development would be similar to the existing uses of the PUD project area and would not introduce new hazards to aircraft operations. Therefore, impacts would be less than significant.

f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Less-than-Significant Impact. The City has prepared the 2018 Hazard Mitigation Plan with the intent of reducing and/or eliminating loss of life and property from natural hazards. Policy S2-3 in the plan requires compliance with state and federal law and does not permit facilities using, storing, or otherwise involved with substantial quantities of on-site hazardous materials to be located in the 100-year flood zone unless all standards of elevation, flood proofing, and storage have been implemented to the satisfaction of the Building Department (City of Ontario 2018). Additionally, the City provides disaster preparedness and outlines hazard specific preparation through the

ReadyOntario website (City of Ontario 2023c). The closest fire station is located approximately 0.3 miles to the east of the PUD project area; therefore, the PUD project area would be served by the nearby station. With compliance with the building standards outlined in the Hazard Mitigation Plan and Municipal Code, impacts would be less than significant.

g) Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

Less-than-Significant Impact. The PUD project area is not located in a Fire Hazard Severity Zone, as shown in TOP 2050 Figure S-05, Fire Hazard Severity Zones (City of Ontario 2023a). In the event of an emergency, fire response services for the PUD project area are provided by the Ontario Fire Department. Proposed development would be constructed in conformance with Title 24, which includes building requirements that prevent and protect against fire ignition and the spread of potential wildland fires. Therefore, impacts to people or structures, either directly or indirectly, from a significant risk of loss, injury, or death involving wildland fires would be less than significant.

Hydrology and Water Quality

a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Less-than-Significant Impact. Construction facilitated by the Downtown West PUD would involve ground-disturbing activities for grading that could result in sediment discharge in stormwater runoff. Additionally, construction would involve the use of oil, lubricants, and other chemicals that could be discharged from leaks or accidental spills. These potential sediment and chemical discharges during construction would have the potential to impact water quality in receiving water bodies. However, any construction activities disturbing 1 or more acres of land, or less than 1 acre of land if part of a larger development, must comply with the State Water Resources Control Board Construction General Permit, which requires development of a stormwater pollution prevention plan to protect water quality. This requires implementation of construction BMPs such as silt fences, inlet protection, and site stabilization techniques to ensure that stormwater runoff from the construction work areas does not cause degradation of water quality in receiving water bodies. Through the incorporation of BMPs through implementation of stormwater pollution prevention plan requirements, impacts associated with water quality standards during construction would be less than significant.

b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

Less-than-Significant Impact. The PUD project area is located within the Chino Creek Watershed. The Chino Basin Watermaster has determined the safe yield for the basin and has assigned individual pumping allocations to each water purveyor to ensure that the total groundwater production does not exceed the safe yield (City of Ontario 2022a). Nearly all of the PUD project area is developed with urban uses and not available for groundwater recharge. Therefore, substantial decrease in impermeable surfaces in the City would not result from development of the Downtown West PUD. The Downtown West PUD would not result in substantial impacts that would impede sustainable groundwater management of the basin compared to what is existing.

The Chino Groundwater Basin is adjudicated and is considered by the Department of Water Resources to be a very low priority groundwater basin (DWR 2023). Each water purveyor has an allotted amount of water that can be pumped from the basin so that the safe yield is not exceeded; therefore, impacts would be less than significant.

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

i) result in substantial erosion or siltation on or off site;

ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site;

iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

iv) impede or redirect flood flows?

Less-than-Significant Impact. The Downtown West PUD would not result in a substantial change in impervious surfaces within the PUD project area. The majority of the PUD project area is currently developed with mixed uses and residential. Development facilitated by the Downtown West PUD would feature drainage facilities that connect to existing drainage infrastructure. Therefore, implementation of the Downtown West PUD would not substantially alter the existing drainage pattern of the site or area in a way that would cause substantial erosions, flooding, polluted runoff, or changes to flood flows. Impacts would be less than significant.

d) In flood hazard, tsunami, or seiche zones, would the project risk release of pollutants due to project inundation?

Less-than-Significant Impact. The City is located outside a tsunami hazard zone (DOC 2023b). As shown in Figure S-03, Flood Hazard Zones, of TOP 20250 the PUD project area is located outside of a Federal Emergency Management Agency Floodplain Zone. Figure S-04 shows that the PUD project area, and the majority of the City, is in a zone of potential inundation from San Antonio Dam (City of Ontario 2023a), which is located approximately 6.3 miles from the PUD project area. The PUD project area is currently mostly developed and urban; new improvements and development facilitated by the Downtown West PUD would be similar in use to what exists and would not significantly increase the risk of pollutants due to inundation beyond what currently exists in the City. Impacts would be less than significant.

e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

No Impact. The City's groundwater supplies are from the Chino Groundwater Basin, which is managed by the Chino Basin Watermaster. The Chino Basin is exempt from legislative requirements under the Sustainable Groundwater Management Act and is not required to prepare a groundwater sustainability plan (City of Ontario 2022a). The Downtown West PUD contains guidelines for development and private investments, public realm improvements, and activations and art. The Downtown West PUD would not involve groundwater extraction or affect

recharge in a way that would produce any effect on the local groundwater supply or groundwater table. Operations of the proposed Downtown West PUD would be similar to existing operations on the PUD project area and would not violate any water quality standards or water discharge requirements. Therefore, the Downtown West PUD would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. No impacts would occur.

Land Use and Planning

a) Would the project physically divide an established community?

Less-than-Significant Impact. The proposed Downtown West PUD would contain guidelines for development and private investments, public realm improvements, activations, and art. The PUD project area is currently developed with a mix of commercial uses, vacant land, and residential units.. All other development or improvements facilitated by the Downtown West PUD would not change the land use or zoning of the PUD project area. The PUD project area is zoned as Downtown – MU and HDR; therefore, revitalizing the downtown area and adding residential units would be consistent with the site's intended uses. The Downtown West PUD would not result in a removal of an existing means of access, such as a road or bridge, that would impede mobility with an existing community and other areas. The Downtown West PUD includes improvements such as a potential paseo connection and alley improvements that would increase connectivity in the downtown area. The proposed Downtown West PUD would not physically divide an established community, and impacts would be less than significant.

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

No Impact. The PUD project area is designated in the General Plan as MU Downtown and is zoned as MU-1 and HDR-45. All other blocks would be within the allowed proposed density in TOP 2050. Table 9 shows the existing land use designation of each site, the allowed densities, and required parking per housing unit.

Table 9. Downtown West PUD TOP 2050 Consistency

| Block | TOP 2050 Land Use Designation | Proposed Land Use Designation | TOP 2050 Allowed Density for Proposed Land Use Designation | Proposed Density (du/acre) | Parking Required for Housing Units | Total Parking provided |
|---|---|---|---|---|---|---|
| A | Mixed Use | Mixed Use | 25.0 to 75.0 | n/a | n/a | n/a |
| B | Mixed Use | Mixed Use | 25.0 to 75.0 | 75 | 30 | 32 |
| C | Mixed Use | Mixed Use | 25.0 to 75.0 | 75 | 132 | 219 |
| D | Mixed Use | Mixed Use | 25.0 to 75.0 | 39 | 58 | 58 |
| E | Mixed Use | Mixed Use | 25.0 to 75.0 | 75 | 78 | 78 |
| F | Mixed Use | Mixed Use | 25.0 to 75.0 | 60 | 190 | 460 |
| G | Mixed Use | Mixed Use | 25.0 to 75.0 | 75 | 80 | 80 |
| H | Mixed Use | Mixed Use | 25.0 to 75.0 | 30 | 78 | 78 |

Table 9. Downtown West PUD TOP 2050 Consistency

| Block | TOP 2050 Land Use Designation | Proposed Land Use Designation | TOP 2050 Allowed Density for Proposed Land Use Designation | Proposed Density (du/acre) | Parking Required for Housing Units | Total Parking provided |
|---|---|---|---|---|---|---|
| I | Mixed Use | High Density Residential | 25.1 to 45.0 | 30 | 70 | 70 |
| Fronting Euclid Avenue | Mixed Use | Mixed Use | 25.0 to 75.0 | 75 max. | 145 | 145 |
| **Total** | | | | | **861** | **1,220** |

**Source:** City of Ontario 2022a.
**Note**: n/a = not applicable.

As shown in Table 9 above, the Downtown West PUD would be consistent with the existing TOP 2050 Land Use Designations' density and parking requirements. Implementation of the Downtown West PUD would not conflict with the applicable zoning and other regulations.

In addition, TOP 2050 includes future buildout of the City. Table 10 shows the applicable land use future build out assumptions.

Table 10. TOP 2050 Future Buildout Table

| Land Use | Acres | Assumed Density/Intensity | TOP 2050 Housing Units for Land Use | TOP 2050 Non-Residential Square Feet for Land Use |
|---|---|---|---|---|
| MU Downtown | 128 | 60% of the area at 35 du/acre, 40% of the area at 0.80 FAR for office and retail | 2,678 | 1,777,586 |

**Source:** City of Ontario 2022c.
**Note:** du/acre = dwelling unit per acre; FAR = floor area ratio.

The PUD project area consists of approximately 21.58 acres of proposed MU Downtown. The development allowed under the Downtown West PUD would be within the allowed TOP 2050 buildout housing units and non-residential square feet for the proposed land uses. The Downtown West PUD, at maximum buildout, would result in a fraction of the allowable buildout throughout the City. Therefore, no impact would occur.

Mineral Resources

a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

And

b) Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

No Impact. According to Figure 5.12-1, Areas of Mineral Resource Significance, in the TOP Supplemental EIR, the PUD project area is within Mineral Resource Zones (MRZ) 2 and 3. MRZ-2 includes zones where adequate information indicates that significant mineral deposits are present, or there is a likelihood of their presence, and development should be controlled. MRZ-3 includes zones where the significance of mineral deposits cannot be determined from the available data (City of Ontario 2022a). TOP 2050 Policy ER-5.5, Mining Operations, prohibits future mining operations where the resource extraction activities are incompatible with existing or proposed adjacent land uses. Areas identified with potential mineral resources have been developed with urban uses and are not suitable for mineral resource extraction (City of Ontario 2023a). The PUD project area is designated as mixed use and high density residential, which are uses that are incompatible with resources extraction activities; therefore, there would be no impact to loss of available of known mineral resources or mineral resource recovery sites.

Noise

This section is based on technical analysis conducted by Dudek and attached to this MND as Appendix B, Noise Technical Memorandum. See Appendix B for complete results.

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

**Construction Noise**

Less-than-Significant Impact With Mitigation Incorporated. The PUD project area is located within TOP 2050 Mixed Use-Downtown land use. As an implementation tool for TOP 2050 on a localized basis, the Downtown West PUD would facilitate development of a mix of uses and historic preservation; transformation of select existing buildings through adaptive reuse; and design guidelines for new development, Euclid Avenue, alleys, managed infrastructure, and the public realm. The intensity of construction activities and the distance between future construction zones and existing noise-sensitive receivers (i.e., residences, nursing care facilities, hospitals, lodging facilities) under the Downtown West PUD would not be materially different from assumptions regarding construction of future development of the area under TOP 2050.

The TOP Supplemental EIR concluded that construction could generate noise levels in excess of 80 A-weighted decibels equivalent continuous noise level and generate noise disturbances for prolonged periods of time at noise-sensitive receptors. Safety Element Policy S-4.1, Noise Mitigation, would help minimize the construction noise impacts through enforcement of Municipal Code Chapter 29, Section 5-29.09, which limits construction, remodeling, digging, grading, demolition, or any other related building activity to between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on weekends. The Downtown West PUD would not result in new or a substantial increase in the magnitude of impacts compared to TOP 2050. Nevertheless, construction-related noise impacts from the Downtown West PUD would be potentially significant. Adherence to mitigation from the TOP Supplemental EIR would therefore

be required in order to avoid significant temporary construction noise impacts. The TOP Supplemental EIR mitigation measure regarding construction noise is presented below.

MM-NOI-1 Construction Noise Abatement

Construction activities associated with new development that occurs near sensitive receptors shall be evaluated for potential noise impacts. Construction contractors shall implement the following measures for construction activities in the City of Ontario. Construction plans submitted to the City shall identify these measures on demolition, grading, and construction plans. The City of Ontario Planning and Building Departments shall verify that grading, demolition, and/or construction plans submitted include these notations prior to issuance of demolition, grading, and/or building permits:

1. Construction activity is limited to the hours between 7:00 am and 6:00 pm Monday through Friday and 9:00 am to 6:00 pm Saturdays and Sundays, as prescribed in Municipal Code Section 5-29.09.
2. During the entire active construction period, equipment and trucks used for project construction shall use the best-available noise control techniques wherever feasible (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds).
3. Impact tools (e.g., jack hammers and hoe rams) shall be hydraulically or electrically powered wherever possible. Where the use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used along with external noise jackets on the tools.
4. Stationary equipment such as generators and air compressors shall be located as far as feasible from nearby noise-sensitive uses.
5. Stockpiling shall be located as far as feasible from nearby noise-sensitive receptors.
6. Construction traffic shall be limited, to the extent feasible, to approved haul routes established by the City's Engineering Department.
7. At least 10 days prior to the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the public, that includes permitted construction days and hours as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, he/she shall investigate, take appropriate corrective action, and report the action to the City.
8. Signs shall be posted at the job site entrance(s), within the onsite construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment shall be turned off if not in use for more than 5 minutes.
9. During the entire active construction period and to the extent feasible, the use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only. The construction manager shall use smart back-up alarms, which automatically adjust the alarm level based on the background noise level or switch off back-up alarms and replace with human spotters in compliance with all safety requirements and laws.

10. Erect temporary noise barriers (at least as high as the exhaust of equipment and breaking line-of-sight between noise sources and sensitive receptors), as necessary and feasible, to maintain construction noise levels at or below the performance standard of 80 dBA Leq. Barriers shall be constructed with a solid material that has a density of at least 1.5 pounds per square foot with no gaps from the ground to the top of the barrier and may be lined on the construction side with an acoustical blanket, curtain, or equivalent absorptive material (City of Ontario 2022a).

**Operational Noise (Stationary)**

Less-than-Significant Impact. New commercial, residential, and mixed-use development under the Downtown West PUD is not anticipated to result in greater density than envisioned under TOP 2050. As described in the Development Code Chapter 6.0, new development may trend toward taller vertical structures than exist today, but with mechanical systems (principally for heating, ventilation, and air conditioning) situated on the roof of such structures, new noise sources would generally be at a further distance to any neighboring noise-sensitive receivers, thus reducing noise at the ground level as compared to lower profile buildings with the same roof-mounted equipment. Adaptive re-use of existing structures would likely involve more modern and efficient mechanical systems, with the same or lower noise generation than equipment associated with the original occupancy of such structures. Impacts would be less than significant.

**Traffic Noise**

Less-than-Significant Impact. Under the Downtown West PUD, the placement of housing, jobs, and amenities in closer proximity to each other and design strategies focused on the pedestrian and a variety of multimodal options will make walking and other forms of active transportation a desirable alternative to driving. The PUD project area would be served by existing roadway, transit, and pedestrian facilities and proposes improvements along B Street, Euclid Avenue Streetscape, alley improvements, and a West Valley Connector Bus Rapid Transit Station. Such improvements would be expected to counter an increase in the number of single-occupancy vehicle trips that could otherwise be associated with introduction of new housing units and commercial space. As such, implementation of the Downtown West PUD would not be anticipated to generate a greater number of vehicle trips compared to TOP 2050, and traffic noise level increases due to the Downtown West PUD would be less than significant.

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

**Construction Vibration**

Less-than-Significant Impact with Mitigation Incorporated. The TOP Supplemental EIR concluded that construction of future development allowed under TOP 2050 could generate vibration levels that exceed structural damage thresholds established by the Federal Transit Authority (e.g., 0.12 inches per second [in/sec] peak particle velocity [PPV] for fragile or historical resources, 0.2 in/sec PPV for nonengineered timber and masonry buildings, and 0.3 in/sec PPV for engineered concrete and masonry). The Downtown West PUD would not result in new or a substantial increase in the magnitude of impacts compared to TOP 2050. Nevertheless, construction-related vibration impacts from the Downtown West PUD would be potentially significant. Adherence to mitigation

from the TOP Supplemental EIR would therefore be required in order to avoid significant temporary construction-related vibration impacts. The TOP Supplemental EIR mitigation measure regarding construction-related vibration is presented below.

MM-NOI-2 Construction Vibration Abatement

Prior to issuance of a building permit, individual projects that involve vibration intensive construction activities, such as pile drivers, jack hammers, and vibratory rollers near sensitive receptors shall be evaluated for potential vibration impacts. For construction within 135 feet of fragile structures, such as historical resources, within 100 feet of nonengineered timber and masonry buildings (e.g., most residential buildings), or within 75 feet of engineered concrete and masonry (no plaster); or a vibratory roller within 25 feet of any structure, the project applicant shall prepare a noise and vibration analysis to assess and mitigate potential noise and vibration impacts related to these activities. This noise and vibration analysis shall be conducted by a qualified and experienced acoustical consultant or engineer. The vibration levels shall not exceed Federal Transit Administration (FTA) architectural damage thresholds (e.g., 0.12 inches per second [in/sec] peak particle velocity [PPV] for fragile or historical resources, 0.2 in/sec PPV for nonengineered timber and masonry buildings, and 0.3 in/sec PPV for engineered concrete and masonry). If vibration levels would exceed this threshold, alternative uses shall be used, such as drilling piles as opposed to pile driving and static rollers as opposed to vibratory rollers. If necessary, construction vibration monitoring shall be conducted to ensure vibration thresholds are not exceeded.

**Operational Vibration**

Less Than Significant. Vibration generation associated with commercial facilities is typically only associated with very large/heavy equipment that includes a rotating component or impact function. Commercial operations envisioned within the PUD would be expected to generate limited levels of ground vibration, which are unlikely to be perceptible beyond the property line of the facility. Therefore, vibration from future commercial operations developed under the PUD would be less than significant.

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Less-than-Significant Impact. The PUD project area is located approximately 1.5 miles northwest of the Ontario International Airport. The PUD project area is located in the 60–65 decibels community noise equivalent level noise contour zone, as depicted in the Ontario International Airport Land Use Compatibility Plan (City of Ontario 2024). New residential or other noise-sensitive land uses constructed as part of the Downtown PUD would not be exposed to airport-related noise levels in excess of 65 A-weighted decibels community noise equivalent level. Impacts would be less than significant.

Population and Housing

a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Less-than-Significant Impact. The proposed Downtown West PUD would facilitate 581 residential units. As described above in Table 9, the Downtown West PUD would result in densities less than they allowable TOP 2050 densities. Therefore, the number of residences that would be developed within the PUD project area is consistent with planned growth in the General Plan Land Use Element, and unplanned growth would not occur.

In addition, the City's Housing Element analyzes existing housing and housing needs within the City and prepares goals, policies, and programs to further the development, improvement, and preservation of housing. The Housing Element was adopted March 1, 2022, and revised August 2022. The PUD project area is located within the Downtown Plan in the Housing Element. The Downtown Plan's vision is to facilitate new mixed-use and residential development, including 634 units in the Downtown Plan area (City of Ontario 2022b). The Downtown West PUD proposes 581 residential units; therefore, the Downtown West PUD would be consistent with the approved Housing Element. The growth facilitated by the Downtown West PUD is within the previously approved standards and would further define the design standards and guidelines for developers in efforts to revitalize Downtown Ontario.

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

Less-than-Significant Impact. The PUD project area contains existing residential units; however, the majority of development would be located on existing commercial or vacant land. The Downtown West PUD would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. At full buildout, the Downtown West PUD would facilitate the addition of 581 units; therefore, no replacement housing elsewhere would be needed and impacts would be less than significant.

Public Services

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

i) Fire protection?

Less-than-Significant Impact. The City of Ontario Fire Department provides fire services throughout the City. The fire department operates out of 10 stations staffed by 186 sworn firefighters and 41 professional staff members serving the community across six bureaus—Operations/Airport Services, Fire Prevention, Support Services, EMS, Training and Professional

Services, and Administrative Services (City of Ontario 2023d). The closest fire station is located approximately 0.3 miles east of the PUD project area.

The proposed Downtown West PUD would allow for 581 additional housing units and therefore would increase the demand for emergency fire services. However, implementation of the proposed Downtown West PUD would be required to adhere to the California Fire Code (CFC), as included in the City's Municipal Code Chapter 4. Future development would be reviewed by the City and the City of Ontario Fire Department on an individual basis and would be required to comply with requirements at the time building permits are issued, including the payment of development impact fees that contribute to funding for additional staffing, facilities, and equipment. Provision of a new or physically altered fire station that could cause environmental impacts would not be required. Therefore, impacts related to fire protection services from the proposed Downtown West PUD would be less than significant.

ii) Police protection?

Less-than-Significant Impact. The City of Ontario Police Department (OPD) provides police protection services to the City. The OPD has a standard of having approximately 225 police officers per 100,000 people. As of 2022, the OPD was allotted 300 police officers and met this standard (City of Ontario 2022a). Buildout of the proposed Downtown West PUD would result in increased population and development and would result in an increased demand on police protection services. Future development facilitated by the Downtown West PUD would also be subject to development impact fees that pay for police services. In addition, future development would be reviewed by the City on an individual basis and required to comply with regulations at the time building permits are issued. Therefore, with payment of development impact fees, the proposed Downtown West PUD would not result in a substantial adverse impact associated with the provision of additional police facilities or services, and impacts to police services would be less than significant.

iii) Schools?

Less-than-Significant Impact. The PUD project area is served by Chaffey Joint Union High School District (CJUHSD) and Ontario-Montclair School District (OMSD). The closest school to the PUD project area is St. George School, located approximately 0.02 miles northwest of the PUD project area.

Each school district that serves the City assesses its needs individually based on student generation rates from residential development and charges development impact fees accordingly. Residential development in the City facilitated by the Downtown West PUD would require payments to corresponding school districts. These payments accommodate the need for new facilities based on the increase in student population in each district (City of Ontario 2022a).

The majority of school districts within Ontario have existing capacity to accommodate TOP 2050 buildout and population increase, including the CJUHSD. The OMSD indicated that d that any increase in residential development will impact OMSD school facilities; however, information provided by OMSD shows that most of its schools can accommodate the District's projections for the next 10 years (City of Ontario 2022a); therefore, because the proposed Downtown West PUD is consistent with the land uses and densities in TOP 2050, the school districts would have the existing capacity to

accommodate the proposed Downtown West PUD. Therefore, impacts related to school facilities would be less than significant with the Government Code required fee payments.

iv) Parks?

Less-than-Significant Impact. The TOP 2050 Parks and Recreation Element contains polices regarding park requirements in the City. Policy PR-1.5 aims to provide 5 acres of parkland (public and private) per 1,000 residents and Policy PR-1.6 aims to provide a minimum of 2 acres of developed private park space per 1,000 residents (City of Ontario 2023a). The proposed Downtown West PUD would not result in a substantial increase in population such that new facilities would be required to serve the Downtown West PUD. In addition, the project applicants would be required to pay development impact fees for parks and recreation facilities. Therefore, with payment of development impact fees, the proposed Downtown West PUD would have a less-than-significant impact related to the provision of park and recreational facilities.

v) Other public facilities?

Less-than-Significant Impact. Development facilitated by the proposed Downtown West PUD could also increase demand for other public services, including libraries, community centers, and public health care facilities. However, because the PUD project area is already served by other services and the proposed Downtown West PUD would be consistent with the approved TOP 2050, the proposed Downtown West PUD would not result in the need for new or physically altered facilities to provide other services, the construction of which could cause significant environmental impacts. Therefore, impacts would be less than significant.

Recreation

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Less-than-Significant Impact. The City uses the established parkland standard of 3 acres per 1,000 residents. The City has approximately 481 acres of parkland (City of Ontario 2022a). Based on a population of 175,265 (U.S. Census Bureau 2020), the City currently requires 526 acres of parkland.

Future growth facilitated by the Downtown West PUD would increase the demand for parks and increase existing park usage. The Quimby Act is a funding mechanism for parkland acquisition. Under this act and pursuant to the City's Municipal Code, residential subdivisions must dedicate parkland or pay in lieu fees to enable the City to acquire a ratio of 3 acres of parkland per 1,000 residents (City of Ontario 2022a). Therefore, with the inclusion of in lieu fees, impacts would be less than significant.

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

Less-than-Significant Impact. The City has 481 acres of parkland, and buildout of TOP 2050 would provide 900 acres of additional parkland (City of Ontario 2022a). Therefore, with the addition of

new parkland throughout the City, the proposed Downtown West PUD would not require the construction or expansion of recreational facilities, and impacts would be less than significant.

Transportation

This section is based on technical analysis conducted by Dudek and attached to this MND as Appendix C, Transportation Technical Memorandum. See Appendix C for complete results.

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

Less-than-Significant Impact. The Mobility Element of TOP 2050 mentions that access and connectivity to mobility options will be integrated into neighborhoods, center, corridors and districts in the City (City of Ontario 2023a). The placement of housing, jobs, and amenities in closer proximity to each other and design strategies focused on the pedestrian and a variety of multimodal options will make walking and other forms of active transportation a desirable alternative to driving. This is consistent with the Downtown West PUD, which is proposing development regulations and planning and design principals to govern the development or redevelopment of an eight-and-a-half block area of the City with residential and commercial uses.

The proposed Downtown West PUD would be consistent with and not impede the implementation of the following Mobility Element goals (City of Ontario 2023a):

1. Goal M1: A system of roadways that meets the mobility needs of a dynamic and prosperous Ontario.
2. Goal M2: A system of trails and corridors that facilitate and encourage active modes of transportation.
3. Goal M3: A public transit system that is a viable alternative to automobile travel and meets basic transportation needs of the transit-dependent.
4. Goal M4: An efficient flow of goods through the City that maximizes economic benefits and minimizes negative impacts.
5. Goal M5: A proactive leadership role in helping identify and facilitate implementation of strategies that address regional transportation challenges (City of Ontario 2023a).

Euclid Avenue, Palm Avenue, E Street, and Holt Boulevard provide primary access to the PUD project area. The City is served by bus services provided by OmniTrans, which operates Routes 61, 83, and 84 in the PUD project area. The City is served by passenger rail services by Amtrak and Metrolink. The Amtrak station is located at 198 E Emporia Street, approximately 0.2 miles southeast of the Euclid Avenue/Holt Avenue intersection. The Ontario East station (Metrolink-Riverside line) is located at 3330 E Francis Street approximately 5.8 miles southeast of the Euclid Avenue/Holt Avenue intersection. The City's downtown core is well served by pedestrian facilities, with sidewalks provided along most streets and crosswalks provided at all major intersections. There are several existing and proposed bicycle facilities shown in TOP 2050 Figure M-02, Multipurpose Trails and Bikeways, that serve the PUD project area.

The PUD project area would be served by existing roadway, transit, and pedestrian facilities and proposes improvements along B Street, Euclid Avenue Streetscape, alley improvements, and a

West Valley Connector Bus Rapid Transit Station. As such, the Downtown West PUD would not conflict with a program, plan, ordinance, or policy addressing the circulation system including transit, roadway, bicycle, and pedestrian facilities. Impacts would be less than significant.

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

Less-than-Significant Impact. CEQA Guidelines Section 15064.3(b) focuses on VMT for determining the significance of transportation impacts. It is further divided into four subdivisions: (1) land use projects, (2) transportation projects, (3) qualitative analysis, and (4) methodology. The Updated CEQA Guidelines state that "generally, VMT is the most appropriate measure of transportation impacts," and define VMT as "the amount and distance of automobile travel attributable to a project." "Automobile" refers to on-road passenger vehicles, specifically cars and light trucks. The Office of Planning and Research has clarified in its Technical Advisory (OPR 2018) that heavy-duty truck VMT is not required to be included in the estimation of a project's VMT. Other relevant considerations may include the effects of a project on transit and non-motorized traveled.

Based on the San Bernardino County Transportation Authority Transportation Analysis Model VMT evaluation tool,[2] the individual projects or parcels are located in two traffic analysis zones (TAZs) (i.e., 5364501 and 53645201).

The individual parcels or projects within the Downtown West PUD may be screened from conducting a detailed project-level VMT assessment if they meet at least some of the following screening criteria:

1. **Transit Priority Area Screening:** Projects located within 0.5 miles of an existing "major transit stop" or an "existing stop along a high-quality transit corridor" may be presumed to have a less-than-significant impact absent substantial evidence to the contrary. In addition to its proximity to transit, the project would meet the following:
    1. A minimum floor area ratio of 0.75
    2. Provide no more parking than City Development code mandates
    3. Be consistent with the applicable Sustainable Communities Strategy
    4. Do not replace affordable housing units with a smaller number of moderate or high-income residential units

    Based on the evaluation tool, several Assessor's Parcel Numbers in the TAZ would meet the Transit Priority Area screening. The Downtown West PUD would ensure during development plan review that individual projects would also meet the conditions for floor area ratio, parking, consistency with Sustainable Communities Strategy, and not replacing affordable housing units, as outlined above.

2. **Low VMT Area Screening:** Projects are presumed to result in less-than-significant VMT impacts if located in low VMT-generating model TAZs. These TAZs generate total daily VMT per service population that is less than the baseline level for the City's buildout. Based on

[2] San Bernardino County Transportation Authority VMT Screening Tool accessed at https://sbcta.maps.arcgis.com/apps/webappviewer/index.html?id=779a71bc659041ad995cd48d9ef4052b

the evaluation tool, several project Assessor's Parcel Numbers are within a low VMT-generating area and would meet this screening criterion.

3. **Project Type Screening:** Projects that meet the criteria described below can be screened from further VMT review and are presumed to have a less-than-significant impact:
   - Residential, office, retail or a mix of these land uses within 0.5 miles of an existing major transit stop
   - Local-serving retail uses not greater than 50,000 square feet in size;
   - Projects with a Neighborhood Commercial TOP 2050 Land Use designation
   - Redevelopment of a site to a residential or office that would generate fewer VMT than the existing use

Each project within the Downtown West PUD is likely to meet one of the above-mentioned screening criteria and therefore it is anticipated to have a less than significant VMT impact. If the screening criteria is not met, the applicant would need to submit project level VMT analysis and additional mitigation to mitigate impacts. Therefore, the Downtown West PUD would not conflict or be inconsistent with CEQA Guidelines Sections 15064.3(b)(1) and 15064.3(b)(3), and impacts would be less than significant.

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Less-than-Significant Impact. The Downtown West PUD proposes to redevelop several existing residential and commercial parcels; however, it does not propose any new roads or intersections. Individual projects including residential and commercial development would be subject to, and designed in accordance with, City standards and specifications that address potential design hazards including sight distance, driveway placement and access, and signage and striping. Additionally, any new improvements to roadway facilities associated with individual projects would be constructed based on design and access standards consistent with the City's Traffic and Transportation Guidelines (City of Ontario 2020b).

During construction, if any temporary road closures are anticipated, the contractor will implement a traffic control plan (if required) and standard construction management practices to maintain access for all road users and emergency vehicles. As such, traffic from the project entering and exiting the individual sites would be able to do so safely at the driveways. Therefore, the Downtown West PUD would not substantially increase hazards due to a roadway design feature or introduce incompatible uses. Impacts would be less than significant.

d) Would the project result in inadequate emergency access?

Less-than-Significant Impact. The proposed Downtown West PUD does not propose any new roadways or intersections, and it would not include any standards that would result in inadequate emergency access. The individual project design and access details such as new or modified driveway locations or curb cuts are unknown at the time of this writing. Therefore, this document does not consider impacts to emergency access to properties in the PUD project area or particular streets along which parcels have been identified for development. The Downtown West PUD may allow for

greater densities than are currently allowed as proposed in the plan, policies, and zoning standards for Downtown and would facilitate temporary construction activities within the area, which could temporarily result in impacts to the circulation system. The individual projects would be designed and constructed to local standards and comply with the fire code and emergency access requirements of the fire department. Upon completion, the projects or parcels would continue to be accessible via existing or new driveways along streets in the Downtown area. Therefore, the construction or operation of the proposed Downtown West PUD would not result in inadequate emergency access, and impacts would be less than significant.

Tribal Cultural Resources

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

Less-than-Significant Impact. A Native American Heritage Commission (NAHC) record search for the Sacred Lands File (SLF) for the Downtown West PUD was negative for known Native American heritage resources within the PUD project area. Therefore, the Downtown West PUD would not adversely affect tribal cultural resources (TCRs) that are listed or eligible for listing in the state or local register. Impacts would be less than significant.

b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Less-than-Significant Impact with Mitigation Incorporated. The SLF is maintained by the NAHC and represents a curation of "sacred lands" or TCRs provided by tribal entities and Native American representatives. While the NAHC SLF records search results were negative for known Native American heritage resources within the PUD project area, for various reasons, tribal entities and Native American representatives do no not always report sacred lands or TCRs to the NAHC. As such, the NAHC's SLF is not a comprehensive list, and searches of the SLF must be considered in concert with other research and not used as a sole source of information regarding the presence of TCRs or cultural resources. The NAHC provided a list of 20 individuals/tribal entities who would potentially have specific knowledge as to whether or not other cultural resources are identified within the PUD project area that could be at risk. Future development facilitated by the Downtown West PUD would be required to undergo project-specific tribal consultation.

The City sought to enter into tribal consultation with all tribes listed as a result of the NAHC records request. Two tribes, the Gabrieleno Band of Mission Indians – Kizh Nation and the San Manuel Nation, requested consultation. Information was provided that the PUD project area exists within Serrano ancestral territory. There were no concerns with the Downtown West

PUD's implementation; however, mitigation measures were requested. MM-CUL-4, MM-CUL-5, MM-CUL-6, MM-TCR-1, and MM-TCR-2 are provided below.

In addition, in an abundance of caution and in an effort to protect unknown TCRs, the City has developed Standard Conditions of Approval (City Council Resolution No. 2010-021) to ensure the proper treatment of unknown subsurface cultural and tribal cultural resources in the event of an inadvertent discovery. Significant impacts are not expected. However, City-to-tribal government consultation pursuant to AB 52 and SB 18 will continue for future projects as required by state laws.

MM-CUL-4.

In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed within TCR-1, regarding any pre-contact finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.

MM-CUL-5.

If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to YSMN for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.

MM-CUL-6.

If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

MM-TCR-1.

The Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in CR-1, of any pre-contact cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site.

MM-TCR-2.

Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.

Note: Yuhaaviatam of San Manuel Nation realizes that there may be additional tribes claiming cultural affiliation to the area; however, Yuhaaviatam of San Manuel Nation can only speak for itself. The Tribe has no objection if the agency, developer, and/or archaeologist wishes to consult with other tribes in addition to YSMN and if the Lead Agency wishes to revise the conditions to recognize additional tribes.

Utilities and Service Systems

a) Would the project require or result in the relocation or construction of new or expanded water, waste water treatment, or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Less-than-Significant Impact. The Downtown West PUD would contain guidelines for development and private investments, public realm improvements, and activations and art. Development facilitated by the Downtown West PUD would connect to the existing water, wastewater treatment, stormwater drainage, electric power, natural gas, and telecommunications facilities surrounding the PUD project area. Construction impacts, such as ground disturbance, to make these utility connections could result in minimal impacts to soil such as soil displacement, erosion, or runoff; however, implementation of BMPs would minimize the amount of erosion and/or siltation that would have the potential to occur during construction. Impacts would be less than significant.

b) Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

Less-than-Significant Impact. Residential development facilitated by the Downtown West PUD would result in an increase in residential uses and therefore an increase in water usage. The City is served by the Ontario Municipal Utilities Company and IEUA. The IEUA and the cities within its service area plan for increased demand with future development (City of Ontario 2022a). In addition, the PUD project area is primarily developed; therefore, development facilitated by the Downtown West PUD would be served by existing water infrastructure.

The Downtown West PUD would comply with TOP 2050 Policy LU-1.3, requiring adequate infrastructure and services for all development, and Policy LU-4, requiring that the necessary infrastructure and services be in place prior to or concurrently with development. The purpose of Policies ER-1.1 through ER-1.5 are to ensure that water supplies and demands in the City are met (City of Ontario 2023a). The Downtown West PUD is consistent with the land uses and projected growth in TOP 2050; therefore, sufficient water supplies would be available to serve the PUD project area and reasonably foreseeable future development during normal, dry, and multiple dry years. Impacts would be less than significant.

c) Would the project result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Less-than-Significant Impact. The proposed Downtown West PUD would be consistent with the approved TOP 2050, which accounts for buildout at the PUD project area. IEUA has two facilities that serve the City: Regional Water Recycling Plant No. 1 (RP-1) and Regional Water Recycling Plant No. 5 (RP-5). RP-5 is currently under expansion and expected to be completed in 2025 (City of Ontario 2022a). Therefore, with the expanded future wastewater capacity of the City, development under the Downtown West PUD is not expected to exceed wastewater capacity, and impacts would be less than significant.

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Less-than-Significant Impact. Development facilitated by the Downtown West PUD would comply with Section 4.408 of the 2022 CALGreen building code, which requires that at least 65% of nonhazardous construction and demolition waste from nonresidential construction operations be recycled and/or salvaged for reuse. Development would also comply with AB 341, which mandates recycling for commercial and multifamily residential land uses. In accordance with AB 1826, future businesses that generate organic waste in amounts over a certain threshold would be mandated to recycle organic matter (City of Ontario 2022a). As such, the Downtown West PUD would not impair the attainment of solid waste reduction goals.

In addition, the Downtown West PUD would comply with TOP 2050 Policies ER-2.1, ER-2.2, and ER-2.3, which describe a cost-effective, integrated waste management system that meets or exceeds state and federal recycling and waste diversion mandates through meeting or exceeding AB 939 requirements, prohibiting the disposal of hazardous and electronic waste into the municipal waste stream, and purchasing recycled-content products (City of Ontario 2023a). With compliance of the applicable regulations, the Downtown West PUD impacts would be less than significant.

e) Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

No Impact. The proposed Downtown West PUD would result in new development that would generate an increased amount of solid waste. As described above, development would be required to comply with the 2022 CALGreen building code, AB 341, and AB 1826. The Downtown West PUD would be consistent with all state regulations, as ensured through the City's development project permitting process. Therefore, the proposed Downtown West PUD would comply with all solid waste statutes and regulations, and impacts would not occur.

Wildfire

a) Would the project substantially impair an adopted emergency response plan or emergency evacuation plan?

Less-than-Significant Impact. The City has prepared the 2018 Hazard Mitigation Plan with the intent of reducing and/or eliminating loss of life and property from natural hazards. The City is located in a Local Responsibility Area. Fire protection for the City is the responsibility of the Ontario Fire Department. The Ontario Fire Department consists of 10 fire stations located throughout the City (City of Ontario 2018). The closest fire station is located approximately 0.3 miles east of the PUD project area. Additionally, the City provides disaster preparedness and outlines hazard specific preparation through the ReadyOntario website (City of Ontario 2023c). Title 9 of the Municipal Code provides development standards and fire reduction strategies including providing for fire access roads, maintaining a defensible space of non-combustible vegetation around structures, and installing indoor sprinkler systems (City of Ontario 2018). The PUD project area is not located in a Fire Hazard Severity Zone, as shown in TOP 2050 Figure S-05, Fire Hazard Severity Zones (City of Ontario 2023a); is served by a nearby fire station; and would comply with the fire regulations and standards outlined in the Hazard Mitigation Plan and Municipal Code. Therefore, impacts would be less than significant.

b) Due to slope, prevailing winds, and other factors, would the project exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

Less-than-Significant Impact. The PUD project area is not located in a Fire Hazard Severity Zone, as shown in TOP 2050 Figure S-05, Fire Hazard Severity Zones. However, Santa Ana winds and commercial and industrial facilities could increase the possibilities of fires in the City. Goals and policies in TOP 2050 are aimed at reducing the risks of damage due to fires. Implementation of the CFC and CBC (Policy S-3.1), maintenance of fire and emergency medical services (Policy S-3.3), designing new development with fire prevention considerations (Policy S-3.8), and other measures listed in TOP 2050 would reduce the risk of fire in the City (City of Ontario 2023a). With adherence to the CFC, CBC, and TOP 2050, the Downtown West PUD would not exacerbate risk or result in post-wildfire hazards. Impacts would be less than significant.

c) Would the project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

Less-than-Significant Impact. As previously discussed, the Downtown West PUD would not exacerbate fire risk. Construction facilitated by the Downtown West PUD would comply with CFC requirements to manage and minimize fire risk during construction. Operation of the proposed development would not contain potential sources for fire risk. As such, the Downtown West PUD would not result in installation or maintenance of associated infrastructure that may exacerbate fire risk. Impacts would be less than significant.

d) Would the project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Less-than-Significant Impact. As previously described, the PUD project area is not located in a Fire Hazard Severity Zone or a Federal Emergency Management Agency Flood Zone and is located in a flat, developed area of the City (City of Ontario 2023a). In addition, the Downtown West PUD would not substantially alter the drainage of the existing site, as the site is mostly developed or paved and connected to existing stormwater systems. Therefore, the Downtown West PUD would not expose people or structures to significant risks from post-fire slope instability or drainage changes. Impacts would be less than significant.

Mandatory Findings of Significance

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

Less-than-Significant Impact with Mitigation Incorporated. The PUD area is an urban redevelopment area. Potential impacts related to sensitive and special-status habitat, wildlife species, and plant species are discussed in the Biological Resources section. As discussed in the Biological Resources section, impacts to biological resources would be less than significant. The proposed Downtown West PUD would not substantially degrade the quality of the environment or impact fish or wildlife species or plant communities. As discussed in the Cultural Resources section, potential impacts to cultural resources would be reduced to a level below significance with incorporation of mitigation measures. In addition, as discussed in the Tribal Cultural Resources section, the Downtown West PUD would not result in impacts to TCRs. The proposed Downtown West PUD would not eliminate important examples of the major periods of California history or prehistory. Overall, impacts would be less than significant with incorporation of MM-CUL-1, MM-CUL-2, and MM-CUL-3 and MM-TCR-1 and MM-TCR-2.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

Less-than-Significant Impact with Mitigation Incorporated. As indicated in the analysis presented throughout this MND, the proposed Downtown West PUD would not result in significant and unavoidable impacts in any issue area. MM-CUL-1, MM-CUL-2, MM-CUL-3, MM-CUL-4, MM-CUL-5, MM-CUL-6, MM-TCR-1, MM-TCR-2, MM-NOI-1, and MM-NOI-2 would reduce impacts to below a level of significance.

The proposed Downtown West PUD does not propose development, rather it would facilitate future development and improvements in the PUD project area through design guidelines and standards. Cumulative projects would be analyzed at the time that development facilitated by the Downtown West PUD are proposed.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Less-than-Significant Impact with Mitigation Incorporated. The potential for adverse direct or indirect impacts to human beings was considered throughout this MND. Based on this evaluation, there is no substantial evidence that construction or operations facilitated by the Downtown West PUD with the proposed mitigation measures incorporated would result in a substantial adverse effect on human beings. Impacts would be less than significant with incorporation of mitigation measures.

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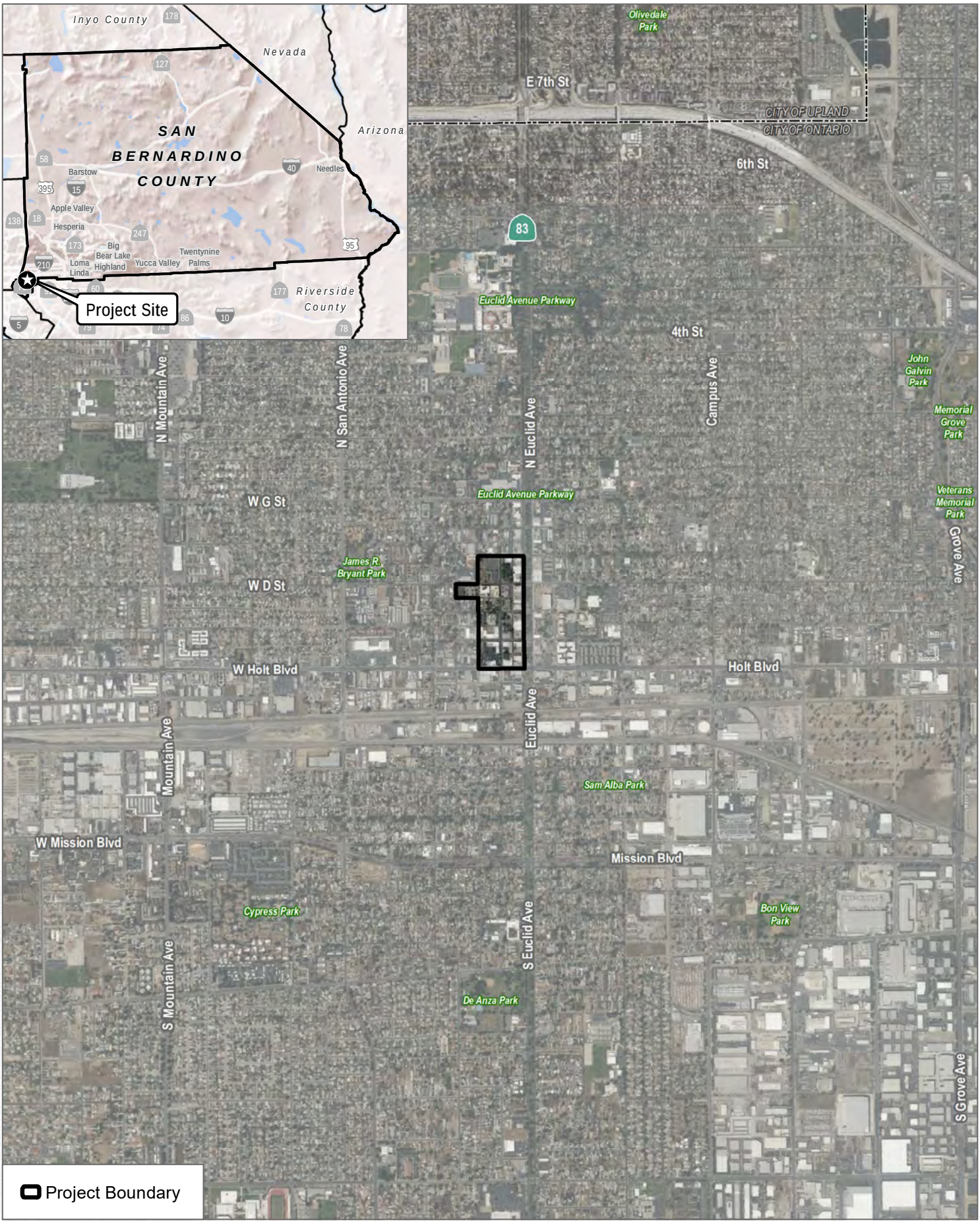



SOURCE: Bing Imagery 2023, Open Street Maps 2019

DUDEK

0 1,000 2,000 Feet

FIGURE 1

Regional Location

SOURCE: Bing Imagery 2023, Open Street Maps 2019

DUDEK

0 150 300 Feet

FIGURE 2

PUD Project Area

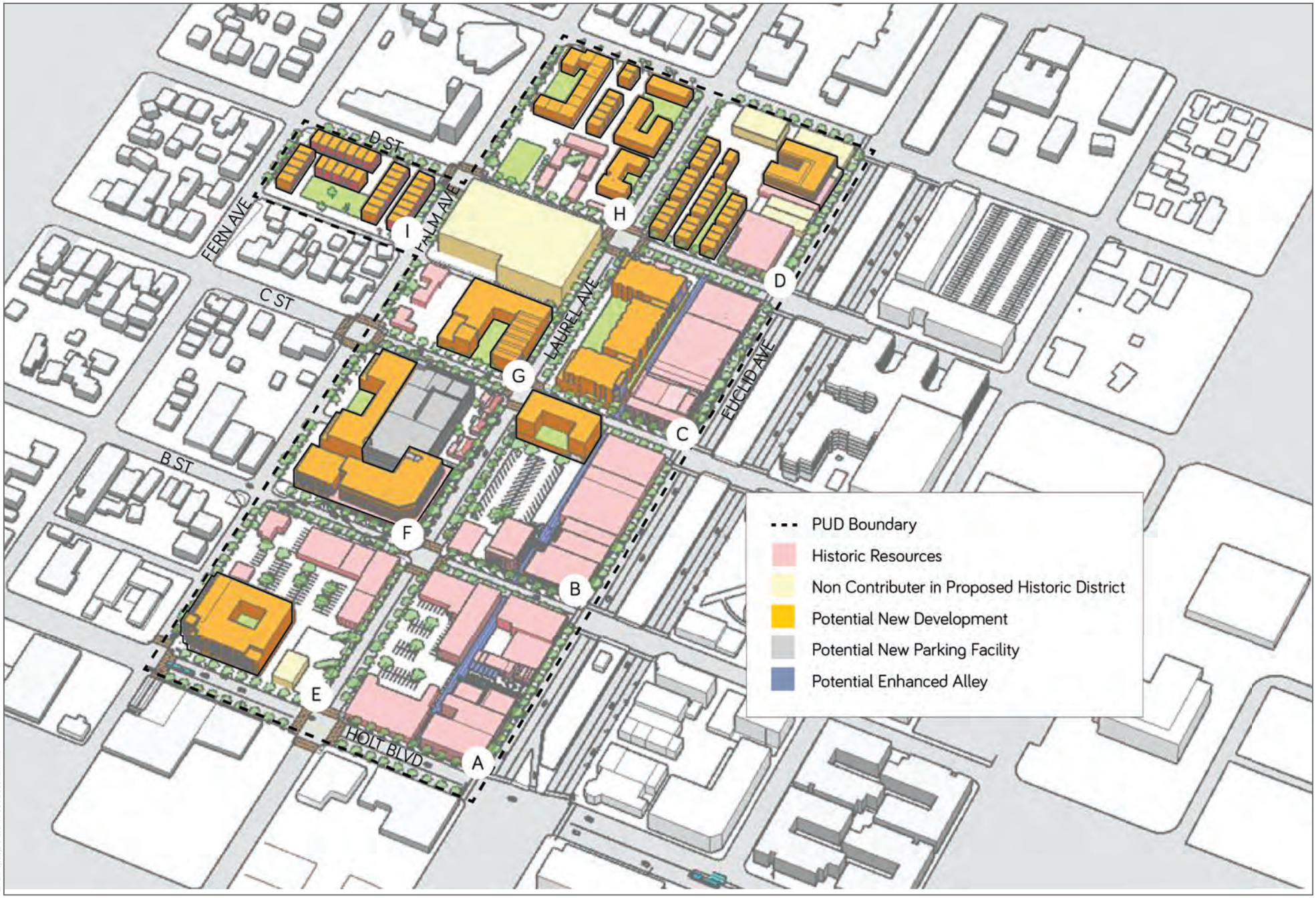



FIGURE 3
Site Plan

DUDEK

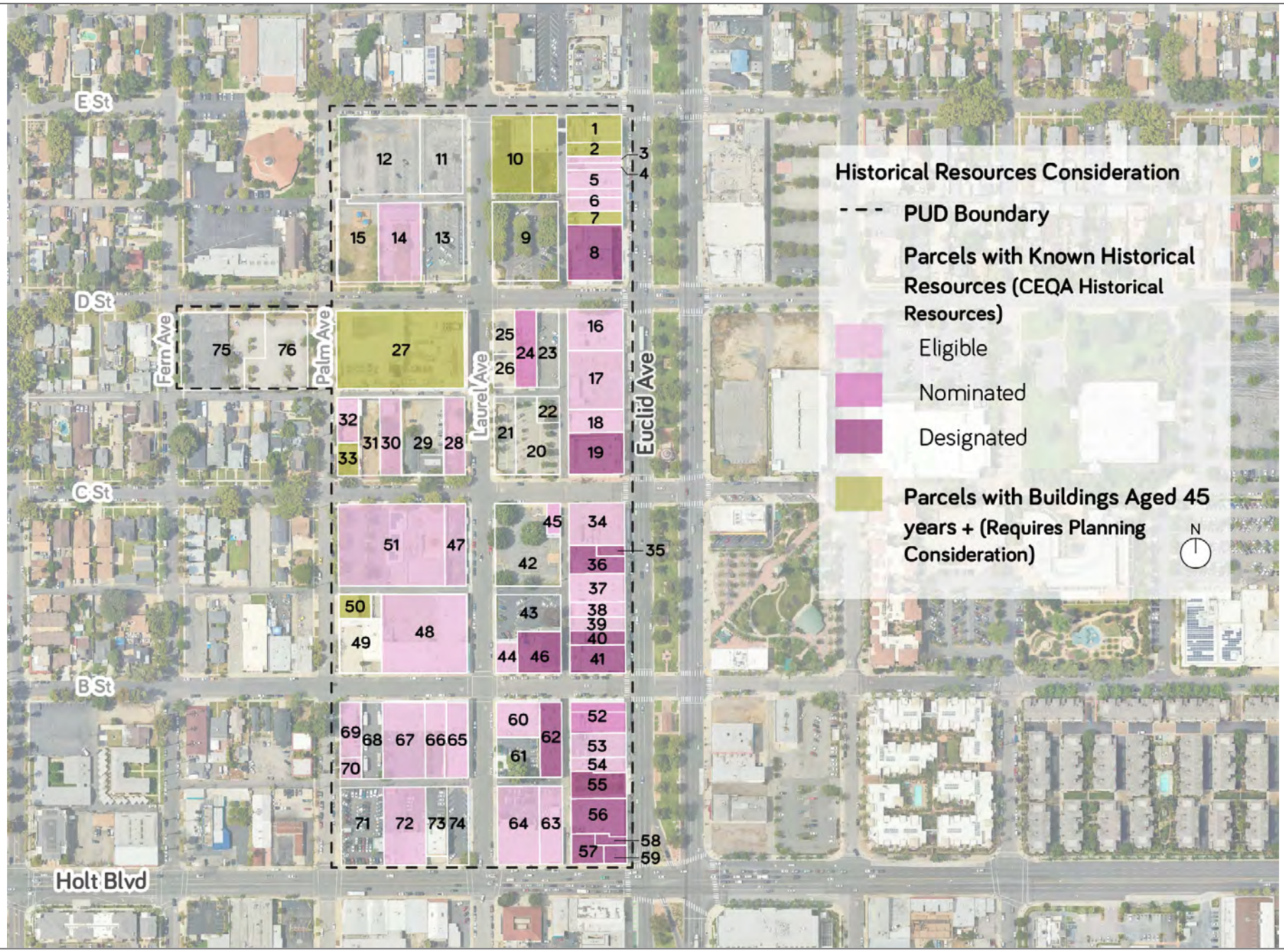



FIGURE 4

PUD Project Area Historic Resources

RESOLUTION NO. PC24-015

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING CITY COUNCIL APPROVAL OF FILE NO. PUD23-004, A PLANNED UNIT DEVELOPMENT TO ESTABLISH PLANNING AND DESIGN PRINCIPLES, DEVELOPMENT REGULATIONS AND PERFORMANCE STANDARDS TO GOVERN FUTURE DEVELOPMENT OF 21.58 ACRES OF LAND, GENERALLY LOCATED SOUTH OF E STREET, NORTH OF HOLT BOULEVARD, WEST OF EUCLID AVENUE, EAST OF PALM AVENUE, AND THE NORTHERN PORTION OF THE BLOCK BETWEEN FERN AND PALM AVENUES AND C AND D STREETS, WITHIN THE LUA-1 (EUCLID AVENUE ENTERTAINMENT) OF THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 1048-566-08, 1048-566-09, 1048-566-10, 1048-566-02, 1048-566-01, 1048-566-03, 1048-566-04, 1048-566-06, 1048-566-07, 1048-561-07, 1048-561-08, 1048-561-09, 1048-561-10, 1048-561-12, 1048-561-13, 1048-562-01, 1048-562-02, 1048-565-01, 1048-565-04, 1048-565-05, 1048-565-06, 1048-566-06, 1048-566-07, 1048-354-04, 1048-354-05, 1048-354-06, 1048-354-07, 1048-354-08, 1048-353-13, 1048-353-14, 1048-354-01, 1048-354-02, 1048-354-03, 1048-565-14, 1048-566-05, 1048-566-11, 1048-561-11, 1048-562-03, 1048-562-06, 1048-562-07, 1048-563-01, 1048-563-02, 1048-563-03, 1048-563-04, 1048-563-05, 1048-576-01, 1048-576-02, 1048-563-07, 1048-563-08, 1048-564-07, 1048-564-11, 1048-564-12, 1048-564-13, 1048-564-14, 1048-565-02, 1048-565-03, 1048-563-06, 1048-563-07, 1048-563-08, 1048-563-09, 1048-563-10, 1048-565-07, 1048-565-08, 1048-565-09, 1048-565-10, 1048-565-11, 1048-565-12, 1048-565-13, 1048-563-11, 1048-564-01, 1048-564-02, 1048-564-03, 1048-564-04, 1048-564-05, 1048-564-06, 1048-564-08, 1048-564-09, 1048-564-10

WHEREAS, the City of Ontario ("Applicant") has initiated approval of a Planned Unit Development (“PUD”), File No. PUD23-004, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 21.58 acres of land (8.5 City Blocks) generally located south of E Street, north of Holt Boulevard, west of Euclid Avenue, east of Palm Avenue, and the northern portion of the block between Fern and Palm Avenues and C and D Streets within the LUA-1 (Euclid Avenue Entertainment) of the MU-1 (Downtown Mixed Use) zoning district, and is presently improved with a mixture of retail, residential, and office land uses and paved surface parking lots; and

WHEREAS, the properties to the north of the Project site is within the OL (Office Low Intensity) and MU-1(Mixed Use Downtown) zoning districts and is developed with

office, retail and residential uses. The properties to the east and south are within the MU-1 (Mixed Use Downtown) zoning district which are developed with office, retail and residential. The properties to the west are located within the MDR-11 (Medium Density Residential) HDR-45 (High Density Residential) and are developed with a school, church, and multiple-family and single family residential; and

WHEREAS, an existing bus stop is located on the northeast corner of Euclid Avenue and D Street for Omnitrans Route 83. Additionally, located near Euclid Avenue on Holt Boulevard is Omnitrans Route 61 which has been identified as the future West Valley Connector Bus Rapid Transit (BRT); and

WHEREAS, the purpose of the PUD is to facilitate the revitalization of downtown Ontario, streamline development, encourage historic preservation and adaptive reuse, and provide development flexibility to achieve the City's goals to economically revitalize and aesthetically enhance the Project area; and

WHEREAS, the PUD includes components that regulate land use, urban design, development and design standards for new (infill) construction, redevelopment of underutilized sites, and adaptive reuse of historic and existing buildings, architectural character and design and historic preservation; and

WHEREAS, the LUA-1/MU-1 (Downtown Mixed Use) zoning district is envisioned as an intensive vertical and horizontal district with a mixture of retail, office, and residential uses in a pedestrian friendly atmosphere, with the most intensive uses envisioned along Euclid and Holt Avenues. Consistent with the LUA-1/MU-1 zoning district and TOP Downtown District Place Type, the Downtown West PUD grants a maximum intensity of 2.0 Floor Area Ratio and a density range of 25.0 to 75.0 dwelling units per acre; and

WHEREAS, the PUD establishes the Downtown Mixed-Use Retail Core (MU-RC) zone that is comprised of 4 city blocks (Blocks A-D) that front onto Euclid Avenue from Holt Boulevard to D Street and is envisioned as an 18-hour entertainment, shopping, and dining destination, whereas Holt Boulevard, a future multi-modal corridor, is envisioned as the primary west-east connection from the Ontario International Airport/Hospitality district to the downtown; and

WHEREAS, the goals of the MU-RC zone are to enable a mixture of commercial uses with strategic multiple-family residential infill development, activate storefronts to generate pedestrian foot traffic, such as retail, restaurant, and entertainment, as well as design treatments that support a lively and comfortable public realm, create an enhanced, vibrant, and active public realm and streetscape along Euclid Avenue, create mid-block connections along Euclid Avenue to increase walkability and activity where public art and outdoor dining is encouraged, and to transform the north-south running public alley into a pedestrian-friendly enhanced alley with entrances, outdoor dining, and "greening"

(landscape and enhanced paving) that collectively creates a lively and dynamic atmosphere; and

WHEREAS, the Downtown Mixed-Use Transitional (MU-T) zone is comprised of 4 city blocks (Blocks E- H), bordered by Laurel Avenue to the east, Palm Avenue to the west, D street to the north and Holt Boulevard to the south and is envisioned to enable a mix of commercial uses, a variety of multiple-family residential housing types, and mixed use development; and

WHEREAS, the goals of the MU-T zone is to support development flexibility with allowing a variation of building heights to respond to the surrounding context, identifying B street as an extension of Euclid Avenue as a more walkable retail “Main Street” atmosphere, enhancing the public realm with decorative crosswalks, “bulb out” curb extensions, public art, bicycle infrastructure, and introducing new “placemaking” elements such as suspended lighting and parklets; and

WHEREAS, the Downtown Residential (DR) zone is a half city block (Block I) located west of Palm Avenue, east of Fern Avenue, south of D street and north of the public alley. The primary goal of the DR zone to ensure compatible housing types with the surrounding residential; and

WHEREAS, the PUD includes Block-specific standards created to respond to place-based conditions and goals which include allowable range of building heights of 40 feet (3 stories) to 65 feet (5 stories), 0 to 10 feet of building setbacks, 10 and 15 feet of stepbacks for upper level additions to existing buildings at certain locations, and parking requirements; and

WHEREAS, the PUD requires a minimum of 1 resident parking space per bedroom, 0.20 guest parking per dwelling unit, and 1 parking space per 250 square feet of Gross Floor Area of commercial; and

WHEREAS, in order to achieve the preferred density and building intensities, the PUD allows for a combination of on-site and on-street parking to provide an adequate parking supply to meet the anticipated parking demand for the Project. All resident parking is provided on site, while guest parking and retail visitor spaces are allowed on-street; and

WHEREAS, the PUD includes architectural design standards and guidelines, specific to the downtown location and variety of building types, and establishes the following design principles:

(a) Create an architectural character that reflects the various styles within the historic downtown. New buildings should appear to fit in contextually with

existing historic buildings by using similar proportions, articulation, building details and building material.

(b) The overall character should feel like a modern interpretation of a traditional American small town.

(c) Create compatibility between the mixed-use, residential and commercial architecture within the downtown area; the introduction of unifying elements such as similar materials and colors should be considered; however, “sameness” is discouraged; and

WHEREAS, the PUD requires a Certificate of Appropriateness, in conjunction with a Development Plan, in order to safeguard identified historic resources listed on the Ontario Register of Historic Places and any unknown historic resources yet to be discovered; and

WHEREAS, the PUD relies upon the Secretary of Interior Standards, for the Treatment of Historic Properties, the Ontario Development Code (Certified Local Government), Ontario Downtown Design Guidelines, and best practices for preservation to guide appropriate design for new (infill) construction, redevelopment of underutilized sites, and adaptive reuse of historic and existing buildings; 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, an initial study has been prepared which analyzed the environmental impacts of the proposed Project. On the basis of the initial study, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of insignificance, an Initial Study/Mitigated Negative Declaration (hereinafter referred to as "MND") and Mitigation Monitoring and Reporting Program (hereinafter referred to as "MMRP") were prepared pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

WHEREAS, the MND was made available to the public and to all interested agencies for review and comment pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

WHEREAS, 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, 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 May 28, 2024, the Planning Commission of the City of Ontario conducted a hearing to consider the MND and MMRP, and the Project and concluded said hearing on that date; and

WHEREAS, as the first action on the Project, on May 28, 2024 the Planning Commission approved a resolution recommending to City Council the adoption of a MND and MMRP, each prepared pursuant to CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of significance, 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: ***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, 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 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.

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 authority 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; and

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

(1) ***The proposed 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.*** 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 Downtown West Planned Unit Development, describes the manner in which the PUD 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 through conditions of approval, 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 Downtown West PUD area is situated in the heart of Ontario's downtown and is adjacent to residential and commercial land uses and development. The surrounding development supports the objective of the Downtown West PUD further commercial, residential and mixed-use development. The Project does 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 Downtown West PUD, 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 Downtown West PUD will establish minimum building setbacks, parking and open space requirements, allow on-street parking, and establish a planting palette. These standards will facilitate the commercial, residential, and mixed-use development. The proposed Downtown West PUD 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: ***Planning Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 through 3, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE 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 5: ***Indemnification.*** The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

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

SECTION 7: ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

- - - - - - - - - - - - - -

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 28th day of May 2024, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Nicola Ricci
Planning Commission Chairperson

ATTEST:

Henry K. Noh
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. PC24-015, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on May 28, 2024, by the following roll call vote, to wit:

AYES: Anderson, DeDiemar, Del Turco, Lampkin, Ricci

NOES: None

ABSENT: Dean, Gage

ABSTAIN: None

Gwen Berendsen
Secretary Pro Tempore

# ATTACHMENT A:

## File No. PUD23-004
## Downtown West Planned Unit Development

*(PUD to follow this page)*

# Downtown West Planned Unit Development
## DRAFT

***MAY 2024***

*Prepared for:*

**CITY OF ONTARIO**

*Prepared by:*

DUDEK

studioneleven

# TABLE OF CONTENTS


1 Introduction ..... 1
- 1.1 The Ontario Plan (TOP) 2050 Objectives ..... 3
- 1.2 Background and Related Efforts ..... 11
  - 1.2.1 Downtown Ontario Design Guidelines ..... 11
  - 1.2.2 Downtown Civic Center Planned Unit Development ..... 11
  - 1.2.3 West Euclid Activation ..... 11
  - 1.2.4 Euclid Avenue Relinquishment and Historic Property Treatment and Management Plan ..... 12
- 1.3 Community and Stakeholder Engagement ..... 13

2 Vision and Guiding Principles ..... 16
- 2.1 Land Use, Urban Design, and Public Realm Concept ..... 19
  - 2.1.1 Euclid Avenue ..... 20
  - 2.1.2 Holt Boulevard ..... 23
  - 2.1.3 B Street ..... 24
  - 2.1.4 The Alley ..... 26
  - 2.1.5 Laurel Avenue ..... 28

3 District and Block Plan ..... 29
- 3.1 Downtown Mixed-Use Retail Core (Blocks A-D) ..... 30
- 3.2 Downtown Mixed-Use Transitional (Blocks E-H) ..... 31
- 3.3 Downtown Residential (Block I) ..... 32

4 Zoning and Land Use Plan ..... 33
- 4.1 Zoning Districts ..... 33
  - 4.1.1 Downtown Mixed-Use Retail Core (MU-RC) ..... 33
  - 4.1.2 Downtown Mixed-Use Transitional (MU-T) ..... 34
  - 4.1.3 Downtown Residential (DR) ..... 35
- 4.2 Permitted Land Uses ..... 37

5 Development Regulations and Guidelines ..... 40
- 5.1 Applicability ..... 40
- 5.2 Density and Intensity ..... 43

5.3 Building Height ..... 44
5.3.1 Upper-Level Stepbacks ..... 46
5.4 Setbacks ..... 47
5.5 Building Design ..... 50
5.5.1 Entrances ..... 50
5.5.2 Modulation ..... 50
5.5.3 Transparency ..... 50
5.5.4 Building Façades ..... 51
5.5.5 Ground Floor ..... 51
5.5.6 Varied Roofline ..... 52
5.5.7 Roof Decks ..... 52
5.5.8 Open Space ..... 53
5.5.9 Landscaping ..... 54
5.5.10 Vehicle Access and Parking ..... 54
5.6 Signs ..... 57
5.7 Service Facilities ..... 58
5.8 Infrastructure ..... 58
5.9 Historic Preservation ..... 59
5.9.1 Brief Development History of Ontario and the PUD Area ..... 59
5.9.2 Relevant Regulatory and Guidance Document References ..... 60
5.9.3 Review of Resources in the PUD Area ..... 65
5.9.4 Historic Preservation - Certificates of Appropriateness and Demolition ..... 73
5.9.5 Historic Architectural Guidelines ..... 75
5.10 Public Art ..... 83
5.10.1 Landmark Sculptures ..... 83
5.10.2 Murals ..... 83
5.10.3 Streetscape Amenities ..... 84
5.10.4 Private Development ..... 84
5.10.5 Temporary Programming ..... 84

6 Public Realm Standards and Guidelines ..... 85
6.1 Overview ..... 85
6.2 Design Standards ..... 86
6.2.1 Sidewalk Clearance ..... 86

6.2.2 Outdoor Dining ... 88
6.3 Design Guidelines ... 90
6.3.1 Street Furniture ... 90
6.3.2 Pedestrian Connections ... 92
6.3.3 Public Realm Signage and Wayfinding ... 92
6.3.4 Parkways and Street Trees ... 93

7 Administration and Implementation ... 94
7.1 Development Code ... 94
7.2 Development Applications ... 94
7.3 Certificate of Appropriateness ... 94
7.4 Exceptions ... 94
7.5 CEQA Compliance ... 94
7.6 Implementation ... 95

8 Section References and Additional Resources ... 96
8.1 Historic Preservation ... 96

## LIST OF FIGURES

Figure 2-1: Land Use, Urban Design, and Public Realm Concept for the PUD Area ... 19
Figure 2-2: Conceptual Illustration for Euclid Avenue ... 21
Figure 2-3: Conceptual Illustration for Euclid Avenue ... 22
Figure 2-4: Conceptual Illustration for Holt Boulevard ... 23
Figure 2-5: Conceptual Illustration for B Street ... 25
Figure 2-6: Conceptual Illustration for B Street ... 25
Figure 2-7: Conceptual Illustration for the Alley ... 27
Figure 2-8: Conceptual Illustration for Laurel Avenue ... 28
Figure 5-1: Downtown Ontario Design Guidelines Historic Districts - PUD Area ... 63
Figure 5-2: Historic Landmarks Map - South Section ... 65
Figure 5-3: District 3 ... 66
Figure 5-4: Historic Resources ... 67
Figure 6-1: Typical Layout of Outdoor Sidewalk Dining Space (Downtown Design Guidelines) ... 89

## LIST OF TABLES

Table 2-1: TOP 2050 Land Use Designations Summary – High-Density Residential and Mixed-Use - Downtown ..... 4
Table 4-1: Permitted Land Uses by Zoning District ..... 38
Table 5-1: Development Regulations Summary Table ..... 41
Table 5-2: Minimum Setbacks ..... 48
Table 5-3: Parking Requirements ..... 56
Table 5-4: Historic Resources ..... 68
Table 6-1: Recommended Street Trees in the PUD Area ..... 93

## LIST OF MAPS

Map 1: PUD Area Vicinity Map ..... 1
Map 2: PUD Area Location Map ..... 2
Map 3: TOP 2050 Land Use Mixed Use – Downtown District Place Type ..... 4
Map 4: PUD Sub-Districts and Blocks ..... 29
Map 5: Zoning Districts ..... 36
Map 6: Ground Floor Land Use ..... 39
Map 7: Allowed Density and FAR ..... 43
Map 8: Allowed Heights ..... 45
Map 9: Street Setbacks ..... 49

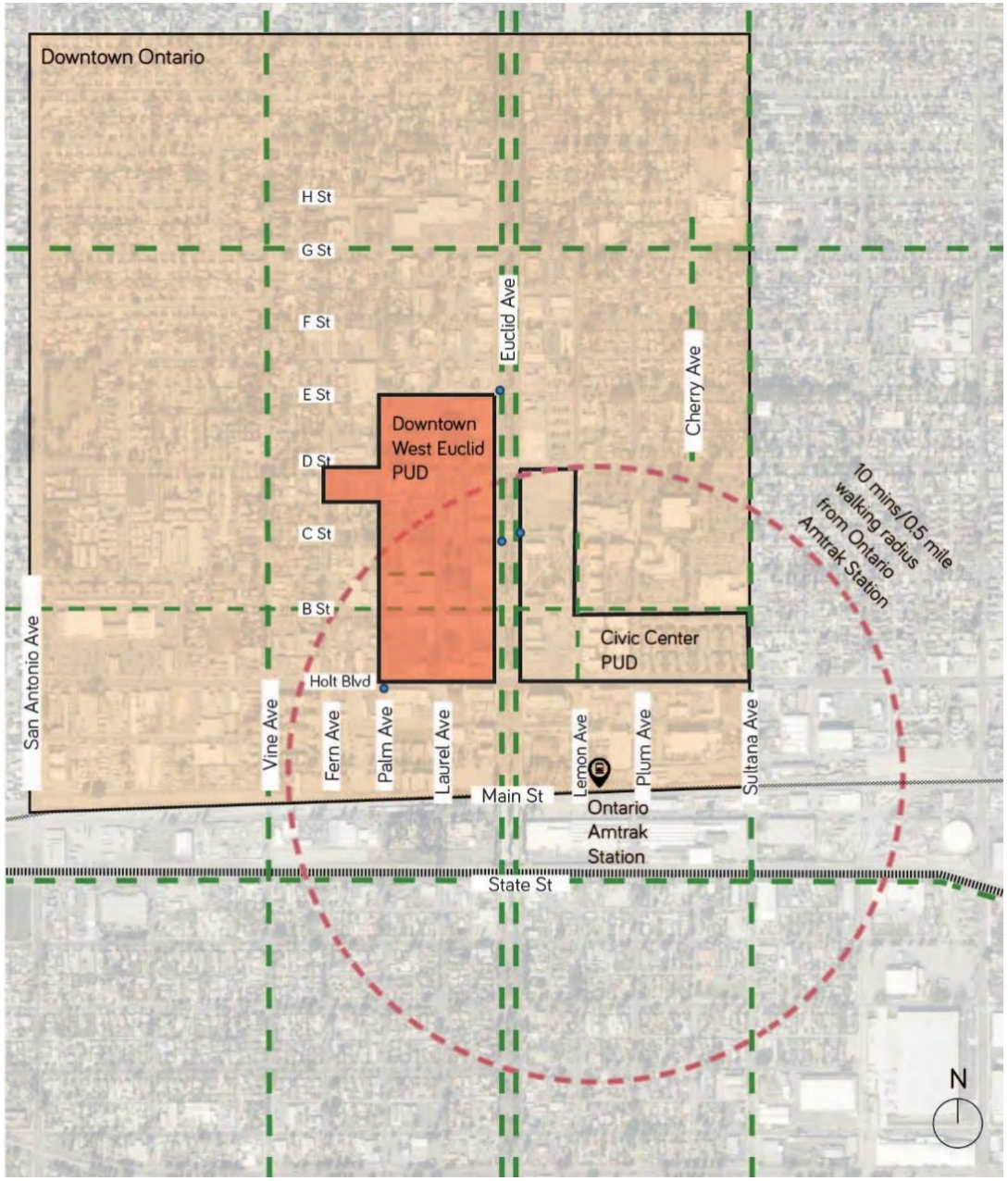
# 1 Introduction

The Downtown West Planned Unit Development (PUD) is intended to function as a set of planning and design principles, development regulations, and performance standards to guide and govern the development of the blocks between E Street to the north and Holt Boulevard to the south, and between Palm Avenue to the west and Euclid Avenue to the east, in addition to the portion of the block between D Street and the alley connecting Fern Avenue and Palm Avenue (PUD area). The PUD area is situated within the City of Ontario's historic downtown and is adjacent to the City's Civic Center, as shown in **Map 1 (PUD Area Vicinity Map) and Map 2 (PUD Area Location Map).** This PUD will facilitate the revitalization of downtown Ontario, streamline development, emphasize historic preservation and adaptive reuse, and provide development flexibility to achieve the City's goals to economically revitalize and aesthetically enhance the project area.

This document is organized to fulfill the requirements for a PUD, as set forth in the Ontario Development Code. As such, this PUD 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 upon this PUD to determine whether precise plans for development (Development Plans) will adequately meet the City's land use and design objectives for this key part of Ontario's original downtown. The objectives have been defined through The Ontario Plan (TOP) (2020), summarized in the following sub-section.

Map 1: PUD Area Vicinity Map



## Map 2: PUD Area Location Map

## 1.1 The Ontario Plan (TOP) 2050 Objectives

The Downtown West PUD builds upon the vision and development and design principles for Downtown Ontario as outlined in The Ontario Plan (TOP). The Ontario Plan (TOP) Community Design Element establishes “Districts” that have been categorized as “Place Types,” which are geographically large, culturally unique, and regionally significant areas of the city that fulfill different but complementary roles in creating a complete community. As regional destinations, districts serve as the “face of the city.” Each district has a distinct identity that reflects its role within the city context and establishes a defined sense of place through the creation of an amenity-rich, transit-accessible, mixed-use environments where people can live, work, shop, dine, and have many of their daily needs met within a comfortable and convenient walk or bike ride from their residence, transit stop, or parked vehicle.

The PUD area is located within the “Downtown District,” which is envisioned as the placed-based, people-focused, commercial, and cultural "heart" of the city and features several designated historic districts and landmarks. Downtown will support a variety of businesses, housing opportunities for residents with a variety of income levels, creative spaces, entertainment options, and institutional and civic uses, while preserving its historic character, buildings, neighborhoods, and places. Complementing the wide mix of uses are designs, layouts and public spaces that give residents, visitors, and businesses a strong sense of connection and creates a place where people want to spend time.

The TOP land use designation for the PUD area is Mixed-Use - Downtown (MU-Downtown) as shown in Map 3 (TOP 2050 Land Use Mixed Use – Downtown District Place Type) and summarized in **Table 2-1 (TOP 2050 Land Use Designations Summary –Mixed-Use – Downtown)**. MU-Downtown is envisioned as an intensive vertical and horizontal district with a mixture of retail, office, and residential uses in a pedestrian friendly atmosphere, with the most intensive uses envisioned along Euclid and Holt Avenues. In addition, in MU-Downtown, there is an intention to enhance historic character. Maximum intensity is 2.0 Floor Area Ratio and allowed density is 25.0 to 75 dwelling units per acre.

## Map 3: TOP 2050 Land Use Mixed Use – Downtown District Place Type

**Table 2-1: TOP 2050 Land Use Designations Summary – High-Density Residential and Mixed-Use - Downtown**

| Land Use Designation | Residential Density & Non-Residential Intensity | Intention |
|---|---|---|
| Mixed-Use - Downtown (MU - Downtown) | 25.0 to 75.0 dwelling units per acre<br><br>2.0 FAR for retail and office uses | Envisioned as an intensive vertical and horizontal mixture of retail, office, and residential uses in a pedestrian friendly atmosphere. The historic character is enhanced. The most intensive uses are envisioned along Euclid and Holt Avenues. |

The TOP Plan Policy Plan (General Plan) establishes a long-term vision for Ontario: “a sustained, community-wide prosperity which continuously adds value and yields benefits.” In addition to this overarching vision, the following four components establish by City Council serve as the basic building blocks that set the foundation for a unified and prosperous community:

- A **Dynamic Stability** that enables our community to confront the continued dynamic growth of the region and technological change with confidence and a sense of opportunity.
- A **Prosperous Economy** that sustains the perception and reality of prosperity across our entire community that positively impacts all the people of Ontario and is broadly – though not uniformly – shared.
- **Distinctive Development** that integrates our varied and diverse focal points, districts, centers, corridors, and neighborhoods to provide a feeling of coherence without sacrificing uniqueness.
- **Recognized Leadership** in local governance that stimulates excellence and serves to unify the people of Ontario in support of best practices in conducting public endeavors.

The Downtown West PUD 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 this PUD are as follows:

| City Council Goals |
|---|
| ▪ Invest in the Growth and Evolution of the City's Economy<br>▪ Operate in a Businesslike Manner<br>▪ Focus Resources in Ontario's Commercial and Residential Neighborhoods |
| **Governance** |
| ▪ Decision Making:<br>- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.<br>- G 1-2. Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision. |
| **Vision: Distinctive Development - Commercial and Residential Development** |
| ▪ Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.<br>▪ A system of vibrant retail, town, and neighborhood centers responsive to market demands and woven into the fabric of the community.<br>▪ A demonstrated ability to attract housing in pursuit of our acknowledged responsibility to balance housing with the job growth that drives our quality of life.<br>▪ One of the most comprehensive and diverse housing stocks in the region that offers broad choices for its diverse workforce and their families, ranging from entry level housing to executive level development; from semi-rural to highly urban. |

- Distinctive and well-maintained neighborhoods that offer exceptional variety in lifestyles, with convenient access to schools, recreation and cultural facilities, places of worship, places of employment and shopping.

**Vision: Distinctive Development - Development Quality**

- Unique and authentic districts, centers, and corridors of varied scales that establish Ontario as one of the most vital and diverse locales in Southern California.
- 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.

**Vision: Distinctive Development - Leisure and Cultural Activities**

- Strong historic districts and cultural resources matching interests of a population with diverse cultural backgrounds, as well as offering a range of arts and entertainment venues of international significance.

**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-2.6 Infrastructure Compatibility. We require infrastructure to be aesthetically pleasing and in context with the community character.
- 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.
  - LU-3.2: Design Incentives. We offer design incentives to help projects achieve the Vision.
  - LU-3.3: Land Use Flexibility. We consider uses not typically permitted within a land use category if doing so improves livability, reduces vehicular trips, creates community gathering places and activity nodes, and helps create identity.
- Goal LU-4 Phased Growth: Development that provides short-term value only when the opportunity to achieve our Vision can be preserved.
  - LU-4.4: Shared Infrastructure. We encourage and facilitate the use of shared infrastructure (including shared or managed parking) in urban, mixed use, and transit-oriented Place Types.

## Housing Element

- Goal H-2 Housing Supply & Diversity: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.
  - H-2.1: Corridor Housing. We revitalize transportation corridors by encouraging the production of higher density residential and mixed-uses that are architecturally, functionally, and aesthetically suited to corridors.
  - H-2.2: Historic Downtown. We foster a vibrant historic downtown through facilitating a wide range of housing types and affordability levels for households of all ages, housing preferences, and income levels.
  - H-2.5: Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices, and other best practices.
  - H-2.6: Infill Development. We support the revitalization of neighborhoods through the construction of higher-density residential developments on underutilized residential and commercial sites.
- Goal H-3 Government Regulations: A City regulatory environment that balances the need for creativity and excellence in residential design, flexibility and predictability in the project approval process, and the provision of an adequate supply and prices of housing.
  - H-3.1: Incentives. We maintain incentive programs that can be offered to projects that provide benefits to the community such as exceptional design quality, economic advantages, environmental sustainability, or other benefits that would otherwise be unrealized.
  - H-3.2: Flexible Standards. We allow flexibility in the application of residential and mixed-use development standards in order to gain benefits such as exceptional design quality, economic advantages, sustainability, or other benefits that would otherwise be unrealized.
  - H-3.3: Development Review. We maintain a residential development review process that provides certainty and transparency for project stakeholders and the public yet allows for the appropriate review to facilitate quality housing development.
  - H-3.4: Financial Incentives. We consider financial incentives to facilitate and encourage the production, rehabilitation or improvement of housing, or provision of services where such activity furthers housing and community-wide goals.
- Goal H-5 Special Needs: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age, or other status.
  - H-5.1: Senior Housing. We support the development of accessible and affordable senior housing and provide financial assistance for seniors to maintain and improve their homes.
  - H-5.2: Family Housing. We support the development of larger rental apartments that are appropriate for families with children, including, as feasible, the provision of services, recreation, and other amenities.

## Parks and Recreation Element

- Goal PR-1 Planning & Design: A system of safe and accessible parks that meets the needs of the community.
  - PR-1.1: Access to Parks. In all new residential development areas, we strive to provide a park and/or recreational facility within walking distance (¼ mile) of every residence and prioritize the establishment of parks in environmental justice areas that do not have adequate access to parks.

    PR-1.14: Multi-family Residential Developments. We require that new multi-family residential developments of five or more units provide recreational facilities or open space, in addition to paying adopted impact fees.

## Community Economics Element

- Goal CE-1 Complete Community: A complete community that provides for all incomes and stages of life.
  - CE-1.6: Diversity of Housing. We collaborate with residents, housing providers, and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to encourage the development of housing supportive of our efforts to attract business in growing sectors of the community while being respectful of existing viable uses.
  - CE-1.7: Retail Goods and Services. We seek to ensure a mix of retail businesses that provide the full continuum of goods and services for the community.
- 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 project existing investment by providing architecture and urban design of equal or greater quality.

## Safety Element

- Goal S-1 Seismic & Geologic Hazards: Minimized risk of injury, loss of life, property damage, and economic and social disruption caused by earthquake-induced and other geologic hazards.
  - S-1.1 Implementation of Regulations and Standards. We require that all new habitable structures be designed in accordance with the most recent California Building Code adopted by the City, including provisions regarding lateral forces and grading.

## Community Design Element

- Goal CD-1 Complete Community: A dynamic, progressive city containing distinct and complete places that foster a positive sense of identity and belonging among residents, visitors, and businesses.
  - CD-1.2: Place Types. We establish Place Types in urban, mixed use, and transit-oriented areas to foster the City's identity as a premier community and require new development within each Place Type to incorporate prescribed urban patterns, forms, and placemaking priorities.
  - 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: Goal: A high level of design quality resulting in neighborhoods, commercial areas, 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:
    - Building volume, massing, and height to provide context-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 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-2.5: 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.
  - CD-2.7: Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping, and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials, and construction techniques.
  - CD-2.8: Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintaining visibility and accessibility, and using lighting.
  - 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-2.10: Parking Areas. We require all development, including single-family residential, to minimize the visual impact of surface, structured, and garage parking areas visible from the public realm in an aesthetically pleasing, safe and environmentally sensitive manner. Examples include:
    - Surface parking: Shade trees, pervious surfaces, urban run-off capture and infiltration, and pedestrian paths to guide users through the parking field.
    - Structured parking: facade articulation, screening, appropriate lighting, and landscaping.
    - Garage parking: providing access to single-family residential garages through alley access, recessing garages from the frontage to emphasize front doors or active living spaces.
  - CD-2.11: Entry Statements. We encourage the inclusion of amenities, signage, and landscaping at the entry to neighborhoods, commercial centers, mixed use areas, industrial developments, and public places that reinforce them as uniquely identifiable places.
  - CD-2.12: Site and Building Signage. We encourage the use of sign programs that utilize complementary materials, colors, and themes. Project signage should be designed to effectively communicate and direct users to various aspects of the development and complement the character of the structures.

- 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-3.3: Complete and Connected Network. We require that pedestrian, vehicular, and bicycle circulation on both public and private property be coordinated to provide connections internally and externally to adjacent neighborhoods and properties (existing and planned) through a system of local roads and trails that promote walking and biking to nearby destinations (including existing and planned parks, commercial areas, and transit stops) and are designed to maximize safety, comfort, and aesthetics.
- 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).
- CD-3.6: Managed Infrastructure. We collaborate with developers and property owners to facilitate development that realizes the envisioned character and functionality of the Place Type through the use of green and shared infrastructure within each Place Type.

▪ Goal CD-4 Historic Preservation: Historic buildings, streets, landscapes, and neighborhoods, as well as the story of Ontario's people, businesses, and social and community organizations, have been preserved and serve as a focal point for civic pride and identity.

- CD-4.5: Adaptive Reuse. We actively promote and support the adaptive reuse of historic sites and buildings to preserve and maintain their viability.

## 1.2 Background and Related Efforts

In addition to the TOP, there are several previous plans and efforts focused on Downtown Ontario that served as background for the development of this PUD, shaping the vision and guiding principles. These previous plans and efforts are summarized in the following section. In addition, the City of Ontario's ongoing focus on the Downtown area has resulted in several related efforts that seek to improve the historic character, urban design, mobility conditions, among others, all of which strengthens Downtown Ontario and complements this PUD. These efforts are summarized in Chapter 7 (Administration and Implementation) as part of the implementation of the PUD.

### 1.2.1 Downtown Ontario Design Guidelines

The Downtown Ontario Design Guidelines, adopted by City Council in 1998 as reference to the Development Code, establishes a set of architectural, graphic, and lighting design principles, to provide guidance to business owners, homeowners, City staff, and design professionals, for the development and/or rehabilitation of properties within the City's historic original downtown area. The PUD area is encompassed within the Downtown Design Guidelines project area and straddles the Historic Retail and the Residential Districts as defined in the guidelines. This PUD aims to reinforce the concept plan and associated guidelines included in the Downtown Design Guidelines and further strengthen Downtown Ontario's identity and character. The Downtown Ontario Design Guidelines should continue to be used as a guide for the PUD area to ensure that properties continue to enhance the City's historic original downtown area.

*The Euclid Avenue median divides the west side of Euclid Avenue, shown on the left and part of this PUD area, and the east side of Euclid Avenue, shown on the right and part of the Downtown Civic Center Planned Unit Development area.*

### 1.2.2 Downtown Civic Center Planned Unit Development

The Civic Center Planned Unit Development, adopted in 2006 and amended in 2011 and 2021, includes planning and design principles, development regulations, and performance standards to guide and govern the development of a 6-block area of the City of Ontario, which consists of a portion of the City's original downtown and its current civic center area. The PUD area lies directly west of the Civic Center Planned Unit Development project location, as shown in Map 1, creating opportunities to define complementary regulations, standards, and guidelines along Euclid Avenue to ensure a cohesive corridor experience.

### 1.2.3 West Euclid Activation

The West Euclid Activation effort, which concluded in Spring 2022, focused on defining activation goals for West Euclid Avenue and developing strategies for the activation of properties in the Downtown area, many of which are City-acquired, to help achieve the long-term goal of re-visioning the area as the cultural and entertainment heart of Ontario. Goals for the effort that influence this PUD include: (1) A vibrant and walkable district with rich historic and architectural

character, (2) a regional tourist destination, (3) the heartbeat of Ontario's thriving arts and culture scene, and (4) an 18-hour downtown with a variety of uses that support residents, visitors, and business owners. As part of the effort, existing and proposed projects were identified and focused projects for further study were determined. Several urban design studies were also included to re-envision specific sites within the downtown area, which are also located within the PUD area, including:

- **Gemmel's Pharmacy,** a historic building with an opportunity to be subdivided into multiple tenants to activate the Euclid Avenue and B Street ground floor frontage through active uses such as a café or entertainment club with upper floor residential units. The design study envisions façade improvements that enhance the existing historic character as well as a parklet along B Street to support adjacent restaurants, in addition to a suite of other placemaking strategies.
- **Granada Theater**, a 1926 historic theater, envisioned as an anchor of a revitalized Downtown with an opportunity to be restored and infused with new uses, such as retail shops, creative offices, and arts-related uses. The design study envisions active ground floor design treatments and façade improvements.
- **123 W D Street,** an Art Deco style building with an opportunity for adaptive reuse into a quasi-industrial use such as a brewery or other maker-space operation, or entertainment venue. The design study envisions reuse of existing surface parking lot as outdoor space with enhancements like shade, lighting, and art.

A new concept for B Street is also included, which envisions the street as an active, pedestrian-focused street with a variety of placemaking elements, in addition to a concept to transform existing alleys in into activated, pedestrian-focused alleyways. The vision and activation concepts from the West Euclid Activation document serve as background and context for the development of the PUD guiding principles and the land use and urban design concepts, discussed in Chapter 2-4.

### 1.2.4 Euclid Avenue Relinquishment and Historic Property Treatment and Management Plan

In 2020, the City approached the California Department of Transportation (Caltrans) and formally initiated the relinquishment of State Route 83 (Euclid Avenue) to the City. Caltrans conducted and approved Relinquishment Assessment Reports in 2023 to determine if relinquishment is appropriate from a state transportation perspective and found that Euclid Avenue does not serve regional or statewide transportation needs, thereby allowing the City the control in the operation of the transportation system to better represent community interests.

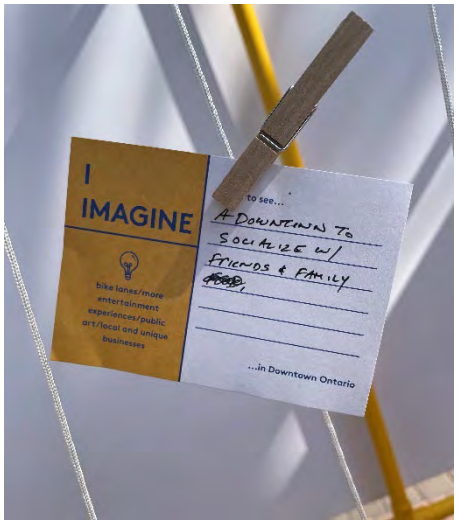
As part of the relinquishment of Euclid Avenue, Caltrans and the City prepared a Historic Property Treatment and Management Plan (HPTMP) which fulfills regulatory compliance for the relinquishment of the historic segment of Euclid Avenue. The public right-of-way from Philadelphia Street to the I-10 was designated as Local Landmark No. 67 by City Council on January 16, 2001. On August 10, 2005, the public right-of-way from Philadelphia Street in Ontario to 24th Street in Upland was listed on the National Register of Historic Places as a significant cultural landscape. Contributing character-defining features of the resource include the 60-foot wide median, historic rock curb, scored sidewalks, King standard light posts, double planting of California pepper trees (Schinus molle), silk oaks trees (Grevillea robusta), and other mature vegetation such as deodar trees (Cedrus deodara) and Canary Island palms (Phoenix canariensis). The HPTMP provides guidance to the City on appropriate maintenance practices and future improvements in a manner that is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. Implementation of the HPTMP will preserve, protect and enhance the historic character and quality of Euclid Avenue, streamline environmental review for future improvement projects, and safeguard Euclid Avenue's position on the National Register of Historic Places.

## 1.3 Community and Stakeholder Engagement

Community and stakeholder engagement for the Downtown West PUD included three rounds of community outreach and two rounds of targeted stakeholder conversations via roundtable sessions. The community outreach was conducted through in-person pop-up events as part of existing community events and online via virtual workshops. The roundtable sessions consisted of key stakeholders, including property and business owners, residents, representatives from the downtown Ontario Improvement Association, developers, and others.

An overview of the three rounds of engagement is summarized in the following pages, along with a summary of the feedback shared by the community and stakeholders:

- **Round 1 Visioning and Goals** aimed to share the PUD vision and goals, as well as capture community ideas, aspirations, and priorities.
  - **Feedback from broader community:** The community displayed overall support for the vision and goals, highlighting the unique character of Ontario's historic downtown. In addition, they advocated for mobility options to promote accessibility and active transportation infrastructure for safer connections.
  - **Feedback from the stakeholder roundtable:** Discussions highlighted the Granada Theater as an important historical asset, emphasizing the need for consistent programming to activate it. Stakeholders stressed the importance of effective waste management systems and ample parking to support local businesses in downtown Ontario. Suggestions from stakeholders included the enhancement of community parking accessibility and reimagining alleys to facilitate social activities. Moreover, leveraging the West Valley Connector Bus Rapid Transit (BRT) Project, a 19-mile zero emission BRT that is estimated to open in 2026 connecting the Ontario International Airport (ONT) to two Metrolink lines (San Bernardino and Riverside), and multiple major activity centers, including Downtown Ontario via Holt Boulevard, would promote connectivity to mass transit and encourage the use of alternative transportation methods, reducing car-dependence in the area.




*The community engaged with a pop-up art installation to provide their input on the vision and goals for the PUD. The pop-up was part of the larger State of the City event in March 2023.*

- **Round 2 Land Use and Urban Design Concept** focused on capturing community feedback for preliminary land use and urban design concepts.
  - **Feedback from the stakeholder roundtable:** Stakeholders tasked the PUD with providing clarity on design standards for private development and recommendations for improvements for alley enhancements and public art. In addition, the PUD should provide recommendations for the location and management of the trash facility. Furthermore, to enhance connectivity, stakeholders suggested the exploration of an east-west connection on the block between B and C street along Euclid Avenue.
  - **Feedback from broader community:** The community was enthusiastic about a comprehensive and interconnected network, particularly with enhancements to the public realm, pedestrian safety, and landscaping. The concept of an open garden with pop-up food vendors was well liked due to its potential to establish family-friendly spaces. There was continued support for the adaptive reuse of historic buildings on B Street and Laurel Avenue to promote more active uses. Community members enjoyed the idea of transforming alleyways into a pedestrian-centric area that would potentially create shopping and dining destinations downtown. To accommodate for the influx of people, they recommended extending business hours and increasing the frequency of public transportation.

**Common Themes across Engagement**

- Maintain historic character.
- Adaptive reuse of historic structures with active uses, such as shopping and dining.
- Pedestrian infrastructure to make it safer and more comfortable to get around.
- Prioritize the success of local businesses through improved waste management and ample parking.
- Enhanced transportation infrastructure that supports mobility options and makes it easier to get around in the district by foot or bike.

*The community responded to the Land Use and Urban Design Concept and conceptual illustrations for key sites within the downtown. The pop-up was part of summer concert series in the park in July 2023.*

- **Round 3 Draft PUD Showcase** focused on sharing the draft contents of the PUD with the community and answering questions. The Showcase was designed as an open house with topical stations, including:
    1. **About the Project,** which covered the PUD area, about PUDs, project timeline, and relationship to the TOP.
    2. **Vision and Guiding Principles,** which highlighted the overall vision and the six guiding principles for the project, as well as the land use, urban design, and public realm concept for the PUD area. The concept also included corridor-specific concepts for Euclid Avenue, Laurel Avenue, Holt Boulevard, B Street, and the Alley.
    3. **Historic Overview,** which covered the historic-focused components of the PUD, including key standards, relationship to the Downtown Ontario Design Guidelines, and the PUD-specific Historic Architectural Guidelines.
    4. **Height and Setbacks,** which highlighted allowed heights and setback standards in the PUD area.
    5. **Land Use and Ground Floor Environment,** which included a map of zoning districts with intent statements, a summary of ground floor use standards for B Street, Holt Boulevard, and Euclid Avenue, and ground floor design standards.
    6. **Next Steps,** which highlighted key projects that address mobility, historic preservation, culture, wayfinding, and future development that are separate from the PUD and will be implemented over the next few years.

# 2 Vision and Guiding Principles

The Downtown West PUD vision describes the future of the PUD area to provide direction for how the area will grow and evolve over time. The vision is consistent with the TOP and builds off the West Euclid Activation effort, discussed in Section 1.2. The vision is supported by guiding principles that aim to provide additional detail on how to achieve the vision.

## Downtown West PUD Vision

**As the historic center of Ontario, Downtown West, is envisioned as the placed-based, people-focused, commercial, and cultural "heart" of the city and features several designated historic buildings and landmarks.**

**Downtown West will support a variety of businesses, housing opportunities for residents with a variety of income levels, creative spaces, entertainment options, and institutional uses while preserving its historic character, buildings, neighborhoods, and places.**

**Complementing the wide mix of uses are designs, layouts and public spaces that give residents, visitors, and businesses a strong sense of connection and creates a place where people want to spend time.**

# GUIDING PRINCIPLES

To support the vision, the following guiding principles apply:

## UNIQUE IDENTITY

Downtown Ontario is the economic, cultural, and civic hub of Ontario, organized by a simple, walkable network of tree-lined streets, laid out as a new "Model Colony" in the 1880s. Downtown West's history, historic buildings, and distinct urban form define downtown's unique identity. This is especially true on the west side of Euclid Avenue where a continuous streetwall of quality buildings, many of which are historic resources, create an irreplaceable sense of place and history. Downtown's historic character and architectural styles should be celebrated and enhanced through appropriate infill development and adaptive re-use of historic and non-historic structures to reinforce the area's identity.

## HUMAN SCALE PUBLIC REALM

Downtown West's public realm is a traditional network of sidewalks and public open spaces that are lined with a rich variety of buildings. The district's streets, sidewalks, and alleys should be enhanced as "outdoor rooms of community," providing an attractive, comfortable, safe, and lively environment to walk, explore, shop, dine, meet friends and neighbors, and participate in community events. Each new public and private public realm improvement should reinforce a "pedestrians first" intent, and complement existing character, with a focus on strengthening the public realm character along Euclid Avenue through an enhanced sidewalk environment with elements that match the east side of the street.

## COMPLETE & CONNECTED NETWORK

Downtown West's robust grid pattern network connects the retail core seamlessly to surrounding neighborhoods, Holt Boulevard, and the future Bus Rapid Transit (BRT) station for the West Valley Connector. The layout of the street system provides for a variety of choices across travel routes and modes for each trip. Downtown West's simple, open network of pedestrian-friendly streets and blocks is the ideal built environment and framework for any urban, mixed use, or transit-oriented area, and the existing block structure should be maintained and enhanced through mid-block paseos and improved alleys.

## APPROPRIATE CONTEXTUAL BUILDING DESIGN & PRESERVATION

Within Downtown West, historic buildings from various time periods comfortably mix with newer buildings. Along Euclid Avenue, buildings are unified by active ground floors with transparent storefronts and accessible pedestrian entries from the sidewalk aligned with a historic "main street" character. Across the district, new buildings are well-designed, with appropriate height based on location, with façade enhancements that also provide opportunities for public art. Future infill development and renovations should respect and reflect established facade patterns to preserve Downtown's historic character. The architecture of new buildings should not try and replicate historic styles, but be contemporary while harmonizing with the scale, rhythm, and character of their historic predecessors.

## ACTIVE & CONTEXT-SENSITVE FRONTAGES

Within the heart of Downtown West, a variety of active uses built right up to the sidewalk "blur the line" between the outdoor public realm and the indoor private businesses. Restaurants, cafes, and shops enliven the sidewalk environment through activities and outdoor dining. On side streets and as one moves toward surrounding residential neighborhoods, frontages are designed with ground floor commercial uses and residences that quitter in nature and promote privacy from passersby. Buildings here are set back from the sidewalk, reducing visibility into the residence or office, while offering views outward to the street and other public spaces, improving public safety and pedestrian comfort.

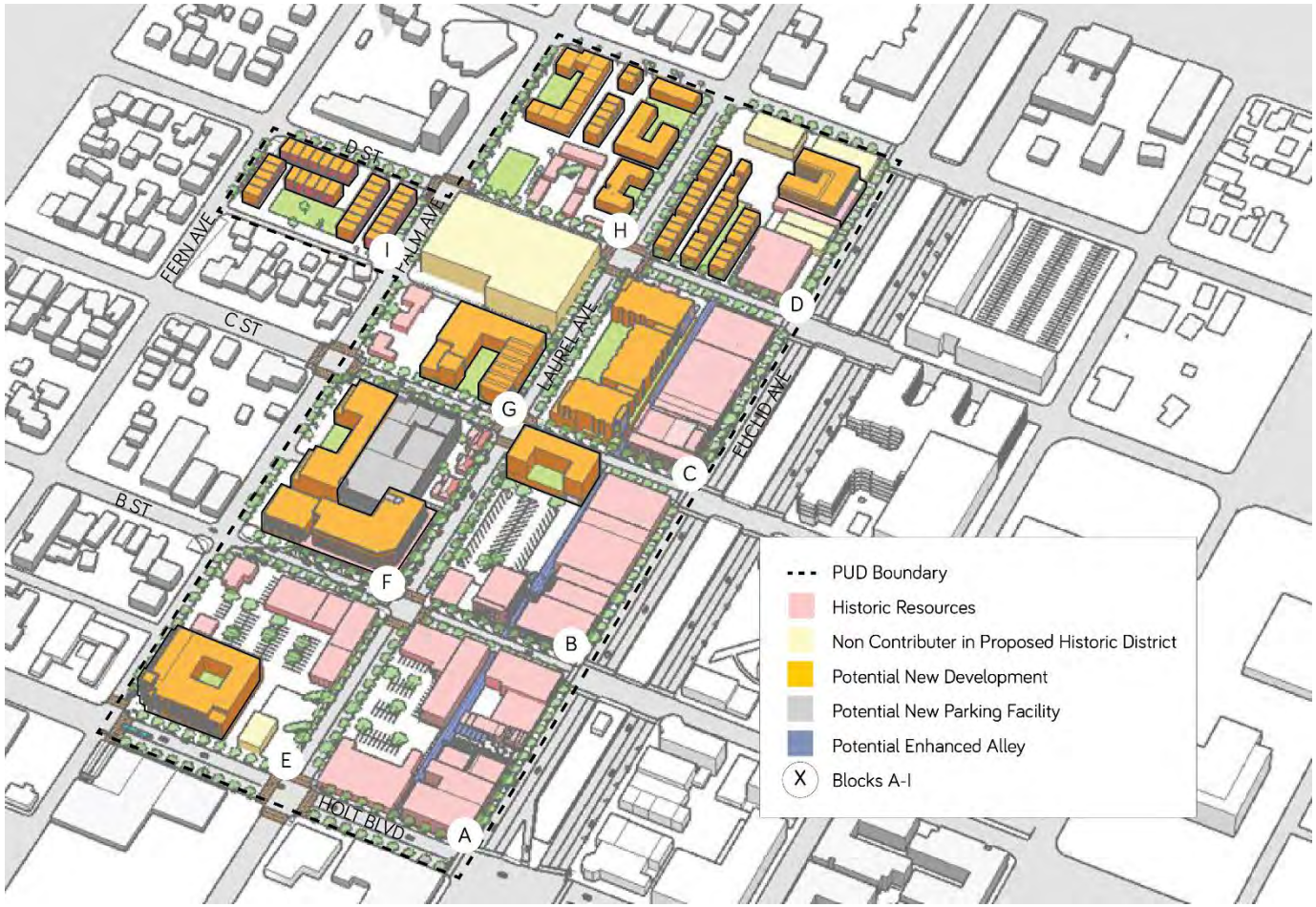
## MANAGED INFRASTRUCTURE

Successful downtowns require active and coordinated management of infrastructure, services, and activities, including parking, trash, public realm maintenance, special events, business recruitment, and on-going promotional activities. For Downtown Ontario, the active and coordinated management of the area's variety of infrastructure and services can help the district to remain competitive. Of note is a managed system of trash collection along the north-south alley between Euclid Avenue and Laurel Avenue within Downtown West that seeks to balance the desire for an enhanced, pedestrian alley with the opportunity to consolidate trash collection across tenants.

## 2.1 Land Use, Urban Design, and Public Realm Concept

The Downtown West PUD vision and guiding principles are visualized in **Figure 2-1** (Land Use, Urban Design, and Public Realm Concept) with a focus on demonstrating land use, urban design, public realm-related possibilities, and potential development opportunities within the PUD area. As a companion to the overall concept for the PUD area as shown in **Figure 2-1**, the following section highlights several illustrative concepts showcasing development opportunities for the PUD area focused on the following key corridors: (1) Euclid Avenue, (2) Holt Boulevard, (3) B Street, (4) the Alley, and (5) Laurel Avenue. These concepts aim to provide additional detail around future conditions and on-the-ground views of the PUD area to illustrate the implementation of land use, urban design, future development, and public realm-related outcomes of the project. It is important to note that participation by a variety of City of Ontario departments is needed to fully implement the land use, urban design, and public realm concepts for the PUD.

Figure 2-1: Land Use, Urban Design, and Public Realm Concept for the PUD Area



### 2.1.1 Euclid Avenue

As the historic and preeminent boulevard in the city, as well as the north-south major spine and eastern boundary of the PUD area, the future vision for Euclid Avenue is centered on protecting and strengthening this important corridor through promoting a diverse array of destinations where residents and visitors can comfortably walk, shop, explore, dine, and meet friends. Historic buildings fronting Euclid Avenue are protected with additional opportunities for new development through adaptive reuse to further infuse the street with a mix of retail shops, restaurants, and entertainment venues, as well as new housing opportunities, as shown in **Figure 2-2** (Conceptual Illustration for Euclid Avenue). The continuous street edge and urban form is preserved, ensuring that any new development complements and enhances historic resources to further celebrate the unique identity of downtown.

Existing Public Realm along Euclid Avenue

**Historic Euclid Avenue**

Euclid Avenue plays an important role in Ontario's historic downtown and the overall character of the PUD area. Euclid Avenue is a major scenic and historic resource of the city given its status as Local Landmark No. 67 with character defining features, such as the 60-foot-wide landscaped median, scored sidewalks, King standard light posts, and a California pepper tree and silk oak tree canopy. Additionally, the right-of-way and median from 24th Street in Upland to Philadelphia Street in Ontario are listed on the National Register of Historic Places as a significant cultural landscape historic district. Many buildings that line Euclid Avenue within the downtown are historic resources with a

*Euclid Avenue is a major scenario and historic resource in the city.*

Continuous commercial uses and active storefronts fronting Euclid Avenue generate a constant flow of pedestrian traffic and are complemented by a vibrant and welcoming public realm with generous sidewalks, street trees, and streetscape furniture that reflects the existing street character on the east side of Euclid Avenue.

Euclid Avenue seamlessly blends indoor and outdoor public spaces to create a series of "outdoor rooms" and green spaces for the community, allowing activities, events, temporal programming and kiosks, and outdoor dining to spill out onto sidewalks and into plazas, blurring the line between the public and private spaces. Landscaping along Euclid Avenue is designed to achieve harmony and unity between the indoor and outdoor spaces and softens hardscape areas, enhancing the pedestrian experience. Mid-block paseos provide connections between Euclid Avenue and the alley to promote greater pedestrian access and connectivity within downtown, as shown in **Figure 2-3** (Conceptual Illustration for Euclid Avenue).

The public right-of-way of Euclid Avenue has an opportunity to be enhanced with the relinquishment of the historic corridor from California Department of Transportation to City of Ontario's ownership, as discussed in Section 1.2, allowing the street to transform into a multi-modal corridor, with mid-block pedestrian connections, high-visibility crosswalks, on-street parking, and bicycle lanes.

*Local businesses with active storefronts along Euclid Avenue*

Figure 2-2: Conceptual Illustration for Euclid Avenue

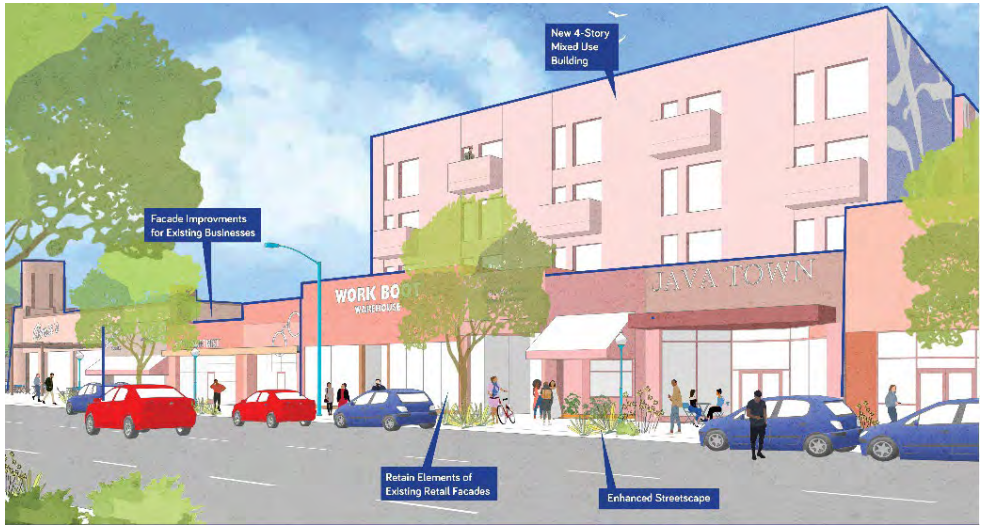
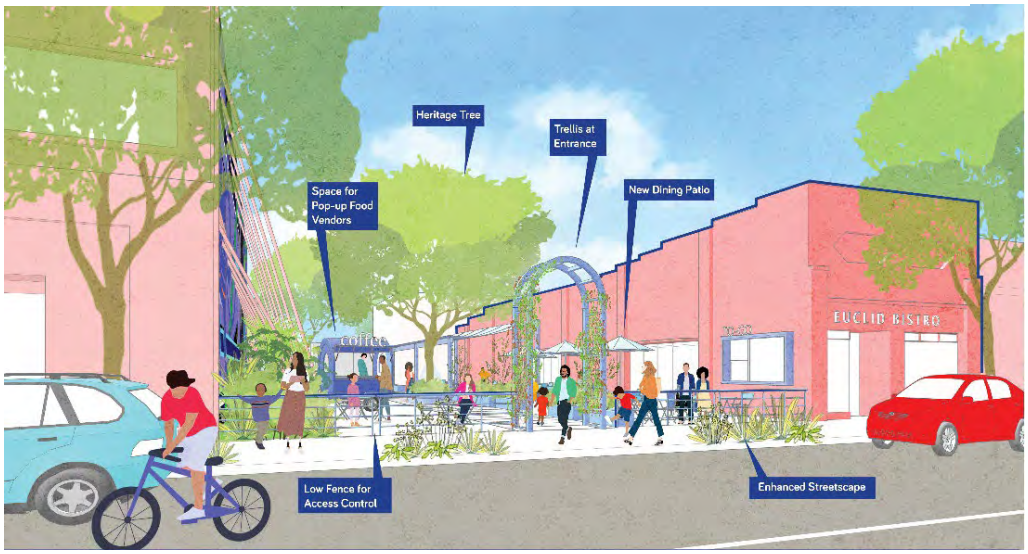


Figure 2-3: Conceptual Illustration for Euclid Avenue



*Existing open space, referred to as the Cactus Garden, that fronts Euclid Avenue*

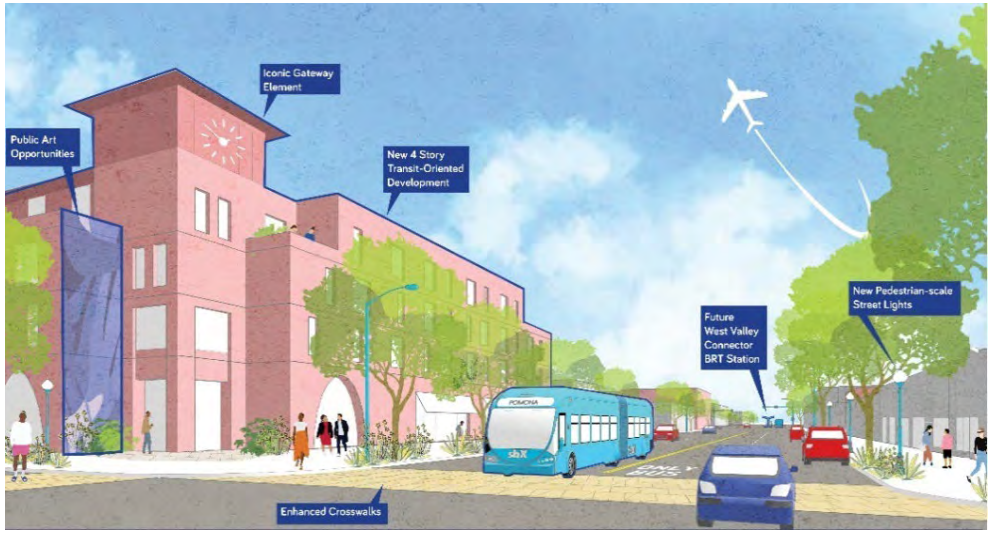
## Precedent Imagery for Euclid Avenue

### 2.1.2 Holt Boulevard

The future vision for Holt Boulevard, which serves as a key east-west corridor for the downtown and the southern boundary of PUD area, is centered on further establishing it as the southern gateway to downtown. To further define a sense of arrival to the downtown from Holt Boulevard, transit-oriented development and taller buildings frame the street and contribute to a distinctive skyline, serving as a visual beacon. The facades of the buildings are canvases for public art and murals, highlighting the rich history and identity of Ontario, as shown in **Figure 2-4** (Conceptual Illustration for Holt Boulevard).

With the future Bus Rapid Transit (BRT) station for the West Valley Connector at the intersection of Holt Boulevard and Lemon Avenue, Holt Boulevard is transformed into a multi-modal corridor that provides connections between downtown Ontario and major activity centers within San Bernardino County. First-last mile improvements, such as enhanced crosswalks, are in place to promote safe and convenient access for pedestrians, cyclists, and public transit users. Holt Boulevard also has a comfortable public realm with streetscape elements, such as pedestrian-scaled lighting, landscaping, and a mature tree canopy.

Figure 2-4: Conceptual Illustration for Holt Boulevard




Precedent Imagery for Holt Boulevard

### 2.1.3 B Street

B Street serves as pedestrian-oriented, east-west corridor within the PUD area, with a future vision as a vibrant “main street” where local businesses thrive. Historic facades and enhanced storefronts offer a setting for a diverse range of community-serving uses and amenities and housing. The upper floors of buildings fronting B Street, whether existing or new, create versatile spaces that can accommodate commercial and residential uses, as shown in Figure 2-5 (Conceptual illustration for B Street).

B Street has a unique public realm with overhead lighting spanning the street to create a pedestrian-scaled environment, parklets to provide outdoor dining to support restaurants, landscaped bulb-outs, enhanced crosswalks, and signage to guide visitors to the alley and Euclid Avenue. B Street is also lined with mature street trees that frame the street and offer shade for pedestrians. Pedestrian and bicycle mobility and safety are enhanced on B Street as a bicycle boulevard with intersection improvements.

Existing Condition of B Street

Existing Public Realm on B Street

## Precedent Imagery for B Street

Figure 2-5: Conceptual Illustration for B Street

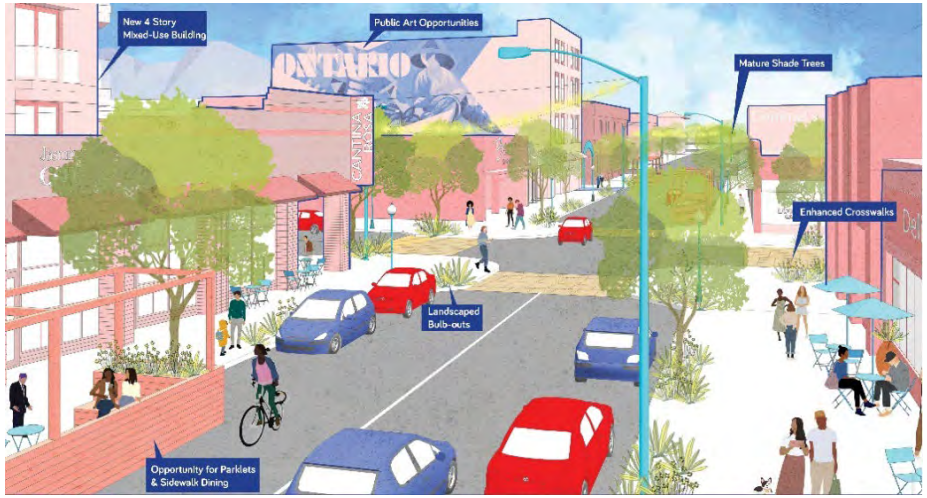


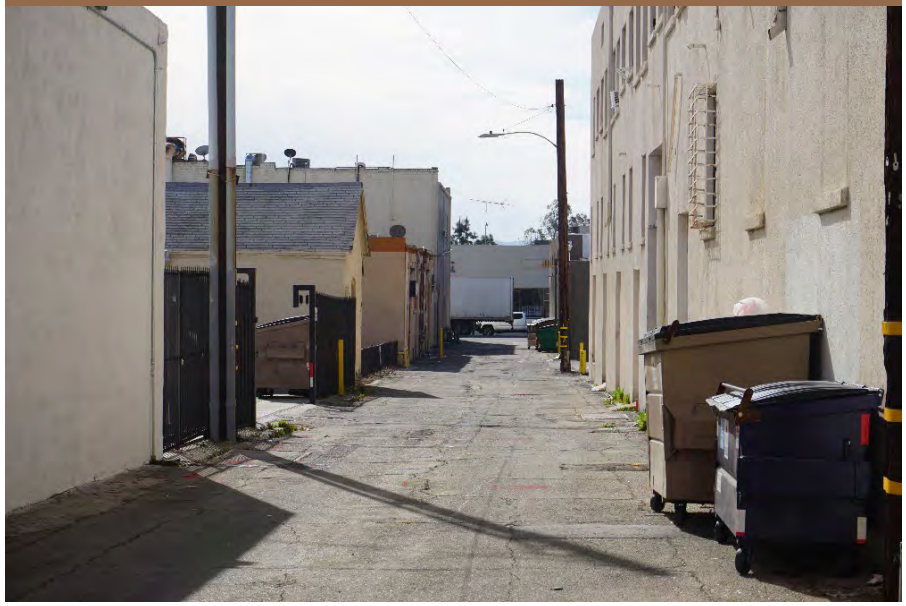

Figure 2-6: Conceptual Illustration for B Street

### 2.1.4 The Alley

The alley provides north-south access in the PUD area as a parallel path to Euclid Avenue, connecting east-west streets between E Street and Holt Avenue. The mix of active ground floor uses fronting Euclid Avenue extend their vibrancy to the enhanced alley with entrances, storefronts, outdoor dining, and greening that collectively create a lively and dynamic atmosphere, as shown in **Figure 2-7** (Conceptual illustration for the Alley). The enhanced alley features a special asphalt treatment to create a sense of place and human-scale and lighting that helps to distinguish it from other walkways. The alley also creates a flexible venue that can be temporarily closed to vehicular traffic to accommodate a variety of uses and activities, such as entertainment and music, cultural events, and community programming. Downtown Ontario's cultural identity is represented through interactive public art installations, murals, and sculptures that line the alley.

A pedestrian-focused and enhanced alley serves many purposes for the project area, depending on its specific block and the needs of the surrounding context. The alley is a space that integrates shared infrastructure, such as waste and trash services that are centrally located and accessible to support local commercial businesses. The alley is a preferred green and walkable path for pedestrians, connecting residents and visitors to parking, housing, and other destinations. To support this balanced and flexible vision, the alley segment between A block and B block is envisioned to support more functional alley infrastructure, while the segment between D block and C block adjacent to the Granada Theater is envisioned as a vibrant, active pedestrian-focused alley.

Existing Condition of the Alley



Existing Alley Gateway at Holt Avenue

Figure 2-7: Conceptual Illustration for the Alley

Precedent Imagery for the Alley

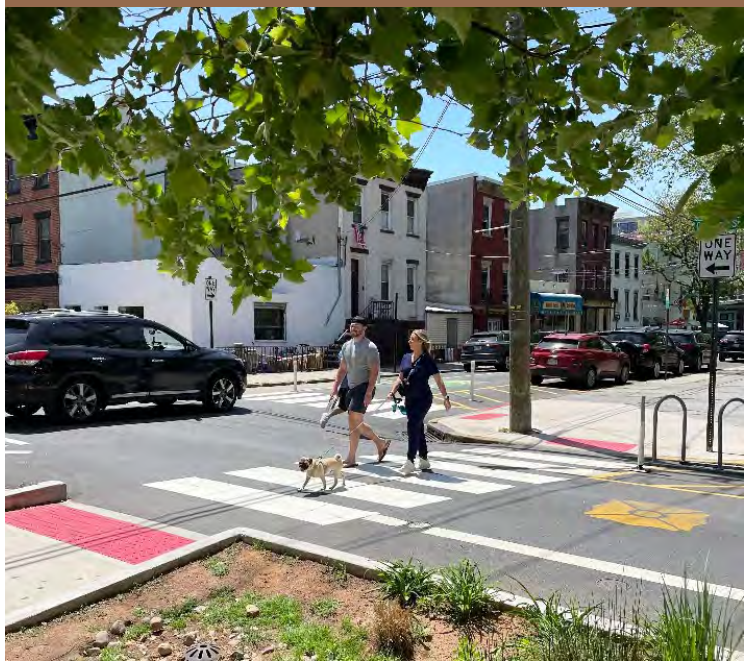
Precedent Imagery for the Alley

### 2.1.5 Laurel Avenue

As a neighborhood greenway, Laurel Avenue is focused on the comfort and safety of pedestrians and cyclists by providing a local connection and route from the Mixed-Use Retail Core and Mixed-Use Transitional subdistricts to the heart of downtown. Laurel Avenue's public realm design includes improvements of pedestrian-friendly features such as enhanced crosswalks, a mature tree canopy, pedestrian lighting, and landscaping, as shown in **Figure 2-8** (Conceptual illustration for Laurel Avenue). Laurel Avenue has a mix of three to four story mixed-use or residential buildings with active ground floor uses that contribute to the character of the street.

Figure 2-8: Conceptual Illustration for Laurel Avenue

Precedent Imagery for Laurel Avenue



# 3 District and Block Plan

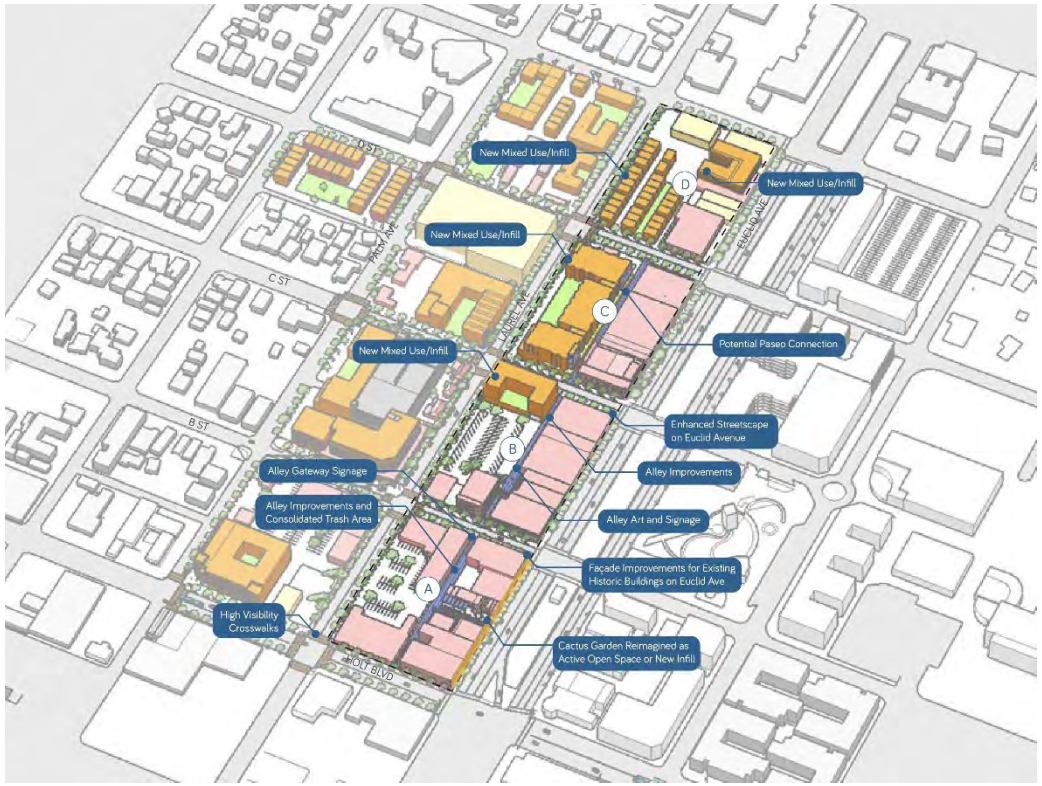
The District and Block Plan for the PUD area establishes the following sub-districts and blocks as shown in **Map 4 (PUD Sub-Districts and Blocks)** and described in the following subsection:

- **Downtown Mixed-Use Retail Core** sub-district encompasses Blocks A-D located between E Street to the north, Holt Boulevard to the south, Euclid Avenue to the east, and Laurel Avenue to the west.
- **Downtown Mixed-Use Transitional** sub-district encompasses Blocks E-H located between E Street to the north, Holt Boulevard to the south, Laurel Avenue to the east, and Palm Avenue to the west.
- **Downtown Residential** sub-district includes Block I located between D Street to the north, an alley connecting Palm Avenue and Fern Avenue to the south, Palm Avenue to the east, and Fern Avenue to the west.

## Map 4: PUD Sub-Districts and Blocks

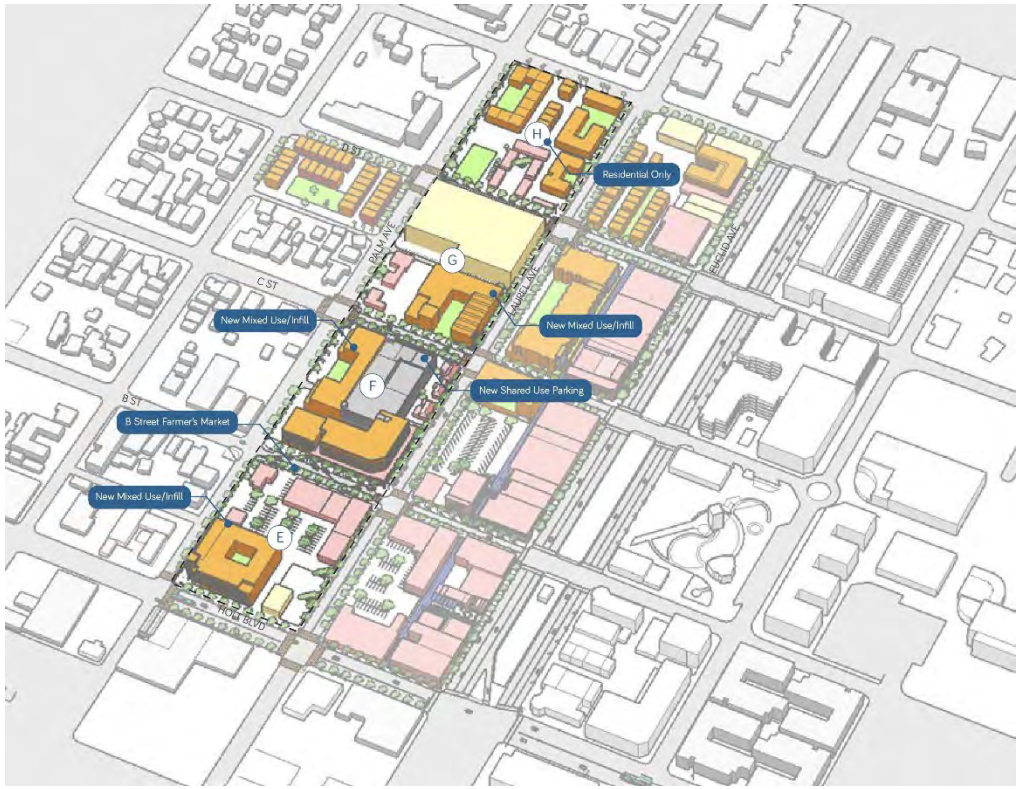
## 3.1 Downtown Mixed-Use Retail Core (Blocks A-D)

The Downtown Mixed-Use Retail Core sub-district encompasses Blocks A–D located between E Street to the north, Holt Boulevard to the south, Euclid Avenue to the east, and Laurel Avenue to the west. This sub-district includes blocks that front Euclid Avenue, the major north–south corridor within the PUD area that is envisioned as an 18-hour entertainment, shopping, and dining destination, and Holt Boulevard, a future multi-modal corridor. The purpose of the sub-district is to:




- **Enable a mix of commercial uses with strategic multi-family residential infill development** to support the creation of a vibrant mixed-use district where people can walk to a variety of neighborhood destinations.
- **Require active uses and active frontages along Euclid Avenue, B Street, Holt Boulevard, and the north–south alley** located between Euclid Avenue and Laurel Avenue through uses that generate pedestrian foot traffic, such as retail, restaurant, and entertainment, as well as design treatments that support a lively and comfortable public realm.
- **Along Euclid Avenue,** maintain **the visual character and development scale** of up to 45 feet (4 stories)not to exceed the height of historic buildings, such as the Granada Theatre to further protect and enhance the corridor as a major scenic and historic resource of the city.
- **Create an enhanced, vibrant, and active public realm and streetscape along Euclid Avenue** that is consistent with the existing elements located on the east side.
- **Promote safe and convenient multi-modal access** with enhanced public and private right-of-way that improves pedestrian and bicycle connectivity and encourages car-independent visits to and within downtown.
- **Provide a southern gateway on Holt Boulevard** and first-last mile improvements to support connections from the West Valley Connector Bus Rapid Transit (BRT) station at Holt Boulevard and Lemon Avenue to downtown.
- **Integrate shared infrastructure facilities,** such as parking, trash services, and open space opportunities to support new development and uses downtown.
- **Transform the north–south alley located between Euclid Avenue and Laurel Avenue, and the open space fronting Euclid Avenue on Block A referred to as the "cactus garden"** into publicly accessible open spaces for downtown users with activation, public art, and programming.
- **Create mid-block connections** along Euclid Avenue to provide greater porosity and pedestrian access to the alley.
- **Orient public artwork as part of new development within the public realm** to be visually and/or physically accessible to the public to showcase the culture and identity of downtown Ontario.

## 3.2 Downtown Mixed-Use Transitional (Blocks E-H)




The Downtown Mixed-Use Transitional sub-district encompasses Blocks E–H located between E Street to the north, Holt Boulevard to the south, Laurel Avenue to the east, and Palm Avenue to the west. The purpose of the sub-district is to:

- **Enable a mix of commercial uses and multi-family residential infill development that accommodates various housing typologies** that support the creation of a complete community and act as a transition from Downtown Mixed-Use Retail Core to existing residential neighborhood west of Palm Avenue. Support residential-only, multi-family infill housing in Block H.
- **Support development flexibility** by allowing vertical and horizontal mixed-use projects, as well as commercial and entirely residential projects. **Allow for variations in building height that respond to the surrounding context,** including lower heights along Palm Avenue in proximity to existing residential uses.
- **Enable greater height within the core of the sub-district** along Laurel Avenue of up to 50 feet (4 stories).
- **Encourage the transformation of Laurel Avenue into a neighborhood greenway** with pedestrian-scaled lighting, crosswalks and bicycle infrastructure, enhanced landscaping, and tree canopy to provide a safe and local connection for residents to downtown.
- **Introduce placemaking elements**, such as new suspended lighting, parklets, signage, landscape bulbouts, and enhanced crosswalks on B Street to enhance the sub-district and create an east–west "main street" with retail shops and services.
- **Orient public artwork as part of new development within the public realm** to be visually and/or physically accessible to the public to showcase the culture and identity of downtown Ontario.
- **Integrate shared infrastructure facilities, s**uch as parking and open space opportunities to support new development and uses in downtown.
- **Designate Block H exclusively for residential uses** to support additional multi-family housing that accommodates a variety of housing typologies.
- **Provide first-last mile improvements along Holt Boulevard** to support pedestrian and bicycle connections from the West Valley Connector Bus Rapid Transit (BRT) station at Holt Boulevard and Lemon Avenue to downtown.

## 3.3 Downtown Residential (Block I)

The Downtown Residential sub-district includes Block I located between D Street to the north, an alley connecting Palm Avenue and Fern Avenue to the south, Palm Avenue to the east, and Fern Avenue to the west. The purpose of the sub-district is to:

- **Support additional multi-family infill housing** that accommodates various housing typologies.
- **Ensure compatible development with surrounding low-scale residential neighborhood** through development and design standards.
- **Create height districts that respond to the surrounding residential neighborhood** and create transitions between new and existing development.

# 4 Zoning and Land Use Plan

The Land Use Plan for the PUD is organized by zoning districts which use the same boundary as the sub-districts established in Chapter 2. Zoning districts are defined and described in the following sub-section and shown in **Map 5 (Zoning Districts).**

## 4.1 Zoning Districts

### 4.1.1 Downtown Mixed-Use Retail Core (MU-RC)

*The MU-RC Zone intends to:*

a. Provide a variety of shopping, restaurant, entertainment, cultural offerings, and multi-family housing options within a mixed-use setting that promotes a vibrant district and pedestrian activity.

b. Reinforce and enhance Euclid Avenue's historic commercial character within Downtown Ontario through tailored ground floor uses that also support an active pedestrian environment, including retail, restaurant, and entertainment.

c. Support a diverse ground floor environment along Laurel Avenue through a mix of residential units and commercial uses, including residential units directly accessible from the sidewalk along all streets, except Euclid Avenue.

### 4.1.2 Downtown Mixed-Use Transitional (MU-T)

*The MU-T Zone intends to:*

a. Provide for a variety of neighborhood services and amenities and multi-family housing options within a mixed-use setting that promotes pedestrian activity.

b. Support a diverse ground floor environment through a mix of residential units and commercial uses that focus on the provision of community-serving uses that support a complete neighborhood.

c. Support projects that are entirely commercial, entirely multi-family, or a mix of the two, either horizontally or vertically configured.

d. Require new development on Block H to be residential-only projects through the establishment of a distinct subarea to support more multi-family housing in downtown within walking distance to destinations and amenities.

### 4.1.3 Downtown Residential (DR)

*The DR Zone intends to:*

a. Provide a variety of multi-family residential housing options that create additional housing opportunities within Downtown Ontario and support residents who are within walking distance of services and amenities.

## Map 5: Zoning Districts

## 4.2 Permitted Land Uses

Permitted land uses, activities, and facilities in the PUD area which are not addressed in the Ontario Development Code are listed in **Table 4-1** (Permitted Land Uses by Zoning District). 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.

The Downtown West PUD defers to existing allowed land uses, activities, and facilities for those parcels located within the boundaries of the LUA-1 (Euclid Avenue Entertainment) sub-district of the MU-1 (Downtown Mixed Use) and Euclid Avenue (EA) Overlay Zoning Districts established by the Ontario Development Code. The EA Overlay District is established to protect Euclid Avenue as a major scenic and historic resource of the City. Within LUA-1/MU-1, the Euclid Avenue Protection Corridor is established by the Ontario Development Code to restrict ground floor uses fronting Euclid Avenue to retail, restaurant, and entertainment uses per Table 5.02 Land Use Matrix and Figure 5.01-2: MU-1 (Downtown Mixed Use) Zoning District Land Use Map of the Ontario Development Code. Uses not allowed on the ground floor along Euclid Avenue but permitted within the MU-1 Zoning District may occupy the upper floors to create a mixed-use corridor.

This PUD extends the Euclid Avenue Protection Corridor ground floor use restrictions per Table 5.02 Land Use Matrix of the Ontario Development Code to B Street, Holt Boulevard, and sections of Laurel Avenue as identified in **Map 6**. In addition, this PUD establishes a ground floor use restriction for residential uses as listed in Table 4-1.

The symbols shown in **Table 4-1** have the following meanings:

| Symbol | Description | ODC Section |
|---|---|---|
| P | Permitted | - |
| C | Conditionally Permitted | Section 4.02.025 (Conditional Use Permits) of the Ontario Development Code |
| L1 | Residential land uses are not permitted on the ground floor within 35 feet of the property line in specific locations indicated by Map 6. Entries to upper floor or ground floor spaces behind the 35 feet are allowed. | - |

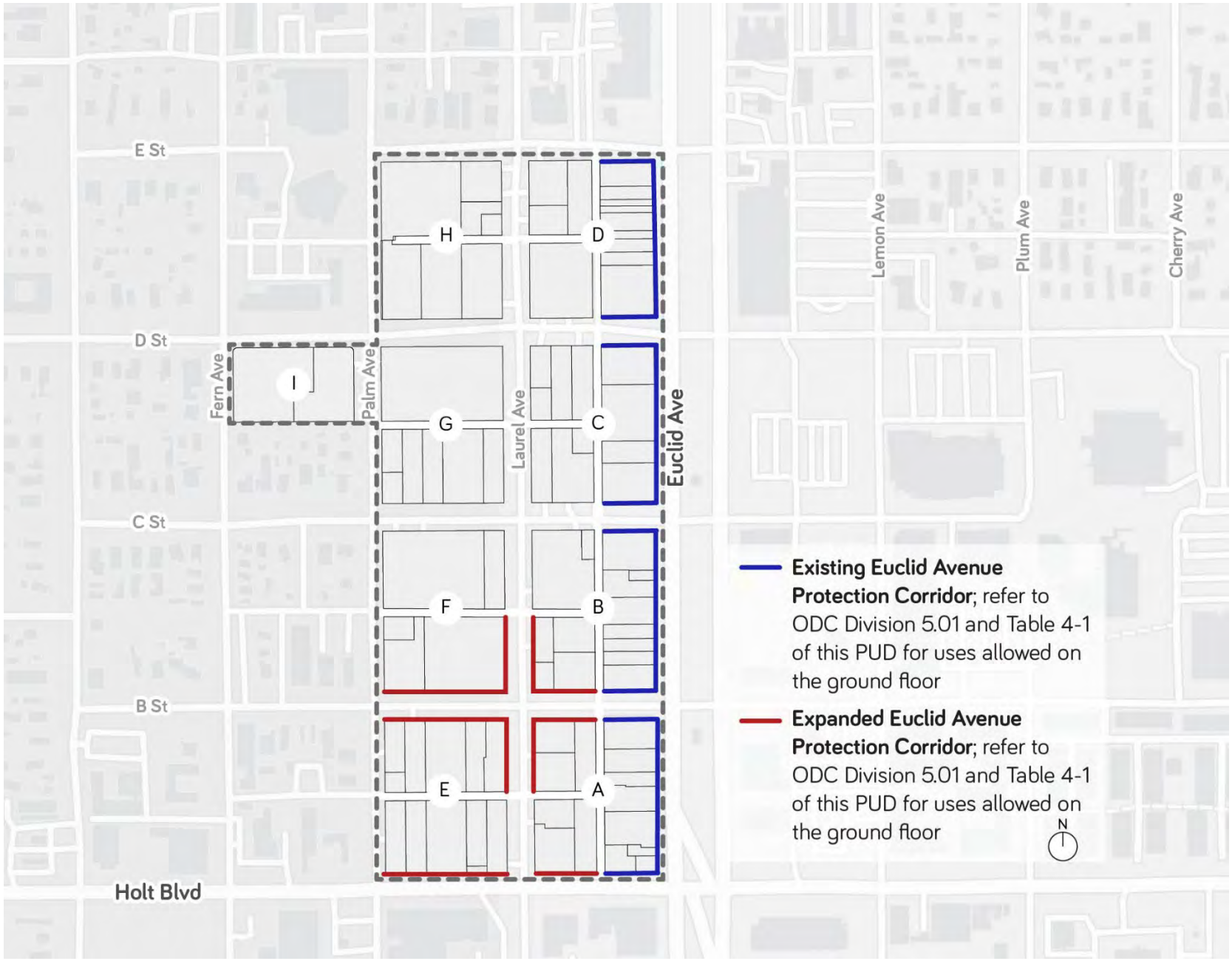
**Promoting Ground Floor Land Use Flexibility**

Aligned with the Euclid Avenue Protection Corridor, allowed ground floor uses along Euclid Avenue are limited to retail, restaurant, and entertainment uses per the Ontario Development Code. To further support and complement Euclid Avenue, this PUD establishes the same ground floor use allowances to portions of B Street, Holt Boulevard, and Laurel Avenue as shown in Map 6. However, to promote additional residential development in the PUD area and flexibility, this PUD establishes an additional ground floor restriction, L1, which indicates that residential uses are allowed on the ground floor beyond 35 feet of the property line as indicated in Table 4-1. L1 is intended to support development flexibility while ensuring that uses lining the sidewalk encourage pedestrian

## Table 4-1: Permitted Land Uses by Zoning District

| Uses | | Zoning District | | | |
|---|---|---|---|---|---|
| | MU-RC | MU-T | | DR | Additional Regulations/Notes |
| | | Blocks E-G | Block H | Block I | |
| **Residential** | | | | | |
| Multiple Family Dwellings | P ($L_1$) | P ($L_1$) | P | P | |
| Senior Housing | P ($L_1$) | P ($L_1$) | P | P | |
| Townhomes | P ($L_1$) | P ($L_1$) | P | P | |
| Mixed-Use Developments (commercial developments incorporating single-family and/or multiple-family dwellings) | P | P | - | - | |
| Work/Live Unit | C | C | - | - | |

## Map 6: Ground Floor Land Use



# 5 Development Regulations and Guidelines

This chapter sets forth standards to govern the placement, height and bulk of permitted buildings and other structures, and to establish requirements for vehicular access, parking and loading, open space, landscaping, and signs for commercial uses to be incorporated into Development Plans. Unless otherwise stated herein, all development within the PUD area shall meet the applicable standards and requirements of the Ontario Development Code.

Guidelines and informational text are woven throughout this chapter to communicate design principles and desired features for the PUD area for relevant topic areas. Guidelines, which are recommendations, are listed in a separate box adjacent to the relevant development regulations, which are required, to provide guidance to business owners, property owners, homeowners, City staff, and design professionals for the development and/or rehabilitation of properties in the PUD area. The design guidelines included in this chapter are complementary to the Downtown Ontario Design Guidelines, which are included as Reference "C" of the Ontario Development Code, which establishes a set of architectural, graphic, and lighting design principles within the City's historic original downtown area, which includes the PUD area.

## 5.1 Applicability

The standards and guidelines established by this chapter shall apply to Development Projects (Project) within the PUD area for any new construction, addition, remodel, or reallocation requiring a building permit, encroachment permit, or other similar entitlement by the City.

Table 5-1 (Development Regulations Summary) provides an overview of development standards for the PUD area with references to specific sections, where applicable, for more detailed regulations and information.

### Table 5-1: Development Regulations Summary Table

| Standard | Zoning District | | |
|---|---|---|---|
| | MU-RC | MU-T | DR |
| **Density and Intensity** | | | |
| **Dwelling Units per Acre** | 25–75 DU/Acre | | |
| **Floor Area Ratio** | 2.0 FAR Commercial | | |
| **Building Height** | | | |
| **Allowed Height** | **Map 8** | | |
| **Upper-Level Stepbacks** | See Section 5.3.1 | | |
| **Setbacks** | | | |
| **Street Setbacks** | **Map 9** | | |
| **Other Setbacks** | | | |
| Block A-G | None required | | |
| Block H and Block I | **Table 5-2** (Minimum Setbacks) | | |
| **Minimum Building Separation** | Individual buildings on the same lot must have a minimum separation of 10’ clear between structures. Other requirements for clearance between buildings as regulated by the Uniform Building Code. | | |
| **Allowable Encroachments into Required Setbacks** | - | ODC Sec. 6.01-D.2 (Block H only) | ODC Sec. 6.01-D.2 |
| **Building Design** | | | |
| **Entrances** | | | |
| **Entrances** | | | |
| Commercial | Along Euclid Avenue, Holt Boulevard, and B Street, all primary entrances for commercial uses shall be distinguished by architectural features or overhead projections, such as an awning or canopy. | | |
| Residential | See Section 5.151 | | |
| **Modulation** | | | |
| **Modulation** | Projects shall provide a horizontal change in plane in the building façade of at least 1.5’ every 50’ linear. | | |
| **Transparency** | | | |
| **Blank Walls** | Windowless expanses of walls shall not exceed 20’ length. | | |
| **Façade Articulation** | | | |
| **Façade Articulation** | See Section 5.5.4 | | |
| **Ground Floor** | | | |

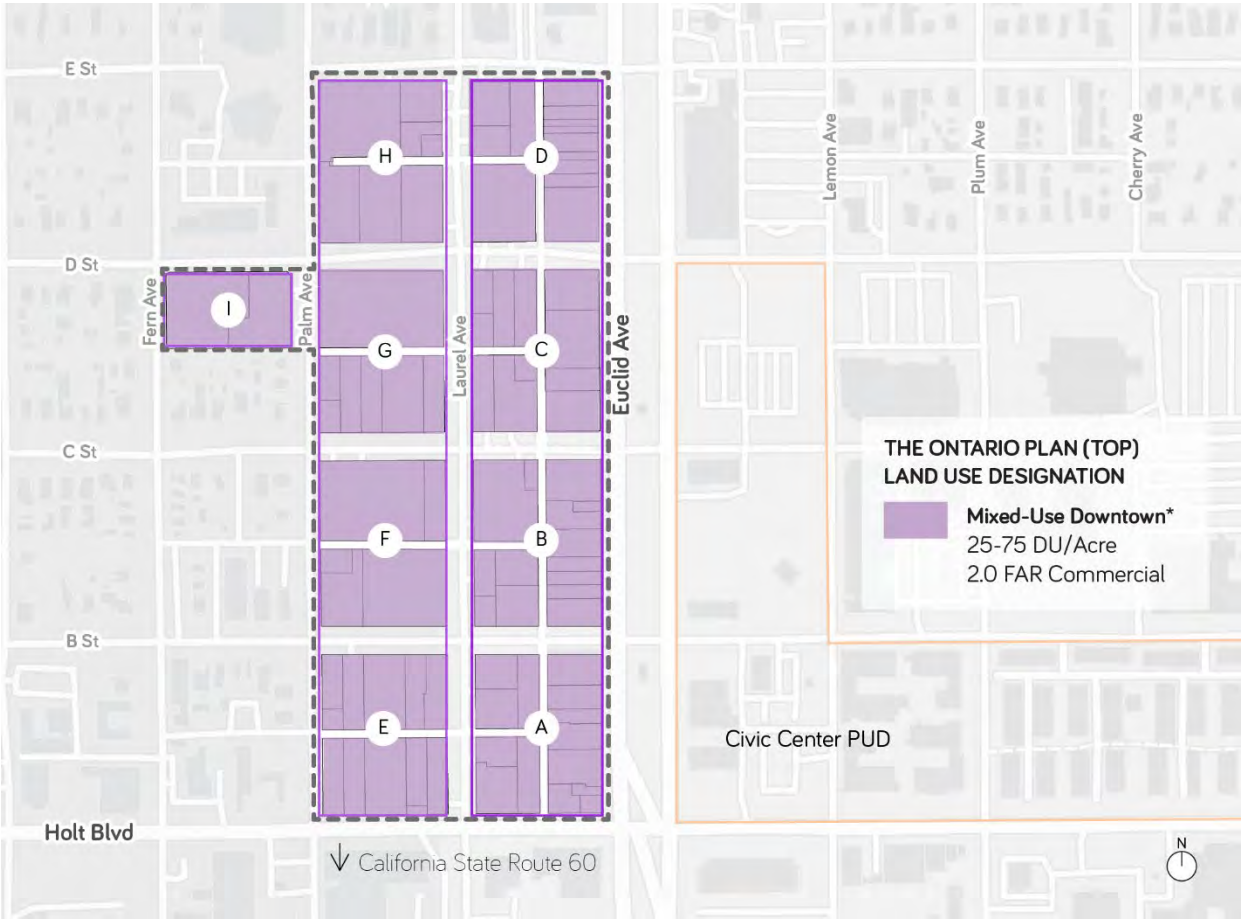
| | |
|---|---|
| **Materials** | A durable base material (12- 15 inches high min./max.) such as brick, tile, exterior cement plaster, or pre-cast architectural concrete shall be used. |
| **Transparency** | |
| Commercial | Glazing shall be clear glass to permit clear views into the interior space for a minimum of 70% of the ground floor. |
| Residential | Glazing shall be clear glass to permit clear views into the interior space for a minimum and 15% for residential units on the ground floor. |
| **Doors** | All glass doors are prohibited. Glass doors with kickplates are required. No part of any open doors shall extend into the public right-of-way. |
| **Varied Roofline** | |
| **Varied Roofline** | See Section 5.156 |
| **Roof Decks** | |
| **Roof Decks** | Shall be stepped back a min. depth of 5' from the roof edge. |
| **Open Space** | |
| **Private and Common Open Space** | |
| **Minimum Average Amounts** | Min. average 200 sq. ft. combined open space per residential unit required through a combination of either private open space or common open space. At least 90 percent of residential units shall provide private open space at a minimum of 40 square feet. |
| **Types** | **Private open space**: balconies, patios, and rooftops decks with direct access from residential unit. **Common open space**: passive and active, indoor, and outdoor spaces, open landscaped and hardscaped areas, and roof decks and patios if available to building community. |
| **Minimum Dimensions** | **Private open space**: 40 sq. ft., min. of 6' for any dimension thereof. **Common open space**: 15 sq. ft. |
| **Paseos** | |
| **Requirements** | See Section 5.158 (2) |
| **Landscaping** | |
| **Requirements** | Detailed Landscape and Irrigation Plan required for each Development Plan; see Section 5.5.9. |
| **Vehicle Access and Parking** | |
| **Vehicle Access** | |
| **Vehicle Access** | Driveway locations shall be consistent with the City of Ontario's Traffic and Transportation Guidelines. Max. of 1 vehicle access point permitted per parcel as approved by the City Engineer unless required by the Fire Department. No vehicle access shall be taken from Euclid Avenue, B Street, or Holt Boulevard. |
| **Off-street Parking and Loading** | |
| **Surface Parking** | Setback a min. of 20' from primary frontage, 10' from open space, and 7' from back of sidewalk |
| **Layout and Design** | See Section 5.1.11 (2.a.i) |
| **Required Number of Parking Spaces** | **Table 5-4** (Parking Requirements) |

## 5.2 Density and Intensity

1. Density and Intensity. Residential densities (dwelling units per acre [du/ac]) and Floor Area Ratio (FAR) are defined for the PUD area by The Ontario Plan and designated as follows by zoning district, and shown in **Map 7 (Allowed Density and FAR):**

    a. Within the MU-RC, MU-T and DR Zones, the residential density range shall be 25–75 du/ac and maximum FAR shall be 2.0 for commercial uses; residential uses are only permitted on Block H and I.

### Map 7: Allowed Density and FAR



## 5.3 Building Height

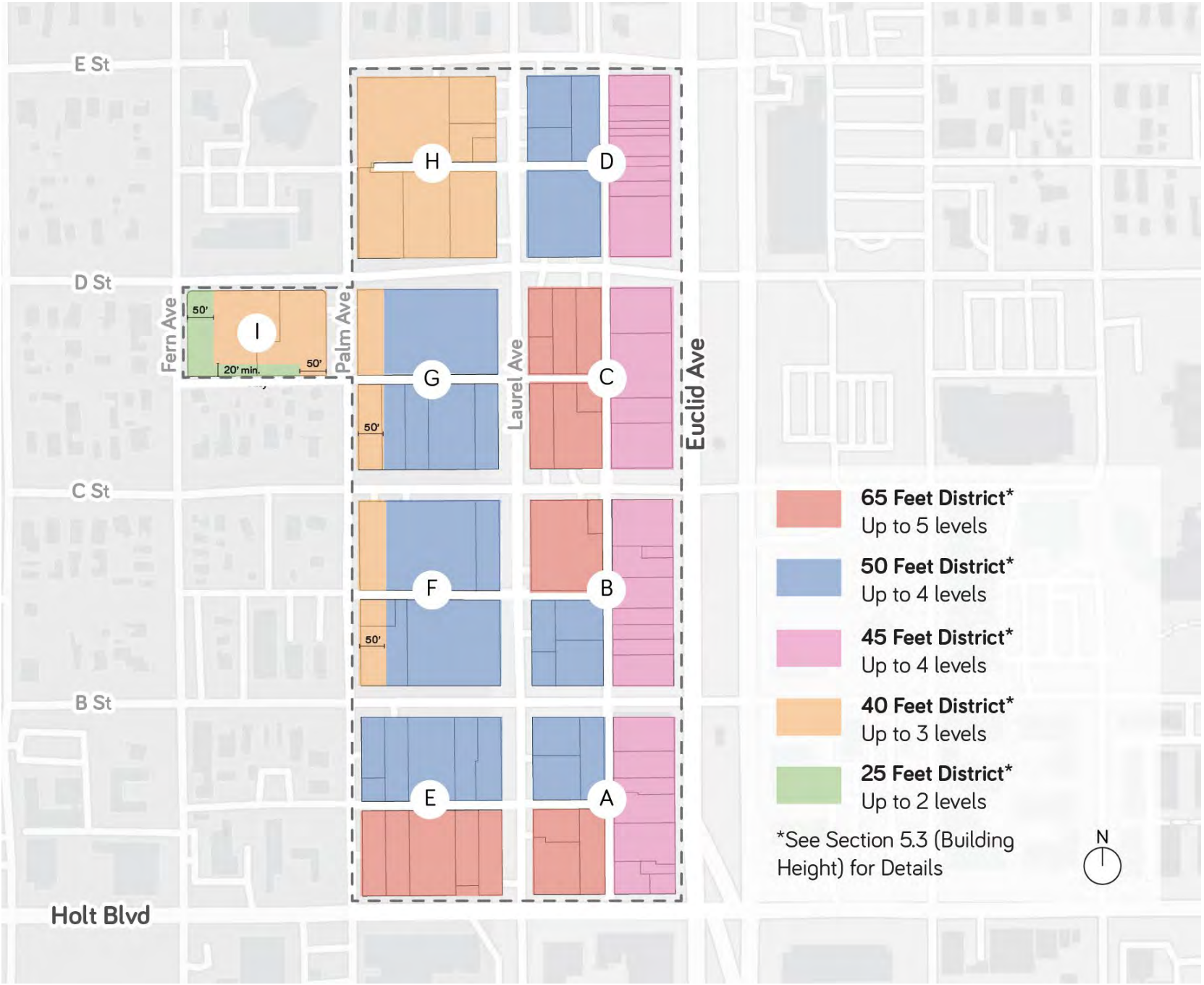
1. **Allowed Heights.** Total building height (to flat roofline or eave of roof) shall not exceed the heights specified in **Map 8 (Allowed Heights)** above the highest existing sidewalk elevation.
   a. **Architectural Projections.** Architectural projections, such as parapets, roofed towers and gable roofs, or elevator towers may extend up to 15 feet above the highest permitted height.
      i. **Rooftop Equipment.** Any rooftop mechanical, venting or communications equipment shall be built within or otherwise screened by the roof structure, so that they do not project above parapets and are not visible from any public rights- of-way or neighboring buildings.
   b. **Temporary Construction and/or Maintenance Machinery.** Temporary construction and/or maintenance machinery shall not exceed a height of 122 feet, measured from existing grade, unless approved by the Federal Aviation Administration.

**Context Sensitive Building Heights**

To implement the TOP and support the established maximum densities and intensities, block-specific height districts were created, which also respond to place-based conditions and goals. They include:

- Up to 65 feet (5 stories) along Holt Boulevard to create a southern gateway and enable additional height along this future multi-modal transit corridor to promote housing near transit, as well as along Laurel Avenue and west of the alley, between B Street (north of east-west running alley) and D Street, to focus height within the downtown core of the PUD area.
- Up to 50 feet (4 stories) along Laurel Avenue in strategic areas to focus height within the downtown core of the PUD area while responding to the existing scale and character.
- Up to 45 feet (4 stories) along Euclid Avenue with required 15’ upper story stepbacks to promote additions to historic resources while maintaining existing character.
- Up to 40 feet (3 stories) west of Laurel Avenue and north of D Street (Block H), as well as along Palm Avenue to support mid-rise multi-family residential projects and respect neighboring lower-scale residential.
- Transitional height districts are in place to reduce height of development surrounding residential neighborhood to the west of the PUD boundary for parcels fronting Palm and Fern Avenues.

Map 8: Allowed Heights



### 5.3.1 Upper-Level Stepbacks

1. **Upper-Level Stepbacks.**
   a. **Alley.** Projects with property lines that front the alley between C Street and D Street, connecting Palm Avenue and Fern Avenue, shall not exceed the height established in **Map 8 (Allowed Height)** before stepping back a minimum depth of 10 feet as measured from the existing façade.
   b. Uses allowed within the stepback include:
      i. Private Open Space (e.g., balconies, terraces);
      ii. Shade structures, trellises, and similar;
      iii. Green roofs and photovoltaic panels (screened by parapet roof); and
      iv. Other open space features per the Approving Authority.
2. **Upper-level Additions to Designated Historic Buildings.** Upper-level additions to buildings that have been identified as historic resources shall stepback a minimum depth of 15 feet as measured from the existing façade. See **Section 5.3.1 (1.b)** for the list of uses allowed with the stepback.

## 5.4 Setbacks

1. **Street Setbacks.** Projects shall comply with the street setbacks set in **Map 9 (Street Setbacks).** Street setback ranges establish a minimum and a maximum. Street setbacks are measured from the property line (back of sidewalk) to the building or structure. Property line(s) along public streets are subject to right of way dedication as required per the City Master Plan of Streets and Highways and Street Standard Drawings.

   a. **Minimum Setback for Ground Floor Residential Units.** Where residential units on the ground floor are allowed per **Table 4-1 (Permitted Land Uses by Zoning District**), a minimum setback of 5 feet is required.

   b. **Setback Features.** Features allowed within the street setback may include:

      i. Landscaping and planters;
      ii. Hardscape (e.g. stoops, patios);
      iii. Shade structures;
      iv. Arcades and galleries;
      v. Walls and fences per ODC Sections 6.02.020 and 6.02.025;
      vi. Seating and furniture;
      vii. Outdoor dining; and
      viii. Other open space amenities per the Approving Authority.

**Street Setbacks**

Street setbacks are established as ranges to support flexibility while responding to sub-district visions and the allowed uses on each block. They include:

- 0-3 feet setback to support existing commercial-only ground floor character and active public realm while promoting some variation.
- 3-10 feet min/max setbacks to support a commercial or residential ground floor character while promoting some variation.
- 5-10 feet min/max setbacks to support a residential-only ground floor character.

2. **Other Setbacks.**

   a. **Blocks A-G.** None required.

   b. **Blocks H and I.** All other required setbacks are listed in **Table 5-2 (Minimum Setbacks and Building Separation).**

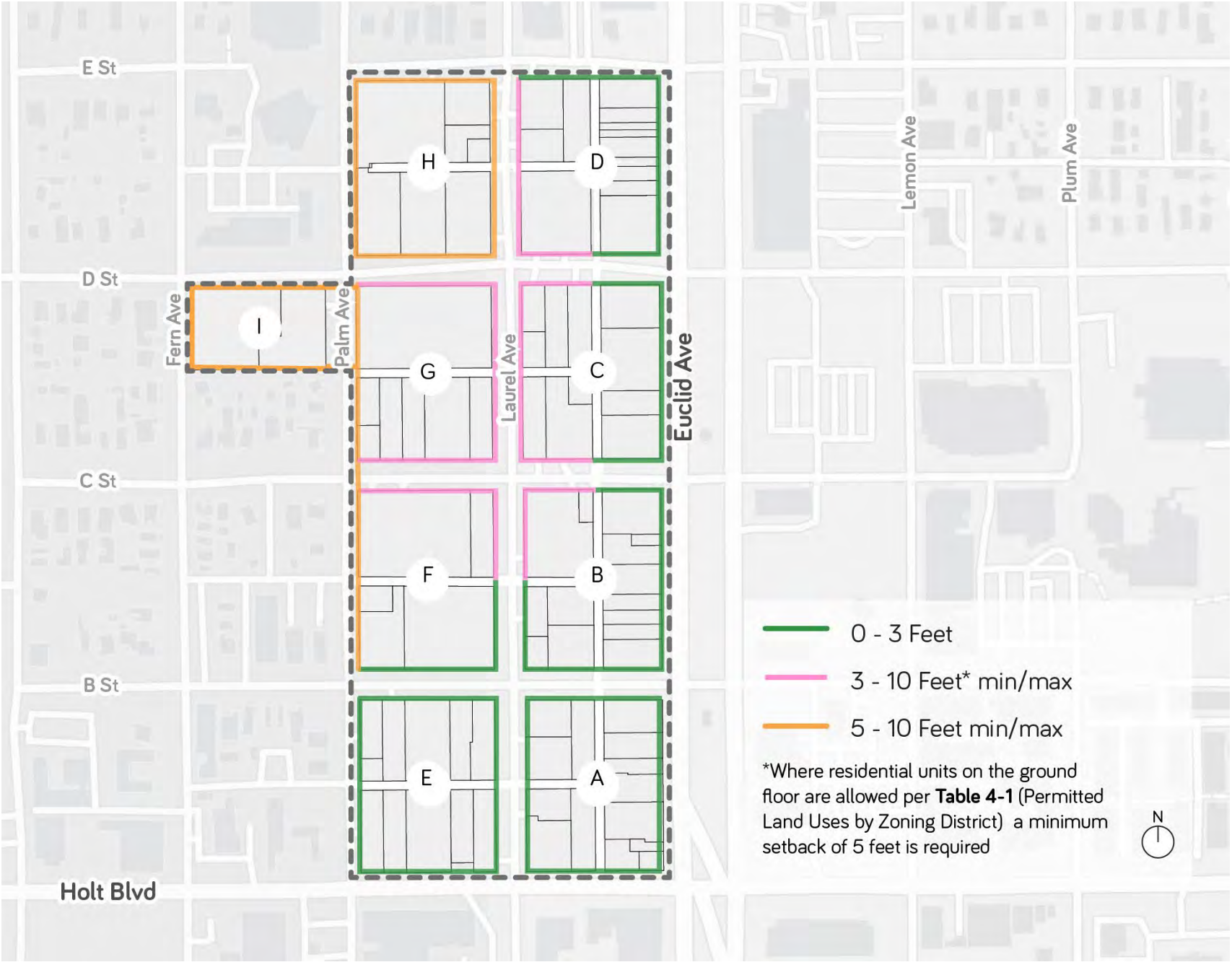
3. **Minimum Building Separation.** Discrete buildings on the same lot must have a minimum separation of 10’ clear between structures. Other requirements for clearance between buildings as regulated by the Uniform Building Code.

**Table 5-2: Minimum Setbacks**

| Location | Requirement |
|---|---|
| **All Blocks** | |
| Street Setbacks | See **Map 9 (Street Setbacks)** |
| **Blocks A-G** | |
| Other Setbacks | None required |
| **Block H and Block I** | |
| Interior Side | 5’ |
| Rear Setback | 5’ |
| Porches, Patio Covers, and Similar Architectural Projections[1] | See ODC Sec. 6.01 (Exceptions to Development Standards – Encroachments into Required Setback Areas) |
| Private Drives/Alleyways (from edge of drive aisle) | |
| Living Area | 10’ |
| Garages and other Nonhabitable Structures | 5’ |
| Dwellings to Parking Spaces | |
| Living Area | 10’ |
| Garages and other Nonhabitable Structures | 5’ |
| Parking Space or Drive Aisle to Wall or Fence | 5’ |

[1] No projection may encroach into any required easements.

Map 9: Street Setbacks



# 5.5 Building Design

## 5.5.1 Entrances

1. **Entrances.** A minimum of one primary entrance shall be located on the primary frontage of each building and open onto a sidewalk or other public space. All primary entrances shall include a minimum of one lighting fixture designed to provide illumination of pathways for pedestrians.

   a. **Commercial**. Along Euclid Avenue, Holt Boulevard, and B Street, all primary entrances for commercial uses shall be distinguished by architectural features or overhead projections, such as an awning or canopy.

   b. **Residential.** In locations where dwelling units are allowed on the ground floor abutting a public or private street per **Table 4-1 (Permitted Land Uses by Zoning District)** and **Map 6 (Ground Floor Land Use),** the primary entryway (front door) shall be oriented toward the street. Where there is a physical site constraint, provide a clearly identifiable pedestrian entry to the site from the street.

      i. **Upper Floor Entries.** Entries to upper floor residential uses shall not front Euclid Avenue. When located on other street frontages with ground floor use restrictions per **Table 4-1 (Permitted Land Uses by Zoning District)** and Map 6 **(Ground Floor Land Use)**, the visible entry shall be no wider than 15 feet to avoid disturbing the rhythm of the retail spaces.

**Designing Visual Interest and Complementary Building Materials**

Building façades that articulate a mixture of horizontal and vertical projections help to visually break up the building mass into varying modulations and identified clusters to create visual interest.

Building exterior treatments including brick and smooth stucco finishes that complement the historic character of the PUD area are encouraged.

## 5.5.2 Modulation

1. **Modulation.** Projects shall provide a horizontal change in plane in the building façade of at least 1.5 feet every 50 linear feet. The Approving Authority may approve alternate exterior building designs that achieve the City's desired variation in building massing.

## 5.5.3 Transparency

1. **Blank Walls.** Windowless expanses of walls shall not exceed 20 feet in length.

### 5.5.4 Building Façades

1. **Window Treatments.** All windows shall have a recess minimum of 2 inches from the building wall plane. Window trim shall not be counted towards recessed minimum.

2. **Façade Articulation.** Façades facing a public or private street, the project perimeter, and all portions of exterior building elevations shall provide a minimum of two (2) of the following façade articulation techniques:

   a. Change in exterior building materials to include at least two high quality building façade materials that accentuate or correspond to variations in building massing. Building materials may include, but are not limited to wood, glass, brick, metal spandrel, cement board siding, tile, or other material acceptable to the Approving Authority.

   b. Porticos, awnings, terraces, balconies, eyebrows, or trellises of at least 12 inches in depth that provide variations in the building plane.

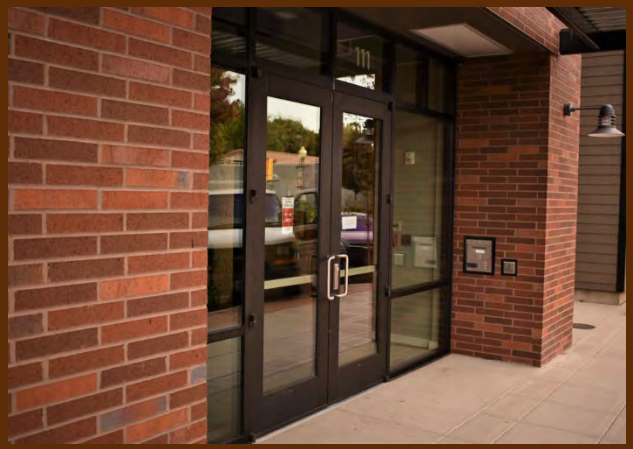
   c. A break in the façade plane of at least 8 inches in depth, which is applied to at least 10 vertical feet of the facade.

   d. Other additional architectural enhancements that create a human scale to the building. Examples include handrails, fixed planters, and ornamental details such as lighting, molding, tiles, or other similar design elements acceptable to the Approving Authority.

   e. **Encroachment.** Awnings, canopies, residential balconies, commercial signs, and decorative architectural elements may encroach into the public rights-of-way for a maximum of 4 feet.

**Traditional Building Style**

Traditional building styles are common in Downtown Ontario. To align with this traditional style, glass doors with a kickplate are encouraged for new development.



### 5.5.5 Ground Floor

1. **Materials.** A durable base material (12- 15 inches high min./max.) such as brick, tile, exterior cement plaster, or pre-cast architectural concrete shall be used.

2. **Transparency.**

   a. **Commercial.** Glazing shall be clear glass to permit clear views into the interior space for a minimum of 70% of the ground floor to create a traditional storefront.

   b. **Residential.** Glazing shall be clear glass to permit clear views into the interior space for a minimum and 15% for residential units on the ground floor.

3. **Doors.**

   a. All glass doors are prohibited.

   b. No part of any open doors shall extend into the public right-of-way.

### 5.5.6 Varied Roofline

1. Any Project with a façade exceeding two stories in height, which faces a public or private street, shall be provided with an articulated roofline incorporating at least two of the following design elements:

   a. A roof with a slope equal to or greater than 3 inches of rise for every 12 inches of run, including but not limited to a sloped or curved roofline at the top of the dwelling.

   b. An open deck having a minimum clear area of 6 feet in depth and 8 feet in width.

   c. A flat roof with a minimum of 2 feet vertical height difference for a minimum of 10 horizontal feet along the roofline of each building façade.

   d. A vertical break in the façade plane of at least 1.5 feet in depth, which extends up and through the roofline.

   e. Any form of roofline variation incorporating a change or break in roof plane, such as horizontal recesses, incorporation of dormers, or other similar design elements acceptable to the Approving Authority.

### 5.5.7 Roof Decks

1. Roof decks shall be stepped back a minimum depth of 5 feet from the roof edge to prevent direct views of abutting residential neighbors.

### 5.5.8 Open Space

1. **Private and Common Open Space.** Private and common open space shall be provided for passive and active recreation opportunities within each project site intended for the use of the on-site residents and their guests.

   a. **Minimum Average Amounts.** A minimum average of 200 square feet of open space per residential unit is required through a combination of either private open space or common open space. At least 90 percent of residential units shall provide private open space at a minimum of 40 square feet.

      i. Off-street parking spaces, drive aisles, driveways, loading areas, service areas, or street setbacks shall not be included in minimum open space calculations.

b. **Types.**

i. Private open space may include balconies, screened patios, and rooftop decks or in any combination thereof, and shall have direct access from each residential unit, intended for the exclusive use by the occupant of the residential unit and their guests.

i. Common open space may include passive and active, indoor, and outdoor spaces, recreational spaces, open landscaped and hardscaped areas with fountains, seating, fire pits, or play structures, pool, and indoor fitness center. Other open space provided can include roof-top decks and patios available to the building community.

c. **Minimum Dimensions.**

i. A minimum area of 40 square feet with a minimum dimension of 6 feet in each direction shall be required for private open space.

ii. A minimum dimension of 15 feet in each direction shall be required for common open space.

**2. Paseos.**

a. **Dimensions.** Paseos shall have an average width of 22 feet, a minimum width of 15 feet, and a minimum clear pedestrian path of 5 feet.

b. **Access.** Paseos shall be physically and visually accessible from the connecting public sidewalk.

c. **Elevation.** Paseos shall be at ground level and ADA accessible.

d. **Blank Walls.** Windowless expanses of walls lining paseos shall not exceed 20 feet in length, or be mitigated using one the following techniques:

i. Green wall, vines, or other vertical landscaping element that covers a minimum of 75 percent of the non-conforming blank wall area.

ii. Public art, including but not limited to, murals.

**Residential Paseos**

Paseos are encouraged for townhomes in the PUD area to provide internal access for pedestrians and break up building massing.

### 5.5.9 Landscaping

1. **Detailed Landscape and Irrigation Plan.** A detailed Landscape and Irrigation Plan, fulfilling the requirements listed in the City of Ontario Landscape Development Guidelines and the Ontario Development Code, shall be submitted with each Development Plan. The plan shall specify all landscape and hardscape elements of the common open space area, as well as the perimeter yards abutting the street rights-of-way and all street trees and irrigation. The final plan shall also show the location of all ground level utility boxes and mechanical equipment, along with methods of screening such devices from the public right-of-way and adjacent residences, where possible. A detailed Landscape and Irrigation plan shall be required prior to the issuance of building permits.

   a. **Water Conservation in Landscaping Act Requirement.** The detailed Landscape and Irrigation Plan shall comply with the Water Conservation in Landscaping Act of 2006 (AB 1881), commencing with the California Government Code Section 65591.

### 5.5.10 Vehicle Access and Parking

1. **Vehicular Access.** A maximum of 1 vehicular access point is permitted per parcel per the City of Ontario's Traffic and Transportation Guidelines as approved by the City Engineer unless required by the Fire Department.
   a. No vehicular access shall be taken from Euclid Avenue, B Street, or Holt Boulevard.
2. **Off-Street Parking and Loading.** Off-street parking and loading shall conform to the standards set forth in Division 6.03 (Off-Street Parking and Loading) of the Ontario Development Code.
   a. **Exceptions:**
      i. **Layout and Design.**
         1. **Surface Parking.**
            a. **Location.** Off-street surface parking shall be located to the rear of the interior side of a building and away from public streets.
            b. **Screening and Landscaping.** Parking areas shall be screened from public streets and adjacent parcels, except for access and driveways, using one or any combination of the methods listed below:
               i. Walls and fences. Low profile walls or fences consisting of brick, stone, or stucco for a minimum of 3 feet and a maximum of 3.5 feet in height. Plain concrete blocks, chain-link, or vinyl fencing are prohibited for screening purposes.
               ii. Planting. Plant materials consisting of compact evergreen plants that form an opaque screen that achieves a minimum height of 2 feet within 18 months after initial installation.
         2. **Structured Parking.** All off-street and above ground parking structures shall be screened from public streets and designed to be compatible with the architectural character and quality of adjacent buildings.
            a. **Ground Floor.** The ground floor level of any off-street and above ground parking structure shall use one or any combination of the methods listed below:

i. **Wrap.** Wrapped by habitable floor area, except for permitted entrances and exits, so that no portion of such facility is visible from adjacent public sidewalks or publicly accessible areas. Such habitable floor area shall have a minimum depth of 35 feet, as measured from the building façade.

ii. **Landscaping.** Landscaping for a minimum of 60 percent of the ground floor level of the structure's street frontage, excluding areas occupied by driveways and portions occupied by habitable floor area.

iii. **Screening.** Screening for a total of at least 50 percent of the ground floor façade, including permitted signs, graphic or sculptural art, decorative screening or latticework.

b. **Utility Transfer Boxes.** Placement of utility transfer boxes within a parking structure is prohibited.

3. **Residential Tandem Parking.** Allow up to 50% tandem spaces for required parking for residential uses. Tandem parking shall be limited to a two (2) car maximum. Both spaces in the tandem arrangement shall be assigned to the same dwelling unit. Handicapped and guest parking spaces shall not be in tandem.

ii. **Required Number of Parking Spaces.** The number of off-street automobile parking spaces required are listed in **Table 5-3 (Parking Requirements)** based on general use classification, and subject to the following requirements:

1. All required residential parking spaces shall be provided on-site.
2. Commercial and visitor parking may be considered for off-site location within a public facilities or on-street with a parking demand and supply study approved by the Planning Director.
3. Parking for dwellings shall be provided on-site and guest parking may be provided on-street and off-site.
   a. Off-site parking requirements are subject to the following conditions:

**Parking Structure Design**

Design standards for parking structures are intended to minimize the visual impact on the public realm. Treatments such as landscaping and screening, as well as wrapping the parking structure with active uses, such as retail or restaurants, can help to activate the ground floor of the structure adjacent to the sidewalk. Parking structures can also include decorative screening and art, such as murals, to complement the building design.

Source: Loveland Reporter-Herald

i. On-street parking shall not be used for required resident parking.

ii. On-street parking shall only be counted along the public streets that are within approximately four blocks from the project site.

iii. On-street parallel parking spaces shall be calculated by the length of unobstructed curb adjacent to the project site.

**iii. Parking Management Plan:** A parking management plan shall be submitted to the Planning Director for approval to ensure that tandem parking spaces will be assigned to residents of the same dwelling unit.

**Parking in Downtown Ontario**

A park once strategy is encouraged in Downtown Ontario in which business patrons and visitors park in a single location and make multiple trips on foot, given the pedestrian-oriented nature of the area. Public transit is also available in Downtown Ontario, with an existing bus stop located in the northeast corner of Euclid Avenue and D Street for Omnitrans Route 83. Additionally, located near Euclid Avenue on Holt Boulevard is Omnitrans Route 61 which has been identified as the future West Valley Connector Bus Rapid Transit (BRT).

### Table 5-3: Parking Requirements

| Use | Number of Spaces Required |
|---|---|
| Residential | 1 space per bedroom up to two bedrooms<br>2 spaces per unit for three bedrooms and above<br><br>0.20 spaces per unit for guest/visitor parking |
| Commercial | 1 space per 250 square feet gross floor area for all permitted or conditionally permitted use |

## 5.6 Signs

1. **Master Sign Program.** A Master Sign Program shall be submitted for approval by the Planning Department, prior to issuance of a building permit, for new development or adaptive reuse projects. The sign program should be consistent with the Downtown Ontario Design Guidelines and the Development Code, and shall include tenant signs, pedestrian signs, directional signs, historical markers, etc. as needed.

**Signs for Downtown Ontario**

Sign programs that utilize complementary materials, colors, and themes that draw from existing buildings and Downtown Ontario, and consistent with the Downtown Ontario Design Guidelines, are encouraged. Specifically, themes for sign programs should be aligned with the Downtown Ontario Design Guideline's Historic Preservation Retail Subdistrict for the PUD area. Signage should be designed to effectively communicate and direct users to various aspects of the development, including amenities, such as publicly accessible open space or paseo connections, and complement the overall character of the buildings. Examples of existing buildings and signs that represent the existing character of Downtown are shown below for reference.

## 5.7 Service Facilities

1. **Electrical Equipment.** Electrical equipment shall be mounted on the interior of a building or mitigated through being enclosed and screened from public streets with walls, fencing, and/or landscaping that allows for sufficient ventilation or buried in vaults.
2. **Antenna Pole or Dish.** No antenna pole or dish shall be placed on any structure so that it is visible from ground level.
3. **Service and Storage Areas.**
   a. Locations, sizes and design of service and storage areas shall be readily accessible by trash disposal company equipment and work crews, as reviewed and approved through the Development Plan Approving Authority.
      i. **Commercial.** Trash receptables/recyclable container storage areas shall be provided for all commercial uses. When located within the ground floor parking structure area, storage areas may be partially enclosed.
      ii. **Residential.** Trash receptacles/recyclable container storage areas shall be provided for all residential uses, within the ground floor parking area or within an enclosed room inside the buildings. When located within the ground floor parking structure area, storage areas shall be full enclosed.

## 5.8 Infrastructure

It is important that projects maintain and enhance the quality of life for residents and consumer alike, and that new projects enhance the community within which it is built. To that end, all projects constructed within the City shall be properly served by a full array of utilities – water, sanitary sewer, storm drain, electrical, gas, telecoms, data, etc. The properties within the boundary of this PUD shall be served by existing water lines and wastewater flows and/or upgraded to satisfy the required capacities as determined by the City and its service purveyors/agencies, including the Fire Department. If existing utilities do not exist to service the project, the project may be required to install new utilities and/or extend existing utilities as needed to provide service. Existing utilities are also subject to improvement, such as removal and replacement or upsizing, to meet demand. On-site stormwater drainage facilities shall be provided 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, and/or underground stormwater retention/infiltration vaults.

The properties within the boundary of this PUD are considered a Priority Land Use (PLU). A PLU 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. Drainage from the PLU shall be designed with conveyance tributary to a Full Trash Capture System which has been approved by the SWRCB.

# 5.9 Historic Preservation

## 5.9.1 Brief Development History of Ontario and the PUD Area

Downtown Ontario and Euclid Avenue - 1885

The City of Ontario was established in 1881 when George and William Chaffey purchased 6,218 acres of land to develop a community called the Ontario Colony. Initially the colony was surrounded by undeveloped land, Southern Pacific Railroad tracks to the south, and the Kincaid Ranch and San Antonio Canyon to the north. The two-hundred-foot-wide Euclid Avenue and landscaped parkway were developed along eight miles through the community from San Antonio Heights at the base of the San Gabriel Mountains south to the Southern Pacific Railroad Tracks. The median was landscaped Pepper trees and Palm trees and the street and curb were made of granite cobble stones. Likewise, miles of cement pipes were laid to provide water to the town. Land in the community became available for purchase by November 1882. Settlers were given a provision of water that is proportional to their land acreage, an innovation in city planning that alleviated problems settlers faced elsewhere. By 1886, the Chaffey brothers sold their interest in Ontario to Charles Frankish and moved to Australia to develop similar planned community. Frankish expanded the town and formed the Ontario Land and Improvement Company. The Downtown Area of Ontario encompassing the PUD area developed as an extension of the original irrigation system and subdivision grid established by the Chaffey Brothers in 1881 (City of Ontario 2023a; City of Ontario 2013: 1; Arroyo Group 1998: 4).

In 1891, Ontario was incorporated as a city and adopted a City Council. The City's industry was primarily focused on agriculture and much of the area contained citrus groves. In addition to citrus, the harvest of peaches, walnuts, and grapes were prominent in Ontario (City of Ontario 2023a). The City's location included a gradual incline that provided the ideal landscape for gravity irrigation that supported the areas agricultural. As an Act of Congress of the Unites States, Ontario was declared the "Model Colony" in 1903 because of its high standard of urban development and innovative planning (City of Ontario 2023b).

### 5.9.1.1 Commercial Development

The majority of Ontario was agricultural during the late 1880s into the 1930s, when much of the city was undergoing large-scale residential, commercial, manufacturing and civic development. Commercial buildings from this period, such as the Old City Hall (built in 1937), Citizens Bank Block (built in 1895) and the Frankish Building (built in 1916), display the Period Revival styles such as the Italianate and Mediterranean style as well as brick commercial buildings (City of Ontario Planning Department 2012). The major commercial throughfares running east to west or north to south through the community were established to accommodate the infrastructure needs of a growing population and the inhabitants of the new single-family residential tracts, to the north, east and west of the downtown, constructed during the 1920s, to the 1940s.

Development of the city's downtown and the PUD area during the 1950s saw the construction of single-story Modern style commercial buildings or facade rehabilitation of existing storefronts to "modernize" the aesthetics in downtown in an attempt to compete with new low-rise strip commercial style centers

located outside of the downtown. Some of the former residential buildings constructed in the Victorian style were converted to commercial use. It was common that styles typical for residential buildings were used for the new construction of commercial buildings. Commercial buildings located near residential neighborhoods often exhibit a small scale, one-story height, a front yard setback, low-pitched roof, and large windows (City of Ontario 2013: 2).

#### 5.9.1.2 Residential Development

Early residential development in Ontario began with the establishment of the Ontario Colony in 1881. After land became available for purchase in 1882, a purchaser would buy a lot within the tract and construct residences in whatever architectural style and size of their choosing. Often these rural residences were associated with agricultural property as well, and an electric railway along Euclid Avenue provided efficient travel between the scattered properties (City of Ontario 2023a; City of Ontario 2013: 1; City of Ontario 2005: 1).

After the Ontario Land and Improvement Company in 1886, the development of Victorian style large single-family residences occurred along Euclid Avenue, Holt Boulevard (A Street), and on Emporia Avenue (known as Developer's Row). During the early 1900s, small and large sized Victorian style homes were constructed in the neighborhoods located north and west of the project area. Soon the Craftsman style homes became the predominant style until 1920. The boom of the 1920s saw an increase in residential development further away from the downtown core as the oil, citrus, and tourism industries increased. During the Great Depression, homes were generally constructed with less decoration in a more modest style. Although jobs associated with construction funded by the WPA spurred population growth during the late 1930s, the 1940s saw a decline in construction until 1944 when the city's industry shifted to post-war production. Nearly 743 new residences were constructed by 1946 often in the Early Post War Tract, Minimal Traditional, and Ranch styles (City of Ontario 2013: 2).

By the 1950s, development of the city's downtown saw the demolition and replacement of many of the Victorian style residences along Euclid Avenue, the retail corridor. Some homes were converted to commercial uses while other were replaced with mid-century modern commercial buildings or relocated elsewhere in the city (City of Ontario 2013: 2). However, many of the historic Victorian and Craftsman homes located in the Downtown West neighborhood have been preserved and are present today.

### 5.9.2 Relevant Regulatory and Guidance Document References

The following section provides an overview of the relevant documents that are utilized by the City to determine findings related to the suitability of construction activities in the plan area. To ensure that any proposed project within the plan area involving new construction (infill), addition, alteration or demolition (full or partial), a Certificate of Appropriateness is required to ensure the preservation of the historic resource and any surrounding resources including their character defining features and integrity (see section 6.9.3.3 below). Additional reference documents and resources for historic preservation guidance are provide in **Section 8.1.**

#### 5.9.2.1 Local Historic Preservation Ordinance

Ontario's Historic Preservation Program seeks to preserve and protect the significant architectural, historical, and cultural resources, which reflect Ontario's unique character and heritage. Planning staff along with the Historic Preservation (HP) Commission and the Historic Preservation Sub-Committee, who are appointed from the HP Commission, review all historic preservation applications, including proposed alterations to the exterior of historic buildings and alterations to public improvements, such as street trees that are located within Ontario's historic neighborhoods. The Historic Preservation Program implements the Historic Preservation Ordinance by processing Certificates of Appropriateness or Waivers for minor alterations, restoration, and rehabilitation, Landmark Designations for

local, state, and national registers, historic property evaluations, historic property surveys, and ensuring environmental compliance. The Program offers incentives for historic preservation such as the Mills Act Contract (Preservation Agreements), bronze plaques, the use of the California Historic Building Code, and the City Council hosted Model Colony Awards for historic resources within the City. Staff is currently preparing an Adaptive Reuse Ordinance (ARO) to further incentive preservation of historic buildings. Additionally, the City coordinates and collaborates with the local non-profit Ontario Heritage and other organizations to promote, inform, educate, and celebrate historic preservation and the program.

In 1983, a group of volunteer citizens, under the leadership of a qualified historic resource consultant, and funded by the State of California Office of Historic Preservation, surveyed nearly three thousand properties within the City that were at least fifty years of age at the time. Intensive level surveys and nominations were completed and submitted to the Office of Historic Preservation and the National Register of Historic Places for hundreds of properties thought to be historically eligible for designation. In 1991, the City Council had adopted the City's first Ordinance intended to preserve historic resources through identifying processes for nomination, designation and appropriate treatment for alterations and additions of historic resources. Through the mid-1990s, a few amendments to the Ordinance were approved which further developed the program. During the late 1990s, the Planning Commission was assigned the duties of the Historic Preservation Commission and the Planning Department allocated staff to the historic preservation program. During this period, the program grew at a rapid rate designating nearly 60 landmarks and 5 historic districts. Additional updates were made in 2001, 2003 and in 2015, with a comprehensive Development Code update dividing the Ordinance into 2 sections. The Ontario Development Code Chapters 4 and 7 establish the City's scope of historic preservation activities and is the primary body of local law relating to historic preservation. Division 7.01 includes the purpose and authority for historic preservation, and Division 4.02 includes criteria for local historic designation and procedures for the alteration or demolition of historic properties.

On August 7, 2001, the City became a Certified Local Government (No. 46) by the State of California. To date, there are approximately 69 local governments within the State of California that participate in the CLG program. Pursuant to the National Preservation Act of 1966 and as amended in 1980, the Certified Local Government (CLG) program encourages the preservation of cultural resources by promoting a partnership among local governments, the State of California Office of Historic Preservation (OHP), and the National Park Service. Becoming a CLG, through the development and implementation of the local historic preservation program which is based on federal (The Secretary of Interior Standards) and state standards, provides the local jurisdiction the tools, technical training, and more meaningful leadership roles in the preservation of the community's cultural heritage. The six (6) basic requirements to maintain certification are listed below:

1. Maintain a comprehensive local historic preservation plan that identifies the preservation mission, goals, and priorities of the local government.
2. Enforce appropriate local legislation for designation and protection of historic properties.
3. Establish and maintain an adequate and qualified historic preservation review commission and non-commissioned staff.
4. Maintain a system for the survey and inventory of historic properties.
5. Provide for adequate public participation in the local historic preservation program.
6. Review and recommendation of historic properties within the local jurisdiction to the National Register of Historic Places.

The State of California conducts the annual review from each period beginning October 1st and ending September 30th to ensure that each CLG continues to meet the minimal requirements for participation and is satisfactorily performing its responsibilities. Pursuant to the CLG requirements, the HP Program oversees reconnaissance and intensive level surveys and is responsible for maintaining a Historic Resource Inventory (HRI) which includes surveyed properties, potential, proposed, designated and eligible properties. Staff works directly with the Historic Preservation Subcommittee, who are the keepers of the Ontario Register of Historic Properties, to review surveys and determine levels of historic significance and eligibility to the Ontario Register.

### 5.9.2.2 Downtown Design Guidelines

The Downtown Design Guidelines (adopted in 1998) feature a set of architectural, graphic, and lighting design principles that provide guidance on rehabilitation of historic resources and makes recommendations on new infill construction that is located within the City's historic original downtown area. The Guidelines were prepared to recognize and enhance the character of downtown. The recommendations are grounded in best practices and are consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties. Section 1. Concept Plan identifies seven element districts, including the Euclid Avenue median, Historic Retail District, Civic Center, Museum/Transit Center, Education center, Residential neighborhoods, and Neighborhood commercial, within the downtown area. The PUD area straddles the Historic Retail District and the Residential Neighborhoods areas defined in the guidelines, each of which are summarized below, and shown in **Figure 5-1**. The Guidelines should be referred to throughout project development.

#### *5.9.2.2.1 Historic Retail District*

Section 2A. Architectural Design Guidelines: Retail Districts, establishes three subdistricts within the Historic Retail District based on the ages of buildings in the subdistrict as they relate to major architectural development periods within the overall area:

1. **Historic Turn-of-the-Century Subdistrict** (1880s to 1910s),
2. **Historic 1920s -1940s Subdistrict**, and the
3. **Historic 1950s Subdistrict**

The section also establishes three categories of buildings that appear throughout the each of the subdistricts within the Historic Retail District, and specific guidelines that should be followed for the preservation, rehabilitation, and restoration of the buildings within each category:

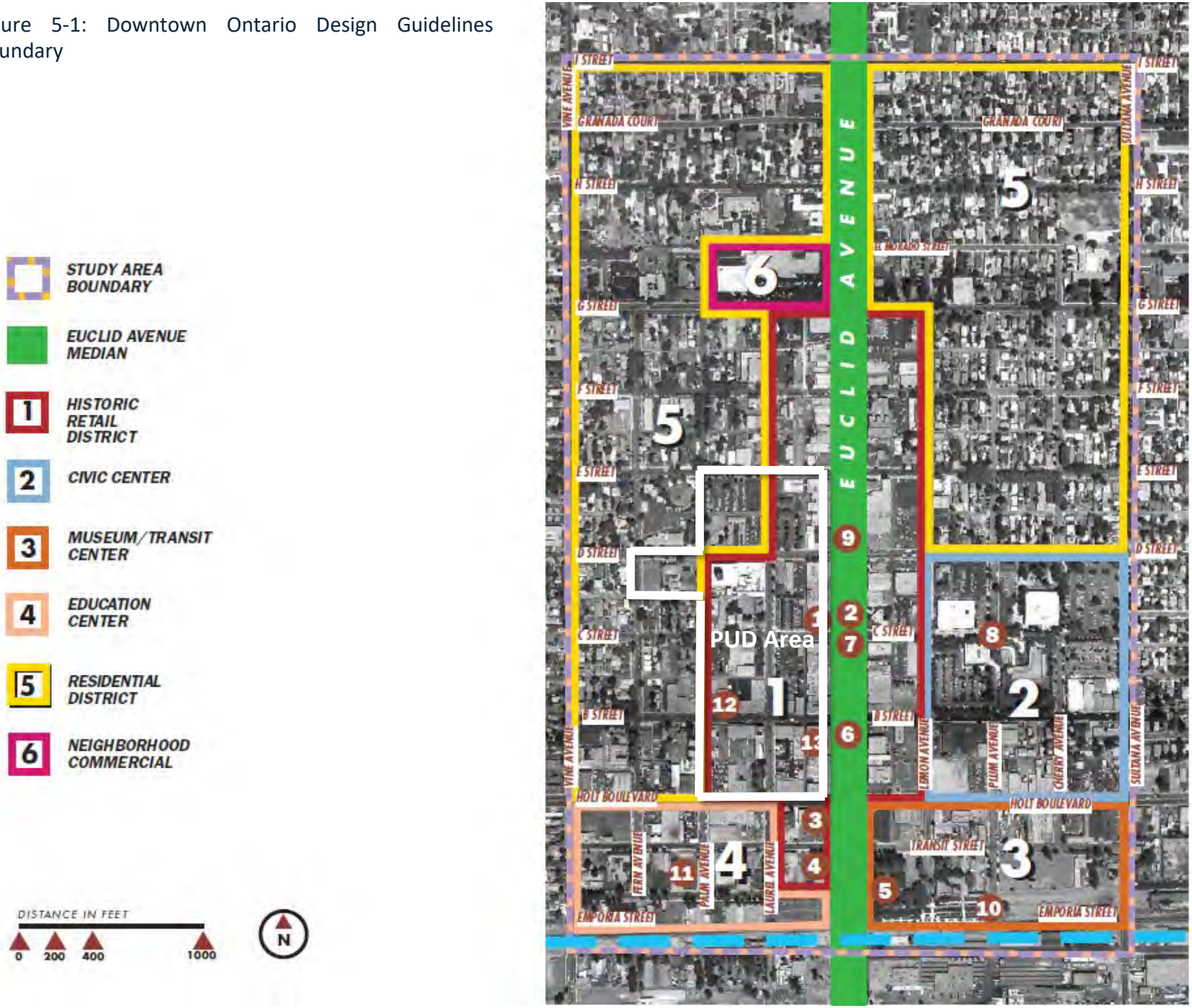
- **Designated Buildings**: Presently Listed on the Ontario Historic Building List and maintain a high degree of historic integrity,
- **Significant Buildings**: Buildings constructed before 1950 for which historical development information is available. The original architectural features and elements of the building are intact but may be obscured by new additions, and
- **Context Buildings**: Buildings constructed before 1950 for which no historical development information is available and/or no original architectural features and elements remain.

For Designated and Significant Buildings within the Historic Retail District, the guidelines provide architectural design guidelines in the areas of design, materials, color, signage, and lighting.

For Context Buildings and new infill construction within the Historic Retail District, the architectural design guidelines are discussed in terms of their associated subdistrict in the areas of building usage, massing, setbacks, storefront modulation, entrances, roof design, mechanical equipment, building elements, awnings, materials, and colors.

Additional guidelines are provided for projects related to alley walkways, mid-block pass-throughs in private structures, outdoor dining areas, adding leasable area to existing buildings in the historic retail area, and landscape design.

Figure 5-1: Downtown Ontario Design Guidelines Boundary



#### *5.9.2.2.2 Residential Neighborhoods*

Section 4. Residential Design Guidelines establishes the process and objectives for residential properties within the residential neighborhoods in the guideline area. The section asserts that there are roughly 17 architectural styles present within the residential neighborhoods and no dominant style overall. The section provides general guidelines that pull from the Secretary of the Interior's Standards for Rehabilitation (see section 5.14.4.1 below) and are applicable for "additions, renovations, or restorations of all existing homes (154)" within the guideline area. The section also provides specific design guidelines for properties displaying the Craftsman Bungalow, Second Empire, Queen Anne, Colonial Revival, Tudor Revival, Wood Framed Farm or Grove House, Spanish Colonial Revival, and Mediterranean Revival architectural styles, and closes with guidance for non-historic and infill structures and landscape design guidelines.

### 5.9.2.3 Secretary of the Interior's Standards for the Treatment of Historic Properties

The Secretary of the Interior's Standards for the Treatment of Historic Properties (the Standards) are historic preservation principles which promote best practices for the treatment of historic properties. The Standards include four approaches for the treatment of historic properties – Preservation, Rehabilitation, Restoration, and Reconstruction – and the choice of which approach best suits a project is dependent on the historical significance, physical condition, proposed use, and the intended interpretation of the historic property. Each approach includes guidelines that assist with the application of the approach to a wide range of property types. The following section provides a brief description of each of the four approaches and their application as quoted from the Standards (NPS 2017:2-3):

> ***Preservation*** *is defined as the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project. However, new exterior additions are not within the scope of this treatment.* The Standards for Preservation require retention of the greatest amount of historic fabric along with the building's historic form.
>
> ***Rehabilitation*** *is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.* The Rehabilitation Standards acknowledge the need to alter or add to a historic building to meet continuing or new uses while retaining the building's historic character.
>
> ***Restoration*** *is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.* The Restoration Standards allow for the depiction of a building at a particular time in its history by preserving materials, features, finishes, and spaces from its period of significance and removing those from other periods.
>
> ***Reconstruction*** *is defined as the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.*

The Reconstruction Standards establish a limited framework for recreating a vanished or non-surviving building with new materials, primarily for interpretive purposes.

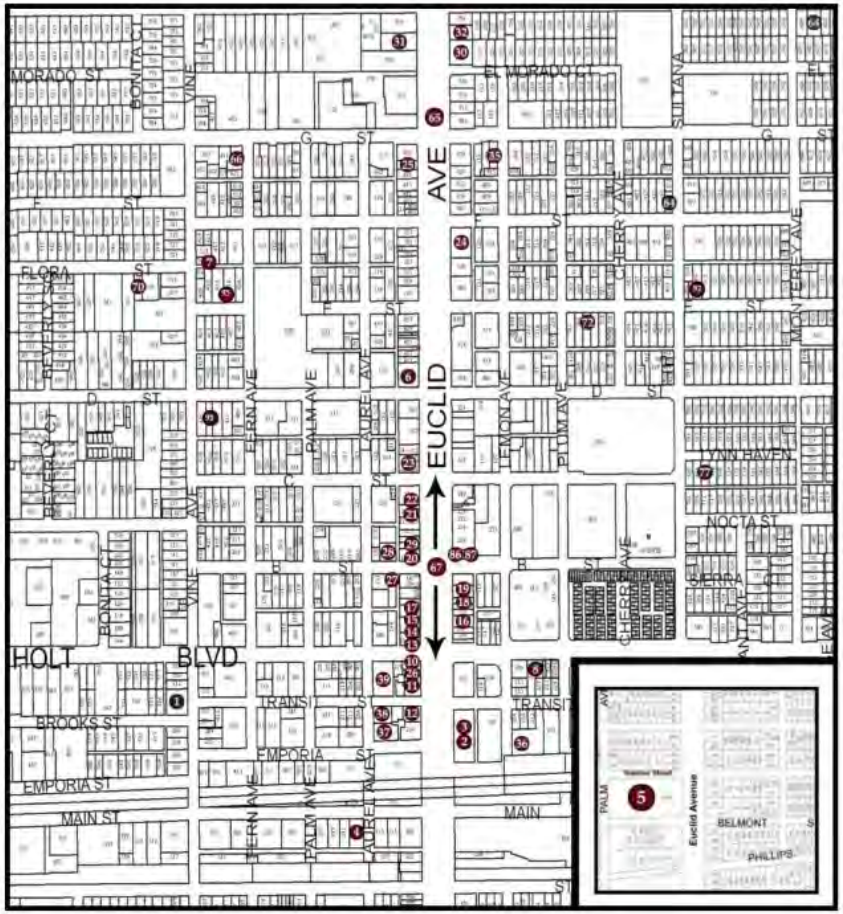
The selection of an appropriate treatment is dependent on the building's individual historic significance, character-defining features, and the proposed new use. The Standards encourage consideration of the building's level of significance (National, State, and/or Local level), existing physical condition, proposed new use, and code compliance needs when selecting an appropriate treatment approach (NPS 2017: 3).

## 5.9.3 Review of Resources in the PUD Area

### 5.9.3.1 Summary of Survey Activities and the Ontario Register of Historic Resources

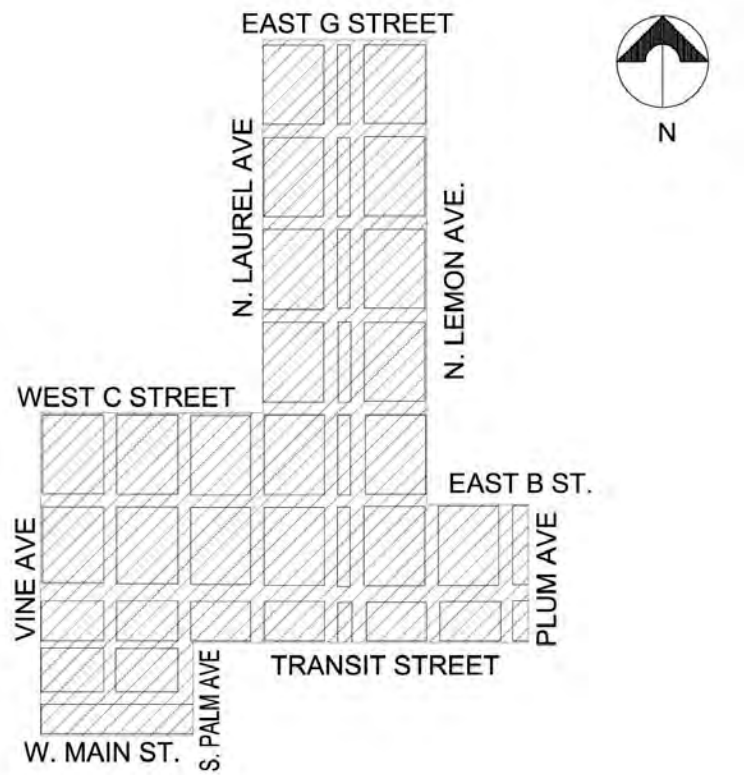
The State of California awarded a grant to fund a citywide survey between 1983 and 1984 to identify potentially historic resources located within the City. Between 1986 and 1987, the City of Ontario continued the survey efforts which resulted in documentation and evaluation of historic significance of nearly 3,000 properties, and the creation of Ontario's Historic Resource Inventory (HRI) in which 835 properties were formally listed. In 1991, the City retained Architectural Resources Group (ARG) to further analyze historic properties located within the downtown, a former Redevelopment Area, and recommend an improvement strategy to revitalize the area. Shortly thereafter, 65 local landmarks were designated. An additional survey was conducted in 2003 that updated information on buildings within the downtown. The City currently has 100 designated local landmarks, 14 of which are located within the downtown, 8 designated historic districts, 2 potential historic districts located in the downtown, 5 historic properties listed on the National Register of Historic Places and contains nearly 1,500 historic resources on the Ontario Register (HRI). See Figure 5-2 and the City of Ontario Historic Preservation Program for more details.

Figure 5-2: Historic Landmarks Map - South Section



The 2003 survey identified a potential district, District 3, that is associated with the core commercial development in the City. District 3 was divided into geographic regions, or subdistricts, that were identified as they were related to observed patterns of historic urban development, as shown in Figure 5-3. Two of these subdistricts overlap the plan area, District 3-A and 3-D. The overall district record describes the primary architectural character of District 3 as a commercial area where the predominant styles are, "Twentieth Century Vernacular Commercial. These buildings tend to be modest and pragmatic in style. They rarely exceed two-stories and primarily possess one-part commercial block façade compositions. Wood frames, brick, and masonry are the main materials used to construct the buildings. Some notable architectural styles include commercial buildings in an Art Moderne, International Style, Contemporary, and Googie Style."

Figure 5-3: District 3



### 5.9.3.2 List of Designated/Nominated/Eligible Historic Resources in the PUD Area as of 2023

As of November 2023, the PUD area contains the following designated, nominated, and eligible historic resources. In addition to the high concentration of historic and potentially historic resources within the PUD area, there are a number of properties that have reached 45 years of age since the last survey effort in 2003. The following map and table provides a list of the Designated (Purple), Nominated (Magenta), and Eligible (Pink) historic resources within the plan area, as well as the properties over 45 years of age that have not been previously surveyed (Green).

Figure 5-4: Historic Resources

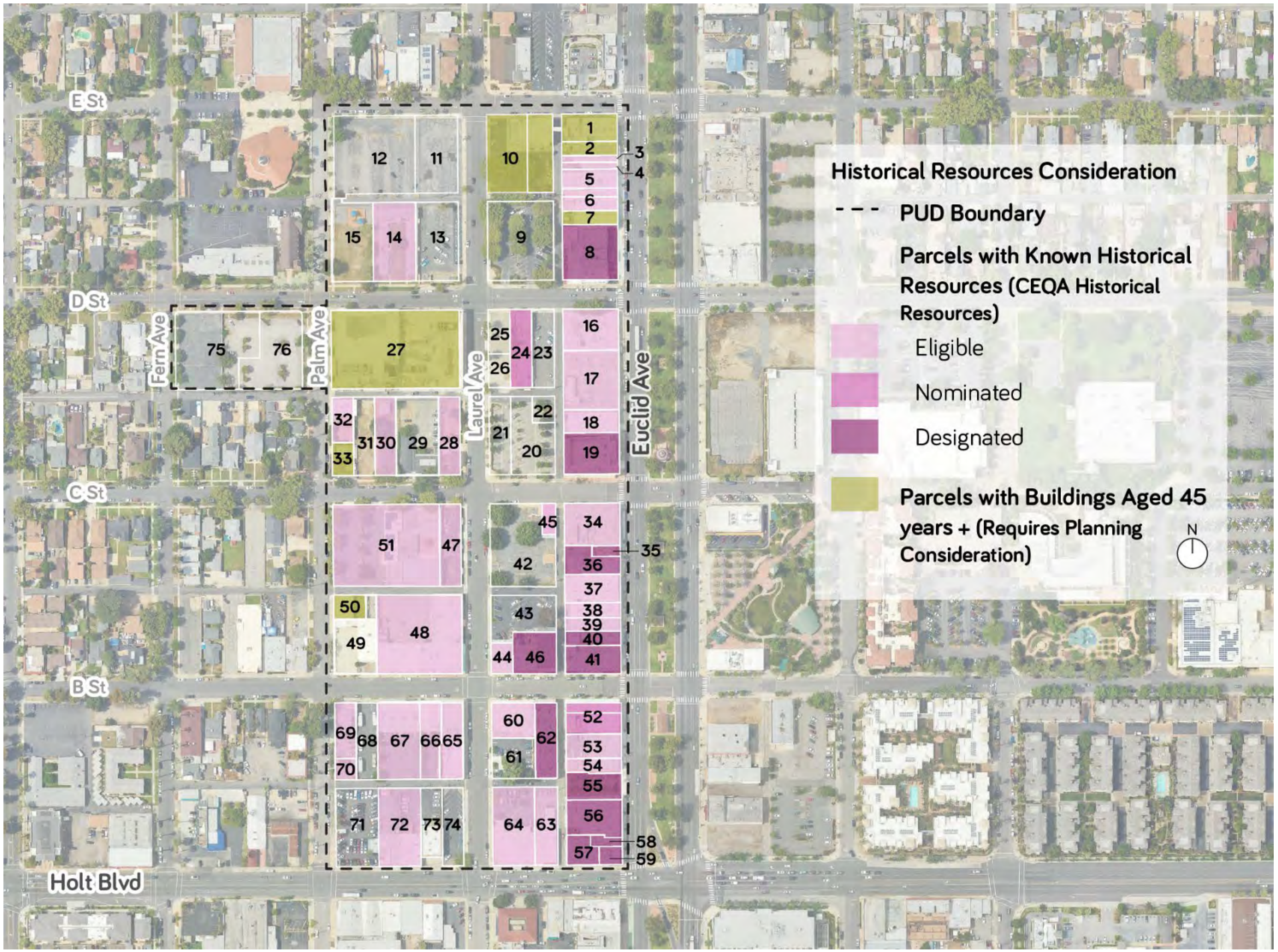


**Table 5-4: Historic Resources**

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 1 | 437 N. Euclid Ave. | 104835403 | Unicare Community Health Center | 1967 | - | Not Surveyed | |
| 2 | 429 N. Euclid Ave. | 104835404 | Immigration Attorney | c.1948 (NETR) | - | Not Surveyed | |
| 3 | 427 N. Euclid Ave. | 104835405 | Aktiva Nutrition | 1946 | Commercial | Eligible | |
| 4 | 425 N. Euclid Ave. | 104835406 | Downtown Ontario Improvement Association | 1948 | Commercial | Eligible | |
| 5 | 421 N. Euclid Ave. | 104835407 | Work Boot Warehouse | c. 1930 | Commercial | Eligible | |
| 6 | 417 and 419 N. Euclid Ave. | 104835408, -09 | Optometrist | c. 1950 | Commercial | Eligible | |
| 7 | 413 and 415 N. Euclid Ave. | 104835410 | Rogers Flower Shop and Barber Shop | c. 1930 | - | Not Surveyed | |
| 8 | 401 N. Euclid Ave. | 104835411 | Gloria's Cocina Mexicana | 1937 | Moderne | Designated Landmark | Ontario Laundry Co. |
| 10 | 123 W. E St. and 420 N. Laurel Ave. | 104835401,-02, 104835413 | Unicare Community Health Center, Parking | c. 1960 | | Not Surveyed | |
| 14 | 210-220 W. D St. | 104835309 | Multiple-family residential | 1946 | Minimal Traditional | Eligible | |
| 16 | 331 and 333 N. Euclid Ave. | 104856604 | U.S. Bank Branch | 1965 | - | Eligible | |
| 17 | 317 N. Euclid | 104856605 | Treasure Banquet Hall | 1950 | | Eligible | |

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 18 | 311, 313, 315 N. Euclid Ave. | 104856606 | Cancha Verde/Strum Brewing | c. 1931 | Brick Commercial | Eligible | |
| 19 | 108 W. C St.. 301/303 N. Euclid | 104856607 | Emmon's Building/ Granada Theater | 1926 | Moderne/Art Deco | Designated Landmark | Emmon's Building (Granada Theater) |
| 24 | (123 W. D St) 121 W. D St. | 104856602 | Associated Telephone Company Building | 1936 | Art Deco | Nominated | |
| 27 | 211 W. D St./ 207 W. D St. | 104856113 | Frontier Communications | c.1959 (NETR) | - | Not Surveyed | |
| 28 | 303-305 and 311-315 N. Laurel Ave. | 104856107 | Multiple-family residential | c. 1920 | Craftsman Bungalow | Eligible | |
| 30 | 218 W. C St. | 104856109 | Single Family residence | 1908 | Craftsman Bungalow | Eligible | |
| 32 | 312 N. Palm Ave. | 104856112 | Single Family residence and commercial building | 1920 | Minimal Traditional | Eligible | |
| 33 | 228 W. C St. | 104856111 | Superior Justice Law Group | 1955 | - | Not Surveyed | |
| 34 | 245 N. Euclid Ave. | 104856503 | Valley Dept Store | 1950 | Mid-Century Modern | Eligible | |
| 35 | 233 N. Euclid Ave. 223 N. Euclid Ave. 235 N Euclid Ave. | 104856504 | The Golden Web Boutique store | 1916 | Brick Commercial (Mediterranean Revival) | Designated Landmark | People's Mutual Building and Loan |
| 36 | 231 N. Euclid Av. | 104856505 | Unique Café | 1904 | Brick Commercial | Designated Landmark | Masonic Hall |

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 37 | 219 N. Euclid Ave. | 104856506 | Herradura De Oro | 1948 | Colonial Revival | Eligible | |
| 38 | 215 N. Euclid Ave. | 104856507 | Newsboy books | 1946 | Brick Commercial | Eligible | |
| 39 | 211 N. Euclid Ave. | 104856508 | Euclid Family Dentistry | c.1925 | Brick Commercial | Eligible | |
| 40 | 207 N. Euclid Ave. | 104856509 | Vacant Commercial Building | 1910 | Brick Commercial | Designated Landmark | W.W. Smith Grocery |
| 41 | 106 W. B St. 203 N. Euclid Ave. | 104856510 | Furniture Dreams (Residential on second floor) | 1908 | Brick Commercial | Designated Landmark | Ostran's Department Store |
| 44 | 126 W. B St. | 104856512 | Beautiful Smiles Ontario | 1906 | Brick Commercial | Eligible | |
| 45 | 108 W. C St. 115 W St. | 104856502 | Vacant Bank | 1936 | Brick Commercial | Eligible | |
| 46 | 120 W. B St. 112 W. B St. | 104856511 | Nightmare on B Street/ Dance Studio/ Odd fellows - Eligible (Aria Kabob, Electric Beauty Salon - Historic LL) | 1922 | Commercial | Designated Landmark | Intl Order of Odd Felows ( I.O.O.F) |
| 47 | 223, 225, 229, 235 N. Laurel Ave. | 104856202 | Centro Legal De Accidentes & Cedar Pointe Chiropractic | 1947 | Minimal Traditional | Eligible | |
| 48 | 206 ,208, 210, 214, 216, 218, 220 W. B St./ 205, 207, 209, 211, 213, 215 N Laurel Ave | 104856203 | Multiple shops including barber, Fitness, beauty | 1947 | Commercial | Eligible | |

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 50 | 212, 214, 216, 218 N. Palm Ave. | 104856206 | Small shops (Tax services and fitness) | 1957 | - | Surveyed | |
| 51 | 215 W. C St. | 104856201 | Great Commission Church International (Christian Church) | 1948 (additions 1955,1959,1966 | Mid-Century Modern | Eligible | |
| 52 | 137, 139, 143, 141 N. Euclid Ave. and 105 W. B St. | 104856403 | Old Gemmel's Pharmacy | 1889 | Brick Commercial | Nominated | |
| 53 | 129 and133 N. Euclid Ave. | 104856404 | DolEx Financial Services | c. 1907 | Brick Commercial | Eligible | |
| 54 | 125 N. Euclid Ave. | 104856405 | Bravo's Store | 1910 | Brick Commercial | Eligible | Friend Block / O.O.F. Sommerest Hall/ People's Store |
| 55 | 121 and 123 N. Euclid Ave. | 104856406 | Demolished - Vacant | 1894 | Commercial | Designated Landmark | Friend Block / O.O.F. Sommerest Hall/ People's Store |
| 56 | 105, 109, 111, 115, 117 N. Euclid Av. | 104856407 | Verizon, Bally Spa, Night club, Motorcycle run | 1889 | Commercial | Designated Landmark | Rose Block |
| 57 | 104,108, 110 & 112 W. Holt Blvd. | 104856410 | Botanica, Sabor Honduren, Beauty and Barber | 1895 | Commercial | Designated Landmark | Citizens Bank Block |
| 58 | 105 N. Euclid Av. | 104856408 | Xolos Birria | 1888 | Brick Commercial | Designated Landmark | Holbrook Block |

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 59 | 101 N. Euclid Av. | 104856409 | T Mobile | 1895 | Commercial | Designated Landmark | Citizens Bank Block |
| 60 | 121, 123, 125,127 W. B St | 104856401 | B St. Professional Bldg.; Document Preparation Services Inc., Logan's Candies, Isaprint, | c. 1930 | | Eligible | |
| 62 | 115 W. B St.. 117 & 119 W. B St.. | 104856402 | Income Tax office and residential upper floor | 1922 | Brick Commercial | Designated Landmark | Ontario Herald Building |
| 63 | 114, 116, 118 W. Holt Blvd | 104856411 | Pirate staffing, Ontario Boxing Club | c. 1915 | Brick Commercial | Eligible | |
| 64 | 108 N. Laurel Ave./ 120, 122, 124, 126 W. Holt Blvd. | 104856412 | Jobs, Insurance, Pawnshop, paved parking | C 1910 (addition c. 1950) | Brick Commercial | Eligible | |
| 65 | 203 W. B St./ 123, 127, 129 N. Laurel Ave | 104856313 | Body X Beauty, Pet grooming, Spa, Karate | 1922 (retail commercial addition c. 1940) | Brick Commercial | Eligible | |
| 66 | 207 W. B St. | 104856312 | Iglesia Fuente and paved parking | 1949 | Commercial | Eligible | |
| 67 | 211, 213, 215, 217 W. B St. | 104856303 | Majestic Trophy, Boxing Club, Mary Kay, office | 1953 | Commercial | Eligible | |

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 69 | 225-227-229 W. B St. and 128-130 N Palm Ave | 104856301 | Evc Insurance & Services and the Vault Barbershop and Home | c. 1915 (commercial additions c. 1950) | Vernacular wood frame | Eligible | |
| 70 | 120 N. Palm Ave. | 104856311 | House | c. 1915 | Craftsman Bungalow | Eligible | |
| 72 | 210, 212, 214, 216, 218 W. Holt Blvd. | 104856308 | Eagles Aere and Sams Liquor | 1920 | Brick Commercial | Eligible | |

### 5.9.4 Historic Preservation - Certificates of Appropriateness and Demolition

To ensure that a proposed project involving new construction (infill), addition, alteration or demolition (full or partial) of a historic resource protects the historic character and integrity of the resource and any surrounding resources, an application for a Historic Preservation - Certificate of Appropriateness must be filed pursuant to section *4.02.050: Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources* of the Development Code. Issuance of a Waiver by the Planning Director or a Certificate of Appropriateness approved by the Historic Preservation Subcommittee or the Historic Preservation Commission shall be required for projects involving any of the following (4.02.050:B.2):

- Alteration, addition, restoration, rehabilitation, remodeling, relocation, repainting, and/or resurfacing of an historic resource.
- For any work to the exterior of any noncontributing historic resource located within the PUD area.
- Infill development within the PUD area; and
- Any demolition, whether in whole or in part, of a historic resource or a noncontributor within the PUD area.

*The following findings need to be met for the Historic Preservation-Certificate of Appropriateness application to be acted upon (4.02.050:D.1):*

- The proposed alteration, restoration, relocation, or construction will not detrimentally change, destroy or adversely affect any significant architectural feature of the resource;
- The proposed alteration, restoration, relocation, or construction will not detrimentally change, destroy or adversely affect the historic character or value of the resource;
- The proposed alteration, restoration, relocation, or construction will be compatible with the exterior character-defining features of the historic resource; and
- The proposed alteration, restoration, relocation, or construction will not adversely affect or detract from the character of the historic district.

*The following findings need to be met for the Historic Preservation-Certificate of Appropriateness and Demolition application to be acted upon* (4.02.050:D.2):

- The proposed demolition is necessary because all efforts to restore, rehabilitate, and/or relocate the resource have been exhausted;
- The proposed demolition is necessary because restoration/rehabilitation is not practical because the extensive alterations required would render the resource not worthy of preservation;
- The proposed demolition is necessary because failure to demolish the resource would adversely affect or detract from the character of the District; and
- The resource proposed to be demolished has been assigned a Tier III designation.

*For approval of a Historic Preservation-Certificate of Appropriateness related to infill development within the PUD area, the following infill guidelines need to be incorporated into the design of all new buildings and structures* (4.02.050:G.2; 4.02.050:I.1-4):

- New buildings, structures, or improvements constructed shall be designed to be compatible with the architectural style, features, and historic character of the properties within the PUD plan area.
- New buildings shall be compatible with the original style of the contributing buildings within the PUD plan area. The design of the new buildings shall therefore incorporate the following considerations:
    - The design features and details of contributing structures;
    - The height, width, and length of the new construction shall be consistent with the original characteristic of the contributing structures; and
    - The exterior materials and treatment shall be similar to the contributing structures.
- New buildings, structures, and/or improvements constructed on a historic property shall be designed to be compatible with the architectural style and features of contributing historic buildings and/or structures located on the historic property; and
- New buildings/structures shall be compatible with the original architectural style of the contributing historic buildings on the historic property. The design of the new construction shall incorporate the following considerations:
    - The design shall incorporate the design features and details of the historic structure;
    - The height, width, and length of the new building shall be consistent with the original characteristic of the historic building; and
    - The exterior materials and treatment shall be similar to the historic building.

### 5.9.5 Historic Architectural Guidelines

Section *7.01.065: Guidelines for the Treatment of Historic Properties* of the Development Code, which are supported by the Secretary of the Interior Standards for the Treatment of Historic Properties (Standards), is intended to provide appropriate design solutions that avoid adverse impacts to historic resources located within the PUD area. The guidelines provided in Section 7.01.065 of the Development Code should be used for any project in the PUD area.

To recognize and protect the historic significance of an architectural resource, it is important to understand the physical characteristics that are associated with various architectural styles to ensure that appropriate treatment approaches are used during any project involving a historic building, or when developing new buildings on or adjacent to a historic property. The City maintains a list of architectural styles with corresponding descriptions of the features that define each style on the Historic Preservation Program website. See the References and Resources at the end of this section for information on accessing the architectural style list.

New development that promotes context-sensitive and complementary buildings relative to the existing range of historic architectural buildings in Downtown West can help to create a cohesive district. Representative examples of existing historic buildings and their architectural styles in Downtown West and their associated characteristics are included below and on the following pages to help guide developers and architects in understanding the architectural styles and specific features present in the PUD area. While this is not an exhaustive list of the architectural styles present within the PUD area, the architectural styles referenced in the following pages constitute the primary styles present in the PUD area. To promote a cohesive district, new infill in the PUD area should use materials that are appropriate for and found within the district, such as glass, metal, siding, and brick.

Best practices for historic preservation propose that the architecture of new buildings and additions should not exactly replicate historic architectural styles, but rather be obviously differentiated while harmonizing with the scale, rhythm, and character of historic predecessors. Adjacent new construction, if it is not related to the property, should include clear differentiation. In addition, new construction should incorporate appropriate massing, scale, and buffers when located adjacent to a historic resource. Buffers may include setbacks and upper story stepbacks, for example. If construction is physically attached or located on a historic property, it should be reviewed for conformance with the Secretary of Interior's Standards.

# MODERNE

Tower
Horizontal Orientation with Horizontal Grooves in Walls
Grouped Windows Create Strong Horizontal Lines
Flat Roof with Coping
Asymmetrical Facade
Smooth Stucco Wall Surface
Curved Wall with Window that Turns a Corner
Gloria's
Gloria's

# ART DECO

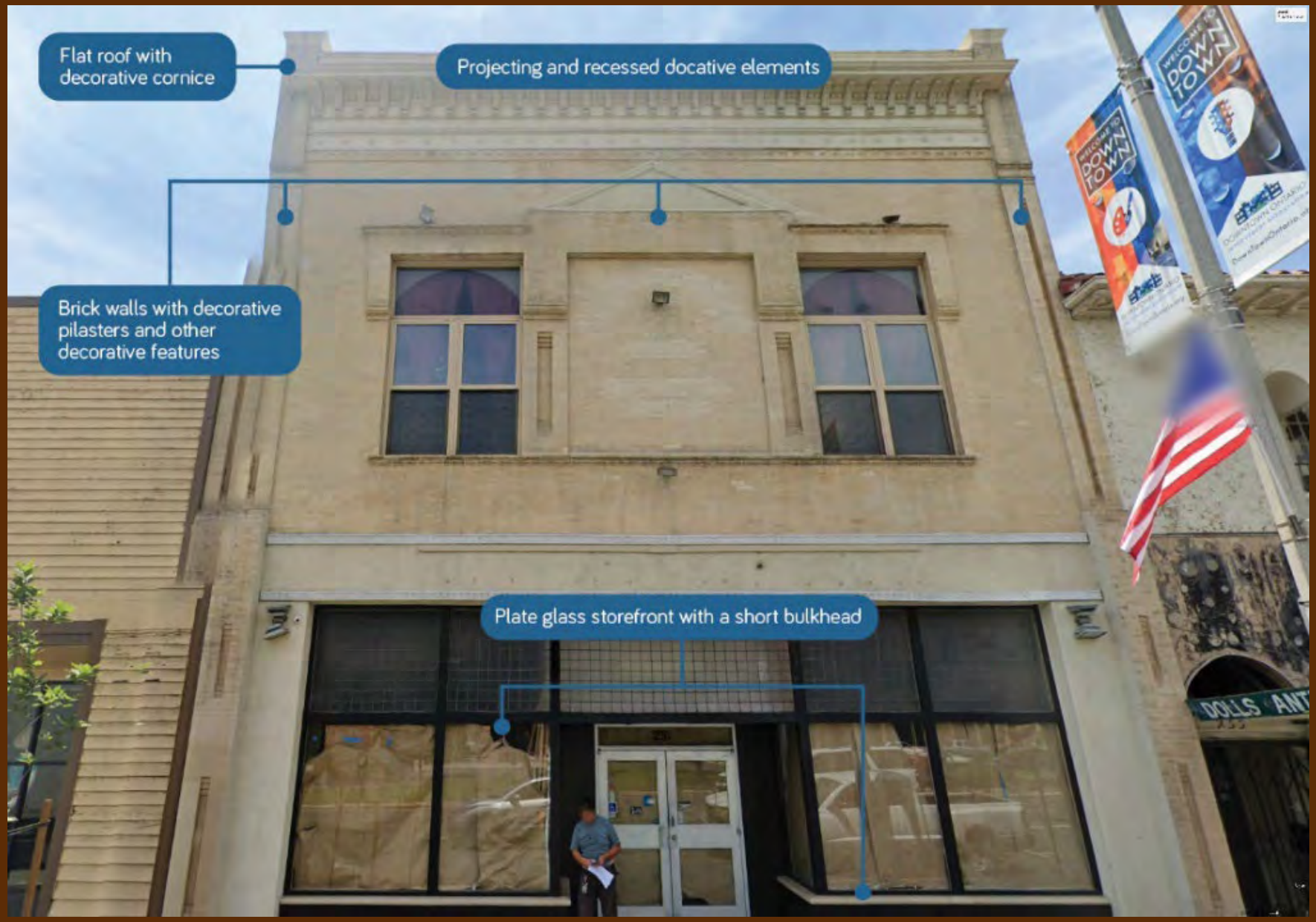
Sharp "hard edge" corners
Smooth wall surface
Carved, fluted details on facade and pilasters
Vertical emphasis displayed through vertical roof projections
Flat roof with coping
"Setbacks" in the facade
Grouped windows draw eye up and emphasize verticality

# CRAFTSMAN BUNGALOW

# MINIMAL TRADITIONAL

# BRICK COMMERCIAL

# BRICK COMMERCIAL



# BRICK COMMERCIAL

# 5.10 Public Art

As the City of Ontario continues to define itself as a desirable destination, the arts have taken on a greater role in enriching the lives of residents and enhancing the visitor experience. Public art may serve to delight and surprise, reflect upon the natural world, explore local history, express identity, or celebrate the contributions of important citizens. Ontario's vision is to expand this dialogue and interaction through site-specific, distinctive landmarks designed by professional artists. With this in mind, in 2022 the City established a new Public Art Program for private and civic development under Title 5 Chapter 33 of the Ontario Municipal Code. For a public art program to be successful, careful consideration must be given to the selection of artists and artwork concepts, materials, locations, and length of display. While the following typologies and applications listed below are intended for the PUD, planning will ultimately be governed by a comprehensive citywide master planning effort which will equitably address all regions and be developed in consultation with the Department of Museum, Arts & Culture's staff and the Public Art Advisory Commission.

## 5.10.1 Landmark Sculptures

Iconic and permanent large-scale outdoor works become inextricably linked with a district or city, and, over time, serve as enduring and cherished landmarks that are immediately recognizable. Portals, parklets, plazas and medians warrant special consideration as prime locations. Lighting helps showcase the artwork, while also making the space appear larger, safer, and more welcoming. Lighting can also serve as an integral part of the sculpture to captivate pedestrians in evening hours.

## 5.10.2 Murals

Murals add immediate vibrancy and vitality to facades, setbacks, and blank walls. While murals may appear relatively easy and inexpensive to commission, careful planning needs to be in place in property-owner agreements, site selection, surface preparation, material quality, maintenance responsibilities, and the level of security in vulnerable areas such as alleys. Murals may be painted directly on to a surface or mounted on panels, or fabricated from tile or mosaic, depending on anticipated length of display.

**Cliff Garten. Zuckerberg Medical Center.**

Ralph Helmick. Pasadena.

David Byrne. NYC.

### 5.10.3 Streetscape Amenities

Artists bring a unique and original perspective to design. The City can take advantage of this expertise and talent to beautify and energize the pedestrian environment through artist-designed enhancements to functional furnishings such as bike racks, bollards, benches, street poles and transit shelters.

### 5.10.4 Private Development

Artists bring a unique and original perspective to design. The City can take advantage of this expertise and talent to beautify and energize the pedestrian environment through artist-designed enhancements to functional furnishings such as bike racks, bollards, benches, street poles and transit shelters.

### 5.10.5 Temporary Programming

Artists bring a unique and original perspective to design. The City can take advantage of this expertise and talent to beautify and energize the pedestrian environment through artist-designed enhancements to functional furnishings such as bike racks, bollards, benches, street poles and transit shelters.

**Chris Burden. *LACMA*.**

**Sonia Romero. MacArthur Park.**

**Deborah Ashheim. San Francisco.**

**Sonia Romero. Grand Park.**

# 6 Public Realm Standards and Guidelines

## 6.1 Overview

Chapter 6 provides standards and guidelines for the public realm aimed at improving the sidewalk experience for all users. The public realm is defined as any publicly owned space, including streets, sidewalks, passageways, plazas, and other spaces that are accessible by everyone. An accessible, comfortable, and well-designed public realm is a crucial component to creating a sense of place, encouraging new development, and supporting the community.

This section will cover the following:

- Design standards for sidewalk clearance and outdoor dining to ensure that the sidewalk space throughout the PUD area can properly accommodate the multiple and simultaneous uses.
- Design guidelines for street furniture, pedestrian connections, signage and wayfinding, street trees, and parkways.

# 6.2 Design Standards

## 6.2.1 Sidewalk Clearance

1. **Minimum Sidewalk Clear Area.** A minimum clear area shall be maintained for pedestrian circulation within the public sidewalk zone. This minimum clear area may be reduced to 4 feet in width adjacent to City-approved outdoor dining facilities or tree grates per review authority. Exceptions include:

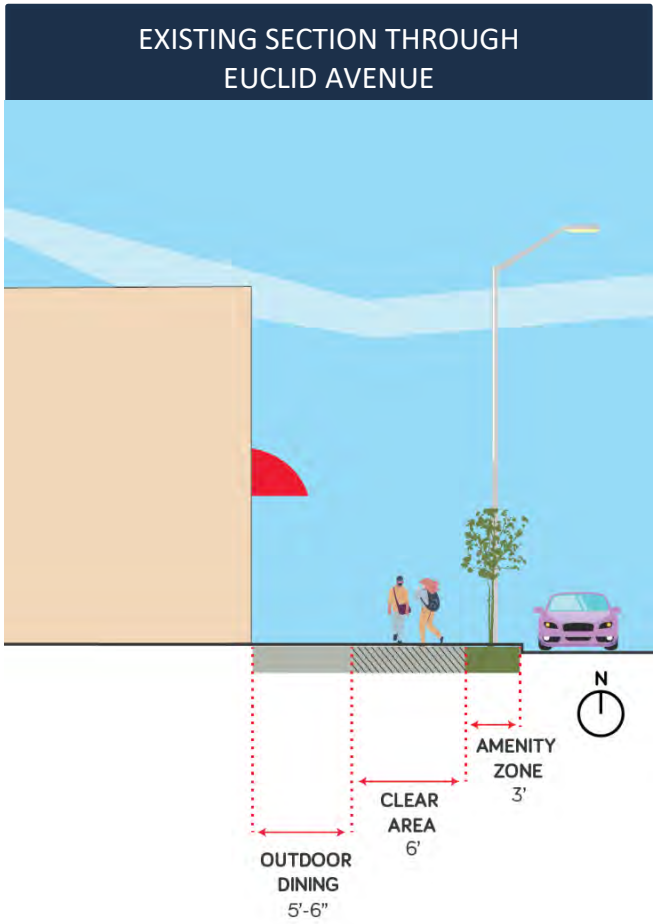
   a. **Euclid Avenue.** A minimum clear area of 6 feet shall be maintained for pedestrian movement.

   b. **B Street.** A minimum clear area of 4 feet on the southside of B Street shall be maintained for pedestrian movement.

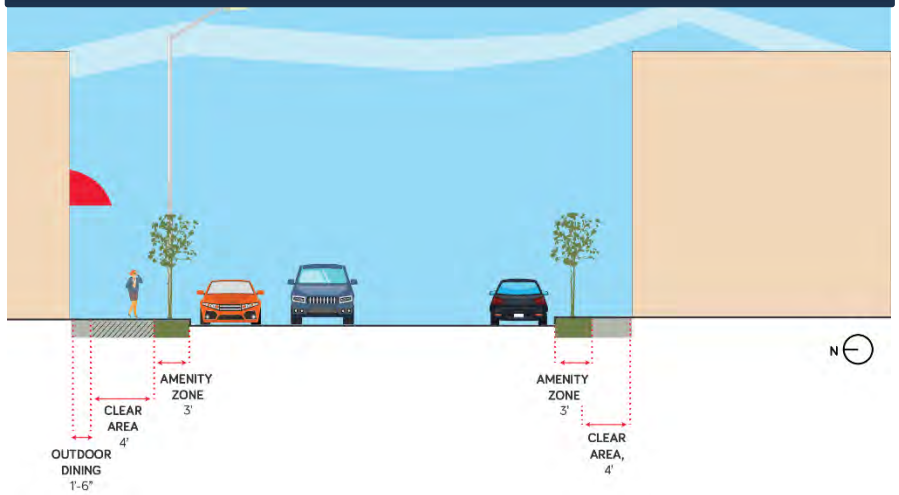
   c. **Laurel Avenue.** A minimum clear area of 5 feet shall be maintained for pedestrian movement.

   d. **Holt Boulevard.** A minimum clear area of 6 feet shall be maintained for pedestrian movement.

   e. **The Alley** A minimum clear area of 5 feet shall be maintained for pedestrian movement.

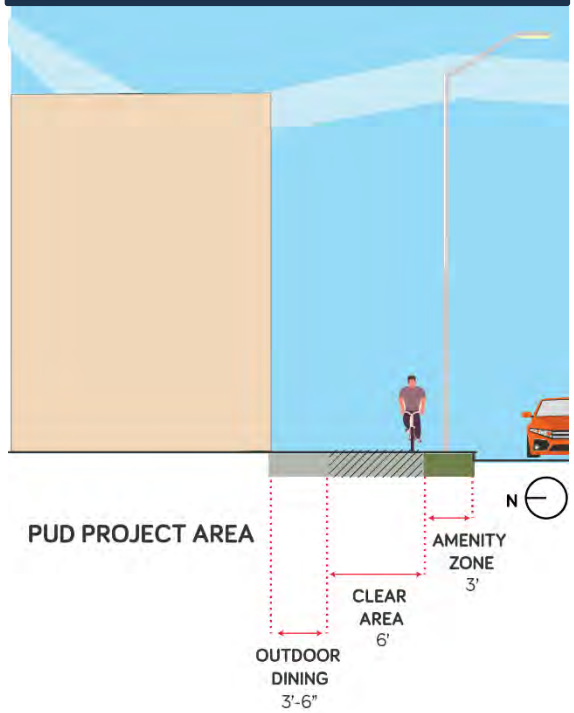


## EXISTING SECTION THROUGH B STREET

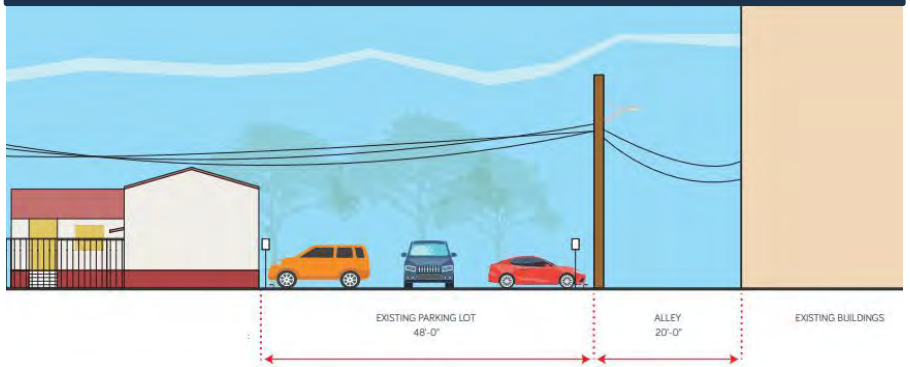



## EXISTING SECTION THROUGH LAUREL AVENUE

## EXISTING SECTION THROUGH HOLT BOULEVARD




## EXISTING SECTION THROUGH THE ALLEY LOOKING NORTH TOWARDS D STREET



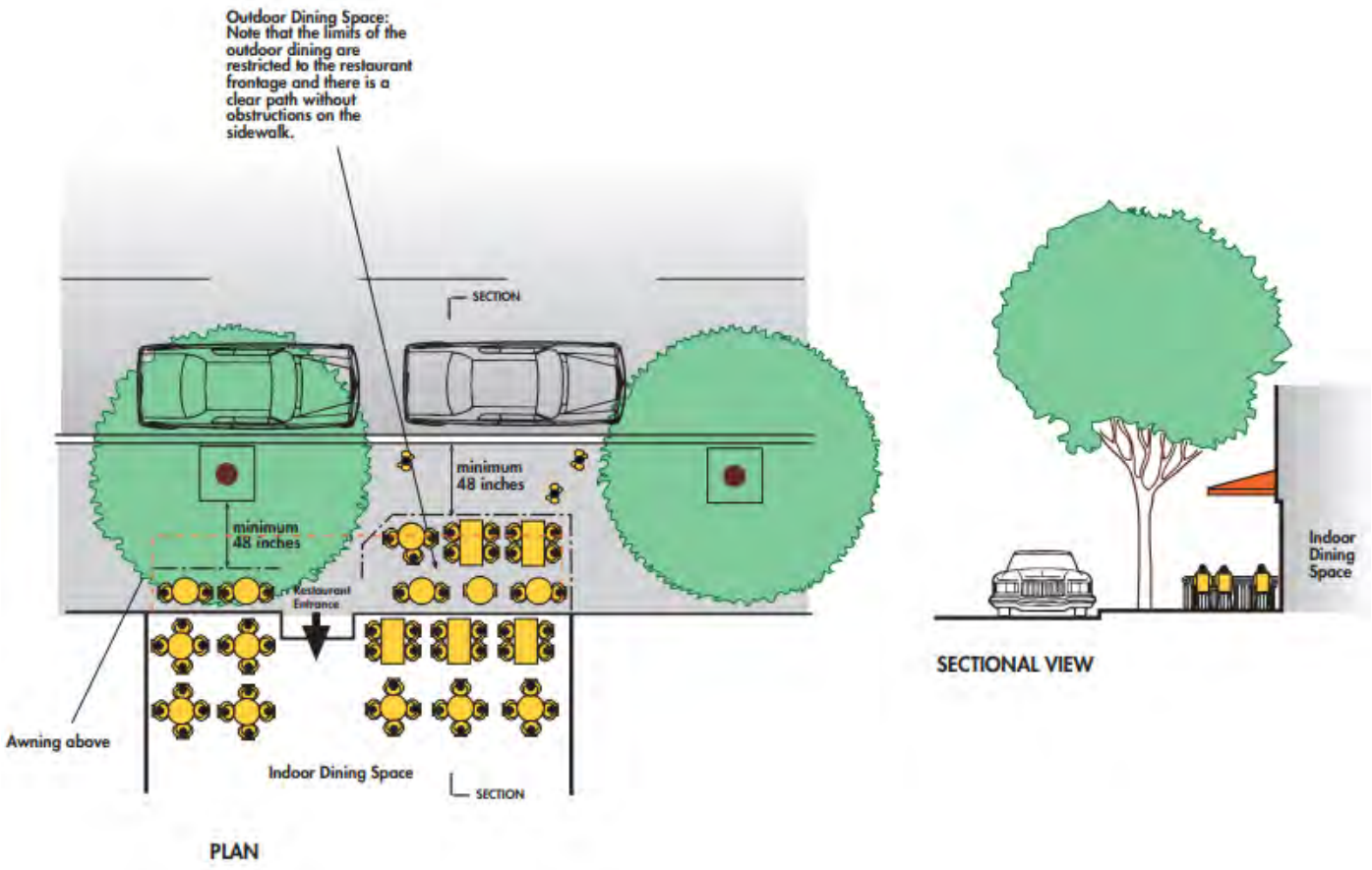
### 6.2.2 Outdoor Dining

1. **Outdoor Dining.** Outdoor Dining areas adjacent to a street level eating or drinking establishment along any street frontage will require a permit to ensure sidewalk clearance and ADA requirements. Any such areas shall be designed in accordance with the provisions set forth in **Section 2A.7 of the Downtown Ontario Design Guidelines,** plus any additional features that may be required as part of a Conditional Use Permit for on-sale alcoholic beverages. Typical layout of outdoor sidewalk dining space is shown in Figure 6-1 from the Downtown Ontario Design Guidelines.

**Outdoor Dining to Promote a Vibrant Euclid Avenue**

Outdoor dining along Euclid Avenue is encouraged to promote a vibrant street. Outdoor dining along the sidewalk contributes to an active public realm with "eyes on the street" throughout the day. Providing a clear area on any public sidewalk is critical to ensuring that pedestrian movement is maintained, while allowing sidewalk dining and other uses on the sidewalk, such as street trees, benches, and other amenities.

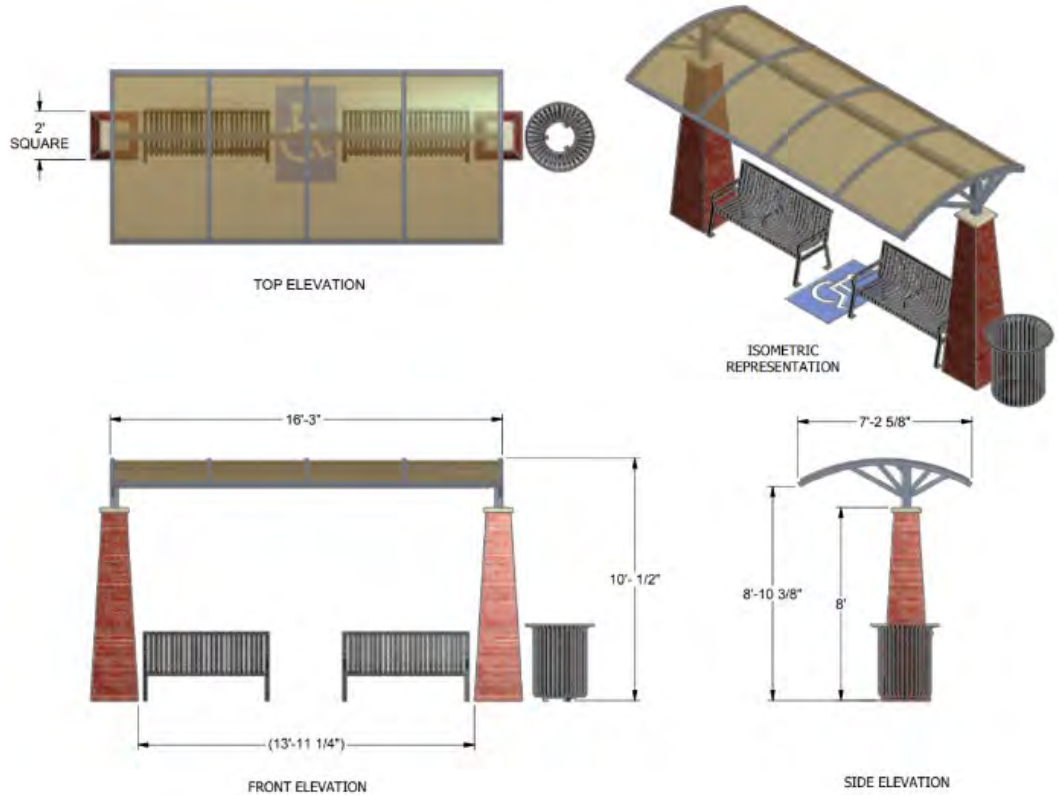
Figure 6-1: Typical Layout of Outdoor Sidewalk Dining Space (Downtown Design Guidelines)




Source: Downtown Design Guidelines

# 6.3 Design Guidelines

## 6.3.1 Street Furniture




1. **Street Furniture.** Incorporate a high level of street furniture including lighting, bus shelters, benches, tree grates, bike racks, and trash receptables.

    a. **Location.** The selection of appropriate elements should consider those streets with the heaviest foot traffic, such as Euclid Avenue, Holt Avenue and B Street, as well as existing sidewalk widths, size and spacing of trees, proximity to store entrances, etc.

    b. **Identity.** Street furniture should reflect the special character and theme of downtown Ontario to create a district identity. The use of repetitive materials and textures will create a rhythm and consistency that will bring continuity to the Districts and Blocks within the PUD area. Bus shelter furniture shall be constructed with decorative brick,.

    c. **ADA.** All street furniture shall comply with American with Disabilities Act of 1990.

    d. **Lighting.** Incorporate pedestrian-scaled lighting fixtures that emit a warm light along the streets and sidewalks; the sidewalks should be well-lit.

        i. **Euclid Avenue.** A combination of standard concrete and "King" standard post-top streetlights (Standard Drawing #5103) with LED lamps should be placed within the public sidewalk zone.

        ii. **Holt Boulevard.** A "King" standard post-top streetlights with LED lamps should be placed within the public sidewalk zone.

        iii. **Local Streets.** King standard post-top lights should be placed within the public sidewalk zone.

    e. **Glare.** Direct lighting along sidewalks and pedestrian pathways to produce a minimal glare.

i. All post-top lamps should incorporate shielding within the luminaire and/or globe to prevent glare into upper-level residential windows.

f. **Overhead Lighting.** Provide a minimum clearance height as required by City Services and the Fire Department for overhead lighting above local streets, such as B Street and The Alley to accommodate commercial trucks, service and maintenance vehicles, and emergency vehicles.

g. **Furniture Requirements.**

i. Benches should have arms and backs.

ii. A powder-coated, dark finish should be applied to all fixtures and furniture.

iii. Bollards may be placed at entrances to bicycle/pedestrian pathways and where controlled emergency, or maintenance access is required or desired. A bottom locking mechanism shall be provided to enable easy removal by authorized City personnel.

iv. Litter receptacles should have a fixed top.

v. Design of bus stop benches and shelters should satisfy the criteria specified by the City and local transit agency (currently Omnitrans).

vi. Bike racks should be located adjacent to parking areas or bicycle/pedestrian pathways.

*Street Benches*

*Trash Receptacles*

*Street furniture in the PUD area is intended to match those identified in the Downtown Civic Center Planned Unit Development, shown at left, to create a consistent streetscape identity along the west and east sides of Euclid Avenue*

### 6.3.2 Pedestrian Connections

1. **Pedestrian Pathways**. Regard sidewalks and paseos as unifying elements throughout the PUD area. Design and locate enhanced pathways and connections to promote walkability within Downtown.

2. **Euclid Avenue Pedestrian Paseos.** Provide mid-block paseos, where appropriate for clear and comfortable pedestrian circulation between Euclid Avenue and The Alley. Provide mid-block paseos and connections between Euclid Avenue to public outdoor spaces and public parking garages. See **Section 5.6.2** for required paseo dimensions.

3. **Traffic Calming.** Where applicable, implement traffic calming measures throughout the PUD area, including bulb-outs, enhanced crosswalks, and others to facilitate safe and comfortable pedestrian connections.

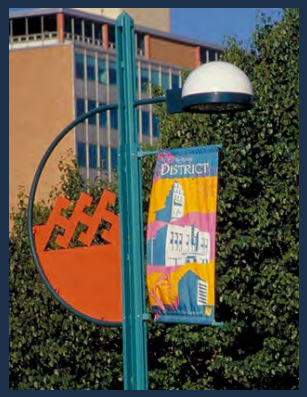
### 6.3.3 Public Realm Signage and Wayfinding

1. **The Alley Gateways.** Points of entry to the alley should include gateway elements or signage to create a sense of "welcoming" and wayfinding into the space.

2. **Signage.** Utilize signage and/or environmental graphics to aid in pedestrian orientation and wayfinding.

**Signs and Wayfinding in the Public Realm to Promote Identity**

Signs and wayfinding within the public realm can provide many functions in a downtown area and can be oriented for pedestrians or vehicles. The types that are encouraged for the PUD area include district markers, banners, monument signage, pedestrian signage (eye level or on the ground), important places, such as historic or cultural resources, and alleys. Themes for signs and wayfinding in the public realm should be aligned with the Downtown Ontario Design Guideline's Historic Preservation Retail Subdistrict for the PUD area.



### 6.3.4 Parkways and Street Trees

1. **Parkways and Street Trees.** Parkways and street trees in the PUD area are subject to the City of Ontario Landscape Development Guidelines, the Master Street Tree Plan, and the City of Ontario Development Code. Tree plantings and design, such as tree sizes, irrigation methods, and tree wells require flexibility in the PUD area.

    a. **Euclid Avenue and Laurel Avenue Street Trees.** Appropriate street tree species and recommended sizes for Euclid Avenue is provided in **Table 6-1.**

**Table 6-1: Recommended Street Trees in the PUD Area**

| Botanical Name | Common Name | Recommended Size | Comments |
|---|---|---|---|
| **Euclid Avenue** | | | |
| Brachychiton Populneus | Bottle Tree | 24” Box | Standard |
| Pinus Elderica | Afghan Pine | 24” Box | Standard |
| **Laurel Avenue** | | | |
| Eucalyptus Torquata | Coral Gum | 24” Box | Standard |

**Importance of Street Trees and Parkways**

Street trees and parkways are important components of the public realm, and help to contribute to shade, a sense of place, and overall pedestrian comfort. The consistent use of tree species, size, and spacing along a street can help to create a pleasant rhythm and identify for an area. Species choices should consider access to both shade and sun along sidewalks.

# 7 Administration and Implementation

## 7.1 Development Code

Any terms not defined herein and any issues affecting the design and development of Projects in the PUD area that not specifically addressed in this PUD shall be governed by the provisions of the Ontario Development Code and the City's Standard Conditions of Approval Resolution No. R2017-027 for development.

## 7.2 Development Applications

Development Plan approval, pursuant to the requirements of Ontario Development Code Section 4.02.025 (Development Plans), shall be required for any Project that entails the physical alteration of any lot, construction of a building, or addition or significant alteration of an existing building in the PUD area as required by the Ontario Development Code. For each Project, a Development Plan application shall be submitted to the Planning Department on a City application form pursuant to the requirements of Ontario Development Code Division 2.02 (Application Filing and Processing), commencing with Subsection B (Discretionary Permits and Actions) of Section 2.02.015 (Application Processing Procedures).

## 7.3 Certificate of Appropriateness

To ensure proper implementation of the historic resource preservation and mitigation measures established in the Mitigated Negative Declaration for the PUD, an application for a Certificate of Appropriateness ("C of A") shall be submitted and approved in conjunction with each private or public improvement in the PUD area. Application requirements and required findings for approval of a C of A are pursuant to Section 4.02.050 (Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources) of the Ontario Development Code.

## 7.4 Exceptions

Deviation from the development standards set forth in this PUD 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 an amendment to this PUD.

## 7.5 CEQA Compliance

The Downtown West PUD Mitigated Negative Declaration was prepared in coordination with the City and in compliance with the City's Guidelines for the Implementation of the "California Environmental Quality Act (CEQA)" (See Appendix B). In 2022 The Ontario Plan or the City's General Plan was approved and the SEIR certified which approved updated land use designations through the City. Preparation of this Planned Unit Development or PUD has demonstrated that a Mitigated Negative Declaration for the approval of the PUD should be prepared. The Ontario Plan Final SEIR serves as a guide and many of the policies from the plan have been incorporated by reference. The Mitigated Negative Declaration for this project includes programmatic and project-level analysis of future land use intensities and changes to the public realm. Issues identified included historic resources, transportation, and aesthetics. No unmitigated impacts were present.

The City will be responsible for implementation of the Mitigation Monitoring and Reporting Program approved for the Downtown West Planned Unit Development project. This may involve application of one or more mitigation measures to implement this PUD, or fair-share proportions thereof.

## 7.6 Implementation

Implementation of the PUD will be primarily through the adoption of the new land use and development regulations. However, implementation of the holistic vision and guiding principles for the PUD area will require coordination across City departments and regional agencies, as well as funding to plan, design, and construct supportive investments in the public realm. These next steps will be implemented over time and will complement the land use and development regulations included in this PUD.

**Integrated shared infrastructure facilities,** such as parking, trash services, and open space opportunities to support new development and uses in the downtown area.

**Traffic calming and public realm enhancements,** such as bulb outs, crosswalk improvements, new street trees, and others.

**Downtown Historic Designation** which will be determined through a survey of Ontario's historic district using the themes of early commerce and settlement.

**Downtown Wayfinding and Signage Program** can help to create a consistent image for the city; improve navigation for all modes of travel; guide visitors to landmarks, facilities, and services; and promote walking, bicycling, and mass transit.

**Active transportation improvements,** such as the planned bike boulevard on Vine Avenue and B Street that will connect Ontario's historic downtown with De Anza Community & Teen Center and park, funded through the State's Active Transportation Program (ATP). Additional ATP grants can be explored to fund future active transportation improvements that benefit the PUD area.

**Public transit investments,** such as the West Valley Connector (WVC) project, which will be a 100% zero-emission Bus Rapid Transit (BRT) system that will upgrade a portion of existing Route 61 which runs along Holt Boulevard, additional approximately 3.5 miles of center running, dedicated bus-only lanes, and provide an improved transit connection to Ontario International Airport, two Metrolink lines, and multiple major activity centers.

# 8 Section References and Additional Resources

## 8.1 Historic Preservation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# Appendix A
# Ordinance Adopting PUD

# Appendix B
# Mitigation Monitoring Program

# RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO APPROVING A MITIGATED NEGATIVE DECLARATION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM FOR FILE NO PUD23-004

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of Ontario prepared an Initial Study, and approved for circulation, an Initial Study/Mitigated Negative Declaration for File No. PUD23-004 (hereinafter referred to as "MND"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively referred to as "CEQA"); and

WHEREAS, File No. PUD23-004 analyzed under the MND consists of a Planned Unit Development (PUD) for development to establish planning and design principles, development regulations and performance standards to govern future development of 21.58 acres of land, generally located south of E Street, north of Holt Boulevard, west of Euclid Avenue, east of Palm Avenue, and the northern portion of the block between Fern and Palm Avenues and C and D Streets, in the City of Ontario, California (hereinafter referred to as the "Project"); and

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

WHEREAS, in connection with the approval of a project involving the preparation of an MND that identifies one or more significant environmental effects, CEQA requires the approving authority of the lead agency to incorporate feasible mitigation measures that would reduce those significant environment effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation, and such a Mitigation Monitoring and Reporting Program has been prepared for the Project for consideration by the approving authority of the City of Ontario as lead agency for the Project (hereinafter referred to as the "MMRP"); and

WHEREAS, the City of Ontario is the lead agency on the Project, and the City Council is the approving authority for the proposed approval to construct and otherwise undertake the Project; and

WHEREAS, the City Council has reviewed and considered the MND and related MMRP for the Project, and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

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

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

SECTION 1: *Environmental Determination and Findings.* As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the MND and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the MND and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

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

(2) The MND contain a complete and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment of the City Council; and

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

(4) All environmental impacts of the Project are either insignificant or can be mitigated to a level of insignificance pursuant to the mitigation measures outlined in the MND and the related MMRP.

SECTION 2: *City Council Action.* The City Council does hereby find that based upon the entire record of proceedings before it, and all information received, that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the MND and related MMRP prepared for the Project, attached hereto as "Attachment A," and incorporated herein by this reference.

SECTION 3: *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 4: *Custodian of Records.* The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

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

PASSED, APPROVED, AND ADOPTED this 2nd of July 2024.

_____
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. 2024- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 2, 2024 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2024- duly passed and adopted by the Ontario City Council at their regular meeting held July 2, 2024.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

***ATTACHMENT A:***

***Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program***

*(Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program follows this page)*

City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909-395-2036
ontarioca.gov/Planning

*ATTACHMENT A*

*California Environmental Quality Act*

# *Mitigation Monitoring and Reporting Program*

Project Title: Downtown West Planned Unit D

Project File No.: PUD23-004

Project Sponsor: City of Ontario

Lead Agency/Contact Person: Diane Ayala, Senior Planner, City of Ontario, Planning Department, 303 East B Street, Ontario, California 91764 (909) 395-2036

| *Mitigation Measures/Implementing Action* | *Responsible for Monitoring* | *Monitoring Frequency* | *Timing of Verification* | *Method of Verification* | *Verified (Initial/Date)* | *Sanctions for Non-Compliance* |
|---|---|---|---|---|---|---|
| Cultural Resources | | | | | | |
| MM-CUL-1. Issuance of a Certificate of Appropriateness pursuant to City's Development Code (Chapter 4, Permits, Actions, and Decisions) is required for all exterior alterations to existing buildings, and new construction on vacant or redeveloped sites that are located within the PUD boundary area prior to plan or development project approval. | Planning Dept | Building Permit Issuance | Prior to issuance of Building Permit | Plan Check | | Withhold Building Permit |
| MM-CUL-2. Historic or potentially historic resources located within the PUD boundary shall be evaluated for historic significance through the City's tier system prior to the issuance of plan or development approvals. | Planning Dept | Project Approval | Prior to project approval | Tier Determination | | Withhold Approval |
| MM-CUL-3.<br>A. Partial Demolition of Tier I, II, or III Historic Resources that do not result in loss of character defining features or cause adverse impacts to the integrity of the historic resource shall be documented pursuant to the Historic American Building Survey (HABS) standards to include photographs and cataloging of the exterior and interior of the resource prior to issuance of a building permit. | Planning Dept | Project Approval | Prior to issuance of Building permit | Plan Check | | Withhold Building Permit |

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| B. As established in the TOP SEIR 2050, mitigation measures for demolition (full or in part) of Tier III Historic Resources shall include the following:<br>1) Each historic resource shall be fully documented and cataloged pursuant to Historic American Building Survey/Historic American Engineering Record (HABS/HAER) standards, to provide a record of the resource, including, but not limited to: [i] the preparation of site plans, floor plans, exterior and interior elevations, and detail drawings of character defining features (such as moldings, stairs, etc.); and [ii] photographs of the resource, including the exterior, interior, and interior and exterior character defining features (such as moldings, light fixtures, trim patterns, etc.).<br>2) A mitigation fee established pursuant to Section 7.01.030 (Historic Preservation Mitigation Fee) shall be paid to the City prior to the issuance of a demolition permit for Tier III historic resources.<br>3) A Certificate of Appropriateness shall not be issued for the demolition of an historic resource, either in whole or in part, until such time that a demolition permit application and a replacement structure has been approved by the City, and appropriate permits have been issued for its construction, a deferral of the replacement structure requirement is granted pursuant to Subsection G(Replacement Structure Deferral) of Section 4.02.050; or [iii] demolition is required pursuant to Section 7.01.050 (Unsafe or Dangerous Conditions) of this Development Code.<br>4) In an effort to preserve features and artifacts from historic resources, a determination whether items within or on the resource should be salvaged must be made by the Planning Department and may include the local historical society prior to the issuance of the demolition permit. The applicant shall be | | | | | | |

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| responsible for the removal, relocation, storage, and donation of such items selected for salvaging. The applicant shall provide an inventory of salvaged items to the Planning Department, and shall include a list of each item name, description, and dimension (as necessary), and the location of each item on a floor plan.<br>C. Full Demolition or partial demolition which results in loss or adverse impacts to character defining features of a Tier I or Tier II Historic Resource shall require preparation of and EIR or Focus EIR. | | | | | | |
| MM-CUL-4. In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed within TCR-1, regarding any pre-contact finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment. | Planning Dept & Building Dept | During Construction | During Construction | Site Inspection | | Withhold Building Permit |
| MM-CUL-5. If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to YSMN for review and comment, as detailed within TCR-1. The archaeologist shall | Planning Dept & Building Dept | During Construction | During Construction | Site Inspection | | Withhold Building Permit |

| *Mitigation Measures/Implementing Action* | *Responsible for Monitoring* | *Monitoring Frequency* | *Timing of Verification* | *Method of Verification* | *Verified (Initial/Date)* | *Sanctions for Non-Compliance* |
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| monitor the remainder of the project and implement the Plan accordingly. | | | | | | |
| MM-CUL-6. If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project. | Planning Dept & Building Dept | During Construction | During Construction | Site Inspection | | Withhold Building Permit |
| Noise | | | | | | |
| MM-NOI-1 Construction Noise Abatement. Construction activities associated with new development that occurs near sensitive receptors shall be evaluated for potential noise impacts. Construction contractors shall implement the following measures for construction activities in the City of Ontario. Construction plans submitted to the City shall identify these measures on demolition, grading, and construction plans. The City of Ontario Planning and Building Departments shall verify that grading, demolition, and/or construction plans submitted include these notations prior to issuance of demolition, grading, and/or building permits:<br><br>1. Construction activity is limited to the hours between 7:00 am and 6:00 pm Monday through Friday and 9:00 am to 6:00 pm Saturdays and Sundays, as prescribed in Municipal Code Section 5-29.09.<br><br>2. During the entire active construction period, equipment and trucks used for project construction shall use the best-available noise control techniques wherever feasible (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, | Planning Dept & Building Dept | During Construction | During Construction | Site Inspection | | Withhold Building Permit |

| *Mitigation Measures/Implementing Action* | *Responsible for Monitoring* | *Monitoring Frequency* | *Timing of Verification* | *Method of Verification* | *Verified (Initial/Date)* | *Sanctions for Non-Compliance* |
|---|---|---|---|---|---|---|
| engine enclosures, and acoustically attenuating shields or shrouds).<br><br>3. Impact tools (e.g., jack hammers and hoe rams) shall be hydraulically or electrically powered wherever possible. Where the use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used along with external noise jackets on the tools.<br><br>4. Stationary equipment such as generators and air compressors shall be located as far as feasible from nearby noise-sensitive uses.<br><br>5. Stockpiling shall be located as far as feasible from nearby noise-sensitive receptors.<br><br>6. Construction traffic shall be limited, to the extent feasible, to approved haul routes established by the City's Engineering Department.<br><br>7. At least 10 days prior to the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the public, that includes permitted construction days and hours as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, he/she shall investigate, take appropriate corrective action, and report the action to the City.<br><br>8. Signs shall be posted at the job site entrance(s), within the onsite construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment shall be turned off if not in use for more than 5 minutes. | | | | | | |

| *Mitigation Measures/Implementing Action* | *Responsible for Monitoring* | *Monitoring Frequency* | *Timing of Verification* | *Method of Verification* | *Verified (Initial/Date)* | *Sanctions for Non-Compliance* |
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| 9. During the entire active construction period and to the extent feasible, the use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only. The construction manager shall use smart back-up alarms, which automatically adjust the alarm level based on the background noise level or switch off back-up alarms and replace with human spotters in compliance with all safety requirements and laws.<br><br>10. Erect temporary noise barriers (at least as high as the exhaust of equipment and breaking line-of-sight between noise sources and sensitive receptors), as necessary and feasible, to maintain construction noise levels at or below the performance standard of 80 dBA Leq. Barriers shall be constructed with a solid material that has a density of at least 1.5 pounds per square foot with no gaps from the ground to the top of the barrier and may be lined on the construction side with an acoustical blanket, curtain, or equivalent absorptive material (City of Ontario 2022a). | | | | | | |
| <u>MM-NOI-2.</u> Construction Vibration Abatement. Prior to issuance of a building permit, individual projects that involve vibration intensive construction activities, such as pile drivers, jack hammers, and vibratory rollers near sensitive receptors shall be evaluated for potential vibration impacts. For construction within 135 feet of fragile structures, such as historical resources, within 100 feet of nonengineered timber and masonry buildings (e.g., most residential buildings), or within 75 feet of engineered concrete and masonry (no plaster); or a vibratory roller within 25 feet of any structure, the project applicant shall prepare a noise and vibration | Planning Dept & Building Dept | During Construction | During Construction | Site Inspection | | Withhold Building Permit |

| *Mitigation Measures/Implementing Action* | *Responsible for Monitoring* | *Monitoring Frequency* | *Timing of Verification* | *Method of Verification* | *Verified (Initial/Date)* | *Sanctions for Non-Compliance* |
|---|---|---|---|---|---|---|
| analysis to assess and mitigate potential noise and vibration impacts related to these activities. This noise and vibration analysis shall be conducted by a qualified and experienced acoustical consultant or engineer. The vibration levels shall not exceed Federal Transit Administration (FTA) architectural damage thresholds (e.g., 0.12 inches per second [in/sec] peak particle velocity [PPV] for fragile or historical resources, 0.2 in/sec PPV for nonengineered timber and masonry buildings, and 0.3 in/sec PPV for engineered concrete and masonry). If vibration levels would exceed this threshold, alternative uses shall be used, such as drilling piles as opposed to pile driving and static rollers as opposed to vibratory rollers. If necessary, construction vibration monitoring shall be conducted to ensure vibration thresholds are not exceeded. | | | | | | |
| Tribal Cultural Resources | | | | | | |
| MM-TCR-1. The Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in CUL-4, of any pre-contact cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site. | Building Dept & Planning Dept | During Construction | Upon discovery | Copy of executed contract | | Withhold grading permit |
| MM-TCR-2. Any and all archaeological/cultural documents created as a part of the project (isolate | Building Dept & Planning Dept | During Construction | Upon discovery | Copy of executed contract | | Withhold grading permit |

| *Mitigation Measures/Implementing Action* | *Responsible for Monitoring* | *Monitoring Frequency* | *Timing of Verification* | *Method of Verification* | *Verified (Initial/Date)* | *Sanctions for Non-Compliance* |
|---|---|---|---|---|---|---|
| records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.<br>Note: Yuhaaviatam of San Manuel Nation realizes that there may be additional tribes claiming cultural affiliation to the area; however, Yuhaaviatam of San Manuel Nation can only speak for itself. The Tribe has no objection if the agency, developer, and/or archaeologist wishes to consult with other tribes in addition to YSMN and if the Lead Agency wishes to revise the conditions to recognize additional tribes. | | | | | | |

Draft Initial Study/Mitigated Negative Declaration

# Downtown West Planned Unit Development

**APRIL 2024**

*Prepared for:*

CITY OF ONTARIO PLANNING DEPARTMENT
303 East B Street
Ontario, California 91764
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# Table of Contents

**SECTION** **PAGE**


Acronyms and Abbreviations ..... iii

Introduction ..... 1
- Project Overview ..... 1
- California Environmental Quality Act Compliance ..... 1
- Public Review Process ..... 1

Project Description ..... 3
- Project Location ..... 3
- Environmental Setting ..... 3
- Project Characteristics ..... 3
- Project Construction and Phasing ..... 4

Initial Study Checklist ..... 6

Environmental Factors Potentially Affected ..... 8
- Explanation of Issues ..... 19
- Aesthetics ..... 19
- Agriculture and Forestry Resources ..... 21
- Air Quality ..... 22
- Biological Resources ..... 30
- Cultural Resources ..... 32
- Energy 42
- Geology and Soils ..... 44
- Greenhouse Gas Emissions ..... 45
- Hazards and Hazardous Materials ..... 50
- Hydrology and Water Quality ..... 52
- Land Use and Planning ..... 54
- Mineral Resources ..... 55
- Noise 56
- Population and Housing ..... 60
- Public Services ..... 60
- Recreation ..... 62
- Transportation ..... 63
- Tribal Cultural Resources ..... 66
- MM-CUL-4. ..... 67
- MM-TCR-1. ..... 67
- Utilities and Service Systems ..... 68

Wildfire ..... 70
Mandatory Findings of Significance ..... 71
References and Preparers ..... 73
References Cited ..... 73
List of Preparers ..... 75

## APPENDICES

A Air Quality, Greenhouse Gas Emissions, and Energy Memorandum
B Noise Memorandum
C Transportation Memorandum

## FIGURES

1 Regional Location
2 PUD Project Area
3 Site Plan
4 PUD Project Areas Historic Resources

## TABLES

1 Downtown West Land Use and Urban Design Concept ..... 4
2 Estimated Maximum Daily Construction Criteria Air Pollutant Emissions ..... 25
3 Estimated Combined Construction and Operational Criteria Air Pollutant Emissions ..... 26
4 Construction Localized Significance Thresholds Analysis ..... 28
5 Estimated Annual Construction GHG Emissions ..... 47
6 Project GHG Efficiency - Commercial ..... 48
7 Project GHG Efficiency - Residential ..... 49
8 Downtown West PUD TOP Consistency ..... 54
9 TOP Future Buildout Table ..... 55

## ACRONYMS AND ABBREVIATIONS

| Acronym/Abbreviation | Definition |
|---|---|
| AQMP | air quality management plan |
| BMP | best management practice |
| CAAQS | California Ambient Air Quality Standards |
| CalEEMod | California Emissions Estimator Model |
| CALGreen | California Green Building Standards |
| CARB | California Air Resources Board |
| CBC | California Building Code |
| CCAP | Community Climate Action Plan |
| CEQA | California Environmental Quality Act |
| CFC | California Fire Code |
| CO | carbon monoxide |
| $CO_2e$ | carbon dioxide equivalent |
| DPM | diesel particulate matter |
| EIR | environmental impact report |
| GHG | greenhouse gas |
| IEUA | Inland Empire Utilities Agency |
| in/sec | inches per second |
| IS | initial study |
| MND | mitigated negative declaration |
| MRZ | Mineral Resource Zone |
| MT | metric ton |
| NAAQS | National Ambient Air Quality Standards |
| NAHC | Native American Heritage Commission |
| $NO_x$ | oxides of nitrogen |
| OPD | Ontario Police Department |
| $PM_{10}$ | particulate matter with an aerodynamic diameter equal to or less than 10 microns |
| $PM_{2.5}$ | particulate matter with an aerodynamic diameter equal to or less than 2.5 microns |
| PPV | peak particle velocity |
| PRC | California Public Resources Code |
| PUD | Planned Unit Development |
| SB | Senate Bill |
| SCAG | Southern California Association of Governments |
| SCAQMD | South Coast Air Quality Management District |
| SLF | Sacred Lands File |
| $SO_x$ | sulfur oxides |
| TAC | toxic air contaminant |
| TAZ | traffic analysis zone |
| TCR | tribal cultural resource |
| TOP | The Ontario Plan |
| VMT | vehicle miles traveled |
| VOC | volatile organic compound |

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# INTRODUCTION

Project Overview

The City of Ontario (City) is proposing the Downtown West Planned Unit Development (PUD) in Ontario.[1] The Downtown West PUD is intended to function as a set of development regulations and planning and design principles to govern the development or redevelopment of an eight-and-a-half block area in downtown Ontario, California. The Downtown West PUD would support a variety of businesses, housing opportunities for residents, open spaces, entertainment uses, and institutional uses while preserving its historic character, buildings, neighborhoods, and places.

California Environmental Quality Act Compliance

The Downtown West PUD is a project subject to compliance with the California Environmental Quality Act (CEQA), with the City serving as the lead agency responsible for the environmental impact review and the approval of the proposed Downtown West PUD. Based on the findings of this initial study (IS), the City has made the determination that a mitigated negative declaration (MND) is the appropriate environmental document to be prepared in compliance with CEQA (California Public Resources Code [PRC], Section 21000 et seq.).

The City has directed and supervised the preparation of this MND and is in conformance with Section 15070(a) of the CEQA Guidelines (14 CCR 15000 et seq.). The purpose of the MND and the IS checklist is to determine any potentially significant impacts associated with the Downtown West PUD and to incorporate mitigation measures into the project design, as necessary, to reduce or eliminate the significant or potentially significant effects. As determined in this IS/MND, there is no substantial evidence, in light of the whole record before the agency, that the Downtown West PUD would have a significant effect on the environment.

Public Review Process

In accordance with CEQA and the CEQA Guidelines, a 30-day public review period for this IS/MND commenced on April 26, 2024 and will conclude on May 28, 2024. The IS/MND was distributed for review to interested and involved public agencies, responsible/trustee agencies, organizations, and private individuals that have requested in writing to be informed of the proposed Downtown West PUD. In addition, consistent with CEQA Guidelines Section 15072, the City is required to provide a notice of intent to adopt this IS/MND to the public, responsible agencies, trustee agencies, and the County Clerk, and will mail a notice of intent to adopt this IS/MND to the last known name and address of all organizations and individuals who have previously requested such notice.

An electronic copy of this IS/MND can be viewed at the following web address:

https://www.ontarioca.gov/Planning

[1] All analysis is based on project description and project plans provided by the City as of [Placeholder Date].

During the 30-day public review period, the public will have the opportunity to provide written comments on the information contained within this IS/MND. The City's discretionary approval/denial of the proposed Downtown West PUD will be based on the information contained in this document.

In reviewing this IS/MND, interested members of the public should focus on the sufficiency of the document in identifying and analyzing potential project impacts on the environment, as well as the sufficiency of any mitigation measures proposed to reduce potential impacts to a less-than-significant level. Comments on the IS/MND should be submitted by the end of the 30-day public review period and must be postmarked by May 28, 2024. Submit written comments by mail or email with the subject line "Downtown West Planned Unit Development" to the following address:

City of Ontario, Planning Department
303 East B Street, Ontario, CA 91764
Attn: Diane Ayala, Senior Planner
dayala@ontarioca.gov

## PROJECT DESCRIPTION

Project Location

The Downtown West PUD project area (PUD project area) is located in the City of Ontario and within the "Downtown District Place Type" as defined by The Ontario Plan (TOP) 2050. The City is approximately 40 miles from downtown Los Angeles, 20 miles from downtown San Bernardino, and 30 miles from Orange County, as shown in Figure 1, Regional Location. The PUD project area is between E Street to the north, Holt Boulevard to the south, Palm Avenue to the west, and Euclid Avenue to the east, in addition to the portion of the block between D Street connecting Fern Avenue and Palm Avenue, as shown in Figure 2, PUD Project Area. The PUD project area is within the City's historic downtown and is adjacent to the civic center area.

Environmental Setting

The PUD project area consists of eight-and-a-half blocks (21.58 acres) in downtown Ontario, California. Within certain blocks, the existing building fabric contains potentially historic resources. The PUD project area consists of underlying mixed use development and comprises a mixture of commercial uses, vacant land, paved parking lots, and residential units.

The PUD project area is designated as TOP Mixed Use–Downtown Land Use. TOP 2050 was adopted in August 2022 and includes a Policy Plan (general plan) and defines the intention or vision of the Mixed Use–Downtown Land Use as follows (City of Ontario 2023a):

> As the historic center of Ontario, the Downtown District, is envisioned as the placed-based, people-focused, commercial, and cultural "heart" of the City and features several designated historic districts and landmarks. Downtown will support a variety of businesses, housing opportunities for residents with a variety of income levels, creative spaces, entertainment options, and institutional and civic uses while preserving its historic character, buildings, neighborhoods, and places. Complementing the wide mix of uses are designs, layouts and public spaces that give residents, visitors, and businesses a strong sense of connection and creates a place where people want to spend time.

The PUD project area currently contains 66,785 square feet of existing residential in 52 residential units, and 510,347 square feet of existing commercial.

Project Characteristics

The City seeks to further define and create the Downtown West PUD to streamline the PUD process for developers and property owners in efforts to revitalize downtown Ontario. The Downtown West PUD contains the following sections: (1) Introduction, (2) Vision and Guiding Principles, (3) District and Block Plan, (4) Zoning and Land Use Plan, (5) Development Regulations and Guidelines, (6) Public Realm Standards and Guidelines, and (7) Administration.

The Downtown West PUD would facilitate development of a mix of uses and historic preservation; transformation of select existing buildings through adaptive reuse; and design guidelines for new development, Euclid Avenue, alleys, managed infrastructure, and the public realm. Proposed development and private investments would include new mixed use/infill and façade improvements.

Proposed public realm improvement areas of focus include improvements along B Street, Euclid Avenue streetscape, alley improvements, a consolidated trash area, and public art. The Downtown West PUD encourages "activation," which can include pop-up events, Euclid Avenue programs, B Street Farmer's Market, alley art and signage, gateway signage, and a potential paseo connection. The Downtown West PUD establishes blocks A-I, shown in Figure 3, Site Plan. Table 1 shows the proposed land use and urban design concept for each block. The PUD project if fully implemented, has the potential to increase residential square footage by 578,157 square feet and decrease commercial by 472,461 square feet.

Table 1. Downtown West Land Use and Urban Design Concept

| Site | Residential Units | Density (du/acre) | Residential GSF | Commercial GSF | Parking Provision |
|---|---|---|---|---|---|
| A[1] | n/a | n/a | 0 sf | 7,500 sf | n/a |
| B | 22 | 75 | 22,544 sf | 1,500 sf | 32 |
| C[2] | 90 | 75 | 93,260 sf | 4,386 sf | 219 |
| D[3] | 29 | 39 | 52,200 sf | 0 sf | 58 |
| E | 58 | 75 | 59,746 sf | 2,000 sf | 78 |
| F | 141 | 60 | 144,898 sf | 0 sf | 460[4] |
| G | 59 | 75 | 60,370 sf | 0 sf | 80 |
| H | 47 | 30 | 48,296 sf | 0 sf | 78 |
| I | 35 | 30 | 63,628 sf | 0 sf | 70 |
| Fronting Euclid Avenue [5] | 100 | 75 max. | 100,000 sf | 22,500 sf | 145 |
| **Total** | **581** | **n/a** | **644,942 sf** | **37,886 sf** | **1,220** |

**Source:** Downtown West PUD.
**Notes:** du = dwelling unit; GSF = gross square feet; n/a = not applicable; sf = square feet.
1 Potential for new retail use/building in existing cactus garden.
2 New development proposed with some public parking (84 stalls).
3 Townhomes.
4 Potential new shared garage with public parking.
5 Potential for new development on top of existing historic structures or redevelopment of non-contributing buildings.

Project Construction and Phasing

The Downtown West PUD contains standards for development and private investments, public realm improvements, activation, and art. Any Project with the PUD The Downtown West PUD would be implemented in phases over time. Project construction and characteristics would be project-specific and not included in the PUD.

Project Approvals

The Downtown West PUD provides development standards and requirements for Projects within the PUD project area.

Development Plan approval, pursuant to the requirements of Ontario Development Code Section 4.02.025 (Development Plans), shall be required for any Project within the Downtown West PUD that entails the physical alteration of any lot, construction of a building, or addition or significant alteration of an existing building in the PUD area as required by the Ontario Development Code. For each Project, a Development Plan application shall be submitted to the Planning Department on a City application form pursuant to the requirements of Ontario Development Code Division 2.02 (Application Filing and

Processing), commencing with Subsection B (Discretionary Permits and Actions) of Section 2.02.015 (Application Processing Procedures). Development plans are approved by the Planning Commission or Development Advisory Board.

To ensure proper implementation of the historic resource preservation and mitigation measures established in the Mitigated Negative Declaration for the PUD, an application for a Certificate of Appropriateness ("C of A") shall be submitted and approved in conjunction with each private or public project. The C of A is approved by the Historic Preservation Subcommittee or the full Historic Preservation Commission (or the Planning Director may issue waivers for minor projects). Encroachment and easements are processed by the City Engineer.

## INITIAL STUDY CHECKLIST

1. Project Title: Downtown West PUD

2. Lead agency name and address: City of Ontario, Planning Department, 303 East B Street, Ontario California 91764

3. Contact person and phone number: Diane Ayala, Senior Planner, 909.395.2428

4. Project Sponsor: City of Ontario

5. Project Location: The PUD project area is located in the Downtown District of the City of Ontario. The City of Ontario is approximately 40 miles from downtown Los Angeles, 20 miles from downtown San Bernadino, and 30 miles from Orange County. As illustrated on Figure 2, the project is bordered by Euclid Avenue to the east, Holt Boulevard to the south, Palm Avenue and Fern Avenue to the west, and E Street to the north.

6. General Plan designation: Mixed Use- Downtown

7. Zoning: MU-1 (Downtown Mixed Use)

8. Description of project. The City seeks to create the Downtown West PUD to streamline the PUD process for developers and property owners in efforts to revitalize downtown Ontario. The Downtown West PUD contains guidelines for development and private investments, public realm improvements, and activations and public art.

   Building Characteristics and Operations

   Section 5 of the Downtown West PUD sets forth development standards to govern the placement, height, and bulk of permitted buildings and other structures, as well as to establish requirements for vehicular access, parking and loading, open space, landscaping, and signs for commercial uses to be incorporated into development plans. The standards and guidelines would apply to future development projects within the PUD project area for any new construction, addition, remodel, or reallocation requiring a building permit or other similar entitlement by the City. Regulations and standards in the Ontario Development Code that are not covered by the Downtown West PUD would continue to be applicable to future development within the PUD project area.

   Circulation and Parking

   The total parking provided at each site is shown in Table 1. A total of 1,220 parking stalls would be provided, which is over the required amount for the number of residential units and commercial space. As described in the Downtown West PUD, parking standards are consistent (Residential – 1 space per bedroom up to 2 bedrooms, 2 spaces per unit for 3 bedrooms and above, 0.20 spaces per unit for guest/visitor parking. Commercial – 1 space per 250 sf gross floor area for all permitted or conditionally permitted use.)

Implementation of the Downtown West PUD would facilitate improvements to B Street and utilize the addition of a West Valley Connector Bus Rapid Transportation Station at the corner of E. Holt Boulevard and N. Plum Avenue.

Landscaping, Walls, and Lighting

The Downtown West PUD contains various standards and guidelines for development in the PUD project area including within Section 5.5, Building Design, and Section 6.3, Design Guidelines. Landscaping, walls, and lighting standards in the Ontario Development Code that are not covered by the Downtown West PUD would continue to be applicable to future development within the PUD project area.

9. Surrounding land uses and setting:

The PUD project area is currently developed with a mix of commercial uses, vacant land, and residential units. The area surrounding the PUD project area consists of mixed office, residential, commercial, and open space uses (see Table 2).

Table 2. Surrounding Land Uses and Setting

| | Existing Land Use | General Plan Designation | Zoning Designation |
|---|---|---|---|
| Site: | Mixed uses and residential[1] | Mixed Use (MU)-Downtown | Downtown Mixed-Use (MU-1)and High Density Residential (HDR-45) |
| North: | Mixed uses, office, and residential[2] | Mixed Use (MU)-Downtown, Office Commercial (OC), and HDR | MU-1, Low Intensity Office (OL), and HDR-45 |
| South: | Mixed uses[3] | Mixed Use (MU)-Downtown | MU-1 (Downtown Mixed-Use) |
| East: | Mixed uses and open space[4] | MU and Open Space – Recreation (OS-R) | MU-1 and PUD(Euclid Avenue Overlay) |
| West: | Mixed uses and residential[5] | Mixed Use (MU) Downtown, Low Medium Density Residential (LMDR), Medium Density Residential (MDR), and HDR | MU-1, Low Density Residential (LDR-5), Medium Density Residential (MDR-25), and HDR-45 |

**Sources:** City of Ontario 2015a, 2023b.
**Notes:**
1 MU: Retail stores, dental offices, parking lots, medical offices, bank, restaurant, general offices, residences on commercial, multiple family residential, religious structure, storage warehouse, car lots, vacant land
2 MU: Religious structure, vacant land, fast food, general offices, and retail stores
OC: General offices and residences on commercial
HDR: Religious structure
3 MU: Vacant land, retail stores, and car lots
4 MU: Service station, retail stores, parking lots, vacant land, and bank
OS-R: Parking lot, vacant land, and Ontario Town Square
5 MU: Triplex, single-family residential, vacant land, duplex, parking lots, and retail stores
LMDR: Single-family residential, quad, triplex, and apartments
MDR: Duplex, single-family residential, apartments, and vacant land
HDR: Religious structure and parking lot

10. Other public agencies whose approval is anticipated include (e.g., permits, financing approval, or participation agreement):

None.

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1?

☒ Yes ☐ No

If "yes", has consultation begun? ☐ Yes ☐ No ☒ Completed

## ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact," as indicated by the checklist on the following pages.

| | | | | | |
|---|---|---|---|---|---|
| ☐ | Aesthetics | ☐ | Agriculture and Forestry Resources | ☐ | Air Quality |
| ☐ | Biological Resources | ☒ | Cultural Resources | ☐ | Energy |
| ☐ | Geology and Soils | ☐ | Greenhouse Gas Emissions | ☐ | Hazards and Hazardous Materials |
| ☐ | Hydrology and Water Quality | ☐ | Land Use and Planning | ☐ | Mineral Resources |
| ☒ | Noise | ☐ | Population and Housing | ☐ | Public Services |
| ☐ | Recreation | ☐ | Transportation | ☒ | Tribal Cultural Resources |
| ☐ | Utilities and Service Systems | ☐ | Wildfire | ☒ | Mandatory Findings of Significance |

Determination (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

| | |
|---|---|
| Signature: Diane Ayala | Date: 4/26/2024 |
| Printed Name: Diane Ayala | |

Evaluation of Environmental Impacts

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project would not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an Environmental Impact Report (EIR) is required.

4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level.

5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

    a. Earlier Analysis Used. Identify and state where they are available for review.

    b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

    c. Mitigation Measures. For effects that are "Less Than Significant With Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9. The explanation of each issue should identify:

   a. the significance criteria or threshold, if any, used to evaluate each question; and

   b. the mitigation measure identified, if any, to reduce the impact to less than significance

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| I. AESTHETICS – Except as provided in Public Resources Code Section 21099, would the project: | | | | |
| a) Have a substantial adverse effect on a scenic vista? | ☐ | ☐ | ☒ | ☐ |
| b) Substantially damage scenic resources including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | ☐ | ☐ | ☒ | ☐ |
| c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality? | ☐ | ☐ | ☒ | ☐ |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | ☐ | ☐ | ☒ | ☐ |
| II. AGRICULTURE AND FORESTRY RESOURCES – In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project: | | | | |
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | ☐ | ☐ | ☐ | ☒ |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | ☐ | ☐ | ☐ | ☒ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))? | ☐ | ☐ | ☐ | ☒ |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ☒ |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ☒ |
| III. AIR QUALITY – Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project: | | | | |
| a) Conflict with or obstruct implementation of the applicable air quality plan? | ☐ | ☐ | ☒ | ☐ |
| b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard? | ☐ | ☐ | ☒ | ☐ |
| c) Expose sensitive receptors to substantial pollutant concentrations? | ☐ | ☐ | ☒ | ☐ |
| d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people? | ☐ | ☐ | ☒ | ☐ |
| IV. BIOLOGICAL RESOURCES – Would the project: | | | | |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | ☐ | ☐ | ☒ | ☐ |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | ☐ | ☐ | ☐ | ☒ |
| c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, | ☐ | ☐ | ☐ | ☒ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| filling, hydrological interruption, or other means? | | | | |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | ☐ | ☐ | ☐ | ☒ |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | ☐ | ☐ | ☒ | ☐ |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | ☐ | ☐ | ☐ | ☒ |
| V. CULTURAL RESOURCES – Would the project: | | | | |
| a) Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5? | ☐ | ☒ | ☐ | ☐ |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5? | ☐ | ☐ | ☒ | ☐ |
| c) Disturb any human remains, including those interred outside of dedicated cemeteries? | ☐ | ☐ | ☐ | ☒ |
| VI. Energy – Would the project: | | | | |
| a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation? | ☐ | ☐ | ☒ | ☐ |
| b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency? | ☐ | ☐ | ☒ | ☐ |
| VII. GEOLOGY AND SOILS – Would the project: | | | | |
| a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| ii) Strong seismic ground shaking? | ☐ | ☐ | ☒ | ☐ |
| iii) Seismic-related ground failure, including liquefaction? | ☐ | ☐ | ☒ | ☐ |
| iv) Landslides? | ☐ | ☐ | ☐ | ☒ |
| b) Result in substantial soil erosion or the loss of topsoil? | ☐ | ☐ | ☒ | ☐ |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | ☐ | ☐ | ☒ | ☐ |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property? | ☐ | ☐ | ☒ | ☐ |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | ☐ | ☐ | ☒ | ☐ |
| f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | ☐ | ☐ | ☒ | ☐ |
| VIII. GREENHOUSE GAS EMISSIONS – Would the project: | | | | |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | ☐ | ☐ | ☒ | ☐ |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | ☐ | ☐ | ☒ | ☐ |
| IX. HAZARDS AND HAZARDOUS MATERIALS – Would the project: | | | | |
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | ☐ | ☐ | ☒ | ☐ |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | ☐ | ☐ | ☒ | ☐ |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| d) Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | ☐ | ☐ | ☒ | ☐ |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area? | ☐ | ☐ | ☒ | ☐ |
| f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | ☐ | ☐ | ☒ | ☐ |
| g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires? | ☐ | ☐ | ☒ | ☐ |
| X. HYDROLOGY AND WATER QUALITY – Would the project: | | | | |
| a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality? | ☐ | ☐ | ☒ | ☐ |
| b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin? | ☐ | ☐ | ☒ | ☐ |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: | | | | |
| i) result in substantial erosion or siltation on or off site; | ☐ | ☐ | ☒ | ☐ |
| ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site; | ☐ | ☐ | ☒ | ☐ |
| iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or | ☐ | ☐ | ☒ | ☐ |
| iv) impede or redirect flood flows? | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation? | ☐ | ☐ | ☒ | ☐ |
| e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan? | ☐ | ☐ | ☐ | ☒ |
| XI. LAND USE AND PLANNING – Would the project: | | | | |
| a) Physically divide an established community? | ☐ | ☐ | ☒ | ☐ |
| b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect? | ☐ | ☐ | ☐ | ☒ |
| XII. MINERAL RESOURCES – Would the project: | | | | |
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | ☐ | ☐ | ☐ | ☒ |
| b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan? | ☐ | ☐ | ☐ | ☒ |
| XIII. NOISE – Would the project result in: | | | | |
| a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | ☐ | ☒ | ☐ | ☐ |
| b) Generation of excessive groundborne vibration or groundborne noise levels? | ☐ | ☒ | ☐ | ☐ |
| c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | ☐ | ☐ | ☐ | ☒ |
| XIV. POPULATION AND HOUSING – Would the project: | | | | |
| a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | ☐ | ☐ | ☒ | ☐ |
| b) Displace substantial numbers of existing people or housing, necessitating the | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| construction of replacement housing elsewhere? | | | | |
| XV. PUBLIC SERVICES – Would the project: | | | | |
| a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services: | | | | |
| i) Fire protection? | ☐ | ☐ | ☒ | ☐ |
| ii) Police protection? | ☐ | ☐ | ☒ | ☐ |
| iii) Schools? | ☐ | ☐ | ☒ | ☐ |
| iv) Parks? | ☐ | ☐ | ☒ | ☐ |
| v) Other public facilities? | ☐ | ☐ | ☒ | ☐ |
| XVI. RECREATION | | | | |
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | ☐ | ☐ | ☒ | ☐ |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | ☐ | ☐ | ☒ | ☐ |
| XVII. TRANSPORTATION – Would the project: | | | | |
| a) Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities? | ☐ | ☐ | ☒ | ☐ |
| b) Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)? | ☐ | ☐ | ☒ | ☐ |
| c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | ☐ | ☐ | ☒ | ☐ |
| d) Result in inadequate emergency access? | ☐ | ☐ | ☒ | ☐ |
| XVIII. TRIBAL CULTURAL RESOURCES | | | | |
| Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: | | | | |
| a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. | ☐ | ☒ | ☐ | ☐ |
| XIX. UTILITIES AND SERVICE SYSTEMS – Would the project: | | | | |
| a) Require or result in the relocation or construction of new or expanded water, waste water treatment, or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects? | ☐ | ☐ | ☒ | ☐ |
| b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years? | ☐ | ☐ | ☒ | ☐ |
| c) Result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | ☐ | ☐ | ☒ | ☐ |
| d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals? | ☐ | ☐ | ☒ | ☐ |
| e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste? | ☐ | ☐ | ☐ | ☒ |
| XX. WILDFIRE – If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project: | | | | |
| a) Substantially impair an adopted emergency response plan or emergency evacuation plan? | ☐ | ☐ | ☒ | ☐ |
| b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire? | ☐ | ☐ | ☒ | ☐ |
| c) Require the installation or maintenance of associated infrastructure (such as roads, fuel | ☐ | ☐ | ☒ | ☐ |

| Issues | Potentially Significant Impact | Less Than Significant Impact With Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment? | | | | |
| d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes? | ☐ | ☐ | ☒ | ☐ |
| XXI. MANDATORY FINDINGS OF SIGNIFICANCE | | | | |
| a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory? | ☐ | ☒ | ☐ | ☐ |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.) | ☐ | ☒ | ☐ | ☐ |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | ☐ | ☒ | ☐ | ☐ |

Explanation of Issues

Aesthetics

a) Would the project have a substantial adverse effect on a scenic vista?

Less-than-Significant Impact. The dominant scenic resource in Ontario is the San Gabriel Mountain range to the north, visible from the Upper Santa Ana River. Other prominent scenic resources are the Jurupa Mountains and the San Bernardino Mountains to the east, the Santa Ana Mountains to the south, and the Chino Hills to the southwest (City of Ontario 2022a). The PUD project area is currently developed with mixed use and residential uses. The proposed Downtown West PUD contains height limits that are consistent with the Ontario Development Code development standards. Additionally, the San Gabriel Mountains peaks rise to 7,000 feet above

mean sea level (City of Ontario 2022a); therefore, development with the maximum height of 65 feet would not alter the scenic views of Ontario significantly compared to the existing conditions. Impacts to scenic vistas would be less than significant.

b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

Less-than-Significant Impact. There are no designated state scenic highways located near the PUD project area. The closest eligible state scenic highway is a portion of State Route 142 in Chino Hills, approximately 7 miles southwest of the PUD project area (Caltrans 2018). The City's General Plan identifies Euclid Corridor and the Mission Boulevard Corridor as the primary scenic corridors in Ontario (City of Ontario 2022a). The PUD project area is bordered by Euclid Avenue to the east and would include Euclid Avenue Streetscapes and Euclid Avenue Programs. The Downtown West PUD would contain guidelines for these improvements such as streetscape design standards, historic preservation, and adaptive reuse to ensure scenic resources would not be substantially damaged. Therefore, the Downtown West PUD would have less than significant impacts on state scenic highways.

c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

Less-than-Significant Impact. Per PRC Section 21071, an "urbanized area" is defined as follows:

> (a) An incorporated city that meets either of the following criteria:
>
> > (1) Has a population of at least 100,000 persons.
> >
> > (2) Has a population of less than 100,000 persons if the population of that city and not more than two contiguous incorporated cities combined equals at least 100,000 persons.

As of the 2020 U.S. Census, the City has a population of 175,265 (U.S. Census Bureau 2020). The population exceeds 100,000, so the site would be considered an urbanized area for purposes of responding to this impact prompt.

TOP 2050 is the primary planning document for the City and contains various goals and policies governing the scenic quality of the City. Land Use Element Section 2, Compatibility, requires infrastructure to be aesthetically pleasing and in context with the community character (Policy LU-2.6). Community Design Element Section 1, Image & Identity, aims to preserve the existing character of neighborhoods (Policy CD-1.1 and Policy CD-1.3) and preserve the City's view corridors (Policy CD-1.5). Community Design Element Section 2, Design Quality, ensures a high level of design quality that is attractive, safe, functional, human-scale, and distinct (Policy CD-2.1 through Policy CD-2.10). Community Design Element Section 3, Urban, Mixed Use, and Transit-Oriented Place Types, promotes development that heightens the unique character of each place type (Policy CD-3.1) and maximizes safety, comfort, and aesthetics (Policy CD-3.2, Policy CD-3.3, and Policy CD-3.5). Community Design Element Section 4, Historic Preservation, aims to preserve

the character of the City's historic buildings, streetscapes, and unique neighborhoods (Policy CD-4.2) (City of Ontario 2023a). Adherence to the Land Use Element and Community Design Element policies described above would reduce visual impacts.

In addition, the Ontario Development Code includes development requirements related to scenic quality such as development density, screening and setback, signing, landscaping, lighting, and height limitations. The Downtown West PUD would be consistent with the aesthetic requirements outlined in TOP 2050 and the Ontario Development Code. Therefore, this impact would be less than significant.

d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Less-than-Significant Impact. New development facilitated by the Downtown West PUD would result in new sources of light and glare through increased development in the PUD project area. However, the PUD project area is currently developed and urban, consisting of large amounts of light and glare affecting daytime and nighttime views in the area. Any new development would adhere to the design standards of the Ontario Development Code to ensure that light and glare from new developments would be minimized and that significant impacts would not occur. Therefore, the Downtown West PUD would not create a significant light or glare impact beyond what already exists, and impacts would be less than significant.

Agriculture and Forestry Resources

a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

No Impact. According to the California Important Farmland Finder database, the PUD project area is classified as "Urban and Built-Up Land" (DOC 2023a). Additionally, Figure 5.2-1, Important Farmland, in The Ontario Plan 2050 Final Supplemental EIR (TOP Supplemental EIR) designates the PUD project area and surrounding areas as Developed Land (City of Ontario 2022a). The Downtown West PUD would not be located on land classified as Farmland pursuant to the Farmland Mapping and Monitoring Program and would therefore not convert any Farmland to non-agricultural use. No impact would occur.

b) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?

No Impact. As shown in Figure 5.2-2, Williamson Act Land, in the TOP Supplemental EIR, the PUD project area does not contain land under a Williamson Act Contract (City of Ontario 2022a). The PUD project area is zoned as MU and HDR (City of Ontario 2015a). Therefore, the Downtown West PUD would not conflict with existing zoning for agricultural use or a Williamson Act contract. No impact would occur.

c) Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?

No Impact. The PUD project area is not zoned for forest land, timberland, or timberland zoned Timberland Production. Therefore, there is no impact.

d) Would the project result in the loss of forest land or conversion of forest land to non-forest use?

No Impact. The PUD project area does not contain forest land. Therefore, there is no impact.

e) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

No Impact. As described above, the PUD project area does not contain farmland or forest land. Therefore, there is no impact.

Air Quality

This section is based on technical analysis conducted by Dudek and attached to this MND as Appendix A, Air Quality, Greenhouse Gas Emissions, and Energy Memorandum. See Appendix A for complete results.

a) Would the project conflict with or obstruct implementation of the applicable air quality plan?

Less-than-Significant Impact. The PUD project area is located within the South Coast Air Basin, which includes the non-desert portions of Los Angeles, Riverside, and San Bernardino Counties and all of Orange County, and is within the jurisdictional boundaries of the South Coast Air Quality Management District (SCAQMD). SCAQMD administers the South Coast Air Basin's air quality management plan (AQMP), which is a comprehensive document outlining an air pollution control program for attaining the California Ambient Air Quality Standards (CAAQS) and National Ambient Air Quality Standards (NAAQS). SCAQMD has established criteria for determining consistency with the currently applicable AQMP in Chapter 12, Sections 12.2 and 12.3 of the SCAQMD CEQA Air Quality Handbook. These criteria are as follows (SCAQMD 1993):

- **Consistency Criterion No. 1:** Whether the project would result in an increase in the frequency or severity of existing air quality violations, cause or contribute to new violations, or delay timely attainment of the ambient air quality standards or interim emission reductions in the AQMP.
- **Consistency Criterion No. 2:** Whether the project would exceed the assumptions in the AQMP or increments based on the year of project buildout and phase.

Regarding Consistency Criterion No.1, it was determined that construction of future development projects from implementation of the Downtown West PUD would not exceed the SCAQMD mass daily construction thresholds for all criteria air pollutants. In addition, the operation of any future development projects, as allowed by the Downtown West PUD, would not exceed the SCAQMD

mass daily operational thresholds for all criteria air pollutants for full operational buildout of the Downtown West PUD and for a combined construction and operational scenario.

Because the total anticipated development associated with implementation of the Downtown West PUD would not exceed the SCAQMD mass daily regional thresholds, the Downtown West PUD would not result in an increase in the frequency or severity of existing air quality violations. As such, the Downtown West PUD would be consistent with Consistency Criterion No. 1 of the SCAQMD CEQA Air Quality Handbook.

While no specific development projects are proposed at this time, implementation of the Downtown West PUD would facilitate additional population growth, additional housing units, and a decrease in density of commercial space within the PUD project area. Changes in the population, housing, or employment growth projections associated with the Downtown West PUD have the potential to affect the demographic projections of the Southern California Association of Governments (SCAG), and therefore, the assumptions of the SCAQMD's AQMP. However, development that occurs from implementation of the Downtown West PUD would be consistent with SCAG's regional goals of providing infill housing, improving the jobs-to-housing balance, and integrating land uses near major transportation corridors.

In the SCAG 2020 Regional Transportation Plan/Sustainable Communities Strategy Demographics and Growth Forecast, it was predicted that between 2016 and 2045, the City's population would increase by 96,900, households would increase by 28,500, and employment would increase by 55,400 (SCAG 2020). Downtown West PUD implementation, which would facilitate the development of 581 dwelling units and 37,886 square feet of commercial space at buildout in 2045, would not result in growth that would exceed these growth forecasts or change the underlying land use assumptions utilized in the 2022 AQMP. It is important to note that, while the more recent SCAG 2024 RTP/SCS was approved in April 2024, this project uses the 2020 RTP/SCS as a reference for air quality impact analysis because it provides consistency with the relevant AQMP from 2022. As such, the Downtown West PUD would not conflict with Consistency Criterion No. 2 of the SCAQMD CEQA Air Quality Handbook.

While the Downtown West PUD consists of a policy document that does not propose any direct development, the Downtown West PUD's proposed land use changes would allow for greater densities than are currently allowed within the PUD project area. Approval of the Downtown West PUD would not provide any goals, policies, or programs that would significantly conflict with or obstruct implementation of the applicable air quality plan. Future development resulting from implementation of the Downtown West PUD would not exceed the SCAQMD's criteria pollutant mass daily thresholds for construction and operations. Therefore, the Downtown West PUD would not conflict with Consistency Criterion No. 1.

Additionally, the Downtown West PUD would not conflict with Consistency Criterion No. 2, as implementation of the Downtown West PUD would not exceed the demographic growth forecasts in the SCAG 2020 Regional Transportation Plan/Sustainable Communities Strategy. Potential impacts related to the Downtown West PUD's potential to conflict with or obstruct implementation of the applicable air quality plan would be less than significant.

b) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

Less-than-Significant Impact. A quantitative analysis was conducted to determine whether the project might result in emissions of criteria air pollutants that may cause exceedances of the NAAQS or CAAQS or cumulatively contribute to existing nonattainment of ambient air quality standards. See Appendix A for full analysis.

The Downtown West PUD would result in emissions of criteria air pollutants for which the California Air Resources Board (CARB) and U.S. Environmental Protection Agency have adopted ambient air quality standards (i.e., the NAAQS and CAAQS). Projects that emit these pollutants have the potential to cause, or contribute to, violations of these standards.

The significance criteria used to evaluate the project impacts to air quality are based on the recommendations provided in Appendix G of the CEQA Guidelines. For the purposes of this air quality analysis, a significant impact would occur if the Downtown West PUD would (14 CCR 15000 et seq.):

1. Conflict with or obstruct implementation of the applicable air quality plan.
2. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.
3. Expose sensitive receptors to substantial pollutant concentrations.
4. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

Appendix G of the CEQA Guidelines (14 CCR 15000 et seq.) indicates that, where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to determine whether the project would have a significant impact on air quality.

SCAQMD has established air quality significance thresholds, as revised in April 2019, that set forth quantitative emission significance thresholds below which a project would not have a significant impact on ambient air quality (SCAQMD 2019). The project's "regional" emissions refer to emissions that will be evaluated based on regional significance thresholds established by SCAQMD, also known as the criteria pollutant mass daily thresholds. The SCAQMD air quality significance thresholds also provide toxic air contaminant (TAC) thresholds and ambient air quality standards for criteria pollutants that are to be utilized for localized significance determination. The quantitative air quality analysis provided herein applies the SCAQMD thresholds identified in Appendix A of this MND to determine the potential for the Downtown West PUD to result in a significant impact under CEQA.

**Construction Emissions**

Construction scenario assumptions are detailed in Appendix A. Construction activities resulting from potential future projects developed under Downtown West PUD implementation would result in the temporary addition of pollutants to the local airshed caused by on-site sources (e.g., off-road construction equipment, soil disturbance, and volatile organic compound [VOC] off-gassing from architectural coatings and asphalt pavement application) and off-site sources (e.g., vendor trucks, haul trucks, and worker vehicle trips). Specifically, entrained dust results from the exposure of earth surfaces to wind from the direct disturbance and movement of soil, resulting in emissions of particulate matter with an aerodynamic diameter equal to or less than 10 microns ($PM_{10}$) and particulate matter with an aerodynamic diameter equal to or less than 2.5 microns ($PM_{2.5}$). Internal combustion engines used by construction equipment, haul trucks, vendor trucks (i.e., delivery trucks), and worker vehicles would result in emissions of VOCs, oxides of nitrogen ($NO_x$), carbon monoxide (CO), sulfur oxides ($SO_x$), $PM_{10}$, and $PM_{2.5}$.

For purposes of estimating Project emissions, construction is assumed to start in 2025 and have a duration of 20 years, reaching completion in December 2044. To estimate a single year of construction, the entire Project buildout land use quantities was scaled by 20-years of construction (i.e., 5% of total buildout) and then compressed to a 1-year period. Construction emissions were calculated for the estimated worst-case day over the construction period associated with each phase and reported as the maximum daily emissions estimated during construction of the 5% development scenario. Table 3 presents the estimated maximum daily construction emissions generated during construction of the 5% construction scenario for the first year of construction. Details of the emission calculations are provided in Appendix A.

Table 3. Estimated Maximum Daily Construction Criteria Air Pollutant Emissions

| Year | VOC | $NO_x$ | CO | $SO_x$ | $PM_{10}$ | $PM_{2.5}$ |
|---|---|---|---|---|---|---|
| | Pounds per day | | | | | |
| **Summer** | | | | | | |
| 1 Year of Construction (5% of total construction) | 1.21 | 9.35 | 12.52 | 0.02 | 0.79 | 0.42 |
| **Winter** | | | | | | |
| 1 Year of Construction (5% of total construction) | 21.22 | 41.44 | 29.88 | 0.17 | 9.73 | 3.85 |
| **Maximum** | **21.22** | **41.44** | **29.88** | **0.17** | **9.73** | **3.85** |
| *SCAQMD Threshold* | *75* | *100* | *550* | *150* | *150* | *55* |
| **Threshold Exceeded?** | **No** | **No** | **No** | **No** | **No** | **No** |

**Source:** Appendix A.
**Notes:** VOC = volatile organic compound; $NO_x$ = oxides of nitrogen; CO = carbon monoxide; $SO_x$ = sulfur oxides; $PM_{10}$ = coarse particulate matter; $PM_{2.5}$ = fine particulate matter; SCAQMD = South Coast Air Quality Management District.
These estimates reflect control of fugitive dust required by SCAQMD Rule 403.

As shown in Table 3, daily construction emissions would not exceed the SCAQMD significance thresholds for VOC, $NO_x$, CO, $SO_x$, $PM_{10}$, or $PM_{2.5}$ during the 5% construction scenario, and short-term construction impacts would be less than significant.

## Operational Emissions

Operation scenario assumptions are detailed in Appendix A. While the Downtown West PUD consists of a policy document and does not propose any direct development, the Downtown West PUD's proposed land-use changes would allow for new or more dense development than is currently allowed within the PUD project area. Operation of the Downtown West PUD, due to future development within the PUD project area, could potentially generate VOC, $NO_x$, CO, $SO_x$, $PM_{10}$, and $PM_{2.5}$ emissions from mobile sources, including vehicular traffic; energy sources such as natural gas usage; area sources, including the use of landscaping equipment and consumer products; and architectural coatings.

Table 4 presents the maximum daily area, energy, and mobile sources associated with total operational buildout of the Downtown West PUD as compared to the SCAQMD's thresholds. The SCAQMD operational thresholds are expressed as mass daily thresholds in pounds per day. Details of the emission calculations are provided in Appendix A.

Table 4. Estimated Combined Construction and Operational Criteria Air Pollutant Emissions

| Estimated Maximum Net Daily Operational Emissions for Project Implementation[1] | | | | | | |
|---|---|---|---|---|---|---|
| **Emission Source** | **VOC** | **$NO_x$** | **CO** | **$SO_x$** | **$PM_{10}$** | **$PM_{2.5}$** |
| | **Pounds per day** | | | | | |
| Area | 3.90 | 9.04 | 54.42 | 0.05 | 0.39 | 0.39 |
| Energy | 0.11 | 1.84 | 0.77 | 0.01 | 0.15 | 0.15 |
| Mobile | −4.56 | −4.92 | −27.62 | −0.02 | 4.87 | 1.18 |
| **Total** | **−0.55** | **5.95** | **27.57** | **0.05** | **5.41** | **1.73** |
| *SCAQMD Operational Threshold (Appendix A)* | *55* | *55* | *550* | *150* | *150* | *55* |
| **Threshold Exceeded?** | **No** | **No** | **No** | **No** | **No** | **No** |
| **Combined Construction and Operational Emissions (Worst-Case)** | | | | | | |
| Construction Emissions (Table 3) | 21.22 | 41.44 | 29.88 | 0.17 | 9.73 | 3.85 |
| Operational Emissions (above) | −0.55 | 5.95 | 27.57 | 0.05 | 5.41 | 1.73 |
| **Combined Construction and Operation Emissions** | **20.67** | **47.39** | **57.45** | **0.22** | **15.14** | **5.58** |
| *SCAQMD Operational Threshold (Appendix A)* | *55* | *55* | *550* | *150* | *150* | *55* |
| **Threshold Exceeded?** | **No** | **No** | **No** | **No** | **No** | **No** |

**Notes:** VOC = volatile organic compound; $NO_x$ = oxides of nitrogen; CO = carbon monoxide; $SO_x$ = sulfur oxides; $PM_{10}$ = coarse particulate matter; $PM_{2.5}$ = fine particulate matter; SCAQMD = South Coast Air Quality Management District; <0.01 = reported value less than 0.01.
The values shown are the maximum summer or winter daily emissions results from CalEEMod.
See Appendix A for complete results.

[1] Emissions were calculated by subtracting the proposed Downtown West PUD's emissions by the existing scenario emissions. The existing scenario is 5 dwelling units and 56,171 square feet of commercial space.

As shown in Table 4, maximum daily operational emissions from full buildout of the Downtown West PUD would not exceed the SCAQMD daily significance thresholds for all criteria air pollutants during operations. In addition, the combined construction and operational emissions would not exceed the SCAQMD's operational emissions threshold for all criteria pollutants. Therefore,

impacts regarding cumulatively considerable net increases of any criteria pollutant for which the project region is non-attainment would be less than significant.

Cumulative localized impacts would potentially occur if construction associated with the development future development facilitated by the Downtown West PUD were to occur concurrently with another construction project or with another off-site, unrelated project. In addition to the speculative nature of the Downtown West PUD implementation, construction schedules for potential future projects unrelated to the Downtown West PUD are currently unknown; therefore, potential construction impacts associated with two or more simultaneous projects would be considered speculative. Criteria air pollutant emissions associated with construction activity of future projects would be reduced through implementation of control measures required by the SCAQMD, as applicable.

The Downtown West PUD would not result in a cumulatively considerable increase in emissions of nonattainment pollutants, and impacts would be less than significant during construction and operation.

**Health Effects of Criteria Air Pollutants**

Construction and operation of the project would generate criteria air pollutant emissions; however, estimated construction and operational emissions would not exceed the SCAQMD mass-emission daily thresholds as shown in Tables 3 and 4, respectively.

Because construction and operation of the project would not result in ozone precursor emissions (i.e., VOCs or $NO_X$) that would exceed the SCAQMD thresholds, as shown in Tables 3 and 4, the project is not anticipated to substantially contribute to regional ozone concentrations and their associated health impacts.

As described in threshold (c), below, CO hotspots were determined to be a less-than-significant impact. Thus, the project's CO emissions would not contribute to the health effects associated with this pollutant.

As with ozone and $NO_X$, and as shown in Tables 3 and 4, the project would not generate emissions of $PM_{10}$ or $PM_{2.5}$ that would exceed the SCAQMD's thresholds. Accordingly, the project's $PM_{10}$ and $PM_{2.5}$ emissions are not expected to cause an increase in related health effects for this pollutant.

In summary, the Downtown West PUD would not result in any potentially significant contribution to local or regional concentrations of nonattainment pollutants and would not result in a significant contribution to the adverse health impacts associated with those pollutants. Impacts would be less than significant.

c) Would the project expose sensitive receptors to substantial pollutant concentrations?

Less-than-Significant Impact. The project would not expose sensitive receptors to substantial pollutant concentrations, as evaluated below.

**Sensitive Receptors**

Sensitive receptors are those individuals more susceptible to the effects of air pollution than the population at large. People most likely to be affected by air pollution include children, the elderly, and people with cardiovascular and chronic respiratory diseases. According to SCAQMD, sensitive receptors include residences, schools, playgrounds, childcare centers, long-term healthcare facilities, rehabilitation centers, convalescent centers, and retirement homes (SCAQMD 1993). The nearest sensitive-receptor land use are residences located approximately 50 feet south and west of the Downtown West PUD site boundary.

**Localized Significance Thresholds**

The SCAQMD recommends a localized significance threshold analysis to evaluate localized air quality impacts to sensitive receptors in the immediate vicinity of the project as a result of project activities. The impacts were analyzed using methods consistent with those in the SCAQMD's Final Localized Significance Threshold Methodology (SCAQMD 2009). The project is located within Source-Receptor Area 33 (Southwest San Bernardino Valley). The maximum daily on-site emissions generated by construction of the project in each construction year are presented in Table 5 and compared to the SCAQMD localized significance criteria for Source-Receptor Area 33 to determine whether project-generated on-site emissions would result in potential localized significance threshold impacts.

Table 5. Construction Localized Significance Thresholds Analysis

| | $NO_2$ | CO | $PM_{10}$ | $PM_{2.5}$ |
|---|---|---|---|---|
| | Pounds per Day (On Site) | | | |
| *Maximum* | *18.87* | *18.56* | *3.82* | *1.96* |
| *SCAQMD LST Criteria*[a] | *118* | *863* | *5* | *4* |
| **Threshold Exceeded?** | **No** | **No** | **No** | **No** |

**Source:** SCAQMD 2009; Appendix A.
**Notes:** $NO_2$ = nitrogen dioxide; CO = carbon monoxide; $PM_{10}$ = particulate matter with a diameter less than or equal to 10 microns (coarse particulate matter); $PM_{2.5}$ = particulate matter with a diameter less than or equal to 2.5 microns (fine particulate matter); SCAQMD = South Coast Air Quality Management District; LST = localized significance threshold. Represents maximum emissions from summer and winter.
[a] LST are shown for a 1-acre disturbed area corresponding to a distance to a sensitive receptor of 25 meters in Source-Receptor Area 33 (southwest San Bernardino Valley).

As shown in Table 5, proposed construction activities would not generate emissions more than site-specific localized significance thresholds for $NO_x$, CO, $PM_{10}$, and $PM_{2.5}$. Thus, impacts would be less than significant.

**Carbon Monoxide Hotspots**

Traffic-congested roadways and intersections have the potential to generate localized high levels of CO. As discussed in the transportation memo (Appendix C to this MND), the proposed project is forecast to generate 13 AM peak hour trips and 16 PM peak hour trips (passenger car equivalent–adjusted).

Accordingly, CO concentrations at congested intersections would not exceed the 1-hour or 8-hour CO CAAQS unless projected daily traffic would be at least over 100,000 vehicles per day.

Because the Downtown West PUD is not anticipated to increase daily traffic volumes at any study intersection to more than 100,000 vehicles per day, a CO hotspot is not anticipated to occur.

Based on these considerations, the Downtown West PUD would not generate traffic that would contribute to potential adverse traffic impacts that may result in the formation of CO hotspots. This conclusion is supported by the analysis in the Transportation section, which demonstrates that traffic impacts would be less than significant. In addition, due to continued improvement in vehicular emissions at a rate faster than the rate of vehicle growth and/or congestion, the potential for CO hotspots in the South Coast Air Basin is steadily decreasing. Based on these considerations, the project would result in a less-than-significant impact to air quality with regard to potential CO hotspots.

**Toxic Air Contaminants**

TACs are defined as substances that may cause or contribute to an increase in deaths or in serious illness or that may pose a present or potential hazard to human health. The greatest potential for TAC emissions during construction would be diesel particulate matter (DPM) emissions from heavy equipment operations and use of heavy-duty trucks.

The following measures are required by state law to reduce DPM emissions:

- Fleet owners of mobile construction equipment are subject to the CARB Regulation for In-use Off-road Diesel Vehicles (13 CCR 2449), the purpose of which is to reduce DPM and criteria pollutant emissions from in-use (existing) off-road diesel-fueled vehicles.
- All commercial diesel vehicles are subject to Title 13, Section 2485 of the California Code of Regulations, limiting engine idling time. Idling of heavy-duty diesel construction equipment and trucks during loading and unloading shall be limited to 5 minutes; electric auxiliary power units should be used whenever possible.

Exhaust $PM_{10}$ is typically used as a surrogate for DPM. As shown in Table 5, which presents total $PM_{10}$ from fugitive dust and exhaust, project-generated construction $PM_{10}$ emissions are anticipated to be minimal and well below the SCAQMD threshold. Furthermore, the nearest sensitive receptors are located upwind of the PUD project area, as shown by the most recent Ontario Airport meteorological station data from 2012–2016 (SCAQMD 2023). Due to the meteorological data and minimal DPM emissions on site, TACs generated during construction would not be expected to result in concentrations causing significant health risks.

No residual TAC emissions and corresponding cancer health risks are anticipated after construction, and no long-term sources of TAC emissions are anticipated during operation of the project. As such, the Downtown West PUD would not result in substantial TAC exposure to sensitive receptors in the vicinity of the proposed Downtown West PUD, and impacts would be less than significant.

d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Less-than-Significant Impact. While the Downtown West PUD consists of a policy document that does not propose and direct development, the land use changes proposed as part of the Downtown West PUD would allow for greater densities than are currently allowed within the PUD project area, and the Downtown West PUD would result in indirect impacts. Development allowed

for by the Downtown West PUD would generate odors from vehicles and/or equipment exhaust emissions. As these odors would be short-term (e.g., only emitted during a future development project's demolition/construction phase), intermittent, limited to on-site or site-adjacent areas, and typically emitted in an outdoor setting subject to wind and other dissipating elements, such odors would disperse rapidly and would generally occur at magnitudes that would not affect substantial numbers of people. Therefore, impacts associated with odors during construction of the Downtown West PUD would be less than significant.

While the Downtown West PUD identifies the general locations (e.g., zones) where future development is likely to occur, and can make certain assumptions based on the permitted use types, the precise nature (e.g., the particular tenant[s]) and site-specific location(s) of future development projects implemented under the Downtown West PUD have not yet been identified. Therefore, odor sources associated with Downtown West PUD buildout and their potential to cause a specific impact to nearby sensitive receptors also cannot be completely identified. However, land uses and operations associated with odor complaints include agricultural uses, wastewater treatment plants, food-processing plants, chemical plants, composting operations, refineries, landfills, dairies, and fiberglass molding facilities (SCAQMD 1993). The project would not include these land uses. However, any development within the PUD project area would be required to comply with SCAQMD Rule 402, Nuisance, which prohibits the discharge of air pollutants from a facility that cause injury, detriment, nuisance, or annoyance to the public or damage to business or property. Further, new development and/or redevelopment projects in the PUD project area requiring a Conditional Use Permit—including new commercial and vehicle-related uses within 500 feet of a sensitive use—would be required to comply with applicable Zoning Code measures related to odor abatement. Therefore, the Downtown West PUD would not result in new or more substantial odor emissions that could adversely affect a substantial number of people, and impacts would be less than significant.

Biological Resources

a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Less-than-Significant Impact. The PUD project area consists of developed land, with few vacant parcels. The surrounding areas are also developed with urban uses. The PUD project area is in proximity to known sensitive species locations including Crotch's bumble bees, pallid bats, California glossy snakes, and various sensitive bird species, as shown in Figure 5.4-1 in the TOP Supplemental EIR (City of Ontario 2022a). Development facilitated by the proposed Downtown West PUD would be located on currently developed land with a mix of commercial uses, vacant land, and residential units. Vacant land in the City may contain habitat; however, because much of it is barren ground and does not support vegetation, and because many areas of vacant land are small, surrounded by developed urban uses, and isolated from other vacant land, the habitat value is low. Because there is very little native habitat remaining in the City and the PUD project area would be located on developed, urban land, impacts to special-status species would be less than significant.

b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

No Impact. The PUD project area is not located on or near any riparian areas (USFWS 2023). The PUD project area is developed, urban land that does not support riparian habitat or other sensitive native habitat. Therefore, there no impacts would occur.

c) Would the project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No Impact. The PUD project area is not located on or near any wetlands (USFWS 2023). Therefore, no impacts to federally protected wetlands would occur.

d) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

No Impact. The PUD project area is developed and paved and is located within a large urban area. No water features are located on or near the site. Therefore, the site would not interfere with the movement of any native resident or migratory fish or wildlife species, or with migratory wildlife corridors or wildlife nursery sites. No impacts would occur.

e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Less-than-Significant Impact. Section 6.05.020 of the Ontario Development Code, Tree Protection Policy and Protection Measures, contains policies and measures to preserve, protect, and maintain established and healthy heritage trees within the City. The Tree Inventory and Preservation Plan requires proposed development that contains an existing Heritage Tree to submit of a Tree Inventory and Preservation Plan prepared by a licensed landscape architect, horticulturalist, certified arborist, or other related professional (City of Ontario 2022a).

The City of Ontario Landscape Development Standards contains tree protection notes, such as establishing a Tree Protection Zone around existing trees during construction. Preliminary Landscape Plans shall include a tree report provided by a qualified landscape architect or certified arborist for trees on site proposed to be removed. Replacement trees shall be 60-inch-box trees or as approved. Two new trees shall be replaced for each removed (City of Ontario 2015b). Development under the Downtown West PUD would be required to comply with local polices or ordinances protecting biological resources and impacts would be less than significant.

f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No Impact. The PUD project area consists of developed land with few vacant parcels. As described above, many areas of vacant land are small, surrounded by developed urban uses,

and isolated from other vacant land; therefore, the habitat value is low. Policy ER-5.1 in the General Plan describes the protection of biological resources through the establishment, restoration, and conservation of high-quality habitat areas. The PUD project area is located on land designated as Mixed Use and High Density Residential (City of Ontario 2023a). Therefore, the PUD project area does not contain areas for habitat conservation. The PUD project area would be located on developed, urban land that would not conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. No impact would occur.

Cultural Resources

a) Would the project cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?

Less-than-Significant Impact with Mitigation Incorporated. The PUD project area is in an area of the City that has several known and potential historical resources. The State of California awarded a grant to fund a citywide survey between 1983 and 1984 to identify potentially historic resources located within the City. Between 1986 and 1987, the City continued the survey efforts, which resulted in documentation and evaluation of the historic significance of nearly 3,000 properties and the creation of the City's Historic Resource Inventory, in which 835 properties were formally listed. In 1991, the City retained Architectural Resources Group to further analyze historic properties located within Downtown, a former redevelopment area, and recommend an improvement strategy to revitalize the area, which led to the creation and City Council adoption of the Downtown Design Guidelines. An additional intensive level Downtown survey was conducted in 2003 that updated information on buildings and identified four potential historic districts. The City currently has 100 designated local landmarks, 14 of which are located Downtown; 8 designated historic districts; 5 historic properties listed on the National Register of Historic Places; and nearly 1,500 historic resources on the City's Historic Resource Inventory that have been determined to be eligible, nominated, or designated for landmark or historic district listing.

The Downtown West PUD considers the historic context-sensitivity of Downtown and requires projects to implement the Secretary of Interior Standards (federal preservation standards), the Ontario Development Code (Historic Preservation Ordinance), Downtown Design Guidelines, and best practices for managing development and growth on private property and within the public realm. It also encourages adaptive reuse of buildings and preservation of the potential downtown historic district. Additionally, the Downtown West PUD requires issuance of a Certificate of Appropriateness pursuant to City's Development Code (Chapter 4, Permits, Actions, and Decisions) for all exterior alterations to existing buildings and new construction on vacant or redeveloped sites that are located within the PUD boundary area to lessen or avoid impacts to historic resources. Projects that meet the PUD requirements and the Development Code will be in compliance with the Secretary of Interior Standards, thereby avoiding adverse impacts to historic resources.

The purpose of the Downtown West PUD is to approve the PUD document, which sets forth development standards, design guidelines, and regulations for future development of an eight-and-a-half block area located Downtown. The Downtown West PUD in itself will not result in a direct physical impact on historic resources. However, implementation of the Downtown West PUD land use plan may result in development project impacts to known, potential, or future historic

resources if activities propose inappropriate alterations to historical resources including, but not limited to, demolition (in whole or in part), rehabilitation, or new infill construction. Figure 4, PUD Project Area Historic Resources, identifies parcels with known historical resources, buildings over the age of 45 years that have not been evaluated for historic significance, and newer buildings that have not yet reached 45 years of age.

Chapter 4 of the Development Code contains significance criteria and procedures for the designation of historic resources such as Historic Landmarks, Historic Districts, Architectural Conservation Areas, and Automatic Designations; however, not all properties within the PUD boundary have been assessed and evaluated for historic significance.

As previously stated, all plans and development projects require issuance of a Certificate of Appropriateness. Upon acceptance of the application or request, planning staff or the Historic Preservation Subcommittee will evaluate the property for historic significance and eligibility for listing on the National Register of Historic Places, the California Register of Historic Resources, or the City's Historic Resource Inventory. The review may also include the preparation of a historic resource survey, at the intensive level, pursuant to the standards set forth by the California Office of Historic Preservation. The proposed plan or project will then be evaluated for compliance with the Downtown West PUD and require findings to lessen or avoid potential impacts to historic resources (the property or proposed downtown historic district) and make findings pursuant to Chapter 4. Plans or development projects that propose alterations or demolition that threatened the integrity of the historic resource shall require historic resource tiering prior to approval of the Certificate of Appropriateness.

To provide a greater level of certainty regarding the City's preservation goals, the Development Code includes a tier system with standard criteria and procedures for evaluating the significance of historic or potentially historic resources that are 45 years old and are threatened by major modifications or demolition.

The Development Code establishes criteria for Tier I, Tier II, and Tier III properties, with Tier I and II being of the highest value. The tier system identifies resources that have the highest preservation value in terms of their architectural and/or historical contribution to the City and the method to evaluate the significance of their loss in the case of major modification or demolition. The tier system also includes minimum mitigation measures and a mitigation fee structure for Tier III. Tier I consists of properties that should not be demolished or significantly altered under any circumstances, regardless of their designation status. Tier II consists of properties where demolition of these properties should be avoided. Given this strong policy of the City and the programmatic nature of the Downtown West PUD and this MND, it is not reasonably foreseeable at this time that any projects would be proposed and approved by the City that would require the full demolition of Tier I or Tier II resources or that would not be in compliance with the Downtown West PUD. Thus, on a programmatic level, implementation of the PUD would not result in significant impacts to Tier II or Tier I historic resources. Tier III consists of all properties that are Designated Historic Landmarks, are contributing structures in Designated Historic Districts, or are Eligible Historical Resources, as defined by the Development Code. Demolition of these properties should be avoided where possible, but may be appropriate under certain circumstances. If demolition occurs, the City requires historic resources to be documented and historic features to be salvaged and requires a

demolition mitigation fee. Therefore, the Development Code does not provide a high level of protection for Tier III resources.

As a result, on January 27, 2010, TOP 2050, File No. PGPA06-001, for which an EIR (State Clearinghouse No. 2008101140) was adopted by City Council, determined that demolition of Tier III historic resources would result in significant and unavoidable impacts that cannot be fully mitigated to a level of less than significant, despite the imposition of all feasible mitigation measures identified in the TOP EIR, for which a Statement of Overriding Consideration was documented. The mitigation measures for historic resources are included as MM-CUL-1, MM-CUL-2, and MM-CUL-3 below.

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **1** | 437 N. Euclid Ave. | 104835403 | Unicare Community Health Center | 1967 | NS |
| **2** | 429 N. Euclid Ave. | 104835404 | Immigration Attorney | c.1948 (NETR) | NS |
| **3** | 427 N. Euclid Ave. | 104835405 | Aktiva Nutrition | 1946 | E/5S3 |
| **4** | 425 N. Euclid Ave. | 104835406 | Downtown Ontario Improvement Association | 1948 | E/5S3 |
| **5** | 421 N. Euclid Ave. | 104835407 | Work Boot Warehouse | c. 1930 | E/5S3 |
| **6** | 417 and 419 N. Euclid Ave. | 104835408, -09 | Optometrist | c. 1950 | E/5D1 |
| **7** | 413 and 415 N. Euclid Ave. | 104835410 | Rogers Flower Shop and Barber Shop | c. 1930 | NS |
| **8** | 401 N. Euclid Ave. | 104835411 | Gloria's Cocina Mexicana | 1937 | OL/5D1 |
| **9** | 120 W. D St. | 104835412 | Paved Parking | — | — |
| **10** | 123 W. E St. and 420 N. Laurel Ave. | 104835401,-02, 104835413 | Unicare Community Health Center, Parking | c. 1960 | NS |

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **11** | 201 W. E St. 425 N. Laurel Av. 421 N. Laurel Av. | 104835304/5/6 | Paved Parking | — | — |
| **12** | 221 W. E St. | 104835314 | Paved Parking | — | — |
| **13** | 206 W. D St. | 104835313 | Paved Parking | — | — |
| **14** | 210-220 W. D St. | 104835309 | Multiple-family residential | 1946 | E/5S3 |
| **15** | 322 W. D St. | 104834403 | St. George School Playground | Shared property with Church (c.1920) | — |
| **16** | 331 and 333 N. Euclid Av. | 104856604 | U.S. Bank Branch | 1965 | E/5S3 |
| **17** | 317 N. Euclid | 104856605 | Treasure Banquet Hall | 1950 | E/5S3 |
| **18** | 311, 313, 315 N. Euclid Ave. | 104856606 | Cancha Verde/ Strum Brewing | c. 1931 | E/5D1 |
| **19** | 108 W. C St.. 301/303 N. Euclid | 104856607 | Emmon's Building/Granada Theater | 1926 | OL-T1/5S3/5D1 |
| **20** | 114 W. C St. | 104856609 | Paved Parking | — | — |
| **21** | 126 W. C St. | 104856610 | Paved Parking | — | — |
| **22** | 112 W. C St. | 104856608 | Paved Parking | — | — |
| **23** | 115 W. D St. | 104856603 | Paved Parking | — | — |
| **24** | (123 W. D St) 121 W. D St. | 104856602 | Associated Telephone Company Building | 1936 | Nom-T2/ 5S2 |

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **25** | 123 W. D St. | 104856601 | Paved Parking | — | — |
| **26** | 324 N. Laurel Ave. | 104856611 | Paved undeveloped lot | — | — |
| **27** | 211 W. D St./ 207 W. D St. | 104856113 | Frontier Communications | c.1959 (NETR) | NS |
| **28** | 303-305 and 311-315 N. Laurel Av. | 104856107 | Multiple-family residential | c. 1920 | E/5S3 |
| **29** | 210- 212 W. C St. | 104856108 | Dental Kidz Club | 1954 | R/6XM |
| **30** | 218 W. C St. | 104856109 | Single Family residence | 1908 | E/5S3 |
| **31** | 220 W. C St. | 104856110 | Vacant land | — | — |
| **32** | 312 N. Palm Av. | 104856112 | Single Family residence and commercial building | 1920 | E/5S3 |
| **33** | 228 W. C St. | 104856111 | Superior Justice Law Group | 1955 | NS |
| **34** | 245 N. Euclid Av. | 104856503 | Valley Dept Store | 1950 | E/5S3 |
| **35** | 233 N. Euclid Av. 223 N. Euclid Av. 235 N Euclid Av. | 104856504 | The Golden Web Boutique store | 1916 | OL/5D1 |
| **36** | 231 N. Euclid Av. | 104856505 | Unique Café | 1904 | OL/5D1 |
| **37** | 219 N. Euclid Av. | 104856506 | Herradura De Oro | 1948 | E/5S3 |
| **38** | 215 N. Euclid Av. | 104856507 | Newsboy books | 1946 | E/5S3 |

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **39** | 211 N. Euclid Av. | 104856508 | Euclid Family Dentistry | c.1925 | E/5S3 |
| **40** | 207 N. Euclid Av. | 104856509 | Vacant Commercial Building | 1910 | OL/5S1/5D3 |
| **41** | 106 W. B St. 203 N. Euclid Av | 104856510 | Furniture Dreams (Residential on second floor) | 1908 | OL/5S1/5D3 |
| **42** | 236 N. Laurel Av. | 104856501 | Paved Parking | — | — |
| **43** | N/A | 104856513, 104856514 | Paved Parking | — | — |
| **44** | 126 W. B St. | 104856512 | Beautiful Smiles Ontario | c. 1930 | E/5S3/5D1 |
| **45** | 108 W. C St. 115 W St. | 104856502 | Bank Building (Vacant) | 1936 | E-T3/5S3 |
| **46** | 120 W. B St. 112 W. B St. | 104856511 | Nightmare on B Street/ Dance Studio/ Odd fellows - Eligible (Aria Kabob, Electric Beauty Salon - Historic LL) | 1922 | OL/5S1/5D3 |
| **47** | 223, 225, 229, 235 N. Laurel Ave. | 104856202 | Centro Legal De Accidentes & Cedar Pointe Chiropractic | 1947 | E/5D1 |
| **48** | 206,208,210, 214,216,218, 220 W. B St./ 205, 207,209,211,213,215 N Laurel Ave | 104856203 | Multiple shops including barber, Fitness, beauty, | 1947 | E/5S3 |
| **49** | 222 W. B St. | 104856207 | Ministerio Pan de Vida (Religious Institution) | 1945 | R/6XM |
| **50** | 212, 214, 216, 218 N. Palm Av. | 104856206 | Small shops (Tax services and fitness) | 1957 | S |
| **51** | 215 W. C St. | 104856201 | Great Commission Church International (Christian Church) | 1948 (additions 1955,1959,1966) | E/5S3 |

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **52** | 137, 139, 143, 141 N. Euclid Ave. and 105 W. B St. | 104856403 | Gemmel Pharmacy | 1889 | N/5S3/5D1 |
| **53** | 129 and133 N. Euclid Ave. | 104856404 | DolEx Financial Services | c. 1907 | E/5S3 |
| **54** | 125 N. Euclid Ave. | 104856405 | Bravo's Store | 1910 | E/5S3 |
| **55** | 121 and 123 N. Euclid Ave. | 104856406 | Demolished- vacant | 1894 | OL/Demolished in 2001 |
| **56** | 105, 109, 111, 115, 117 N. Euclid Av. | 104856407 | Verizon, Bally Spa, Night club, Motorcycle run | 1889 | OL/5S1/5D3 |
| **57** | 104,108, 110 & 112 W. Holt Blvd. | 104856410 | Botanica, Sabor Honduren, Beauty and Barber | 1895 | OL-T2/5S1/5D3 |
| **58** | 105 N. Euclid Ave. | 104856408 | Xolos Birria | 1888 | OL/5S1/5D3 |
| **59** | 101 N. Euclid Ave. | 104856409 | T Mobile | 1895 | OL-T2/5S1/5D3 |
| **60** | 121, 123, 125,127 W. B St | 104856401 | B St. Professional Bldg.; Document Preparation Services Inc., Logan's Candies, Isaprint, | c. 1930 | E/5D1 |
| **61** | N/A | 104856414 | Paved Parking | — | — |
| **62** | 115 W. B St. 117 & 119 W. B St. | 104856402 | Income Tax office and residential upper floor | 1922 | OL/5S3/5D1 |
| **63** | 114, 116, 118 W. Holt Blvd | 104856411 | Pirate staffing, Ontario Boxing Club | c. 1915 | E-T3/ 5D1 |
| **64** | 108 N. Laurel Ave./ 120, 122, 124, 126 W. Holt Blvd. | 104856412 and 1048564 13 | Jobs, Insurance, Pawnshop, paved parking | C 1910 (addition c. 1950) | E-T3/ 5D1 |
| **65** | 203 W. B St./ 123, 127, 129 N. Laurel Ave | 104856313 | Body X Beauty, Pet grooming, Spa, Karate | 1922 (retail commercial addition c. 1940) | E/5S3 |

| Map ID- See Figure 4 | Associated Address | Parcel Number | Current Use/ Description | Year Built | Historic Status Code (Local/CA) |
|---|---|---|---|---|---|
| **66** | 207 W. B St. | 104856312 | Iglesia Fuente and paved parking | 1949 | E/5S3 |
| **67** | 211, 213, 215, 217 W. B St. | 104856303 | Majestic Trophy, Boxing Club, Mary Kay, office | 1953 | E/5S3 |
| **68** | N/A | 104856302 | Paved Parking | — | — |
| **69** | 225-227-229 W. B St. and 128-130 N Palm Ave. | 104856301 | Evc Insurance & Services and the Vault Barbershop and Home | c. 1915 (commercial additions c. 1950) | E/5S3 |
| **70** | 120 N. Palm Ave. | 104856311 | House | c. 1915 | E/5S3 |
| **71** | 220 W. Holt Blvd. | 104856310 and 104856309 | Fiesta Motors (Parking Lot) | — | Rem/6W |
| **72** | 210, 212, 214, 216, 218 W. Holt Blvd. | 104856308 | Eagles Aere and Sams Liquor | 1920 | E-T3/ 5D1 |
| **73** | 202 W. Holt Blvd. | 104856307 | Flores Barber Shop, Singular Insurance Services | 2004 | — |
| **74** | N/A | 104856306 | Paved Parking | — | — |
| **75** | 315 W. D St. | 104857601 | Paved Parking | — | — |
| **76** | 325 N. Palm Ave | 104857602 | Paved Parking | — | — |

Local Key: NS- Not Surveyed, E- Eligible, N- Nominated, OL- Ontario Landmark, T1- Tier 1, T2- Tier 2, T3- Tier 3, REM- removed from inventory, S- Surveyed. CA status codes are available at ohp.parks.ca

Mitigation Measures:

MM-CUL-1. Issuance of a Certificate of Appropriateness pursuant to City's Development Code (Chapter 4, Permits, Actions, and Decisions) is required for all exterior alterations to existing buildings, and new construction on vacant or redeveloped sites that are located within the PUD boundary area prior to plan or development project approval.

MM-CUL-2. Historic or potentially historic resources located within the PUD boundary shall be evaluated for historic significance through the City's tier system prior to the issuance of plan or development approvals.

MM-CUL-3.

A. Partial Demolition of Tier I, II, or III Historic Resources that do not result in loss of character defining features or cause adverse impacts to the integrity of the historic resource shall be documented pursuant to the Historic American Building Survey (HABS) standards to include photographs and cataloging of the exterior and interior of the resource prior to issuance of a building permit.

B. As established in the TOP SEIR 2050, mitigation measures for demolition (full or in part) of Tier III Historic Resources shall include the following:

1) Each historic resource shall be fully documented and cataloged pursuant to Historic American Building Survey/Historic American Engineering Record (HABS/HAER) standards, to provide a record of the resource, including, but not limited to: [i] the preparation of site plans, floor plans, exterior and interior elevations, and detail drawings of character defining features (such as moldings, stairs, etc.); and [ii] photographs of the resource, including the exterior, interior, and interior and exterior character defining features (such as moldings, light fixtures, trim patterns, etc.).

2) A mitigation fee established pursuant to Section 7.01.030 (Historic Preservation Mitigation Fee) shall be paid to the City prior to the issuance of a demolition permit for Tier III historic resources.

3) A Certificate of Appropriateness shall not be issued for the demolition of an historic resource, either in whole or in part, until such time that a demolition permit application and a replacement structure has been approved by the City, and appropriate permits have been issued for its construction, a deferral of the replacement structure requirement is granted pursuant to Subsection G (Replacement Structure Deferral) of Section 4.02.050; or [iii] demolition is required pursuant to Section 7.01.050 (Unsafe or Dangerous Conditions) of this Development Code.

4) In an effort to preserve features and artifacts from historic resources, a determination whether items within or on the resource should be salvaged must be made by the Planning Department and may include the local historical society prior to the issuance of the demolition permit. The

applicant shall be responsible for the removal, relocation, storage, and donation of such items selected for salvaging. The applicant shall provide an inventory of salvaged items to the Planning Department, and shall include a list of each item name, description, and dimension (as necessary), and the location of each item on a floor plan.

C. Full Demolition or partial demolition which results in loss or adverse impacts to character defining features of a Tier I or Tier II Historic Resource shall require preparation of and EIR or Focus EIR.

Implementation of MM-CUL1, MM-CUL-2, and MM-CUL-3 would reduce potentially significant impacts to cultural resources (historic era-built environment) to a less-than-significant level.

b) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Less-than-Significant. The PUD project area consists of developed land with few vacant parcels. Implementation of the Downtown West PUD could allow development, including grading, that requires more intensive soil exaction than in the past, which could cause the disturbance of archeological resources. However, the potential to encounter subsurface intact deposits within native soils to the depths of proposed ground disturbance within the PUD project area is considered low. In an abundance of caution, Standard Conditions of Approval (City Council Resolution No. 2010-021) are required for development plan approval, which would address unanticipated archaeological resource discovery during construction by enacting the following (City of Ontario 2010):

> If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

c) Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

Less-than-Significant Impact. There are known Native American gravesites and cemeteries in the City, including Bellevue Memorial Park on the north side of G Street, between Benson Avenue and Mountain Avenue (City of Ontario 2022a). These sites are not located in the PUD project area; therefore, there are no known human remains located in the PUD project area. Should human remains be unexpectedly encountered during ground-disturbing activities, they shall be treated consistent with applicable law including, without limitation, California Health and Safety Code Section 7050.5, PRC Section 5097.98, and CEQA Guidelines Section 15064.5(e). In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the county coroner shall be immediately notified of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains can occur until the county coroner has determined the appropriate treatment and disposition of the human remains. If the county coroner determines that the remains are, or are believed to be,

Native American, the county coroner shall follow all required protocols according to PRC Section 5097.98. Compliance with these regulations would ensure that impacts to human remains resulting from the Downtown West PUD would be less than significant.

Energy

This section is based on technical analysis conducted by Dudek and attached to this MND as Appendix A. See Appendix A for complete results.

a) Would the project result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Less-than-Significant Impact. The electricity and natural gas used for construction of the proposed Downtown West PUD would be temporary, would be substantially less than that required for project operation, and would have a negligible contribution to the project's overall energy consumption. Although the Downtown West PUD would see an increase in petroleum use during construction and operation, vehicles would use less petroleum due to advances in fuel economy and potential reduction in vehicle miles traveled (VMT) over time.

Natural gas and electricity usage would increase due to the implementation of the Downtown West PUD; however, the Downtown West PUD would be subject to the State Building Energy Efficiency Standards. Therefore, impacts to energy resources during operation would be less than significant.

Over the lifetime of the Downtown West PUD, the fuel efficiency of the vehicles being used by the residents and employees of the Downtown West PUD is expected to increase. As such, gasoline consumption would initially increase due to the implementation of the Downtown West PUD; however, the amount of gasoline consumed as a result of vehicular trips to and from the PUD project area during operation would decrease over time. There are numerous regulations in place that require and encourage increased fuel efficiency. For example, CARB has adopted a new approach to passenger vehicles by combining the control of smog-causing pollutants and greenhouse gas (GHG) emissions into a single coordinated package of standards. The new approach also includes efforts to support and accelerate the number of plug-in hybrids and zero-emission vehicles in California (CARB 2017). Additionally, in response to Senate Bill (SB) 375, CARB has adopted the goal of reducing per-capita GHG emissions from 2005 levels by 8% by the year 2020 and 13% by the year 2035 for light-duty passenger vehicles in the SCAG planning area. This reduction would occur by reducing VMT through the integration of land use planning and transportation. As such, operation of the Downtown West PUD is expected to use decreasing amounts of petroleum over time, due to advances in fuel economy.

The Downtown West PUD would create additional electricity and natural gas demand by adding 581 dwelling units, 37,886 square feet of commercial space, and 1,220 provisional parking spaces. New facilities associated with the proposed Downtown West PUD would be subject to the State Building Energy Efficiency Standards, embodied in Title 24 of the California Code of Regulations. The efficiency standards apply to new construction of non-residential buildings and regulate energy consumed for heating, cooling, ventilation, water heating, and lighting. The Downtown West PUD will meet applicable Title 24 requirements. Other renewable energy systems including wind turbine generation, geothermal generation, energy storage, and other renewable energy generation features are not considered technically or economically feasible and/or demonstrated for a similar

project. Additionally, site constraints include limited land availability and incompatibility with land use for large scale power generation facilities, as well as unknown interconnection feasibility and compatibility with utility provider systems. For these reasons, other on-site renewable energy systems are not considered feasible for the proposed Downtown West PUD.

In summary, implementation of the Downtown West PUD would increase the demand for electricity and natural gas at the PUD project area and petroleum consumption in the region during construction and decrease petroleum consumption during operation. As the Downtown West PUD would be consistent with current regulations and policies, the Downtown West PUD would not be wasteful or inefficient and would not result in unnecessary energy resource consumption. The project's energy consumption demands during construction and operation would conform to the state's Title 24 standards such that the Downtown West PUD would not be expected to wastefully use gas and electricity. Since the proposed Downtown West PUD would comply with Title 24 conservation standards, the proposed Downtown West PUD would not directly require the construction of new energy generation or supply facilities or result in wasteful, inefficient, or unnecessary consumption of energy. Moreover, vehicle usage associated with the Downtown West PUD would use less petroleum due to advances in fuel economy and potential reduction in VMT over time. Therefore, impacts would be less than significant.

b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Less-than-Significant Impact**.** The Downtown West PUD would be subject to and would comply with, at a minimum, the California Building Energy Efficiency Standards (24 CCR Part 6). Part 6 of Title 24 of the California Code of Regulations and all applicable rules and regulations would reduce energy demand and increase energy efficiency related to future residential development facilitated by the Downtown West PUD. Part 6 of Title 24 of the California Code of Regulations establishes energy efficiency standards for residential and non-residential buildings constructed in California to reduce energy demand and consumption. Part 6 is updated periodically (every 3 years) to incorporate and consider new energy efficiency technologies and methodologies.

Title 24 also includes Part 11, the California Green Building Standards, also known as CALGreen, which sets forth voluntary and mandatory energy measures that are applicable to the Downtown West PUD under. CALGreen institutes mandatory minimum environmental performance standards for all ground-up, new construction of commercial, low-rise residential, high-rise residential, state-owned buildings, schools, and hospitals, as well as certain residential and non-residential additions and alterations. On this basis, the Downtown West PUD would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, impacts would be less than significant.

Various existing local plans would reduce energy use including SCAG's 2024–2050 Regional Transportation Plan/Sustainable Communities Strategy and CARB's Scoping Plan. Furthermore, approval of the Downtown West PUD itself, as a policy document update, would not change these regulations and would not provide any goals, policies, or programs that would conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, impacts would be less than significant.

Geology and Soils

a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

and

ii) Strong seismic ground shaking?

Less-than-Significant Impact. The City is not within any Alquist-Priolo Earthquake Fault Zone. The southern section of the San Andreas Fault, located approximately 14 to 22 miles from the City, is estimated to be capable of generating the greatest magnitude earthquake (City of Ontario 2022a). However, development facilitated by the Downtown West PUD would be required to comply with seismic safety provisions of the California Building Code (CBC) (Title 24, Part 2 of the California Code of Regulations). Compliance with the CBC would reduce hazards from seismic ground shaking to less than significant.

iii) Seismic-related ground failure, including liquefaction?

Less-than-Significant Impact. Groundwater levels throughout the City are greater than 50 feet below ground surface (City of Ontario 2022a). Additionally, development facilitated by the Downtown West PUD would be required to meet the most current seismic safety requirements in the CBC. Therefore, the Downtown West PUD would have a less-than-significant impact on seismic-related ground failure, including liquefaction.

iv) Landslides?

No Impact. Landslides typically occur on moderate to steep slopes that are affected by physical factors such as slope height, slope steepness, shear strength, and orientation of weak layers in the underlying geologic units. The PUD project area and surroundings area are generally flat with soils stabilized by development and landscaping. The Downtown West PUD would not result in the creation of moderate to steep slopes that may become susceptible to landslides. As such, no impact would occur.

b) Would the project result in substantial soil erosion or the loss of topsoil?

Less-than-Significant Impact. The PUD project area is mostly developed and paved and is generally on level ground. Proposed development would result in ground surface disruption during grading and excavation, which could result in erosion, siltation, or flooding impacts. Construction activities on the PUD project area larger than 1 acre are required to prepare a stormwater pollution prevention plan that details best management practices (BMPs) to reduce the potential for erosion during construction activities. In addition, compliance with the safety provisions of the CBC would reduce the potential for erosion or loss of topsoil to a level of less than significant.

c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Less-than-Significant Impact. Unstable geologic units or soils are characterized by materials lacking in sufficient integrity to support urban development (e.g., poorly consolidated fill). The PUD project area, along with majority of the City, is located in a subsidence zone due to groundwater pumping (City of Ontario 2023a). However, the PUD project area consists of existing development, which indicates that geologic conditions in the area can support the proposed development. Individual projects facilitated by the Downtown West PUD would be required to comply with the CBC and grading plans would be reviewed by the City engineer; therefore, impacts would be less than significant.

d) Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Less-than-Significant Impact. The PUD project area is located in the northern portion of the City, which consists of primarily silty sand, sand, and gravel; such sediments are usually non-expansive or have very low expansion potential (City of Ontario 2022a). Compliance with the CBC and review of grading plans for individual projects by the City engineer would ensure that impacts would be less than significant.

e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

Less-than-Significant Impact. Wastewater from the City is treated at wastewater treatment facilities owned and operated by the Inland Empire Utilities Agency (IEUA) (City of Ontario 2022a), and any new development would connect to the existing wastewater treatment facilities. The Downtown West PUD does not include the use of septic tanks. Therefore, no impact to soils relative to supporting use of septic tanks would occur.

f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Less-than-Significant Impact. The possibility of finding paleontological resources in the City is moderate to high at depths of 10 feet or more below ground surface (City of Ontario 2022a). However, the PUD project area is mostly developed and paved. Proposed development would be infill development on sites that have been previously disturbed. Development would not involve ground disturbing activities at depths of 10 feet or more; therefore, impacts would be less than significant.

Greenhouse Gas Emissions

This section is based on technical analysis conducted by Dudek and attached to this MND as Appendix A. See Appendix A for complete results.

a) Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Less-than-Significant Impact. The City adopted their Community Climate Action Plan (CCAP) on August 16, 2022. The 2022 CCAP is an update to the City's 2014 CCAP and accounts for SB 32, which provides statewide targets to reduce GHG emissions to 40% below 1990 levels by 2030 (City of Ontario 2022d, 2023e). The 2022 CCAP is consistent with TOP 2050 and with the CEQA Guidelines for Plans for the Reduction of Greenhouse Gas Emissions (California Code of Regulations Section 15183.5). Because the 2022 CCAP addresses GHG emissions reductions and is consistent with the requirements of AB 32, SB 32, and international efforts to reduce GHG emissions, projects that comply with the CCAP Update would have a less-than-significant GHG impact. This allows the 2022 CCAP to support and streamline environmental review of GHG emissions for future development projects in the City.

The 2022 CCAP outlines two pathways to compliance at the project development level. The first pathway consists of screening tables, which aim to provide guidance in measuring the reduction of GHG emissions attributable to certain design and construction measures incorporated into development projects. The second pathway consists of efficiency metric thresholds.

This analysis applies the GHG efficiency metric threshold of 1.53 metric tons (MT) of carbon dioxide equivalent ($CO_2e$)/dwelling unit for residential development completed after 2030, and 3.61 MT $CO_2e$/2,500 square feet of conditioned space developed after 2030 to the Downtown West PUD (City of Ontario 2022d). These metrics can be used in lieu of the CCAP's screening tables, which require project-level specific information that is not currently available for the proposed Downtown West PUD. These GHG efficiency metrics are appropriate in that they would achieve per capita emissions for the City that align with the state's reduction goals of 40% below 1990 levels of emissions by 2030 and 80% below 1990 levels by 2050. Because the Downtown West PUD includes both residential and nonresidential space, the residential and nonresidential components were assessed separately against their respective applicable thresholds.

**Construction Emissions**

Construction of future development that would be facilitated by the Downtown West PUD would result in GHG emissions, which are primarily associated with use of off-road construction equipment, on-road haul trucks, on-road vendor trucks, and worker vehicles. The SCAQMD has not proposed or adopted relevant quantitative GHG thresholds for construction-generated emissions.

Table 6 presents the estimated GHG emissions generated during construction of the 5% development scenario. Details of the emission calculations are provided in Appendix A.

Table 6. Estimated Annual Construction GHG Emissions

| Year | $CO_2$ | $CH_4$ | $N_2O$ | $CO_2e$ |
|---|---|---|---|---|
| | Metric Tons | | | |
| 2025 (one full year) | 0.02 | 0.02 | 0.16 | 344.67 |
| **Total over 20 years[1]** | **0.38** | **0.35** | **3.22** | **6,893.40** |
| **Total Amortized Emissions** | | | | **229.78** |
| *Residential Amortized Emissions[2]* | | | | *217.47* |
| *Commercial Amortized Emissions[3]* | | | | *12.31* |

**Notes:** $CO_2$ = carbon dioxide; $CH_4$ = methane; $N_2O$ = nitrous oxide; $CO_2e$ = carbon dioxide equivalent.
See Appendix A for complete results.
Amortized construction GHG emissions represent total construction GHG emissions (in MT of $CO_2e$) divided 30 years, which is the assumed project operational lifetime consistent with SCAQMD guidance (SCAQMD 2008).

1 Totals may not add due to rounding.

2 The construction emissions associated with the residential land uses was calculated by multiplying total amortized emissions (229.78) by 95%, which represents the residential square footage divided by the proposed project's total square footage, to get 217.47.

3 The construction emissions associated with the commercial land use was calculated by multiplying total amortized emissions (229.78) by 5%, which represents the commercial square footage divided by the proposed project's total square footage, to get 12.31.

As shown in Table 6, the estimated total GHG emissions during construction of future projects that would be facilitated by the Downtown West PUD would be approximately 6,893 MT $CO_2e$ over the 20-year construction period. Estimated project-generated construction emissions amortized over 30 years would be approximately 230 MT $CO_2e$ per year.

Because the residential and commercial uses of the Downtown West PUD were evaluated separately to determine their respective GHG efficiency metrics, the amortized construction emissions were split between residential and commercial based on square footage of the proposed Downtown West PUD. The 581 residential dwelling units make up 669,342 square feet of the proposed Downtown West PUD, which is 95% of the total proposed Downtown West PUD's square footage. The commercial square footage totals 37,886 square feet, which makes up 5% of the total proposed project's square footage. Therefore, 95% of the total amortized construction emissions is 217.47 MT CO2e, which was added to the residential operational GHG emissions. The remaining 5% or 12.31 MT CO2e was added to the commercial operational GHG emissions.

**Operational Emissions**

Operation of the future development that would be facilitated by the Downtown West PUD would generate GHG emissions through motor vehicle trips; landscape equipment operation and hearths (area sources); energy use (natural gas and electricity); solid waste disposal; water supply, treatment, and distribution; and refrigerants. As with the air quality analysis, mobile source GHG emissions were estimated using the California Emissions Estimator Model (CalEEMod) based on EMFAC 2021 emission factors. Emissions from each category are discussed in the following text with respect to the Downtown West PUD. CalEEMod was used to calculate the annual GHG emissions. Operational year 2045 was assumed to be the first full year of operation following completion of construction.

The operational emissions associated with the commercial portion of the Downtown West PUD were evaluated separately against their respective efficiency threshold. The estimated

operational commercial project-generated GHG emissions from area sources, energy usage, motor vehicles, solid waste generation, water usage and wastewater generation, and refrigerants are shown in Table 7.

Table 7. Project GHG Efficiency - Commercial

| Emission Source | $CO_2$ | $CH_4$ | $N_2O$ | $CO_2e$ |
|---|---|---|---|---|
| | Metric Tons per Year[1] | | | |
| Area | 0.77 | <0.01 | <0.01 | 0.77 |
| Energy | 55.45 | 0.01 | <0.01 | 55.82 |
| Mobile | 1,960.07 | 0.063 | 0.09 | 1,988.21 |
| Waste | 3.55 | 0.35 | 0 | 12.42 |
| Water | 3.15 | 0.09 | <0.01 | 6.10 |
| Refrigerants | 0 | 0 | 0 | 0.04 |
| **Total** | **2,022.99** | **0.52** | **0.09** | **2,063.36** |
| *Amortized construction emissions (Table 6)* | | | | *12.31* |
| **Total operational + amortized construction emissions** | | | | **2,075.67** |
| **Existing Emissions[2]** | | | | **2,021.06** |
| **Total Net Emissions[3]** | | | | **54.61** |
| **Project Efficiency (MT $CO_2e$/2,500 SF)[4]** | | | | **3.60** |
| *Ontario CAP Post-2030 Commercial Efficiency Threshold* | | | | *3.61* |
| **Threshold Exceeded?** | | | | **No** |

**Notes:** GHG = greenhouse gas; $CO_2$ = carbon dioxide; $CH_4$ = methane; $N_2O$ = nitrous oxide; $CO_2e$ = carbon dioxide equivalent; SF = square feet; <0.01 = less than 0.01.
See Appendix A for complete results.

1 The Downtown West PUD emissions reflect operational year 2045.

2 CalEEMod was used to calculate the GHG emissions associated with existing residential and commercial space to be redeveloped as a result of this project. The existing scenario to be redeveloped includes 5 dwelling units and 56,171 square feet of commercial building space.

3 Net emissions were calculated by subtracting the existing emissions from the total operational and amortized emissions associated with the project.

4 Project efficiency is calculated by dividing the net emissions (54.61 MT $CO_2e$) by 2,500 SF and multiplying by the proposed project's commercial square footage (37,886 SF) to get 3.60 MT $CO_2e$/2,500 SF.

As shown in Table 7, estimated annual GHG emissions generated by future commercial development that would be facilitated by the Downtown West PUD would be approximately 2,063 MT $CO_2e$ per year as a result of Downtown West PUD operation. Estimated annual project-generated operational emissions in 2045 and amortized Downtown West PUD construction emissions would be approximately 2,076 MT $CO_2e$ per year. The estimated annual net operational emissions after removal of existing operational emissions would be approximately 54.61 MT $CO_2e$ per year. As explained previously, the efficiency metric threshold used is 3.61 MT $CO_2e$/2,500 square feet per year. The proposed Downtown West PUD is anticipated to facilitate a maximum of 37,886 square feet of commercial building space by 2045. Accordingly, the proposed Downtown West PUD would result in an efficiency of 3.60 MT $CO_2e$/2,500 square feet per year, which would not exceed the applied efficiency metric threshold of 3.61 MT $CO_2e$/2,500 square feet per year.

The operational emissions associated with the residential portion of the Downtown West PUD were evaluated separately against their respective efficiency metric threshold. The estimated operational project-generated GHG emissions from area sources, energy usage, motor vehicles,

solid waste generation, water usage and wastewater generation, and refrigerants are shown in Table 8.

Table 8. Project GHG Efficiency - Residential

| Emission Source | $CO_2$ | $CH_4$ | $N_2O$ | $CO_2e$ |
|---|---|---|---|---|
| | Metric Tons per Year[1] | | | |
| Area | 144.74 | <0.01 | <0.01 | 144.94 |
| Energy | 901.06 | 0.10 | 0.01 | 906.07 |
| Mobile | 1,666.18 | 0.05 | 0.08 | 1,690.41 |
| Waste | 38.33 | 3.83 | 0 | 134.11 |
| Water | 27.18 | 0.79 | 0.02 | 52.61 |
| Refrigerants | 0 | 0 | 0 | 0.77 |
| **Total** | **2,777.50** | **4.78** | **0.10** | **2,928.91** |
| *Amortized construction emissions (Table 6)* | | | | *217.47* |
| **Total operational + amortized construction emissions** | | | | **3,146.38** |
| **Existing Emissions[2]** | | | | **1,946.38** |
| **Total net emissions[3]** | | | | **1,200.00** |
| **Project Efficiency (MT $CO_2e$/du)[4]** | | | | **2.07** |
| *Ontario CAP Post-2030 Residential Efficiency Threshold* | | | | *1.53* |
| **Threshold Exceeded?** | | | | **Yes** |

**Notes:** GHG = greenhouse gas; $CO_2$ = carbon dioxide; $CH_4$ = methane; $N_2O$ = nitrous oxide; $CO_2e$ = carbon dioxide equivalent; du = dwelling unit; <0.01 = less than 0.01.
See Appendix A for complete results.

1 The Downtown West PUD emissions reflect operational year 2045.

2 CalEEMod was used to calculate the GHG emissions associated with existing residential and commercial space to be redeveloped as a result of this project. The existing scenario is 5 dwelling units and 56,171 square feet of commercial building space.

3 Net emissions were calculated by subtracting the existing emissions from the total operational and amortized emissions associated with the project.

4 Project efficiency is calculated by dividing the total operational and amortized construction emissions (3,146.38 MT $CO_2e$) by the Downtown West PUD's number of dwelling units (581) to get 2.07 MT $CO_2e$/du.

As shown in Table 8, estimated annual GHG emissions generated by future residential development that would be facilitated by the Downtown West PUD would be approximately 2,929 MT $CO_2e$ per year as a result of Downtown West PUD operation. Estimated annual project-generated operational emissions in 2045 and amortized Downtown West PUD construction emissions would be approximately 3,146 MT $CO_2e$ per year. The estimated annual net operational emissions after removal of existing operational emissions would be approximately 1,200 MT $CO_2e$ per year. As explained previously, the efficiency metric threshold used is 1.53 MT $CO_2e$/dwelling unit per year. The proposed Downtown West PUD is anticipated to facilitate a maximum of 581 dwelling units by 2045. Accordingly, the proposed Downtown West PUD would result in an efficiency of 2.07 MT $CO_2e$/ dwelling unit per year, which would exceed the applied efficiency metric threshold of 1.53 MT $CO_2e$/du/year. Therefore, GHG emissions generated by the Downtown West PUD would have a potentially significant impact; however, future project development proposals under the scope of the Downtown West PUD shall implement screening table measures that achieve the requisite points per the City's CCAP screening tables. With implementation of the screening tables measures, impacts would be less than significant.

b) Would the project generate conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Less-than-Significant Impact. A project's consistency with the CCAP is projected to result in emissions that would meet the GHG reduction target established under SB 32 and Executive Order S-03-05 and progress towards the state's carbon neutrality goal. The Downtown West PUD would be consistent with the CCAP and would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. Therefore, impacts would be less than significant.

Hazards and Hazardous Materials

a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less-than-Significant Impact. Development facilitated by the Downtown West PUD would increase commercial and residential uses in the City, therefore increasing the amount of hazardous materials being transported, used, or disposed of in the City. These materials would be transported and handled in accordance with all federal, state, and local laws regulating the management and use of hazardous materials. Consequently, use of these materials for their intended purpose would not pose a significant risk to the public or environment. With adherence to state and local regulations, impacts associated with routine transport, use, and disposal of hazardous materials would be less than significant.

b) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Less-than-Significant Impact. Construction and operation under the Downtown West PUD would involve relatively small amounts of commonly used hazardous substances such as gasoline, diesel fuel, lubricating oil, grease, adhesive materials, and solvents. These materials are not considered acutely hazardous and are used routinely throughout urban environments for both construction and operation of typical projects. Further, these materials would be transported, handled, and disposed in accordance with all federal, state, and local laws regulating the management and use of hazardous materials. Impacts would be less than significant.

c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Less-than-Significant Impact. The closest school to the PUD project area is St. George School, located approximately 0.02 miles northwest of the PUD project area. As described above, construction and operation under the proposed Downtown West PUD would involve use, storage, and disposal of small amounts of hazardous materials on the PUD. These materials would be transported and handled in accordance with all federal, state, and local laws regulating the management and use of hazardous materials. Consequently, use of these materials for their intended purpose would not pose a significant risk to the public or environment. With adherence to state and local regulations, impacts associated with routine transport, use, and disposal of hazardous materials would be less than significant.

d) Would the project be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Less-than-Significant Impact. The California Department of Toxic Substances Control's EnviroStor database tracks cleanup, permitting, enforcement, and investigation efforts at hazardous waste facilities and sites with known contamination. According to the database search, no cleanup sites are located in the PUD project area. Three evaluation cleanup sites that have been referred to a local agency are located approximately 0.05 miles south of the PUD project area (DTSC 2023). The State Water Resources Control Board's GeoTracker database identifies leaking underground storage tanks, waste discharge sites, oil and gas sites, and other waste or cleanup sites. A review of GeoTracker identified one closed leaking underground storage tank cleanup site within the PUD project area (GTE Ontario ID No. T0607100264). This site was closed in 1993.

Two more closed leaking underground storage tank cleanup sites were identified surrounding the PUD project area including Imperial Thrift and Loan Prop. (ID No. T0607100428), located approximately 0.5 miles west of the PUD project area, and TOSCO/76 Station #5606 (ID No. T0607100482), located approximately 0.5 miles northeast of the PUD project area (SWRCB 2023). The PUD project area is not located on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and the nearby sites are closed cases; therefore, no impact would occur.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

Less-than-Significant Impact. The PUD project area is located approximately 1.5 miles northwest of the Ontario International Airport. The PUD project area is not within an airport safety zone and is located in the 60-65 decibel community noise equivalent level noise contour zone, as depicted in the Ontario International Airport Land Use Compatibility Plan. The PUD project area is within the Airspace Avigation Easement Area and the allowable height for the PUD project area is 70 feet to 100 feet, as shown in the Airspace Protection Zones Map in the Ontario International Airport Land Use Compatibility Plan (Ontario Airport Planning 2018). The highest height proposed for development under the Downtown West PUD is 65 feet. The proposed development would be similar to the existing uses of the PUD project area and would not introduce new hazards to aircraft operations. Therefore, impacts would be less than significant.

f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Less-than-Significant Impact. The City has prepared the 2018 Hazard Mitigation Plan with the intent of reducing and/or eliminating loss of life and property from natural hazards. Policy S2-3 in the plan requires compliance with state and federal law and does not permit facilities using, storing, or otherwise involved with substantial quantities of on-site hazardous materials to be located in the 100-year flood zone unless all standards of elevation, flood proofing, and storage have been implemented to the satisfaction of the Building Department (City of Ontario 2018). Additionally, the City provides disaster preparedness and outlines hazard specific preparation through the

ReadyOntario website (City of Ontario 2023c). The closest fire station is located approximately 0.3 miles to the east of the PUD project area; therefore, the PUD project area would be served by the nearby station. With compliance with the building standards outlined in the Hazard Mitigation Plan and Municipal Code, impacts would be less than significant.

g) Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

Less-than-Significant Impact. The PUD project area is not located in a Fire Hazard Severity Zone, as shown in TOP 2050 Figure S-05, Fire Hazard Severity Zones (City of Ontario 2023a). In the event of an emergency, fire response services for the PUD project area are provided by the Ontario Fire Department. Proposed development would be constructed in conformance with Title 24, which includes building requirements that prevent and protect against fire ignition and the spread of potential wildland fires. Therefore, impacts to people or structures, either directly or indirectly, from a significant risk of loss, injury, or death involving wildland fires would be less than significant.

Hydrology and Water Quality

a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Less-than-Significant Impact. Construction facilitated by the Downtown West PUD would involve ground-disturbing activities for grading that could result in sediment discharge in stormwater runoff. Additionally, construction would involve the use of oil, lubricants, and other chemicals that could be discharged from leaks or accidental spills. These potential sediment and chemical discharges during construction would have the potential to impact water quality in receiving water bodies. However, any construction activities disturbing 1 or more acres of land, or less than 1 acre of land if part of a larger development, must comply with the State Water Resources Control Board Construction General Permit, which requires development of a stormwater pollution prevention plan to protect water quality. This requires implementation of construction BMPs such as silt fences, inlet protection, and site stabilization techniques to ensure that stormwater runoff from the construction work areas does not cause degradation of water quality in receiving water bodies. Through the incorporation of BMPs through implementation of stormwater pollution prevention plan requirements, impacts associated with water quality standards during construction would be less than significant.

b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

Less-than-Significant Impact. The PUD project area is located within the Chino Creek Watershed. The Chino Basin Watermaster has determined the safe yield for the basin and has assigned individual pumping allocations to each water purveyor to ensure that the total groundwater production does not exceed the safe yield (City of Ontario 2022a). Nearly all of the PUD project area is developed with urban uses and not available for groundwater recharge. Therefore, substantial decrease in impermeable surfaces in the City would not result from development of the Downtown West PUD. The Downtown West PUD would not result in substantial impacts that would impede sustainable groundwater management of the basin compared to what is existing.

The Chino Groundwater Basin is adjudicated and is considered by the Department of Water Resources to be a very low priority groundwater basin (DWR 2023). Each water purveyor has an allotted amount of water that can be pumped from the basin so that the safe yield is not exceeded; therefore, impacts would be less than significant.

c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

   i) result in substantial erosion or siltation on or off site;

   ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site;

   iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or

   iv) impede or redirect flood flows?

Less-than-Significant Impact. The Downtown West PUD would not result in a substantial change in impervious surfaces within the PUD project area. The majority of the PUD project area is currently developed with mixed uses and residential. Development facilitated by the Downtown West PUD would feature drainage facilities that connect to existing drainage infrastructure. Therefore, implementation of the Downtown West PUD would not substantially alter the existing drainage pattern of the site or area in a way that would cause substantial erosions, flooding, polluted runoff, or changes to flood flows. Impacts would be less than significant.

d) In flood hazard, tsunami, or seiche zones, would the project risk release of pollutants due to project inundation?

Less-than-Significant Impact. The City is located outside a tsunami hazard zone (DOC 2023b). As shown in Figure S-03, Flood Hazard Zones, of TOP 20250 the PUD project area is located outside of a Federal Emergency Management Agency Floodplain Zone. Figure S-04 shows that the PUD project area, and the majority of the City, is in a zone of potential inundation from San Antonio Dam (City of Ontario 2023a), which is located approximately 6.3 miles from the PUD project area. The PUD project area is currently mostly developed and urban; new improvements and development facilitated by the Downtown West PUD would be similar in use to what exists and would not significantly increase the risk of pollutants due to inundation beyond what currently exists in the City. Impacts would be less than significant.

e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

No Impact. The City's groundwater supplies are from the Chino Groundwater Basin, which is managed by the Chino Basin Watermaster. The Chino Basin is exempt from legislative requirements under the Sustainable Groundwater Management Act and is not required to prepare a groundwater sustainability plan (City of Ontario 2022a). The Downtown West PUD contains guidelines for development and private investments, public realm improvements, and activations and art. The Downtown West PUD would not involve groundwater extraction or affect

recharge in a way that would produce any effect on the local groundwater supply or groundwater table. Operations of the proposed Downtown West PUD would be similar to existing operations on the PUD project area and would not violate any water quality standards or water discharge requirements. Therefore, the Downtown West PUD would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. No impacts would occur.

Land Use and Planning

a) Would the project physically divide an established community?

Less-than-Significant Impact. The proposed Downtown West PUD would contain guidelines for development and private investments, public realm improvements, activations, and art. The PUD project area is currently developed with a mix of commercial uses, vacant land, and residential units.. All other development or improvements facilitated by the Downtown West PUD would not change the land use or zoning of the PUD project area. The PUD project area is zoned as Downtown – MU and HDR; therefore, revitalizing the downtown area and adding residential units would be consistent with the site's intended uses. The Downtown West PUD would not result in a removal of an existing means of access, such as a road or bridge, that would impede mobility with an existing community and other areas. The Downtown West PUD includes improvements such as a potential paseo connection and alley improvements that would increase connectivity in the downtown area. The proposed Downtown West PUD would not physically divide an established community, and impacts would be less than significant.

b) Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

No Impact. The PUD project area is designated in the General Plan as MU Downtown and is zoned as MU-1 and HDR-45. All other blocks would be within the allowed proposed density in TOP 2050. Table 9 shows the existing land use designation of each site, the allowed densities, and required parking per housing unit.

Table 9. Downtown West PUD TOP 2050 Consistency

| Block | TOP 2050 Land Use Designation | Proposed Land Use Designation | TOP 2050 Allowed Density for Proposed Land Use Designation | Proposed Density (du/acre) | Parking Required for Housing Units | Total Parking provided |
|---|---|---|---|---|---|---|
| A | Mixed Use | Mixed Use | 25.0 to 75.0 | n/a | n/a | n/a |
| B | Mixed Use | Mixed Use | 25.0 to 75.0 | 75 | 30 | 32 |
| C | Mixed Use | Mixed Use | 25.0 to 75.0 | 75 | 132 | 219 |
| D | Mixed Use | Mixed Use | 25.0 to 75.0 | 39 | 58 | 58 |
| E | Mixed Use | Mixed Use | 25.0 to 75.0 | 75 | 78 | 78 |
| F | Mixed Use | Mixed Use | 25.0 to 75.0 | 60 | 190 | 460 |
| G | Mixed Use | Mixed Use | 25.0 to 75.0 | 75 | 80 | 80 |
| H | Mixed Use | Mixed Use | 25.0 to 75.0 | 30 | 78 | 78 |

Table 9. Downtown West PUD TOP 2050 Consistency

| Block | TOP 2050 Land Use Designation | Proposed Land Use Designation | TOP 2050 Allowed Density for Proposed Land Use Designation | Proposed Density (du/acre) | Parking Required for Housing Units | Total Parking provided |
|---|---|---|---|---|---|---|
| I | Mixed Use | High Density Residential | 25.1 to 45.0 | 30 | 70 | 70 |
| Fronting Euclid Avenue | Mixed Use | Mixed Use | 25.0 to 75.0 | 75 max. | 145 | 145 |
| **Total** | | | | | **861** | **1,220** |

**Source:** City of Ontario 2022a.
**Note**: n/a = not applicable.

As shown in Table 9 above, the Downtown West PUD would be consistent with the existing TOP 2050 Land Use Designations' density and parking requirements. Implementation of the Downtown West PUD would not conflict with the applicable zoning and other regulations.

In addition, TOP 2050 includes future buildout of the City. Table 10 shows the applicable land use future build out assumptions.

Table 10. TOP 2050 Future Buildout Table

| Land Use | Acres | Assumed Density/Intensity | TOP 2050 Housing Units for Land Use | TOP 2050 Non-Residential Square Feet for Land Use |
|---|---|---|---|---|
| MU Downtown | 128 | 60% of the area at 35 du/acre, 40% of the area at 0.80 FAR for office and retail | 2,678 | 1,777,586 |

**Source:** City of Ontario 2022c.
**Note:** du/acre = dwelling unit per acre; FAR = floor area ratio.

The PUD project area consists of approximately 21.58 acres of proposed MU Downtown. The development allowed under the Downtown West PUD would be within the allowed TOP 2050 buildout housing units and non-residential square feet for the proposed land uses. The Downtown West PUD, at maximum buildout, would result in a fraction of the allowable buildout throughout the City. Therefore, no impact would occur.

Mineral Resources

a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

And

b) Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

No Impact. According to Figure 5.12-1, Areas of Mineral Resource Significance, in the TOP Supplemental EIR, the PUD project area is within Mineral Resource Zones (MRZ) 2 and 3. MRZ-2 includes zones where adequate information indicates that significant mineral deposits are present, or there is a likelihood of their presence, and development should be controlled. MRZ-3 includes zones where the significance of mineral deposits cannot be determined from the available data (City of Ontario 2022a). TOP 2050 Policy ER-5.5, Mining Operations, prohibits future mining operations where the resource extraction activities are incompatible with existing or proposed adjacent land uses. Areas identified with potential mineral resources have been developed with urban uses and are not suitable for mineral resource extraction (City of Ontario 2023a). The PUD project area is designated as mixed use and high density residential, which are uses that are incompatible with resources extraction activities; therefore, there would be no impact to loss of available of known mineral resources or mineral resource recovery sites.

Noise

This section is based on technical analysis conducted by Dudek and attached to this MND as Appendix B, Noise Technical Memorandum. See Appendix B for complete results.

a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

**Construction Noise**

Less-than-Significant Impact With Mitigation Incorporated. The PUD project area is located within TOP 2050 Mixed Use-Downtown land use. As an implementation tool for TOP 2050 on a localized basis, the Downtown West PUD would facilitate development of a mix of uses and historic preservation; transformation of select existing buildings through adaptive reuse; and design guidelines for new development, Euclid Avenue, alleys, managed infrastructure, and the public realm. The intensity of construction activities and the distance between future construction zones and existing noise-sensitive receivers (i.e., residences, nursing care facilities, hospitals, lodging facilities) under the Downtown West PUD would not be materially different from assumptions regarding construction of future development of the area under TOP 2050.

The TOP Supplemental EIR concluded that construction could generate noise levels in excess of 80 A-weighted decibels equivalent continuous noise level and generate noise disturbances for prolonged periods of time at noise-sensitive receptors. Safety Element Policy S-4.1, Noise Mitigation, would help minimize the construction noise impacts through enforcement of Municipal Code Chapter 29, Section 5-29.09, which limits construction, remodeling, digging, grading, demolition, or any other related building activity to between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on weekends. The Downtown West PUD would not result in new or a substantial increase in the magnitude of impacts compared to TOP 2050. Nevertheless, construction-related noise impacts from the Downtown West PUD would be potentially significant. Adherence to mitigation from the TOP Supplemental EIR would therefore

be required in order to avoid significant temporary construction noise impacts. The TOP Supplemental EIR mitigation measure regarding construction noise is presented below.

MM-NOI-1 Construction Noise Abatement

Construction activities associated with new development that occurs near sensitive receptors shall be evaluated for potential noise impacts. Construction contractors shall implement the following measures for construction activities in the City of Ontario. Construction plans submitted to the City shall identify these measures on demolition, grading, and construction plans. The City of Ontario Planning and Building Departments shall verify that grading, demolition, and/or construction plans submitted include these notations prior to issuance of demolition, grading, and/or building permits:

1. Construction activity is limited to the hours between 7:00 am and 6:00 pm Monday through Friday and 9:00 am to 6:00 pm Saturdays and Sundays, as prescribed in Municipal Code Section 5-29.09.
2. During the entire active construction period, equipment and trucks used for project construction shall use the best-available noise control techniques wherever feasible (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds).
3. Impact tools (e.g., jack hammers and hoe rams) shall be hydraulically or electrically powered wherever possible. Where the use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used along with external noise jackets on the tools.
4. Stationary equipment such as generators and air compressors shall be located as far as feasible from nearby noise-sensitive uses.
5. Stockpiling shall be located as far as feasible from nearby noise-sensitive receptors.
6. Construction traffic shall be limited, to the extent feasible, to approved haul routes established by the City's Engineering Department.
7. At least 10 days prior to the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the public, that includes permitted construction days and hours as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, he/she shall investigate, take appropriate corrective action, and report the action to the City.
8. Signs shall be posted at the job site entrance(s), within the onsite construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment shall be turned off if not in use for more than 5 minutes.
9. During the entire active construction period and to the extent feasible, the use of noise-producing signals, including horns, whistles, alarms, and bells, shall be for safety warning purposes only. The construction manager shall use smart back-up alarms, which automatically adjust the alarm level based on the background noise level or switch off back-up alarms and replace with human spotters in compliance with all safety requirements and laws.

10. Erect temporary noise barriers (at least as high as the exhaust of equipment and breaking line-of-sight between noise sources and sensitive receptors), as necessary and feasible, to maintain construction noise levels at or below the performance standard of 80 dBA Leq. Barriers shall be constructed with a solid material that has a density of at least 1.5 pounds per square foot with no gaps from the ground to the top of the barrier and may be lined on the construction side with an acoustical blanket, curtain, or equivalent absorptive material (City of Ontario 2022a).

**Operational Noise (Stationary)**

Less-than-Significant Impact. New commercial, residential, and mixed-use development under the Downtown West PUD is not anticipated to result in greater density than envisioned under TOP 2050. As described in the Development Code Chapter 6.0, new development may trend toward taller vertical structures than exist today, but with mechanical systems (principally for heating, ventilation, and air conditioning) situated on the roof of such structures, new noise sources would generally be at a further distance to any neighboring noise-sensitive receivers, thus reducing noise at the ground level as compared to lower profile buildings with the same roof-mounted equipment. Adaptive re-use of existing structures would likely involve more modern and efficient mechanical systems, with the same or lower noise generation than equipment associated with the original occupancy of such structures. Impacts would be less than significant.

**Traffic Noise**

Less-than-Significant Impact. Under the Downtown West PUD, the placement of housing, jobs, and amenities in closer proximity to each other and design strategies focused on the pedestrian and a variety of multimodal options will make walking and other forms of active transportation a desirable alternative to driving. The PUD project area would be served by existing roadway, transit, and pedestrian facilities and proposes improvements along B Street, Euclid Avenue Streetscape, alley improvements, and a West Valley Connector Bus Rapid Transit Station. Such improvements would be expected to counter an increase in the number of single-occupancy vehicle trips that could otherwise be associated with introduction of new housing units and commercial space. As such, implementation of the Downtown West PUD would not be anticipated to generate a greater number of vehicle trips compared to TOP 2050, and traffic noise level increases due to the Downtown West PUD would be less than significant.

b) Would the project result in generation of excessive groundborne vibration or groundborne noise levels?

**Construction Vibration**

Less-than-Significant Impact with Mitigation Incorporated. The TOP Supplemental EIR concluded that construction of future development allowed under TOP 2050 could generate vibration levels that exceed structural damage thresholds established by the Federal Transit Authority (e.g., 0.12 inches per second [in/sec] peak particle velocity [PPV] for fragile or historical resources, 0.2 in/sec PPV for nonengineered timber and masonry buildings, and 0.3 in/sec PPV for engineered concrete and masonry). The Downtown West PUD would not result in new or a substantial increase in the magnitude of impacts compared to TOP 2050. Nevertheless, construction-related vibration impacts from the Downtown West PUD would be potentially significant. Adherence to mitigation

from the TOP Supplemental EIR would therefore be required in order to avoid significant temporary construction-related vibration impacts. The TOP Supplemental EIR mitigation measure regarding construction-related vibration is presented below.

MM-NOI-2 Construction Vibration Abatement

Prior to issuance of a building permit, individual projects that involve vibration intensive construction activities, such as pile drivers, jack hammers, and vibratory rollers near sensitive receptors shall be evaluated for potential vibration impacts. For construction within 135 feet of fragile structures, such as historical resources, within 100 feet of nonengineered timber and masonry buildings (e.g., most residential buildings), or within 75 feet of engineered concrete and masonry (no plaster); or a vibratory roller within 25 feet of any structure, the project applicant shall prepare a noise and vibration analysis to assess and mitigate potential noise and vibration impacts related to these activities. This noise and vibration analysis shall be conducted by a qualified and experienced acoustical consultant or engineer. The vibration levels shall not exceed Federal Transit Administration (FTA) architectural damage thresholds (e.g., 0.12 inches per second [in/sec] peak particle velocity [PPV] for fragile or historical resources, 0.2 in/sec PPV for nonengineered timber and masonry buildings, and 0.3 in/sec PPV for engineered concrete and masonry). If vibration levels would exceed this threshold, alternative uses shall be used, such as drilling piles as opposed to pile driving and static rollers as opposed to vibratory rollers. If necessary, construction vibration monitoring shall be conducted to ensure vibration thresholds are not exceeded.

**Operational Vibration**

Less Than Significant. Vibration generation associated with commercial facilities is typically only associated with very large/heavy equipment that includes a rotating component or impact function. Commercial operations envisioned within the PUD would be expected to generate limited levels of ground vibration, which are unlikely to be perceptible beyond the property line of the facility. Therefore, vibration from future commercial operations developed under the PUD would be less than significant.

c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

Less-than-Significant Impact. The PUD project area is located approximately 1.5 miles northwest of the Ontario International Airport. The PUD project area is located in the 60–65 decibels community noise equivalent level noise contour zone, as depicted in the Ontario International Airport Land Use Compatibility Plan (City of Ontario 2024). New residential or other noise-sensitive land uses constructed as part of the Downtown PUD would not be exposed to airport-related noise levels in excess of 65 A-weighted decibels community noise equivalent level. Impacts would be less than significant.

Population and Housing

a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Less-than-Significant Impact. The proposed Downtown West PUD would facilitate 581 residential units. As described above in Table 9, the Downtown West PUD would result in densities less than they allowable TOP 2050 densities. Therefore, the number of residences that would be developed within the PUD project area is consistent with planned growth in the General Plan Land Use Element, and unplanned growth would not occur.

In addition, the City's Housing Element analyzes existing housing and housing needs within the City and prepares goals, policies, and programs to further the development, improvement, and preservation of housing. The Housing Element was adopted March 1, 2022, and revised August 2022. The PUD project area is located within the Downtown Plan in the Housing Element. The Downtown Plan's vision is to facilitate new mixed-use and residential development, including 634 units in the Downtown Plan area (City of Ontario 2022b). The Downtown West PUD proposes 581 residential units; therefore, the Downtown West PUD would be consistent with the approved Housing Element. The growth facilitated by the Downtown West PUD is within the previously approved standards and would further define the design standards and guidelines for developers in efforts to revitalize Downtown Ontario.

b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

Less-than-Significant Impact. The PUD project area contains existing residential units; however, the majority of development would be located on existing commercial or vacant land. The Downtown West PUD would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere. At full buildout, the Downtown West PUD would facilitate the addition of 581 units; therefore, no replacement housing elsewhere would be needed and impacts would be less than significant.

Public Services

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

i) Fire protection?

Less-than-Significant Impact. The City of Ontario Fire Department provides fire services throughout the City. The fire department operates out of 10 stations staffed by 186 sworn firefighters and 41 professional staff members serving the community across six bureaus—Operations/Airport Services, Fire Prevention, Support Services, EMS, Training and Professional

Services, and Administrative Services (City of Ontario 2023d). The closest fire station is located approximately 0.3 miles east of the PUD project area.

The proposed Downtown West PUD would allow for 581 additional housing units and therefore would increase the demand for emergency fire services. However, implementation of the proposed Downtown West PUD would be required to adhere to the California Fire Code (CFC), as included in the City's Municipal Code Chapter 4. Future development would be reviewed by the City and the City of Ontario Fire Department on an individual basis and would be required to comply with requirements at the time building permits are issued, including the payment of development impact fees that contribute to funding for additional staffing, facilities, and equipment. Provision of a new or physically altered fire station that could cause environmental impacts would not be required. Therefore, impacts related to fire protection services from the proposed Downtown West PUD would be less than significant.

ii) Police protection?

Less-than-Significant Impact. The City of Ontario Police Department (OPD) provides police protection services to the City. The OPD has a standard of having approximately 225 police officers per 100,000 people. As of 2022, the OPD was allotted 300 police officers and met this standard (City of Ontario 2022a). Buildout of the proposed Downtown West PUD would result in increased population and development and would result in an increased demand on police protection services. Future development facilitated by the Downtown West PUD would also be subject to development impact fees that pay for police services. In addition, future development would be reviewed by the City on an individual basis and required to comply with regulations at the time building permits are issued. Therefore, with payment of development impact fees, the proposed Downtown West PUD would not result in a substantial adverse impact associated with the provision of additional police facilities or services, and impacts to police services would be less than significant.

iii) Schools?

Less-than-Significant Impact. The PUD project area is served by Chaffey Joint Union High School District (CJUHSD) and Ontario-Montclair School District (OMSD). The closest school to the PUD project area is St. George School, located approximately 0.02 miles northwest of the PUD project area.

Each school district that serves the City assesses its needs individually based on student generation rates from residential development and charges development impact fees accordingly. Residential development in the City facilitated by the Downtown West PUD would require payments to corresponding school districts. These payments accommodate the need for new facilities based on the increase in student population in each district (City of Ontario 2022a).

The majority of school districts within Ontario have existing capacity to accommodate TOP 2050 buildout and population increase, including the CJUHSD. The OMSD indicated that d that any increase in residential development will impact OMSD school facilities; however, information provided by OMSD shows that most of its schools can accommodate the District's projections for the next 10 years (City of Ontario 2022a); therefore, because the proposed Downtown West PUD is consistent with the land uses and densities in TOP 2050, the school districts would have the existing capacity to

accommodate the proposed Downtown West PUD. Therefore, impacts related to school facilities would be less than significant with the Government Code required fee payments.

iv) Parks?

Less-than-Significant Impact. The TOP 2050 Parks and Recreation Element contains polices regarding park requirements in the City. Policy PR-1.5 aims to provide 5 acres of parkland (public and private) per 1,000 residents and Policy PR-1.6 aims to provide a minimum of 2 acres of developed private park space per 1,000 residents (City of Ontario 2023a). The proposed Downtown West PUD would not result in a substantial increase in population such that new facilities would be required to serve the Downtown West PUD. In addition, the project applicants would be required to pay development impact fees for parks and recreation facilities. Therefore, with payment of development impact fees, the proposed Downtown West PUD would have a less-than-significant impact related to the provision of park and recreational facilities.

v) Other public facilities?

Less-than-Significant Impact. Development facilitated by the proposed Downtown West PUD could also increase demand for other public services, including libraries, community centers, and public health care facilities. However, because the PUD project area is already served by other services and the proposed Downtown West PUD would be consistent with the approved TOP 2050, the proposed Downtown West PUD would not result in the need for new or physically altered facilities to provide other services, the construction of which could cause significant environmental impacts. Therefore, impacts would be less than significant.

Recreation

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Less-than-Significant Impact. The City uses the established parkland standard of 3 acres per 1,000 residents. The City has approximately 481 acres of parkland (City of Ontario 2022a). Based on a population of 175,265 (U.S. Census Bureau 2020), the City currently requires 526 acres of parkland.

Future growth facilitated by the Downtown West PUD would increase the demand for parks and increase existing park usage. The Quimby Act is a funding mechanism for parkland acquisition. Under this act and pursuant to the City's Municipal Code, residential subdivisions must dedicate parkland or pay in lieu fees to enable the City to acquire a ratio of 3 acres of parkland per 1,000 residents (City of Ontario 2022a). Therefore, with the inclusion of in lieu fees, impacts would be less than significant.

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

Less-than-Significant Impact. The City has 481 acres of parkland, and buildout of TOP 2050 would provide 900 acres of additional parkland (City of Ontario 2022a). Therefore, with the addition of

new parkland throughout the City, the proposed Downtown West PUD would not require the construction or expansion of recreational facilities, and impacts would be less than significant.

Transportation

This section is based on technical analysis conducted by Dudek and attached to this MND as Appendix C, Transportation Technical Memorandum. See Appendix C for complete results.

a) Would the project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

Less-than-Significant Impact. The Mobility Element of TOP 2050 mentions that access and connectivity to mobility options will be integrated into neighborhoods, center, corridors and districts in the City (City of Ontario 2023a). The placement of housing, jobs, and amenities in closer proximity to each other and design strategies focused on the pedestrian and a variety of multimodal options will make walking and other forms of active transportation a desirable alternative to driving. This is consistent with the Downtown West PUD, which is proposing development regulations and planning and design principals to govern the development or redevelopment of an eight-and-a-half block area of the City with residential and commercial uses.

The proposed Downtown West PUD would be consistent with and not impede the implementation of the following Mobility Element goals (City of Ontario 2023a):

1. Goal M1: A system of roadways that meets the mobility needs of a dynamic and prosperous Ontario.
2. Goal M2: A system of trails and corridors that facilitate and encourage active modes of transportation.
3. Goal M3: A public transit system that is a viable alternative to automobile travel and meets basic transportation needs of the transit-dependent.
4. Goal M4: An efficient flow of goods through the City that maximizes economic benefits and minimizes negative impacts.
5. Goal M5: A proactive leadership role in helping identify and facilitate implementation of strategies that address regional transportation challenges (City of Ontario 2023a).

Euclid Avenue, Palm Avenue, E Street, and Holt Boulevard provide primary access to the PUD project area. The City is served by bus services provided by OmniTrans, which operates Routes 61, 83, and 84 in the PUD project area. The City is served by passenger rail services by Amtrak and Metrolink. The Amtrak station is located at 198 E Emporia Street, approximately 0.2 miles southeast of the Euclid Avenue/Holt Avenue intersection. The Ontario East station (Metrolink-Riverside line) is located at 3330 E Francis Street approximately 5.8 miles southeast of the Euclid Avenue/Holt Avenue intersection. The City's downtown core is well served by pedestrian facilities, with sidewalks provided along most streets and crosswalks provided at all major intersections. There are several existing and proposed bicycle facilities shown in TOP 2050 Figure M-02, Multipurpose Trails and Bikeways, that serve the PUD project area.

The PUD project area would be served by existing roadway, transit, and pedestrian facilities and proposes improvements along B Street, Euclid Avenue Streetscape, alley improvements, and a

West Valley Connector Bus Rapid Transit Station. As such, the Downtown West PUD would not conflict with a program, plan, ordinance, or policy addressing the circulation system including transit, roadway, bicycle, and pedestrian facilities. Impacts would be less than significant.

b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?

Less-than-Significant Impact. CEQA Guidelines Section 15064.3(b) focuses on VMT for determining the significance of transportation impacts. It is further divided into four subdivisions: (1) land use projects, (2) transportation projects, (3) qualitative analysis, and (4) methodology. The Updated CEQA Guidelines state that "generally, VMT is the most appropriate measure of transportation impacts," and define VMT as "the amount and distance of automobile travel attributable to a project." "Automobile" refers to on-road passenger vehicles, specifically cars and light trucks. The Office of Planning and Research has clarified in its Technical Advisory (OPR 2018) that heavy-duty truck VMT is not required to be included in the estimation of a project's VMT. Other relevant considerations may include the effects of a project on transit and non-motorized traveled.

Based on the San Bernardino County Transportation Authority Transportation Analysis Model VMT evaluation tool,[2] the individual projects or parcels are located in two traffic analysis zones (TAZs) (i.e., 5364501 and 53645201).

The individual parcels or projects within the Downtown West PUD may be screened from conducting a detailed project-level VMT assessment if they meet at least some of the following screening criteria:

1. **Transit Priority Area Screening:** Projects located within 0.5 miles of an existing "major transit stop" or an "existing stop along a high-quality transit corridor" may be presumed to have a less-than-significant impact absent substantial evidence to the contrary. In addition to its proximity to transit, the project would meet the following:
    1. A minimum floor area ratio of 0.75
    2. Provide no more parking than City Development code mandates
    3. Be consistent with the applicable Sustainable Communities Strategy
    4. Do not replace affordable housing units with a smaller number of moderate or high-income residential units

    Based on the evaluation tool, several Assessor's Parcel Numbers in the TAZ would meet the Transit Priority Area screening. The Downtown West PUD would ensure during development plan review that individual projects would also meet the conditions for floor area ratio, parking, consistency with Sustainable Communities Strategy, and not replacing affordable housing units, as outlined above.

2. **Low VMT Area Screening:** Projects are presumed to result in less-than-significant VMT impacts if located in low VMT-generating model TAZs. These TAZs generate total daily VMT per service population that is less than the baseline level for the City's buildout. Based on

[2] San Bernardino County Transportation Authority VMT Screening Tool accessed at https://sbcta.maps.arcgis.com/apps/webappviewer/index.html?id=779a71bc659041ad995cd48d9ef4052b

the evaluation tool, several project Assessor's Parcel Numbers are within a low VMT-generating area and would meet this screening criterion.

3. **Project Type Screening:** Projects that meet the criteria described below can be screened from further VMT review and are presumed to have a less-than-significant impact:
   - Residential, office, retail or a mix of these land uses within 0.5 miles of an existing major transit stop
   - Local-serving retail uses not greater than 50,000 square feet in size;
   - Projects with a Neighborhood Commercial TOP 2050 Land Use designation
   - Redevelopment of a site to a residential or office that would generate fewer VMT than the existing use

Each project within the Downtown West PUD is likely to meet one of the above-mentioned screening criteria and therefore it is anticipated to have a less than significant VMT impact. If the screening criteria is not met, the applicant would need to submit project level VMT analysis and additional mitigation to mitigate impacts. Therefore, the Downtown West PUD would not conflict or be inconsistent with CEQA Guidelines Sections 15064.3(b)(1) and 15064.3(b)(3), and impacts would be less than significant.

c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Less-than-Significant Impact. The Downtown West PUD proposes to redevelop several existing residential and commercial parcels; however, it does not propose any new roads or intersections. Individual projects including residential and commercial development would be subject to, and designed in accordance with, City standards and specifications that address potential design hazards including sight distance, driveway placement and access, and signage and striping. Additionally, any new improvements to roadway facilities associated with individual projects would be constructed based on design and access standards consistent with the City's Traffic and Transportation Guidelines (City of Ontario 2020b).

During construction, if any temporary road closures are anticipated, the contractor will implement a traffic control plan (if required) and standard construction management practices to maintain access for all road users and emergency vehicles. As such, traffic from the project entering and exiting the individual sites would be able to do so safely at the driveways. Therefore, the Downtown West PUD would not substantially increase hazards due to a roadway design feature or introduce incompatible uses. Impacts would be less than significant.

d) Would the project result in inadequate emergency access?

Less-than-Significant Impact. The proposed Downtown West PUD does not propose any new roadways or intersections, and it would not include any standards that would result in inadequate emergency access. The individual project design and access details such as new or modified driveway locations or curb cuts are unknown at the time of this writing. Therefore, this document does not consider impacts to emergency access to properties in the PUD project area or particular streets along which parcels have been identified for development. The Downtown West PUD may allow for

greater densities than are currently allowed as proposed in the plan, policies, and zoning standards for Downtown and would facilitate temporary construction activities within the area, which could temporarily result in impacts to the circulation system. The individual projects would be designed and constructed to local standards and comply with the fire code and emergency access requirements of the fire department. Upon completion, the projects or parcels would continue to be accessible via existing or new driveways along streets in the Downtown area. Therefore, the construction or operation of the proposed Downtown West PUD would not result in inadequate emergency access, and impacts would be less than significant.

Tribal Cultural Resources

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?

Less-than-Significant Impact. A Native American Heritage Commission (NAHC) record search for the Sacred Lands File (SLF) for the Downtown West PUD was negative for known Native American heritage resources within the PUD project area. Therefore, the Downtown West PUD would not adversely affect tribal cultural resources (TCRs) that are listed or eligible for listing in the state or local register. Impacts would be less than significant.

b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Less-than-Significant Impact with Mitigation Incorporated. The SLF is maintained by the NAHC and represents a curation of "sacred lands" or TCRs provided by tribal entities and Native American representatives. While the NAHC SLF records search results were negative for known Native American heritage resources within the PUD project area, for various reasons, tribal entities and Native American representatives do no not always report sacred lands or TCRs to the NAHC. As such, the NAHC's SLF is not a comprehensive list, and searches of the SLF must be considered in concert with other research and not used as a sole source of information regarding the presence of TCRs or cultural resources. The NAHC provided a list of 20 individuals/tribal entities who would potentially have specific knowledge as to whether or not other cultural resources are identified within the PUD project area that could be at risk. Future development facilitated by the Downtown West PUD would be required to undergo project-specific tribal consultation.

The City sought to enter into tribal consultation with all tribes listed as a result of the NAHC records request. Two tribes, the Gabrieleno Band of Mission Indians – Kizh Nation and the San Manuel Nation, requested consultation. Information was provided that the PUD project area exists within Serrano ancestral territory. There were no concerns with the Downtown West

PUD's implementation; however, mitigation measures were requested. MM-CUL-4, MM-CUL-5, MM-CUL-6, MM-TCR-1, and MM-TCR-2 are provided below.

In addition, in an abundance of caution and in an effort to protect unknown TCRs, the City has developed Standard Conditions of Approval (City Council Resolution No. 2010-021) to ensure the proper treatment of unknown subsurface cultural and tribal cultural resources in the event of an inadvertent discovery. Significant impacts are not expected. However, City-to-tribal government consultation pursuant to AB 52 and SB 18 will continue for future projects as required by state laws.

MM-CUL-4.

In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed within TCR-1, regarding any pre-contact finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.

MM-CUL-5.

If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to YSMN for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.

MM-CUL-6.

If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

MM-TCR-1.

The Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in CR-1, of any pre-contact cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site.

MM-TCR-2.

Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.

Note: Yuhaaviatam of San Manuel Nation realizes that there may be additional tribes claiming cultural affiliation to the area; however, Yuhaaviatam of San Manuel Nation can only speak for itself. The Tribe has no objection if the agency, developer, and/or archaeologist wishes to consult with other tribes in addition to YSMN and if the Lead Agency wishes to revise the conditions to recognize additional tribes.

Utilities and Service Systems

a) Would the project require or result in the relocation or construction of new or expanded water, waste water treatment, or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Less-than-Significant Impact. The Downtown West PUD would contain guidelines for development and private investments, public realm improvements, and activations and art. Development facilitated by the Downtown West PUD would connect to the existing water, wastewater treatment, stormwater drainage, electric power, natural gas, and telecommunications facilities surrounding the PUD project area. Construction impacts, such as ground disturbance, to make these utility connections could result in minimal impacts to soil such as soil displacement, erosion, or runoff; however, implementation of BMPs would minimize the amount of erosion and/or siltation that would have the potential to occur during construction. Impacts would be less than significant.

b) Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

Less-than-Significant Impact. Residential development facilitated by the Downtown West PUD would result in an increase in residential uses and therefore an increase in water usage. The City is served by the Ontario Municipal Utilities Company and IEUA. The IEUA and the cities within its service area plan for increased demand with future development (City of Ontario 2022a). In addition, the PUD project area is primarily developed; therefore, development facilitated by the Downtown West PUD would be served by existing water infrastructure.

The Downtown West PUD would comply with TOP 2050 Policy LU-1.3, requiring adequate infrastructure and services for all development, and Policy LU-4, requiring that the necessary infrastructure and services be in place prior to or concurrently with development. The purpose of Policies ER-1.1 through ER-1.5 are to ensure that water supplies and demands in the City are met (City of Ontario 2023a). The Downtown West PUD is consistent with the land uses and projected growth in TOP 2050; therefore, sufficient water supplies would be available to serve the PUD project area and reasonably foreseeable future development during normal, dry, and multiple dry years. Impacts would be less than significant.

c) Would the project result in a determination by the waste water treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Less-than-Significant Impact. The proposed Downtown West PUD would be consistent with the approved TOP 2050, which accounts for buildout at the PUD project area. IEUA has two facilities that serve the City: Regional Water Recycling Plant No. 1 (RP-1) and Regional Water Recycling Plant No. 5 (RP-5). RP-5 is currently under expansion and expected to be completed in 2025 (City of Ontario 2022a). Therefore, with the expanded future wastewater capacity of the City, development under the Downtown West PUD is not expected to exceed wastewater capacity, and impacts would be less than significant.

d) Would the project generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

Less-than-Significant Impact. Development facilitated by the Downtown West PUD would comply with Section 4.408 of the 2022 CALGreen building code, which requires that at least 65% of nonhazardous construction and demolition waste from nonresidential construction operations be recycled and/or salvaged for reuse. Development would also comply with AB 341, which mandates recycling for commercial and multifamily residential land uses. In accordance with AB 1826, future businesses that generate organic waste in amounts over a certain threshold would be mandated to recycle organic matter (City of Ontario 2022a). As such, the Downtown West PUD would not impair the attainment of solid waste reduction goals.

In addition, the Downtown West PUD would comply with TOP 2050 Policies ER-2.1, ER-2.2, and ER-2.3, which describe a cost-effective, integrated waste management system that meets or exceeds state and federal recycling and waste diversion mandates through meeting or exceeding AB 939 requirements, prohibiting the disposal of hazardous and electronic waste into the municipal waste stream, and purchasing recycled-content products (City of Ontario 2023a). With compliance of the applicable regulations, the Downtown West PUD impacts would be less than significant.

e) Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

No Impact. The proposed Downtown West PUD would result in new development that would generate an increased amount of solid waste. As described above, development would be required to comply with the 2022 CALGreen building code, AB 341, and AB 1826. The Downtown West PUD would be consistent with all state regulations, as ensured through the City's development project permitting process. Therefore, the proposed Downtown West PUD would comply with all solid waste statutes and regulations, and impacts would not occur.

Wildfire

a) Would the project substantially impair an adopted emergency response plan or emergency evacuation plan?

Less-than-Significant Impact. The City has prepared the 2018 Hazard Mitigation Plan with the intent of reducing and/or eliminating loss of life and property from natural hazards. The City is located in a Local Responsibility Area. Fire protection for the City is the responsibility of the Ontario Fire Department. The Ontario Fire Department consists of 10 fire stations located throughout the City (City of Ontario 2018). The closest fire station is located approximately 0.3 miles east of the PUD project area. Additionally, the City provides disaster preparedness and outlines hazard specific preparation through the ReadyOntario website (City of Ontario 2023c). Title 9 of the Municipal Code provides development standards and fire reduction strategies including providing for fire access roads, maintaining a defensible space of non-combustible vegetation around structures, and installing indoor sprinkler systems (City of Ontario 2018). The PUD project area is not located in a Fire Hazard Severity Zone, as shown in TOP 2050 Figure S-05, Fire Hazard Severity Zones (City of Ontario 2023a); is served by a nearby fire station; and would comply with the fire regulations and standards outlined in the Hazard Mitigation Plan and Municipal Code. Therefore, impacts would be less than significant.

b) Due to slope, prevailing winds, and other factors, would the project exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

Less-than-Significant Impact. The PUD project area is not located in a Fire Hazard Severity Zone, as shown in TOP 2050 Figure S-05, Fire Hazard Severity Zones. However, Santa Ana winds and commercial and industrial facilities could increase the possibilities of fires in the City. Goals and policies in TOP 2050 are aimed at reducing the risks of damage due to fires. Implementation of the CFC and CBC (Policy S-3.1), maintenance of fire and emergency medical services (Policy S-3.3), designing new development with fire prevention considerations (Policy S-3.8), and other measures listed in TOP 2050 would reduce the risk of fire in the City (City of Ontario 2023a). With adherence to the CFC, CBC, and TOP 2050, the Downtown West PUD would not exacerbate risk or result in post-wildfire hazards. Impacts would be less than significant.

c) Would the project require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

Less-than-Significant Impact. As previously discussed, the Downtown West PUD would not exacerbate fire risk. Construction facilitated by the Downtown West PUD would comply with CFC requirements to manage and minimize fire risk during construction. Operation of the proposed development would not contain potential sources for fire risk. As such, the Downtown West PUD would not result in installation or maintenance of associated infrastructure that may exacerbate fire risk. Impacts would be less than significant.

d) Would the project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Less-than-Significant Impact. As previously described, the PUD project area is not located in a Fire Hazard Severity Zone or a Federal Emergency Management Agency Flood Zone and is located in a flat, developed area of the City (City of Ontario 2023a). In addition, the Downtown West PUD would not substantially alter the drainage of the existing site, as the site is mostly developed or paved and connected to existing stormwater systems. Therefore, the Downtown West PUD would not expose people or structures to significant risks from post-fire slope instability or drainage changes. Impacts would be less than significant.

Mandatory Findings of Significance

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

Less-than-Significant Impact with Mitigation Incorporated. The PUD area is an urban redevelopment area. Potential impacts related to sensitive and special-status habitat, wildlife species, and plant species are discussed in the Biological Resources section. As discussed in the Biological Resources section, impacts to biological resources would be less than significant. The proposed Downtown West PUD would not substantially degrade the quality of the environment or impact fish or wildlife species or plant communities. As discussed in the Cultural Resources section, potential impacts to cultural resources would be reduced to a level below significance with incorporation of mitigation measures. In addition, as discussed in the Tribal Cultural Resources section, the Downtown West PUD would not result in impacts to TCRs. The proposed Downtown West PUD would not eliminate important examples of the major periods of California history or prehistory. Overall, impacts would be less than significant with incorporation of MM-CUL-1, MM-CUL-2, and MM-CUL-3 and MM-TCR-1 and MM-TCR-2.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

Less-than-Significant Impact with Mitigation Incorporated. As indicated in the analysis presented throughout this MND, the proposed Downtown West PUD would not result in significant and unavoidable impacts in any issue area. MM-CUL-1, MM-CUL-2, MM-CUL-3, MM-CUL-4, MM-CUL-5, MM-CUL-6, MM-TCR-1, MM-TCR-2, MM-NOI-1, and MM-NOI-2 would reduce impacts to below a level of significance.

The proposed Downtown West PUD does not propose development, rather it would facilitate future development and improvements in the PUD project area through design guidelines and standards. Cumulative projects would be analyzed at the time that development facilitated by the Downtown West PUD are proposed.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Less-than-Significant Impact with Mitigation Incorporated. The potential for adverse direct or indirect impacts to human beings was considered throughout this MND. Based on this evaluation, there is no substantial evidence that construction or operations facilitated by the Downtown West PUD with the proposed mitigation measures incorporated would result in a substantial adverse effect on human beings. Impacts would be less than significant with incorporation of mitigation measures.

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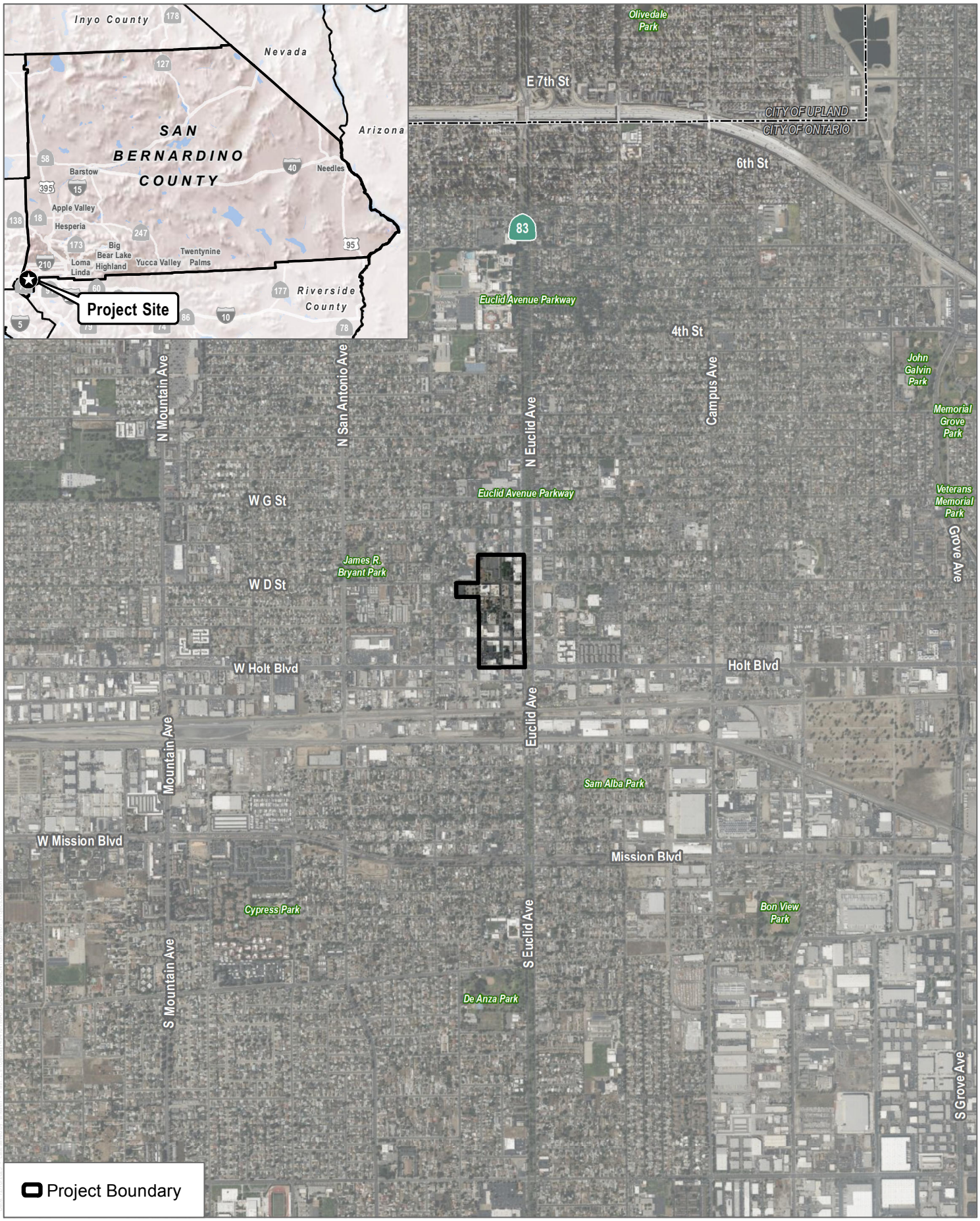


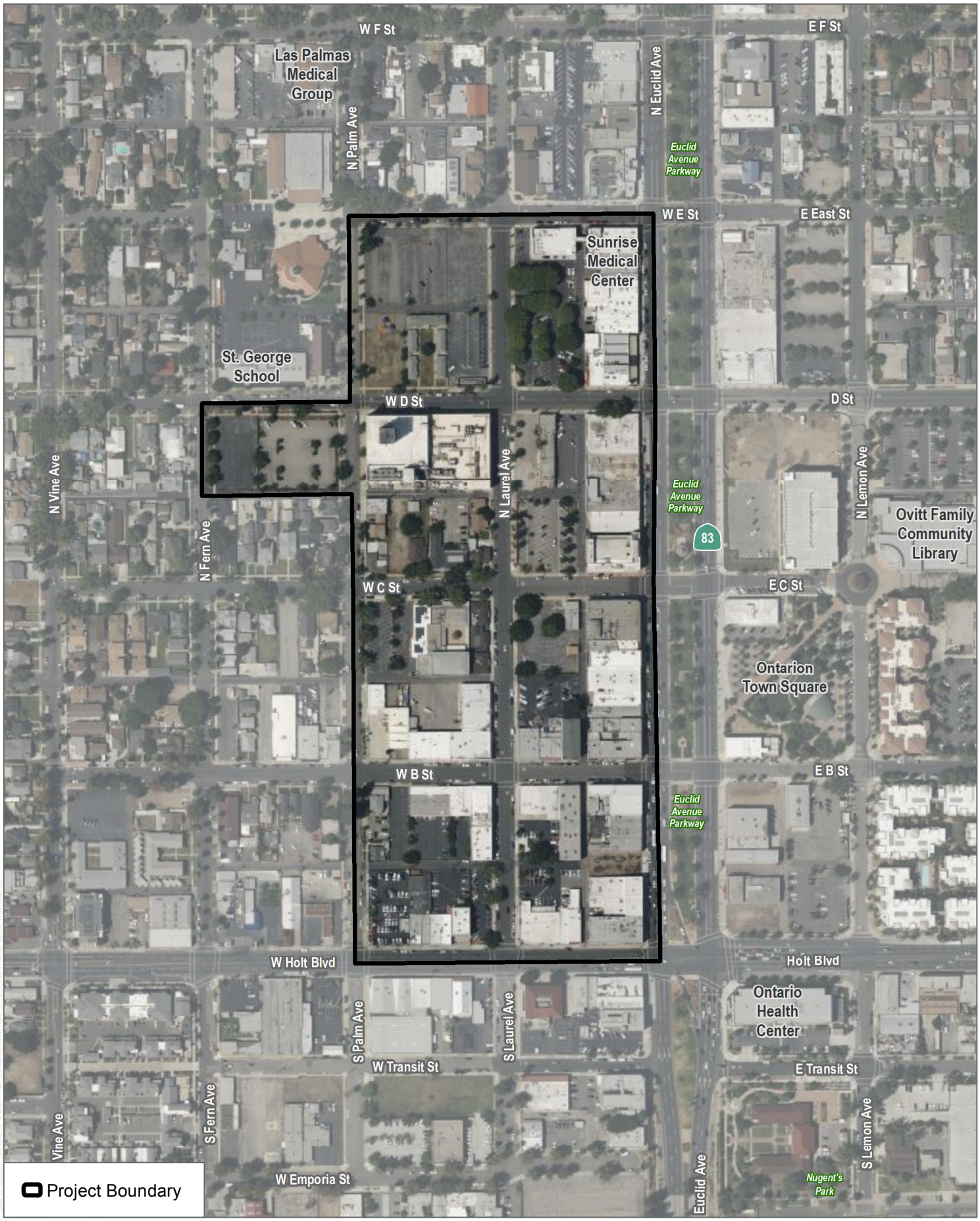

SOURCE: Bing Imagery 2023, Open Street Maps 2019

DUDEK

0 1,000 2,000 Feet

**FIGURE 1**

Regional Location




SOURCE: Bing Imagery 2023, Open Street Maps 2019

DUDEK

0 150 300 Feet

**FIGURE 2**

PUD Project Area

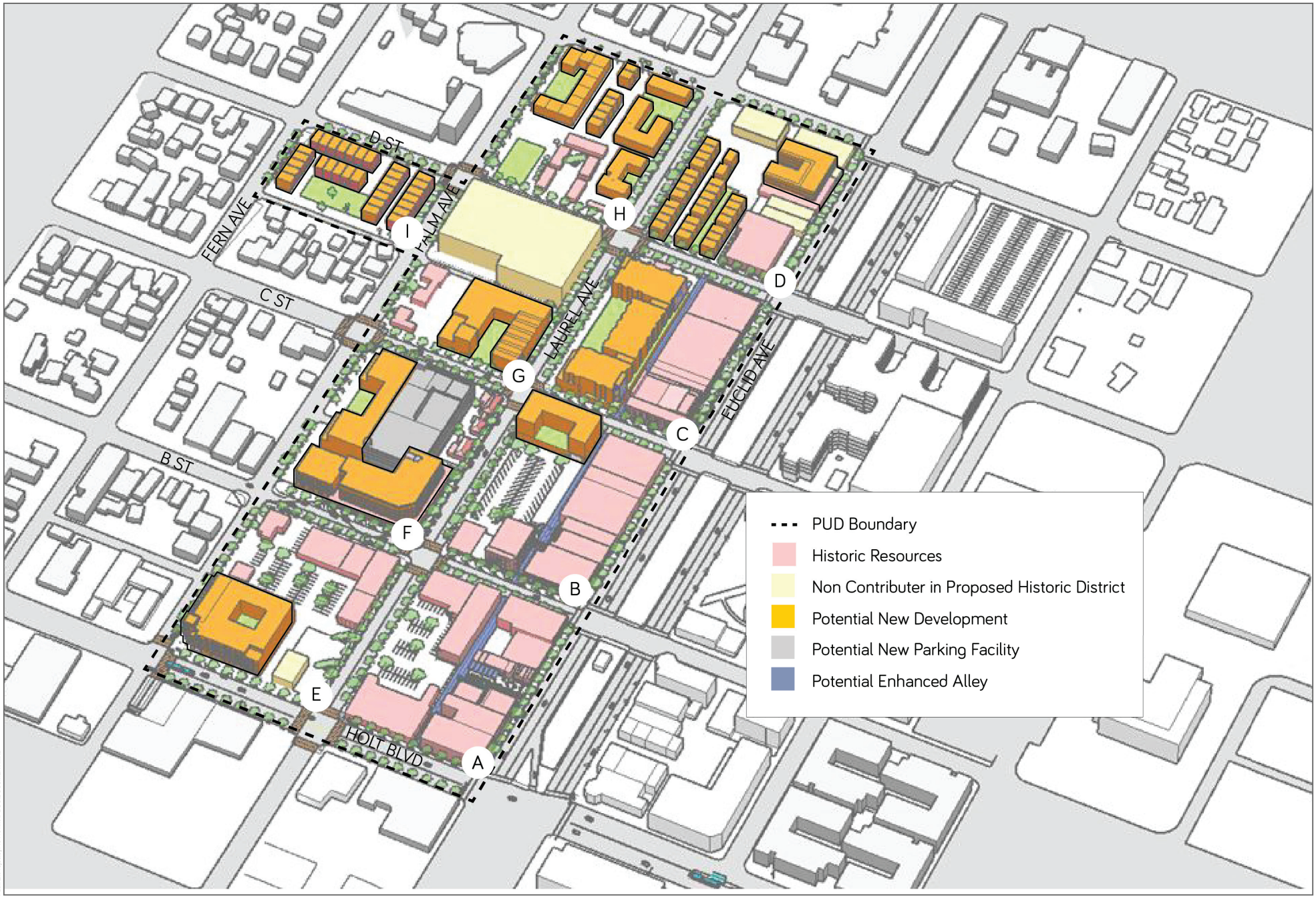



**FIGURE 3**
Site Plan

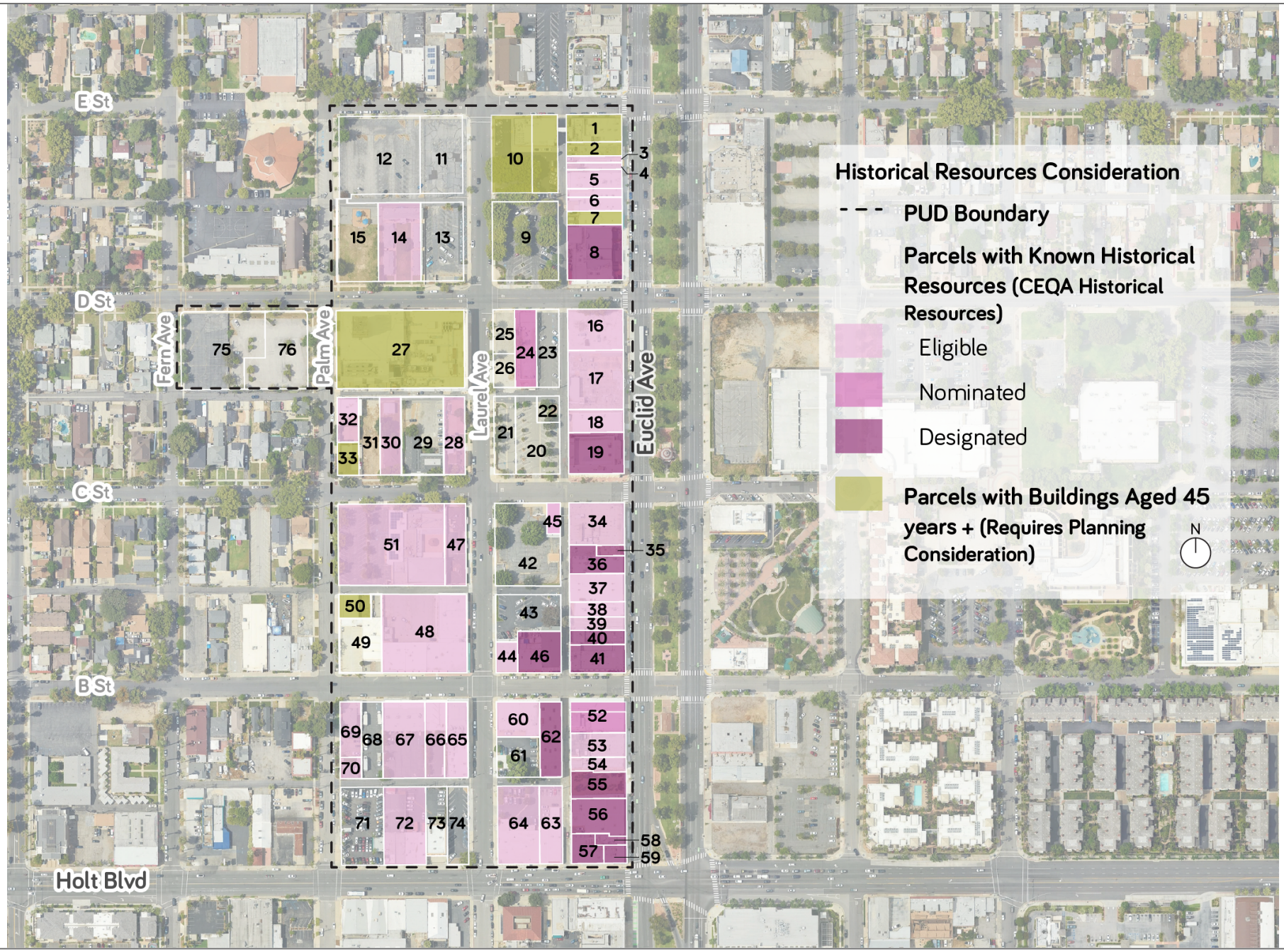



**FIGURE 4**

PUD Project Area Historic Resources

ORDINANCE NO. _____

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PUD23-004, A PLANNED UNIT DEVELOPMENT TO ESTABLISH PLANNING AND DESIGN PRINCIPLES, DEVELOPMENT REGULATIONS AND PERFORMANCE STANDARDS TO GOVERN FUTURE DEVELOPMENT OF 21.58 ACRES OF LAND, GENERALLY LOCATED SOUTH OF E STREET, NORTH OF HOLT BOULEVARD, WEST OF EUCLID AVENUE, EAST OF PALM AVENUE, AND THE NORTHERN PORTION OF THE BLOCK BETWEEN FERN AND PALM AVENUES AND C AND D STREETS, WITHIN THE LUA-1 (EUCLID AVENUE ENTERTAINMENT) OF THE MU-1 (DOWNTOWN MIXED USE) ZONING DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 1048-566-08, 1048-566-09, 1048-566-10, 1048-566-02, 1048-566-01, 1048-566-03, 1048-566-04, 1048-566-06, 1048-566-07, 1048-561-07, 1048-561-08, 1048-561-09, 1048-561-10, 1048-561-12, 1048-561-13, 1048-562-01, 1048-562-02, 1048-565-01, 1048-565-04, 1048-565-05, 1048-565-06, 1048-566-06, 1048-566-07, 1048-354-04, 1048-354-05, 1048-354-06, 1048-354-07, 1048-354-08, 1048-353-13, 1048-353-14, 1048-354-01, 1048-354-02, 1048-354-03, 1048-565-14, 1048-566-05, 1048-566-11, 1048-561-11, 1048-562-03, 1048-562-06, 1048-562-07, 1048-563-01, 1048-563-02, 1048-563-03, 1048-563-04, 1048-563-05, 1048-576-01, 1048-576-02, 1048-563-07, 1048-563-08, 1048-564-07, 1048-564-11, 1048-564-12, 1048-564-13, 1048-564-14, 1048-565-02, 1048-565-03, 1048-563-06, 1048-563-07, 1048-563-08, 1048-563-09, 1048-563-10, 1048-565-07, 1048-565-08, 1048-565-09, 1048-565-10, 1048-565-11, 1048-565-12, 1048-565-13, 1048-563-11, 1048-564-01, 1048-564-02, 1048-564-03, 1048-564-04, 1048-564-05, 1048-564-06, 1048-564-08, 1048-564-09, 1048-564-10.

WHEREAS, the City of Ontario ("Applicant") has initiated approval of a Planned Unit Development (PUD), File No. PUD23-004, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 21.58 acres of land (8.5 City Blocks) generally located south of E Street, north of Holt Boulevard, west of Euclid Avenue, east of Palm Avenue, and the northern portion of the block between Fern and Palm Avenues and C and D Streets within the LUA-1 (Euclid Avenue Entertainment) of the MU-1 (Downtown Mixed Use) zoning district, and is presently improved with a mixture of retail, residential, and office land uses and paved surface parking lots; and

WHEREAS, the properties to the north of the Project site is within the OL (Office Low Intensity) and MU-1(Mixed Use Downtown) zoning districts and is developed with office, retail and residential uses. The properties to the east and south are within the MU-1 (Mixed Use Downtown) zoning district which are developed with office, retail and residential. The properties to the west are located within the MDR-11 (Medium Density

Residential) HDR-45 (High Density Residential) and are developed with a school, church, and multiple-family and single family residential; and

WHEREAS, an existing bus stop is located on the northeast corner of Euclid Avenue and D Street for Omnitrans Route 83. Additionally, located near Euclid Avenue on Holt Boulevard is Omnitrans Route 61 which has been identified as the future West Valley Connector Bus Rapid Transit (BRT); and

WHEREAS, the purpose of the PUD is to facilitate the revitalization of downtown Ontario, streamline development, encourage historic preservation and adaptive reuse, and provide development flexibility to achieve the City's goals to economically revitalize and aesthetically enhance the Project area; and

WHEREAS, the PUD includes components that regulate land use, urban design, development and design standards for new (infill) construction, redevelopment of underutilized sites, and adaptive reuse of historic and existing buildings, architectural character and design and historic preservation; and

WHEREAS, the LUA-1/MU-1 (Downtown Mixed Use) zoning district is envisioned as an intensive vertical and horizontal district with a mixture of retail, office, and residential uses in a pedestrian friendly atmosphere, with the most intensive uses envisioned along Euclid and Holt Avenues. Consistent with the LUA-1/MU-1 zoning district and TOP Downtown District Place Type, the Downtown West PUD grants a maximum intensity of 2.0 Floor Area Ratio and a density range of 25.0 to 75.0 dwelling units per acre; and

WHEREAS, the PUD establishes the Downtown Mixed-Use Retail Core (MU-RC) zone that is comprised of 4 city blocks (Blocks A-D) that front onto Euclid Avenue from Holt Boulevard to D Street and is envisioned as an 18-hour entertainment, shopping, and dining destination, whereas Holt Boulevard, a future multi-modal corridor, is envisioned as the primary west-east connection from the Ontario International Airport/Hospitality district to the downtown; and

WHEREAS, the goals of the MU-RC zone are to enable a mixture of commercial uses with strategic multiple-family residential infill development, activate storefronts to generate pedestrian foot traffic, such as retail, restaurant, and entertainment, as well as design treatments that support a lively and comfortable public realm, create an enhanced, vibrant, and active public realm and streetscape along Euclid Avenue, create mid-block connections along Euclid Avenue to increase walkability and activity where public art and outdoor dining is encouraged, and to transform the north-south running public alley into a pedestrian-friendly enhanced alley with entrances, outdoor dining, and "greening" (landscape and enhanced paving) that collectively creates a lively and dynamic atmosphere; and

WHEREAS, the Downtown Mixed-Use Transitional (MU-T) zone is comprised of 4 city blocks (Blocks E- H), bordered by Laurel Avenue to the east, Palm Avenue to the west, D street to the north and Holt Boulevard to the south and is envisioned to enable a mix of commercial uses, a variety of multiple-family residential housing types, and mixed use development; and

WHEREAS, the goals of the MU-T zone is to support development flexibility with allowing a variation of building heights to respond to the surrounding context, identifying B street as an extension of Euclid Avenue as a more walkable retail “Main Street” atmosphere, enhancing the public realm with decorative crosswalks, “bulb out” curb extensions, public art, bicycle infrastructure, and introducing new “placemaking” elements such as suspended lighting and parklets; and

WHEREAS, the Downtown Residential (DR) zone is a half city block (Block I) located west of Palm Avenue, east of Fern Avenue, south of D street and north of the public alley. The primary goal of the DR zone to ensure compatible housing types with the surrounding residential; and

WHEREAS, the PUD includes Block-specific standards created to respond to place-based conditions and goals which include allowable range of building heights of 40 feet (3 stories) to 65 feet (5 stories), 0 to 10 feet of building setbacks, 10 and 15 feet of stepbacks for upper level additions to existing buildings at certain locations, and parking requirements; and

WHEREAS, the PUD requires a minimum of 1 resident parking space per bedroom, 0.20 guest parking per dwelling unit, and 1 parking space per 250 square feet of Gross Floor Area of commercial; and

WHEREAS, in order to achieve the preferred density and building intensities, the PUD allows for a combination of on-site and on-street parking to provide an adequate parking supply to meet the anticipated parking demand for the Project. All resident parking is provided on site, while guest parking and retail visitor spaces are allowed on-street; and

WHEREAS, the PUD includes architectural design standards and guidelines, specific to the downtown location and variety of building types, and establishes the following design principles:

(a) Create an architectural character that reflects the various styles within the historic downtown. New buildings should appear to fit in contextually with existing historic buildings by using similar proportions, articulation, building details and building material.

(b) The overall character should feel like a modern interpretation of a traditional American small town.

(c) Create compatibility between the mixed-use, residential and commercial architecture within the downtown area; the introduction of unifying elements such as similar materials and colors should be considered; however, “sameness” is discouraged; and

WHEREAS, the PUD requires a Certificate of Appropriateness, in conjunction with a Development Plan, in order to safeguard identified historic resources listed on the

Ontario Register of Historic Places and any unknown historic resources yet to be discovered; and

WHEREAS, the PUD relies upon the Secretary of Interior Standards, for the Treatment of Historic Properties, the Ontario Development Code (Certified Local Government), Ontario Downtown Design Guidelines, and best practices for preservation to guide appropriate design for new (infill) construction, redevelopment of underutilized sites, and adaptive reuse of historic and existing buildings; and

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

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

WHEREAS, the MND was made available to the public and to all interested agencies for review and comment pursuant to CEQA, the State CEQA Guidelines and the City of Ontario Local CEQA Guidelines; and

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

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport ("ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; 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 May 28, 2024, the Planning Commission of the City of Ontario conducted a hearing to consider the MND, MMRP, and the Project, and concluded said hearing on that date, voting to issue Resolution No. PC24-015 recommending the City Council approve the Application; and

WHEREAS, on July 2, 2024, the City Council of the City of Ontario conducted a hearing to consider the MND, MMRP, and the Project, and concluded said hearing on that date; and

WHEREAS, as the first action on the Project, on July 2, 2024, the City Council approved a resolution adopting MND and MMRP prepared pursuant to CEQA, the State CEQA Guidelines, and the City of Ontario Local CEQA Guidelines, which indicated that all potential environmental impacts from the Project were less than significant or could be mitigated to a level of significance, 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 Initial Study/Mitigated Negative Declaration and the administrative record for the Project, including all written and oral evidence provided during the comment period. Based upon the facts and information contained in the MND, MMRP, and the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

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

(2) The MND and MMRP contain a complete and accurate reporting of the environmental impacts associated with the Project, and reflects the independent judgment of the Planning Commission; and

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

(4) All environmental impacts of the Project are either insignificant or can be mitigated to a level of insignificance pursuant to the mitigation measures outlined in the MND and MMRP.

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 DAB, 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 Sections 1 through 2 above, the City Council 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.*** 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 Downtown West Planned Unit Development, describes the manner in which the PUD 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 through conditions of approval, 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 Downtown West PUD area is situated in the heart of Ontario's downtown and is adjacent to residential and commercial land uses and development. The surrounding development supports the objective of the Downtown West PUD further commercial, residential and mixed-use development. The Project does 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 Downtown West PUD, 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 Downtown West PUD will establish minimum building setbacks, parking and open space requirements, allow on-street parking, and establish a planting palette. These standards will facilitate the commercial, residential, and mixed-use development. The proposed Downtown West PUD 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 Application.

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 _____ 2024.

_____
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 _____, 2024 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)

# <u>ATTACHMENT A</u>:

## File No. PUD23-04;
## Downtown West Planned Unit Development

*(Document follows this page)*

VERSION (DRAFT)

# Downtown West Planned Unit Development

***JULY 2024***

*Prepared for:*

**CITY OF ONTARIO**

*Prepared by:*

DUDEK

studioneleven

# TABLE OF CONTENTS


1 Introduction ..... 1
- 1.1 The Ontario Plan (TOP) 2050 Objectives ..... 3
- 1.2 Background and Related Efforts ..... 11
  - 1.2.1 Downtown Ontario Design Guidelines ..... 11
  - 1.2.2 Downtown Civic Center Planned Unit Development ..... 11
  - 1.2.3 West Euclid Activation ..... 11
  - 1.2.4 Euclid Avenue Relinquishment and Historic Property Treatment and Management Plan ..... 12
- 1.3 Community and Stakeholder Engagement ..... 13

2 Vision and Guiding Principles ..... 16
- 2.1 Land Use, Urban Design, and Public Realm Concept ..... 19
  - 2.1.1 Euclid Avenue ..... 20
  - 2.1.2 Holt Boulevard ..... 23
  - 2.1.3 B Street ..... 24
  - 2.1.4 The Alley ..... 26
  - 2.1.5 Laurel Avenue ..... 28

3 District and Block Plan ..... 29
- 3.1 Downtown Mixed-Use Retail Core (Blocks A-D) ..... 30
- 3.2 Downtown Mixed-Use Transitional (Blocks E-H) ..... 31
- 3.3 Downtown Residential (Block I) ..... 32

4 Zoning and Land Use Plan ..... 33
- 4.1 Zoning Districts ..... 33
  - 4.1.1 Downtown Mixed-Use Retail Core (MU-RC) ..... 33
  - 4.1.2 Downtown Mixed-Use Transitional (MU-T) ..... 34
  - 4.1.3 Downtown Residential (DR) ..... 35
- 4.2 Permitted Land Uses ..... 37

5 Development Regulations and Guidelines ..... 40
- 5.1 Applicability ..... 40
- 5.2 Density and Intensity ..... 43

5.3 Building Height ..... 44
5.3.1 Upper-Level Stepbacks ..... 46
5.4 Setbacks ..... 47
5.5 Building Design ..... 50
5.5.1 Entrances ..... 50
5.5.2 Modulation ..... 50
5.5.3 Transparency ..... 50
5.5.4 Building Façades ..... 51
5.5.5 Ground Floor ..... 51
5.5.6 Varied Roofline ..... 52
5.5.7 Roof Decks ..... 52
5.5.8 Open Space ..... 53
5.5.9 Landscaping ..... 54
5.5.10 Vehicle Access and Parking ..... 54
5.6 Signs ..... 57
5.7 Service Facilities ..... 58
5.8 Infrastructure ..... 58
5.9 Historic Preservation ..... 59
5.9.1 Brief Development History of Ontario and the PUD Area ..... 59
5.9.2 Relevant Regulatory and Guidance Document References ..... 60
5.9.3 Review of Resources in the PUD Area ..... 65
5.9.4 Historic Preservation - Certificates of Appropriateness and Demolition ..... 73
5.9.5 Historic Architectural Guidelines ..... 75
5.10 Public Art ..... 83
5.10.1 Landmark Sculptures ..... 83
5.10.2 Murals ..... 83
5.10.3 Streetscape Amenities ..... 84
5.10.4 Private Development ..... 84
5.10.5 Temporary Programming ..... 84

6 Public Realm Standards and Guidelines ..... 85
6.1 Overview ..... 85
6.2 Design Standards ..... 86
6.2.1 Sidewalk Clearance ..... 86

6.2.2 Outdoor Dining ... 88
6.3 Design Guidelines ... 90
6.3.1 Street Furniture ... 90
6.3.2 Pedestrian Connections ... 92
6.3.3 Public Realm Signage and Wayfinding ... 92
6.3.4 Parkways and Street Trees ... 93

7 Administration and Implementation ... 94
7.1 Development Code ... 94
7.2 Development Applications ... 94
7.3 Certificate of Appropriateness ... 94
7.4 Exceptions ... 94
7.5 CEQA Compliance ... 94
7.6 Implementation ... 95

8 Section References and Additional Resources ... 96
8.1 Historic Preservation ... 96

## LIST OF FIGURES

Figure 2-1: Land Use, Urban Design, and Public Realm Concept for the PUD Area ... 19
Figure 2-2: Conceptual Illustration for Euclid Avenue ... 21
Figure 2-3: Conceptual Illustration for Euclid Avenue ... 22
Figure 2-4: Conceptual Illustration for Holt Boulevard ... 23
Figure 2-5: Conceptual Illustration for B Street ... 25
Figure 2-6: Conceptual Illustration for B Street ... 25
Figure 2-7: Conceptual Illustration for the Alley ... 27
Figure 2-8: Conceptual Illustration for Laurel Avenue ... 28
Figure 5-1: Downtown Ontario Design Guidelines Historic Districts - PUD Area ... 63
Figure 5-2: Historic Landmarks Map - South Section ... 65
Figure 5-3: District 3 ... 66
Figure 5-4: Historic Resources ... 67
Figure 6-1: Typical Layout of Outdoor Sidewalk Dining Space (Downtown Design Guidelines) ... 89

## LIST OF TABLES

Table 2-1: TOP 2050 Land Use Designations Summary – High-Density Residential and Mixed-Use - Downtown ..... 4
Table 4-1: Permitted Land Uses by Zoning District ..... 38
Table 5-1: Development Regulations Summary Table ..... 41
Table 5-2: Minimum Setbacks ..... 48
Table 5-3: Parking Requirements ..... 56
Table 5-4: Historic Resources ..... 68
Table 6-1: Recommended Street Trees in the PUD Area ..... 93

## LIST OF MAPS

Map 1: PUD Area Vicinity Map ..... 1
Map 2: PUD Area Location Map ..... 2
Map 3: TOP 2050 Land Use Mixed Use – Downtown District Place Type ..... 4
Map 4: PUD Sub-Districts and Blocks ..... 29
Map 5: Zoning Districts ..... 36
Map 6: Ground Floor Land Use ..... 39
Map 7: Allowed Density and FAR ..... 43
Map 8: Allowed Heights ..... 45
Map 9: Street Setbacks ..... 49

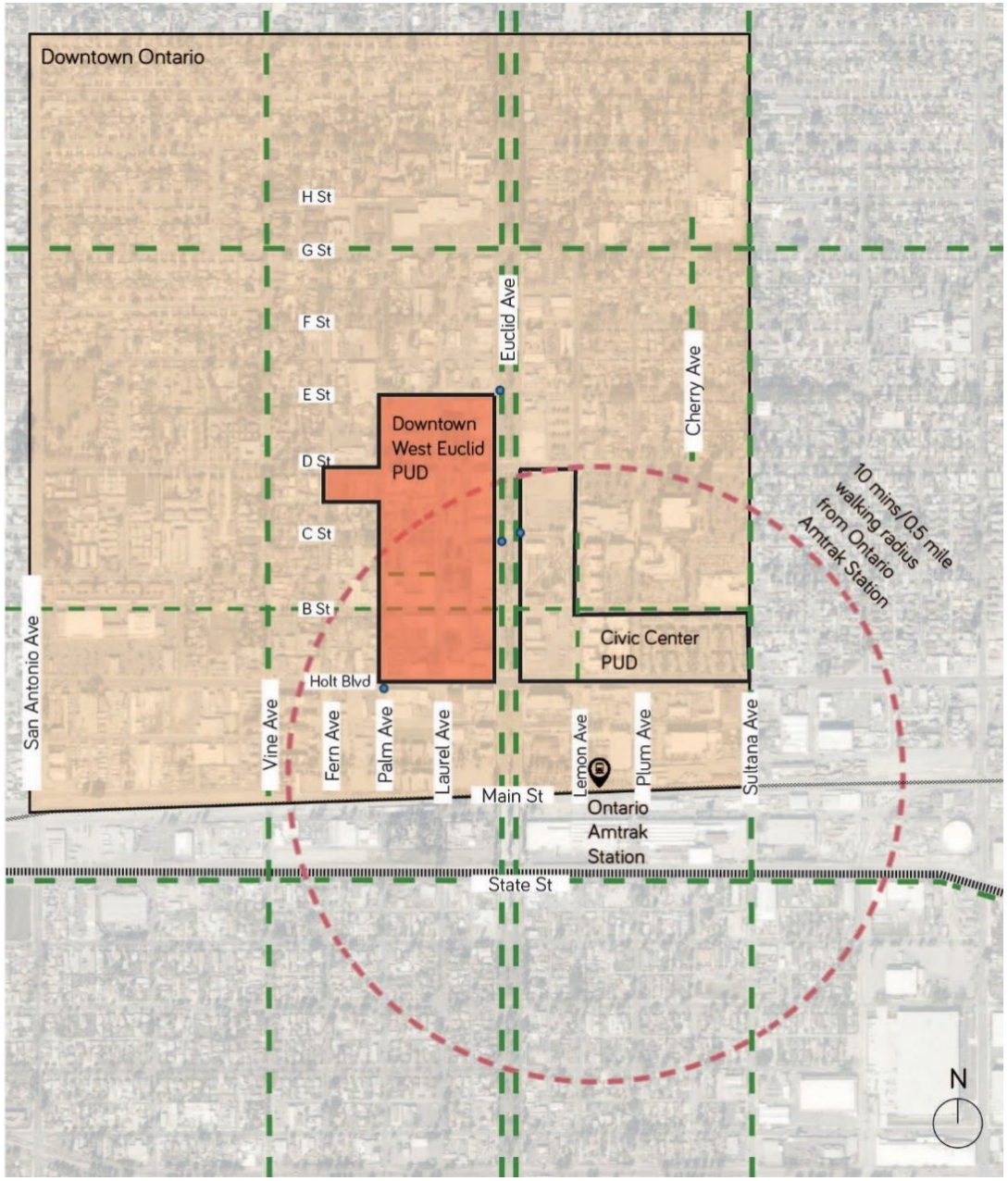
# 1 Introduction

The Downtown West Planned Unit Development (PUD) is intended to function as a set of planning and design principles, development regulations, and performance standards to guide and govern the development of the blocks between E Street to the north and Holt Boulevard to the south, and between Palm Avenue to the west and Euclid Avenue to the east, in addition to the portion of the block between D Street and the alley connecting Fern Avenue and Palm Avenue (PUD area). The PUD area is situated within the City of Ontario's historic downtown and is adjacent to the City's Civic Center, as shown in **Map 1 (PUD Area Vicinity Map) and Map 2 (PUD Area Location Map).** This PUD will facilitate the revitalization of downtown Ontario, streamline development, emphasize historic preservation and adaptive reuse, and provide development flexibility to achieve the City's goals to economically revitalize and aesthetically enhance the project area.

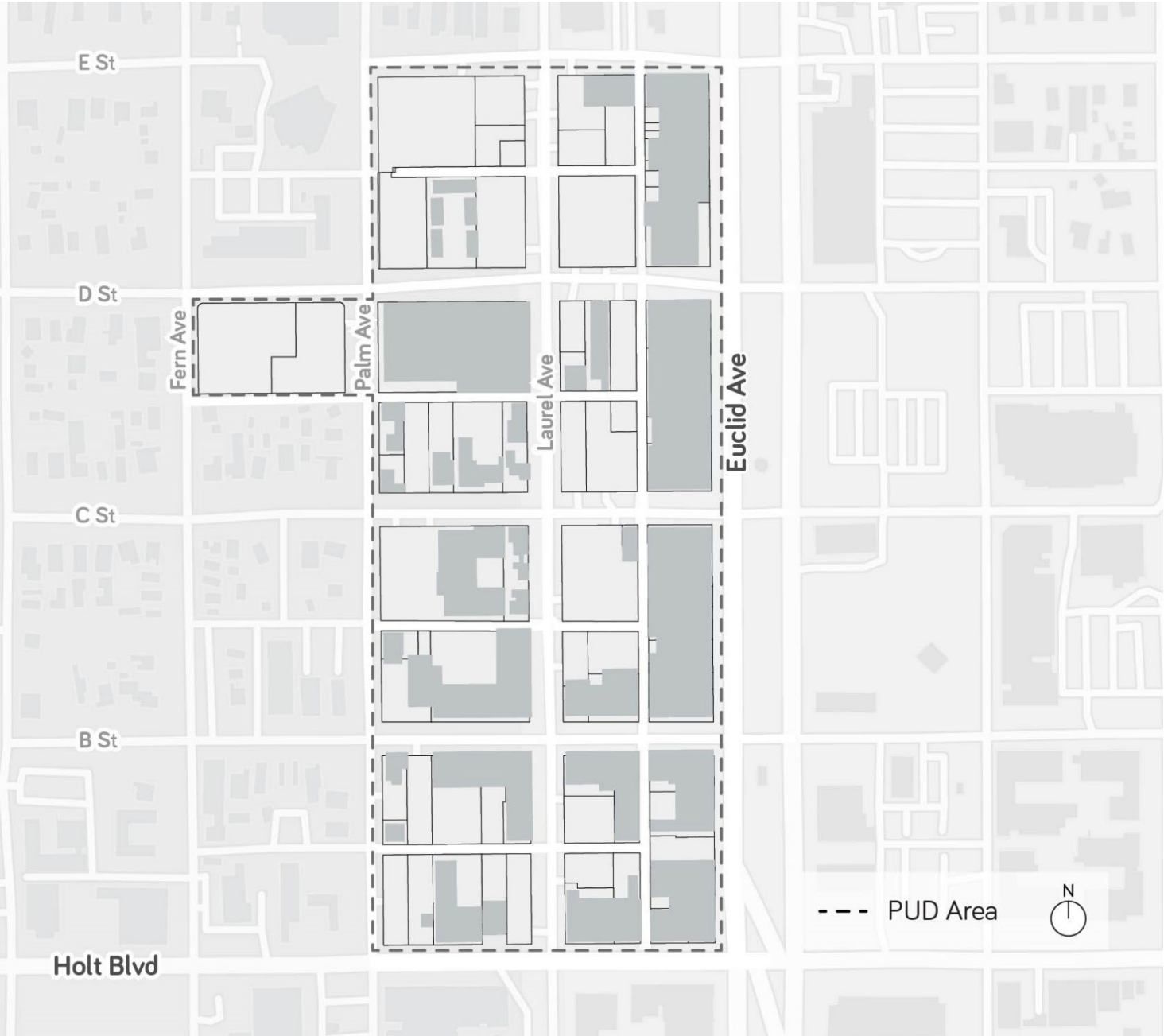
This document is organized to fulfill the requirements for a PUD, as set forth in the Ontario Development Code. As such, this PUD will replace the existing zone district designations and zoning standards that apply to the affected properties. Unless otherwise defined herein, definitions and interpretations contained in the Development Code shall apply.

City staff and private developers will rely upon this PUD to determine whether precise plans for development (Development Plans) will adequately meet the City's land use and design objectives for this key part of Ontario's original downtown. The objectives have been defined through The Ontario Plan (TOP) (2020), summarized in the following sub-section.

Map 1: PUD Area Vicinity Map



## Map 2: PUD Area Location Map



## 1.1 The Ontario Plan (TOP) 2050 Objectives

The Downtown West PUD builds upon the vision and development and design principles for Downtown Ontario as outlined in The Ontario Plan (TOP). The Ontario Plan (TOP) Community Design Element establishes “Districts” that have been categorized as “Place Types,” which are geographically large, culturally unique, and regionally significant areas of the city that fulfill different but complementary roles in creating a complete community. As regional destinations, districts serve as the “face of the city.” Each district has a distinct identity that reflects its role within the city context and establishes a defined sense of place through the creation of an amenity-rich, transit-accessible, mixed-use environments where people can live, work, shop, dine, and have many of their daily needs met within a comfortable and convenient walk or bike ride from their residence, transit stop, or parked vehicle.

The PUD area is located within the “Downtown District,” which is envisioned as the placed-based, people-focused, commercial, and cultural "heart" of the city and features several designated historic districts and landmarks. Downtown will support a variety of businesses, housing opportunities for residents with a variety of income levels, creative spaces, entertainment options, and institutional and civic uses, while preserving its historic character, buildings, neighborhoods, and places. Complementing the wide mix of uses are designs, layouts and public spaces that give residents, visitors, and businesses a strong sense of connection and creates a place where people want to spend time.

The TOP land use designation for the PUD area is Mixed-Use - Downtown (MU-Downtown) as shown in Map 3 (TOP 2050 Land Use Mixed Use – Downtown District Place Type) and summarized in **Table 2-1 (TOP 2050 Land Use Designations Summary –Mixed-Use – Downtown)**. MU-Downtown is envisioned as an intensive vertical and horizontal district with a mixture of retail, office, and residential uses in a pedestrian friendly atmosphere, with the most intensive uses envisioned along Euclid and Holt Avenues. In addition, in MU-Downtown, there is an intention to enhance historic character. Maximum intensity is 2.0 Floor Area Ratio and allowed density is 25.0 to 75 dwelling units per acre.

## Map 3: TOP 2050 Land Use Mixed Use – Downtown District Place Type

**Table 2-1: TOP 2050 Land Use Designations Summary – High-Density Residential and Mixed-Use - Downtown**

| Land Use Designation | Residential Density & Non-Residential Intensity | Intention |
|---|---|---|
| Mixed-Use - Downtown (MU - Downtown) | 25.0 to 75.0 dwelling units per acre<br><br>2.0 FAR for retail and office uses | Envisioned as an intensive vertical and horizontal mixture of retail, office, and residential uses in a pedestrian friendly atmosphere. The historic character is enhanced. The most intensive uses are envisioned along Euclid and Holt Avenues. |

The TOP Plan Policy Plan (General Plan) establishes a long-term vision for Ontario: “a sustained, community-wide prosperity which continuously adds value and yields benefits.” In addition to this overarching vision, the following four components establish by City Council serve as the basic building blocks that set the foundation for a unified and prosperous community:

- A **Dynamic Stability** that enables our community to confront the continued dynamic growth of the region and technological change with confidence and a sense of opportunity.
- A **Prosperous Economy** that sustains the perception and reality of prosperity across our entire community that positively impacts all the people of Ontario and is broadly – though not uniformly – shared.
- **Distinctive Development** that integrates our varied and diverse focal points, districts, centers, corridors, and neighborhoods to provide a feeling of coherence without sacrificing uniqueness.
- **Recognized Leadership** in local governance that stimulates excellence and serves to unify the people of Ontario in support of best practices in conducting public endeavors.

The Downtown West PUD 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 this PUD are as follows:

| City Council Goals |
|---|
| ▪ Invest in the Growth and Evolution of the City's Economy<br>▪ Operate in a Businesslike Manner<br>▪ Focus Resources in Ontario's Commercial and Residential Neighborhoods |
| **Governance** |
| ▪ Decision Making:<br>- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.<br>- G 1-2. Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision. |
| **Vision: Distinctive Development - Commercial and Residential Development** |
| ▪ Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.<br>▪ A system of vibrant retail, town, and neighborhood centers responsive to market demands and woven into the fabric of the community.<br>▪ A demonstrated ability to attract housing in pursuit of our acknowledged responsibility to balance housing with the job growth that drives our quality of life.<br>▪ One of the most comprehensive and diverse housing stocks in the region that offers broad choices for its diverse workforce and their families, ranging from entry level housing to executive level development; from semi-rural to highly urban. |

- Distinctive and well-maintained neighborhoods that offer exceptional variety in lifestyles, with convenient access to schools, recreation and cultural facilities, places of worship, places of employment and shopping.

**Vision: Distinctive Development - Development Quality**

- Unique and authentic districts, centers, and corridors of varied scales that establish Ontario as one of the most vital and diverse locales in Southern California.
- 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.

**Vision: Distinctive Development - Leisure and Cultural Activities**

- Strong historic districts and cultural resources matching interests of a population with diverse cultural backgrounds, as well as offering a range of arts and entertainment venues of international significance.

**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-2.6 Infrastructure Compatibility. We require infrastructure to be aesthetically pleasing and in context with the community character.
- 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.
  - LU-3.2: Design Incentives. We offer design incentives to help projects achieve the Vision.
  - LU-3.3: Land Use Flexibility. We consider uses not typically permitted within a land use category if doing so improves livability, reduces vehicular trips, creates community gathering places and activity nodes, and helps create identity.
- Goal LU-4 Phased Growth: Development that provides short-term value only when the opportunity to achieve our Vision can be preserved.
  - LU-4.4: Shared Infrastructure. We encourage and facilitate the use of shared infrastructure (including shared or managed parking) in urban, mixed use, and transit-oriented Place Types.

## Housing Element

- Goal H-2 Housing Supply & Diversity: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.
  - H-2.1: Corridor Housing. We revitalize transportation corridors by encouraging the production of higher density residential and mixed-uses that are architecturally, functionally, and aesthetically suited to corridors.
  - H-2.2: Historic Downtown. We foster a vibrant historic downtown through facilitating a wide range of housing types and affordability levels for households of all ages, housing preferences, and income levels.
  - H-2.5: Housing Design. We require architectural excellence through adherence to City design guidelines, thoughtful site planning, environmentally sustainable practices, and other best practices.
  - H-2.6: Infill Development. We support the revitalization of neighborhoods through the construction of higher-density residential developments on underutilized residential and commercial sites.
- Goal H-3 Government Regulations: A City regulatory environment that balances the need for creativity and excellence in residential design, flexibility and predictability in the project approval process, and the provision of an adequate supply and prices of housing.
  - H-3.1: Incentives. We maintain incentive programs that can be offered to projects that provide benefits to the community such as exceptional design quality, economic advantages, environmental sustainability, or other benefits that would otherwise be unrealized.
  - H-3.2: Flexible Standards. We allow flexibility in the application of residential and mixed-use development standards in order to gain benefits such as exceptional design quality, economic advantages, sustainability, or other benefits that would otherwise be unrealized.
  - H-3.3: Development Review. We maintain a residential development review process that provides certainty and transparency for project stakeholders and the public yet allows for the appropriate review to facilitate quality housing development.
  - H-3.4: Financial Incentives. We consider financial incentives to facilitate and encourage the production, rehabilitation or improvement of housing, or provision of services where such activity furthers housing and community-wide goals.
- Goal H-5 Special Needs: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age, or other status.
  - H-5.1: Senior Housing. We support the development of accessible and affordable senior housing and provide financial assistance for seniors to maintain and improve their homes.
  - H-5.2: Family Housing. We support the development of larger rental apartments that are appropriate for families with children, including, as feasible, the provision of services, recreation, and other amenities.

## Parks and Recreation Element

- Goal PR-1 Planning & Design: A system of safe and accessible parks that meets the needs of the community.
  - PR-1.1: Access to Parks. In all new residential development areas, we strive to provide a park and/or recreational facility within walking distance (¼ mile) of every residence and prioritize the establishment of parks in environmental justice areas that do not have adequate access to parks.

    PR-1.14: Multi-family Residential Developments. We require that new multi-family residential developments of five or more units provide recreational facilities or open space, in addition to paying adopted impact fees.

## Community Economics Element

- Goal CE-1 Complete Community: A complete community that provides for all incomes and stages of life.
  - CE-1.6: Diversity of Housing. We collaborate with residents, housing providers, and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to encourage the development of housing supportive of our efforts to attract business in growing sectors of the community while being respectful of existing viable uses.
  - CE-1.7: Retail Goods and Services. We seek to ensure a mix of retail businesses that provide the full continuum of goods and services for the community.
- 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 project existing investment by providing architecture and urban design of equal or greater quality.

## Safety Element

- Goal S-1 Seismic & Geologic Hazards: Minimized risk of injury, loss of life, property damage, and economic and social disruption caused by earthquake-induced and other geologic hazards.
  - S-1.1 Implementation of Regulations and Standards. We require that all new habitable structures be designed in accordance with the most recent California Building Code adopted by the City, including provisions regarding lateral forces and grading.

## Community Design Element

- Goal CD-1 Complete Community: A dynamic, progressive city containing distinct and complete places that foster a positive sense of identity and belonging among residents, visitors, and businesses.
  - CD-1.2: Place Types. We establish Place Types in urban, mixed use, and transit-oriented areas to foster the City's identity as a premier community and require new development within each Place Type to incorporate prescribed urban patterns, forms, and placemaking priorities.
  - 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: Goal: A high level of design quality resulting in neighborhoods, commercial areas, 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:
    - Building volume, massing, and height to provide context-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 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-2.5: 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.
  - CD-2.7: Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping, and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials, and construction techniques.
  - CD-2.8: Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintaining visibility and accessibility, and using lighting.
  - 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-2.10: Parking Areas. We require all development, including single-family residential, to minimize the visual impact of surface, structured, and garage parking areas visible from the public realm in an aesthetically pleasing, safe and environmentally sensitive manner. Examples include:
    - Surface parking: Shade trees, pervious surfaces, urban run-off capture and infiltration, and pedestrian paths to guide users through the parking field.
    - Structured parking: facade articulation, screening, appropriate lighting, and landscaping.
    - Garage parking: providing access to single-family residential garages through alley access, recessing garages from the frontage to emphasize front doors or active living spaces.
  - CD-2.11: Entry Statements. We encourage the inclusion of amenities, signage, and landscaping at the entry to neighborhoods, commercial centers, mixed use areas, industrial developments, and public places that reinforce them as uniquely identifiable places.
  - CD-2.12: Site and Building Signage. We encourage the use of sign programs that utilize complementary materials, colors, and themes. Project signage should be designed to effectively communicate and direct users to various aspects of the development and complement the character of the structures.

- 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-3.3: Complete and Connected Network. We require that pedestrian, vehicular, and bicycle circulation on both public and private property be coordinated to provide connections internally and externally to adjacent neighborhoods and properties (existing and planned) through a system of local roads and trails that promote walking and biking to nearby destinations (including existing and planned parks, commercial areas, and transit stops) and are designed to maximize safety, comfort, and aesthetics.
- 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).
- CD-3.6: Managed Infrastructure. We collaborate with developers and property owners to facilitate development that realizes the envisioned character and functionality of the Place Type through the use of green and shared infrastructure within each Place Type.

▪ Goal CD-4 Historic Preservation: Historic buildings, streets, landscapes, and neighborhoods, as well as the story of Ontario's people, businesses, and social and community organizations, have been preserved and serve as a focal point for civic pride and identity.

- CD-4.5: Adaptive Reuse. We actively promote and support the adaptive reuse of historic sites and buildings to preserve and maintain their viability.

# 1.2 Background and Related Efforts

In addition to the TOP, there are several previous plans and efforts focused on Downtown Ontario that served as background for the development of this PUD, shaping the vision and guiding principles. These previous plans and efforts are summarized in the following section. In addition, the City of Ontario's ongoing focus on the Downtown area has resulted in several related efforts that seek to improve the historic character, urban design, mobility conditions, among others, all of which strengthens Downtown Ontario and complements this PUD. These efforts are summarized in Chapter 7 (Administration and Implementation) as part of the implementation of the PUD.

## 1.2.1 Downtown Ontario Design Guidelines

The Downtown Ontario Design Guidelines, adopted by City Council in 1998 as reference to the Development Code, establishes a set of architectural, graphic, and lighting design principles, to provide guidance to business owners, homeowners, City staff, and design professionals, for the development and/or rehabilitation of properties within the City's historic original downtown area. The PUD area is encompassed within the Downtown Design Guidelines project area and straddles the Historic Retail and the Residential Districts as defined in the guidelines. This PUD aims to reinforce the concept plan and associated guidelines included in the Downtown Design Guidelines and further strengthen Downtown Ontario's identity and character. The Downtown Ontario Design Guidelines should continue to be used as a guide for the PUD area to ensure that properties continue to enhance the City's historic original downtown area.

*The Euclid Avenue median divides the west side of Euclid Avenue, shown on the left and part of this PUD area, and the east side of Euclid Avenue, shown on the right and part of the Downtown Civic Center Planned Unit Development area.*

## 1.2.2 Downtown Civic Center Planned Unit Development

The Civic Center Planned Unit Development, adopted in 2006 and amended in 2011 and 2021, includes planning and design principles, development regulations, and performance standards to guide and govern the development of a 6-block area of the City of Ontario, which consists of a portion of the City's original downtown and its current civic center area. The PUD area lies directly west of the Civic Center Planned Unit Development project location, as shown in Map 1, creating opportunities to define complementary regulations, standards, and guidelines along Euclid Avenue to ensure a cohesive corridor experience.

## 1.2.3 West Euclid Activation

The West Euclid Activation effort, which concluded in Spring 2022, focused on defining activation goals for West Euclid Avenue and developing strategies for the activation of properties in the Downtown area, many of which are City-acquired, to help achieve the long-term goal of re-visioning the area as the cultural and entertainment heart of Ontario. Goals for the effort that influence this PUD include: (1) A vibrant and walkable district with rich historic and architectural

character, (2) a regional tourist destination, (3) the heartbeat of Ontario's thriving arts and culture scene, and (4) an 18-hour downtown with a variety of uses that support residents, visitors, and business owners. As part of the effort, existing and proposed projects were identified and focused projects for further study were determined. Several urban design studies were also included to re-envision specific sites within the downtown area, which are also located within the PUD area, including:

- **Gemmel's Pharmacy,** a historic building with an opportunity to be subdivided into multiple tenants to activate the Euclid Avenue and B Street ground floor frontage through active uses such as a café or entertainment club with upper floor residential units. The design study envisions façade improvements that enhance the existing historic character as well as a parklet along B Street to support adjacent restaurants, in addition to a suite of other placemaking strategies.
- **Granada Theater**, a 1926 historic theater, envisioned as an anchor of a revitalized Downtown with an opportunity to be restored and infused with new uses, such as retail shops, creative offices, and arts-related uses. The design study envisions active ground floor design treatments and façade improvements.
- **123 W D Street,** an Art Deco style building with an opportunity for adaptive reuse into a quasi-industrial use such as a brewery or other maker-space operation, or entertainment venue. The design study envisions reuse of existing surface parking lot as outdoor space with enhancements like shade, lighting, and art.

A new concept for B Street is also included, which envisions the street as an active, pedestrian-focused street with a variety of placemaking elements, in addition to a concept to transform existing alleys in into activated, pedestrian-focused alleyways. The vision and activation concepts from the West Euclid Activation document serve as background and context for the development of the PUD guiding principles and the land use and urban design concepts, discussed in Chapter 2-4.

### 1.2.4 Euclid Avenue Relinquishment and Historic Property Treatment and Management Plan

In 2020, the City approached the California Department of Transportation (Caltrans) and formally initiated the relinquishment of State Route 83 (Euclid Avenue) to the City. Caltrans conducted and approved Relinquishment Assessment Reports in 2023 to determine if relinquishment is appropriate from a state transportation perspective and found that Euclid Avenue does not serve regional or statewide transportation needs, thereby allowing the City the control in the operation of the transportation system to better represent community interests.

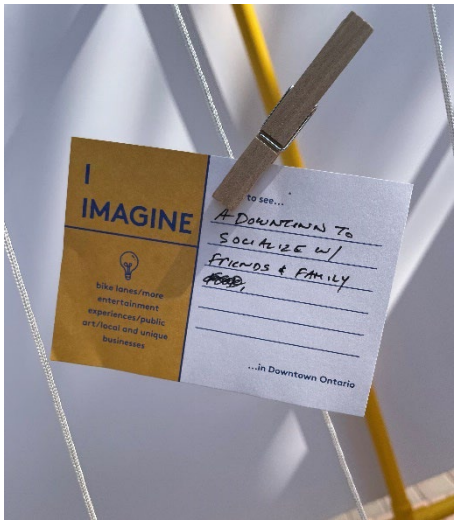
As part of the relinquishment of Euclid Avenue, Caltrans and the City prepared a Historic Property Treatment and Management Plan (HPTMP) which fulfills regulatory compliance for the relinquishment of the historic segment of Euclid Avenue. The public right-of-way from Philadelphia Street to the I-10 was designated as Local Landmark No. 67 by City Council on January 16, 2001. On August 10, 2005, the public right-of-way from Philadelphia Street in Ontario to 24th Street in Upland was listed on the National Register of Historic Places as a significant cultural landscape. Contributing character-defining features of the resource include the 60-foot wide median, historic rock curb, scored sidewalks, King standard light posts, double planting of California pepper trees (Schinus molle), silk oaks trees (Grevillea robusta), and other mature vegetation such as deodar trees (Cedrus deodara) and Canary Island palms (Phoenix canariensis). The HPTMP provides guidance to the City on appropriate maintenance practices and future improvements in a manner that is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. Implementation of the HPTMP will preserve, protect and enhance the historic character and quality of Euclid Avenue, streamline environmental review for future improvement projects, and safeguard Euclid Avenue's position on the National Register of Historic Places.

# 1.3 Community and Stakeholder Engagement

Community and stakeholder engagement for the Downtown West PUD included three rounds of community outreach and two rounds of targeted stakeholder conversations via roundtable sessions. The community outreach was conducted through in-person pop-up events as part of existing community events and online via virtual workshops. The roundtable sessions consisted of key stakeholders, including property and business owners, residents, representatives from the downtown Ontario Improvement Association, developers, and others.

An overview of the three rounds of engagement is summarized in the following pages, along with a summary of the feedback shared by the community and stakeholders:

- **Round 1 Visioning and Goals** aimed to share the PUD vision and goals, as well as capture community ideas, aspirations, and priorities.
  - **Feedback from broader community:** The community displayed overall support for the vision and goals, highlighting the unique character of Ontario's historic downtown. In addition, they advocated for mobility options to promote accessibility and active transportation infrastructure for safer connections.
  - **Feedback from the stakeholder roundtable:** Discussions highlighted the Granada Theater as an important historical asset, emphasizing the need for consistent programming to activate it. Stakeholders stressed the importance of effective waste management systems and ample parking to support local businesses in downtown Ontario. Suggestions from stakeholders included the enhancement of community parking accessibility and reimagining alleys to facilitate social activities. Moreover, leveraging the West Valley Connector Bus Rapid Transit (BRT) Project, a 19-mile zero emission BRT that is estimated to open in 2026 connecting the Ontario International Airport (ONT) to two Metrolink lines (San Bernardino and Riverside), and multiple major activity centers, including Downtown Ontario via Holt Boulevard, would promote connectivity to mass transit and encourage the use of alternative transportation methods, reducing car-dependence in the area.




*The community engaged with a pop-up art installation to provide their input on the vision and goals for the PUD. The pop-up was part of the larger State of the City event in March 2023.*

- **Round 2 Land Use and Urban Design Concept** focused on capturing community feedback for preliminary land use and urban design concepts.
  - **Feedback from the stakeholder roundtable:** Stakeholders tasked the PUD with providing clarity on design standards for private development and recommendations for improvements for alley enhancements and public art. In addition, the PUD should provide recommendations for the location and management of the trash facility. Furthermore, to enhance connectivity, stakeholders suggested the exploration of an east-west connection on the block between B and C street along Euclid Avenue.
  - **Feedback from broader community:** The community was enthusiastic about a comprehensive and interconnected network, particularly with enhancements to the public realm, pedestrian safety, and landscaping. The concept of an open garden with pop-up food vendors was well liked due to its potential to establish family-friendly spaces. There was continued support for the adaptive reuse of historic buildings on B Street and Laurel Avenue to promote more active uses. Community members enjoyed the idea of transforming alleyways into a pedestrian-centric area that would potentially create shopping and dining destinations downtown. To accommodate for the influx of people, they recommended extending business hours and increasing the frequency of public transportation.

### Common Themes across Engagement

- Maintain historic character.
- Adaptive reuse of historic structures with active uses, such as shopping and dining.
- Pedestrian infrastructure to make it safer and more comfortable to get around.
- Prioritize the success of local businesses through improved waste management and ample parking.
- Enhanced transportation infrastructure that supports mobility options and makes it easier to get around in the district by foot or bike.

*The community responded to the Land Use and Urban Design Concept and conceptual illustrations for key sites within the downtown. The pop-up was part of summer concert series in the park in July 2023.*

- **Round 3 Draft PUD Showcase** focused on sharing the draft contents of the PUD with the community and answering questions. The Showcase was designed as an open house with topical stations, including:
    1. **About the Project,** which covered the PUD area, about PUDs, project timeline, and relationship to the TOP.
    2. **Vision and Guiding Principles,** which highlighted the overall vision and the six guiding principles for the project, as well as the land use, urban design, and public realm concept for the PUD area. The concept also included corridor-specific concepts for Euclid Avenue, Laurel Avenue, Holt Boulevard, B Street, and the Alley.
    3. **Historic Overview,** which covered the historic-focused components of the PUD, including key standards, relationship to the Downtown Ontario Design Guidelines, and the PUD-specific Historic Architectural Guidelines.
    4. **Height and Setbacks,** which highlighted allowed heights and setback standards in the PUD area.
    5. **Land Use and Ground Floor Environment,** which included a map of zoning districts with intent statements, a summary of ground floor use standards for B Street, Holt Boulevard, and Euclid Avenue, and ground floor design standards.
    6. **Next Steps,** which highlighted key projects that address mobility, historic preservation, culture, wayfinding, and future development that are separate from the PUD and will be implemented over the next few years.

# 2 Vision and Guiding Principles

The Downtown West PUD vision describes the future of the PUD area to provide direction for how the area will grow and evolve over time. The vision is consistent with the TOP and builds off the West Euclid Activation effort, discussed in Section 1.2. The vision is supported by guiding principles that aim to provide additional detail on how to achieve the vision.

## Downtown West PUD Vision

**As the historic center of Ontario, Downtown West, is envisioned as the placed-based, people-focused, commercial, and cultural "heart" of the city and features several designated historic buildings and landmarks.**

**Downtown West will support a variety of businesses, housing opportunities for residents with a variety of income levels, creative spaces, entertainment options, and institutional uses while preserving its historic character, buildings, neighborhoods, and places.**

**Complementing the wide mix of uses are designs, layouts and public spaces that give residents, visitors, and businesses a strong sense of connection and creates a place where people want to spend time.**

# GUIDING PRINCIPLES To support the vision, the following guiding principles apply:

## UNIQUE IDENTITY

Downtown Ontario is the economic, cultural, and civic hub of Ontario, organized by a simple, walkable network of tree-lined streets, laid out as a new "Model Colony" in the 1880s. Downtown West's history, historic buildings, and distinct urban form define downtown's unique identity. This is especially true on the west side of Euclid Avenue where a continuous streetwall of quality buildings, many of which are historic resources, create an irreplaceable sense of place and history. Downtown's historic character and architectural styles should be celebrated and enhanced through appropriate infill development and adaptive re-use of historic and non-historic structures to reinforce the area's identity.

## HUMAN SCALE PUBLIC REALM

Downtown West's public realm is a traditional network of sidewalks and public open spaces that are lined with a rich variety of buildings. The district's streets, sidewalks, and alleys should be enhanced as "outdoor rooms of community," providing an attractive, comfortable, safe, and lively environment to walk, explore, shop, dine, meet friends and neighbors, and participate in community events. Each new public and private public realm improvement should reinforce a "pedestrians first" intent, and complement existing character, with a focus on strengthening the public realm character along Euclid Avenue through an enhanced sidewalk environment with elements that match the east side of the street.

## COMPLETE & CONNECTED NETWORK

Downtown West's robust grid pattern network connects the retail core seamlessly to surrounding neighborhoods, Holt Boulevard, and the future Bus Rapid Transit (BRT) station for the West Valley Connector. The layout of the street system provides for a variety of choices across travel routes and modes for each trip. Downtown West's simple, open network of pedestrian-friendly streets and blocks is the ideal built environment and framework for any urban, mixed use, or transit-oriented area, and the existing block structure should be maintained and enhanced through mid-block paseos and improved alleys.

## APPROPRIATE CONTEXTUAL BUILDING DESIGN & PRESERVATION

Within Downtown West, historic buildings from various time periods comfortably mix with newer buildings. Along Euclid Avenue, buildings are unified by active ground floors with transparent storefronts and accessible pedestrian entries from the sidewalk aligned with a historic "main street" character. Across the district, new buildings are well-designed, with appropriate height based on location, with façade enhancements that also provide opportunities for public art. Future infill development and renovations should respect and reflect established facade patterns to preserve Downtown's historic character. The architecture of new buildings should not try and replicate historic styles, but be contemporary while harmonizing with the scale, rhythm, and character of their historic predecessors.

## ACTIVE & CONTEXT-SENSITVE FRONTAGES

Within the heart of Downtown West, a variety of active uses built right up to the sidewalk "blur the line" between the outdoor public realm and the indoor private businesses. Restaurants, cafes, and shops enliven the sidewalk environment through activities and outdoor dining. On side streets and as one moves toward surrounding residential neighborhoods, frontages are designed with ground floor commercial uses and residences that quitter in nature and promote privacy from passersby. Buildings here are set back from the sidewalk, reducing visibility into the residence or office, while offering views outward to the street and other public spaces, improving public safety and pedestrian comfort.

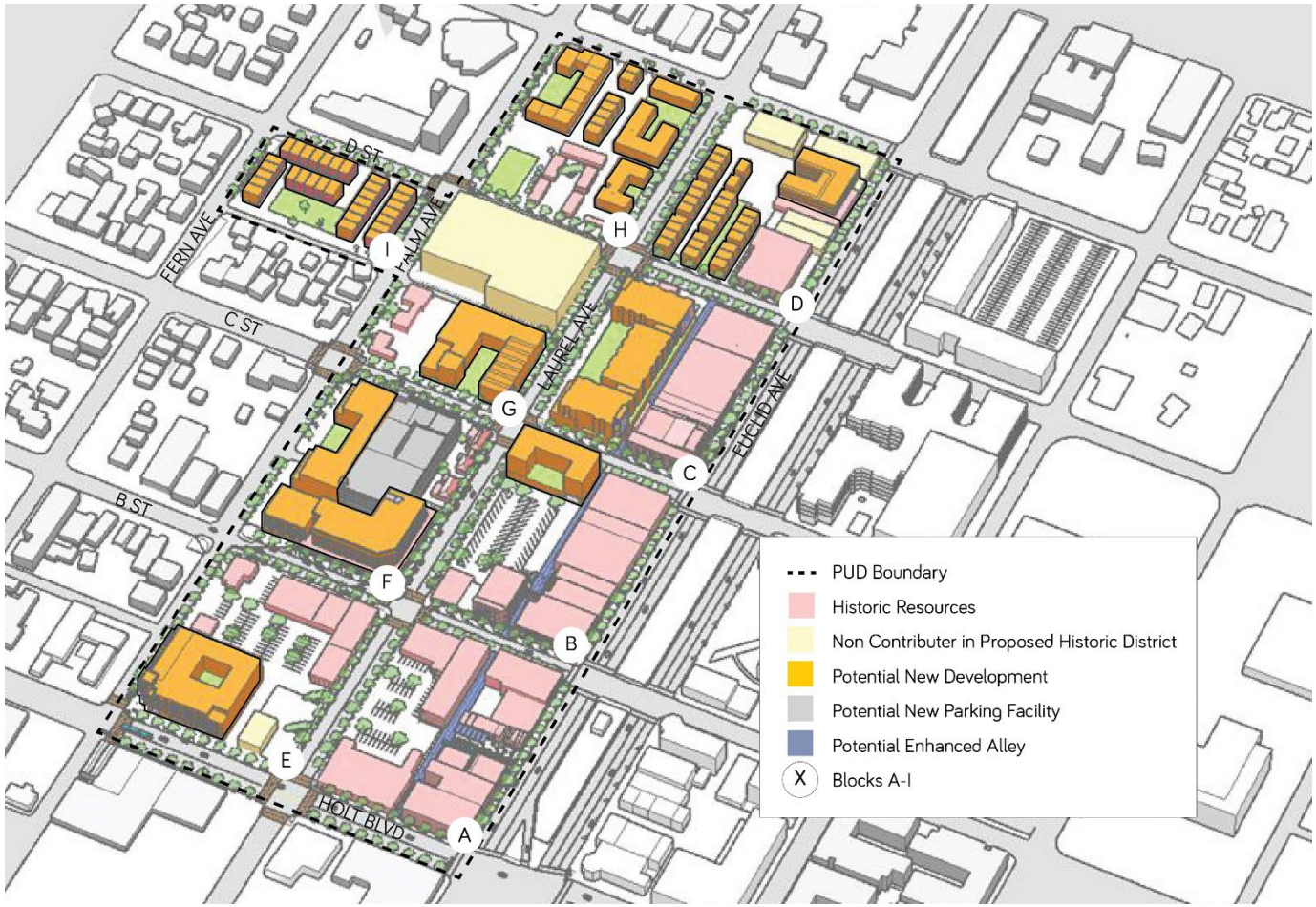
## MANAGED INFRASTRUCTURE

Successful downtowns require active and coordinated management of infrastructure, services, and activities, including parking, trash, public realm maintenance, special events, business recruitment, and on-going promotional activities. For Downtown Ontario, the active and coordinated management of the area's variety of infrastructure and services can help the district to remain competitive. Of note is a managed system of trash collection along the north-south alley between Euclid Avenue and Laurel Avenue within Downtown West that seeks to balance the desire for an enhanced, pedestrian alley with the opportunity to consolidate trash collection across tenants.

# 2.1 Land Use, Urban Design, and Public Realm Concept

The Downtown West PUD vision and guiding principles are visualized in **Figure 2-1** (Land Use, Urban Design, and Public Realm Concept) with a focus on demonstrating land use, urban design, public realm-related possibilities, and potential development opportunities within the PUD area. As a companion to the overall concept for the PUD area as shown in **Figure 2-1**, the following section highlights several illustrative concepts showcasing development opportunities for the PUD area focused on the following key corridors: (1) Euclid Avenue, (2) Holt Boulevard, (3) B Street, (4) the Alley, and (5) Laurel Avenue. These concepts aim to provide additional detail around future conditions and on-the-ground views of the PUD area to illustrate the implementation of land use, urban design, future development, and public realm-related outcomes of the project. It is important to note that participation by a variety of City of Ontario departments is needed to fully implement the land use, urban design, and public realm concepts for the PUD.

Figure 2-1: Land Use, Urban Design, and Public Realm Concept for the PUD Area



### 2.1.1 Euclid Avenue

As the historic and preeminent boulevard in the city, as well as the north-south major spine and eastern boundary of the PUD area, the future vision for Euclid Avenue is centered on protecting and strengthening this important corridor through promoting a diverse array of destinations where residents and visitors can comfortably walk, shop, explore, dine, and meet friends. Historic buildings fronting Euclid Avenue are protected with additional opportunities for new development through adaptive reuse to further infuse the street with a mix of retail shops, restaurants, and entertainment venues, as well as new housing opportunities, as shown in **Figure 2-2** (Conceptual Illustration for Euclid Avenue). The continuous street edge and urban form is preserved, ensuring that any new development complements and enhances historic resources to further celebrate the unique identity of downtown.

Existing Public Realm along Euclid Avenue

**Historic Euclid Avenue**

Euclid Avenue plays an important role in Ontario's historic downtown and the overall character of the PUD area. Euclid Avenue is a major scenic and historic resource of the city given its status as Local Landmark No. 67 with character defining features, such as the 60-foot-wide landscaped median, scored sidewalks, King standard light posts, and a California pepper tree and silk oak tree canopy. Additionally, the right-of-way and median from 24th Street in Upland to Philadelphia Street in Ontario are listed on the National Register of Historic Places as a significant cultural landscape historic district. Many buildings that line Euclid Avenue within the downtown are historic resources with a

*Euclid Avenue is a major scenario and historic resource in the city.*

Continuous commercial uses and active storefronts fronting Euclid Avenue generate a constant flow of pedestrian traffic and are complemented by a vibrant and welcoming public realm with generous sidewalks, street trees, and streetscape furniture that reflects the existing street character on the east side of Euclid Avenue.

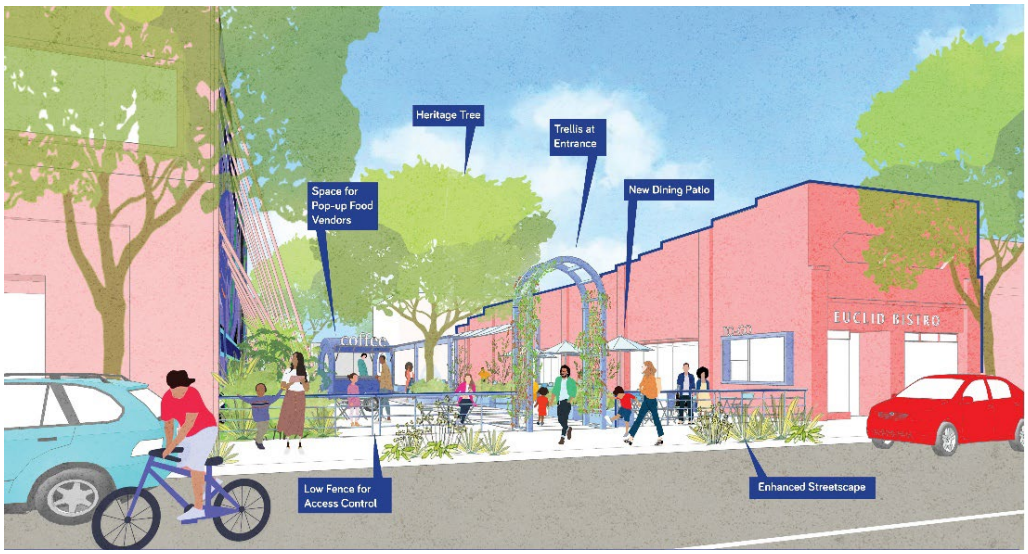
Euclid Avenue seamlessly blends indoor and outdoor public spaces to create a series of "outdoor rooms" and green spaces for the community, allowing activities, events, temporal programming and kiosks, and outdoor dining to spill out onto sidewalks and into plazas, blurring the line between the public and private spaces. Landscaping along Euclid Avenue is designed to achieve harmony and unity between the indoor and outdoor spaces and softens hardscape areas, enhancing the pedestrian experience. Mid-block paseos provide connections between Euclid Avenue and the alley to promote greater pedestrian access and connectivity within downtown, as shown in **Figure 2-3** (Conceptual Illustration for Euclid Avenue).

The public right-of-way of Euclid Avenue has an opportunity to be enhanced with the relinquishment of the historic corridor from California Department of Transportation to City of Ontario's ownership, as discussed in Section 1.2, allowing the street to transform into a multi-modal corridor, with mid-block pedestrian connections, high-visibility crosswalks, on-street parking, and bicycle lanes.

*Local businesses with active storefronts along Euclid Avenue*

Figure 2-2: Conceptual Illustration for Euclid Avenue

Figure 2-3: Conceptual Illustration for Euclid Avenue



*Existing open space, referred to as the Cactus Garden, that fronts Euclid Avenue*

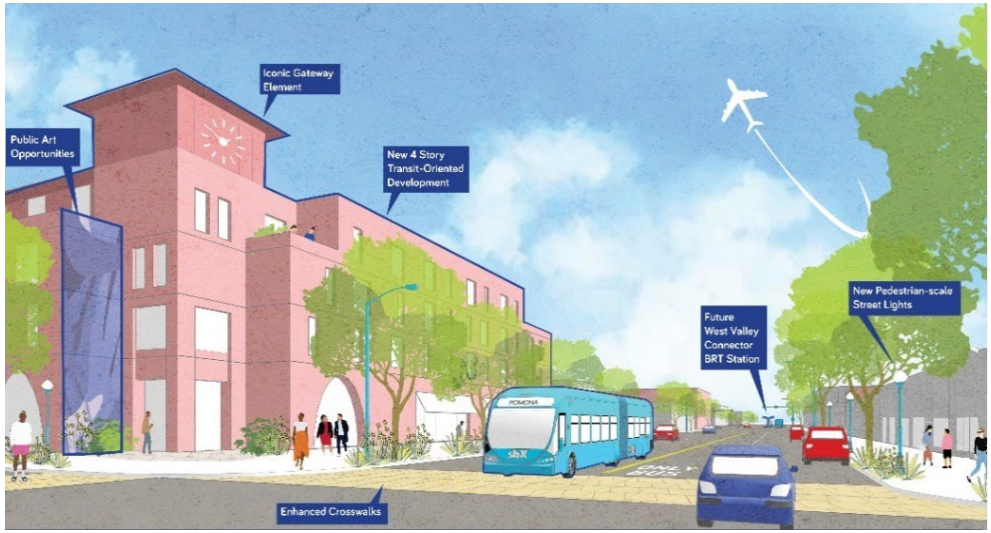
## Precedent Imagery for Euclid Avenue

## 2.1.2 Holt Boulevard

The future vision for Holt Boulevard, which serves as a key east-west corridor for the downtown and the southern boundary of PUD area, is centered on further establishing it as the southern gateway to downtown. To further define a sense of arrival to the downtown from Holt Boulevard, transit-oriented development and taller buildings frame the street and contribute to a distinctive skyline, serving as a visual beacon. The facades of the buildings are canvases for public art and murals, highlighting the rich history and identity of Ontario, as shown in **Figure 2-4** (Conceptual Illustration for Holt Boulevard).

With the future Bus Rapid Transit (BRT) station for the West Valley Connector at the intersection of Holt Boulevard and Lemon Avenue, Holt Boulevard is transformed into a multi-modal corridor that provides connections between downtown Ontario and major activity centers within San Bernardino County. First-last mile improvements, such as enhanced crosswalks, are in place to promote safe and convenient access for pedestrians, cyclists, and public transit users. Holt Boulevard also has a comfortable public realm with streetscape elements, such as pedestrian-scaled lighting, landscaping, and a mature tree canopy.

Figure 2-4: Conceptual Illustration for Holt Boulevard




Precedent Imagery for Holt Boulevard

### 2.1.3 B Street

B Street serves as pedestrian-oriented, east-west corridor within the PUD area, with a future vision as a vibrant “main street” where local businesses thrive. Historic facades and enhanced storefronts offer a setting for a diverse range of community-serving uses and amenities and housing. The upper floors of buildings fronting B Street, whether existing or new, create versatile spaces that can accommodate commercial and residential uses, as shown in Figure 2-5 (Conceptual illustration for B Street).

B Street has a unique public realm with overhead lighting spanning the street to create a pedestrian-scaled environment, parklets to provide outdoor dining to support restaurants, landscaped bulb-outs, enhanced crosswalks, and signage to guide visitors to the alley and Euclid Avenue. B Street is also lined with mature street trees that frame the street and offer shade for pedestrians. Pedestrian and bicycle mobility and safety are enhanced on B Street as a bicycle boulevard with intersection improvements.

Existing Condition of B Street

Existing Public Realm on B Street

## Precedent Imagery for B Street

Figure 2-5: Conceptual Illustration for B Street

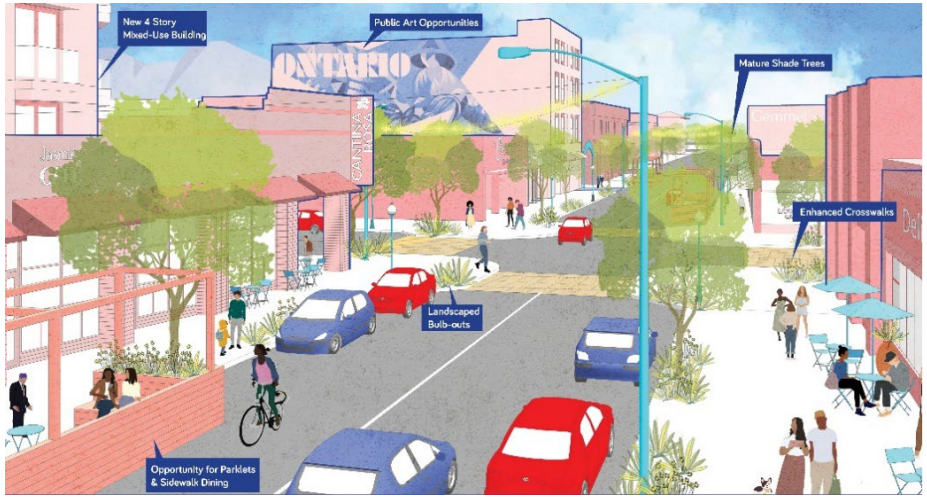


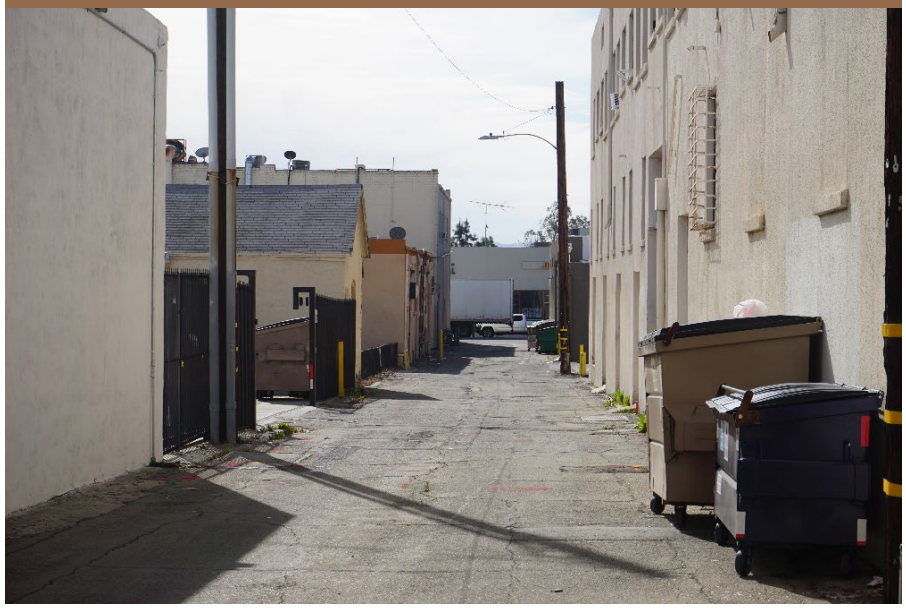

Figure 2-6: Conceptual Illustration for B Street

### 2.1.4 The Alley

The alley provides north-south access in the PUD area as a parallel path to Euclid Avenue, connecting east-west streets between E Street and Holt Avenue. The mix of active ground floor uses fronting Euclid Avenue extend their vibrancy to the enhanced alley with entrances, storefronts, outdoor dining, and greening that collectively create a lively and dynamic atmosphere, as shown in **Figure 2-7** (Conceptual illustration for the Alley). The enhanced alley features a special asphalt treatment to create a sense of place and human-scale and lighting that helps to distinguish it from other walkways. The alley also creates a flexible venue that can be temporarily closed to vehicular traffic to accommodate a variety of uses and activities, such as entertainment and music, cultural events, and community programming. Downtown Ontario's cultural identity is represented through interactive public art installations, murals, and sculptures that line the alley.

A pedestrian-focused and enhanced alley serves many purposes for the project area, depending on its specific block and the needs of the surrounding context. The alley is a space that integrates shared infrastructure, such as waste and trash services that are centrally located and accessible to support local commercial businesses. The alley is a preferred green and walkable path for pedestrians, connecting residents and visitors to parking, housing, and other destinations. To support this balanced and flexible vision, the alley segment between A block and B block is envisioned to support more functional alley infrastructure, while the segment between D block and C block adjacent to the Granada Theater is envisioned as a vibrant, active pedestrian-focused alley.

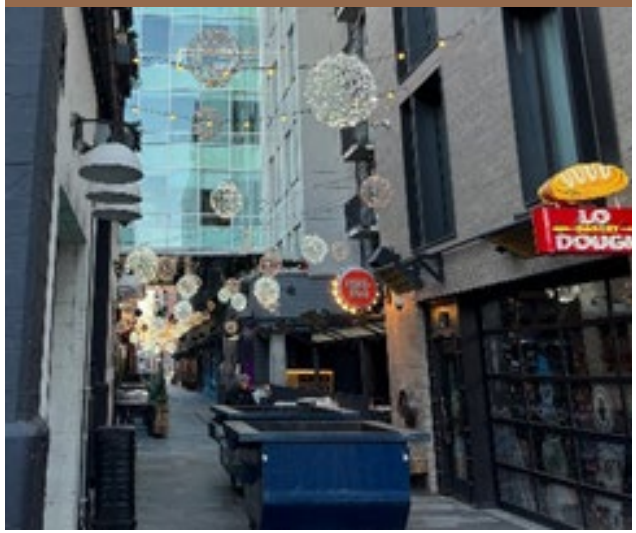
Existing Condition of the Alley



Existing Alley Gateway at Holt Avenue

Figure 2-7: Conceptual Illustration for the Alley

Precedent Imagery for the Alley



Precedent Imagery for the Alley

## 2.1.5 Laurel Avenue

As a neighborhood greenway, Laurel Avenue is focused on the comfort and safety of pedestrians and cyclists by providing a local connection and route from the Mixed-Use Retail Core and Mixed-Use Transitional subdistricts to the heart of downtown. Laurel Avenue's public realm design includes improvements of pedestrian-friendly features such as enhanced crosswalks, a mature tree canopy, pedestrian lighting, and landscaping, as shown in **Figure 2-8** (Conceptual illustration for Laurel Avenue). Laurel Avenue has a mix of three to four story mixed-use or residential buildings with active ground floor uses that contribute to the character of the street.

Figure 2-8: Conceptual Illustration for Laurel Avenue

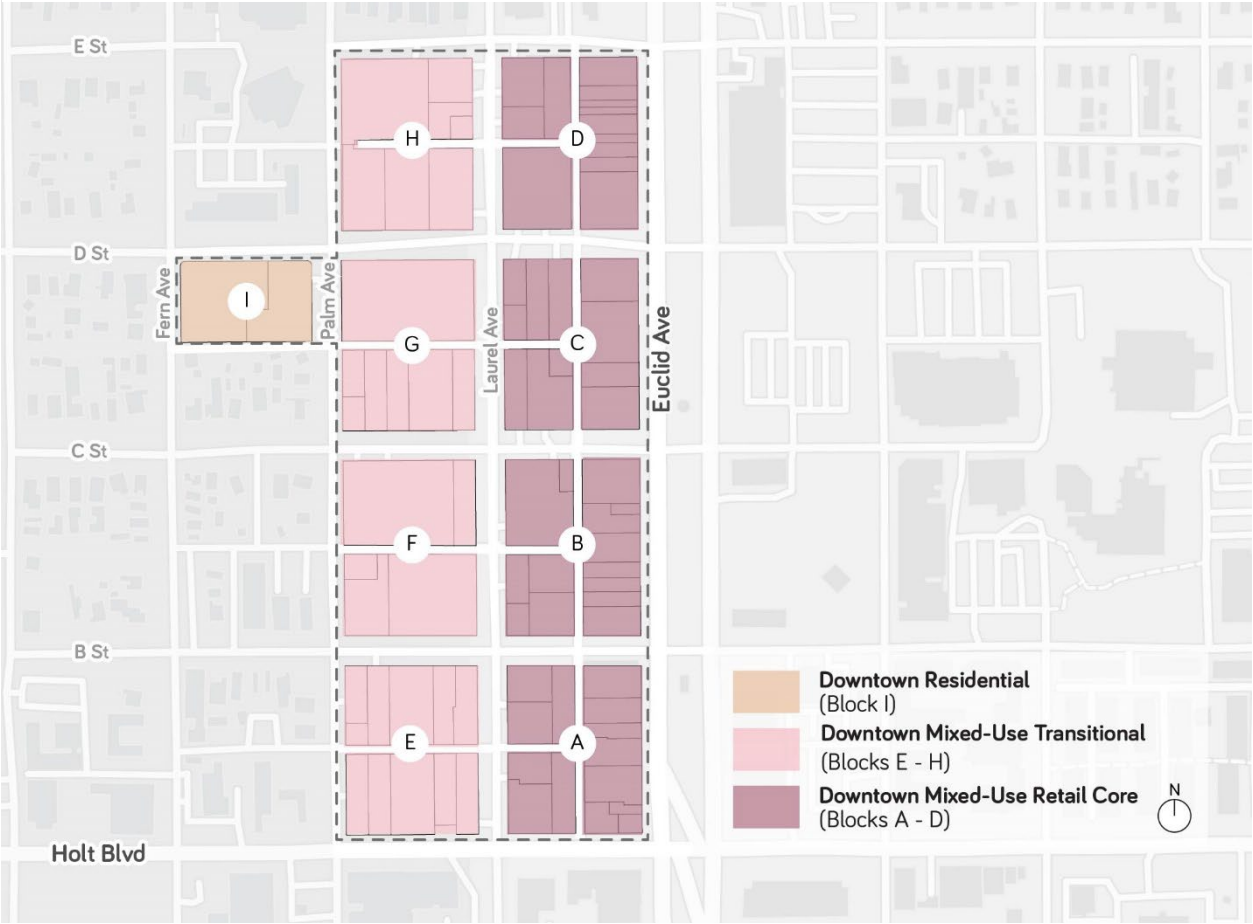
Precedent Imagery for Laurel Avenue

# 3 District and Block Plan

The District and Block Plan for the PUD area establishes the following sub-districts and blocks as shown in **Map 4 (PUD Sub-Districts and Blocks)** and described in the following subsection:

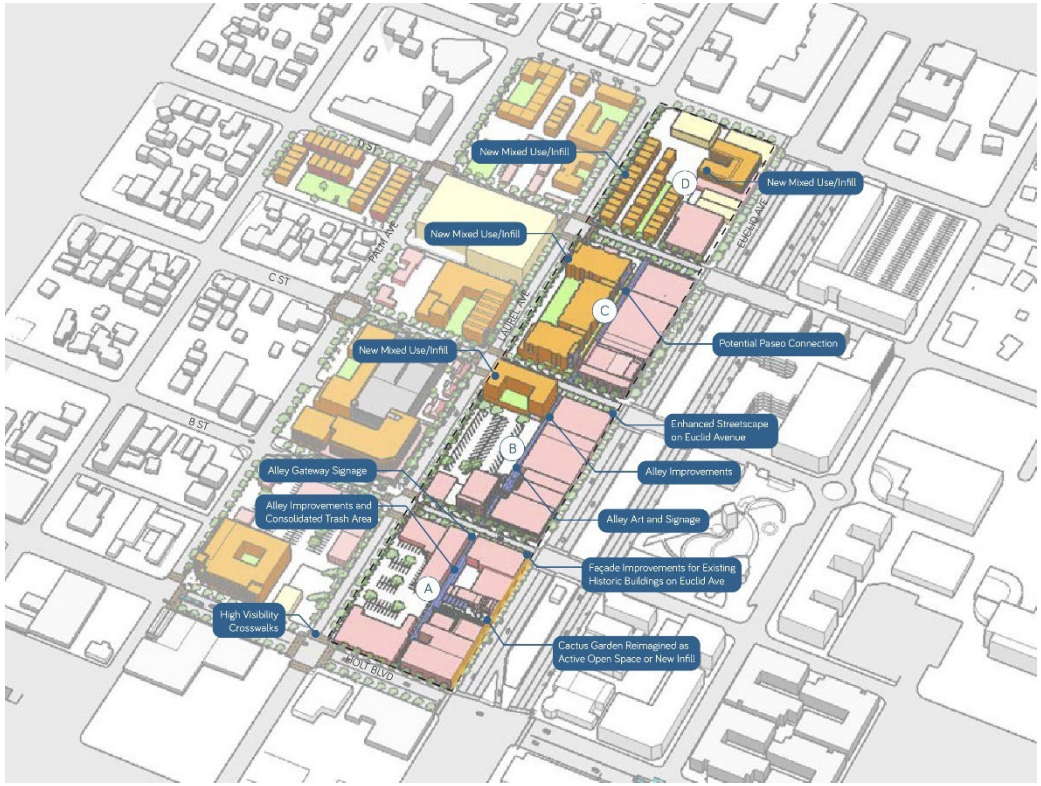
- **Downtown Mixed-Use Retail Core** sub-district encompasses Blocks A-D located between E Street to the north, Holt Boulevard to the south, Euclid Avenue to the east, and Laurel Avenue to the west.
- **Downtown Mixed-Use Transitional** sub-district encompasses Blocks E-H located between E Street to the north, Holt Boulevard to the south, Laurel Avenue to the east, and Palm Avenue to the west.
- **Downtown Residential** sub-district includes Block I located between D Street to the north, an alley connecting Palm Avenue and Fern Avenue to the south, Palm Avenue to the east, and Fern Avenue to the west.

## Map 4: PUD Sub-Districts and Blocks



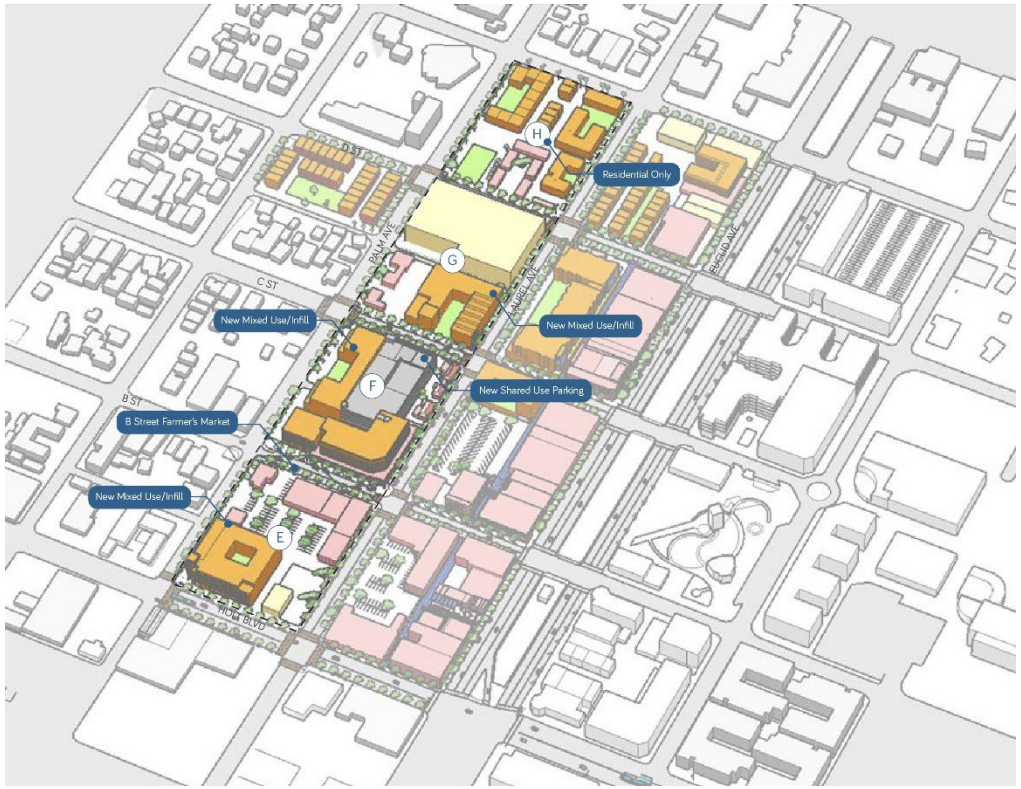
# 3.1 Downtown Mixed-Use Retail Core (Blocks A-D)

The Downtown Mixed-Use Retail Core sub-district encompasses Blocks A–D located between E Street to the north, Holt Boulevard to the south, Euclid Avenue to the east, and Laurel Avenue to the west. This sub-district includes blocks that front Euclid Avenue, the major north–south corridor within the PUD area that is envisioned as an 18-hour entertainment, shopping, and dining destination, and Holt Boulevard, a future multi-modal corridor. The purpose of the sub-district is to:




- **Enable a mix of commercial uses with strategic multi-family residential infill development** to support the creation of a vibrant mixed-use district where people can walk to a variety of neighborhood destinations.
- **Require active uses and active frontages along Euclid Avenue, B Street, Holt Boulevard, and the north–south alley** located between Euclid Avenue and Laurel Avenue through uses that generate pedestrian foot traffic, such as retail, restaurant, and entertainment, as well as design treatments that support a lively and comfortable public realm.
- **Along Euclid Avenue,** maintain **the visual character and development scale** of up to 45 feet (4 stories)not to exceed the height of historic buildings, such as the Granada Theatre to further protect and enhance the corridor as a major scenic and historic resource of the city.
- **Create an enhanced, vibrant, and active public realm and streetscape along Euclid Avenue** that is consistent with the existing elements located on the east side.
- **Promote safe and convenient multi-modal access** with enhanced public and private right-of-way that improves pedestrian and bicycle connectivity and encourages car-independent visits to and within downtown.
- **Provide a southern gateway on Holt Boulevard** and first-last mile improvements to support connections from the West Valley Connector Bus Rapid Transit (BRT) station at Holt Boulevard and Lemon Avenue to downtown.
- **Integrate shared infrastructure facilities,** such as parking, trash services, and open space opportunities to support new development and uses downtown.
- **Transform the north–south alley located between Euclid Avenue and Laurel Avenue, and the open space fronting Euclid Avenue on Block A referred to as the "cactus garden"** into publicly accessible open spaces for downtown users with activation, public art, and programming.
- **Create mid-block connections** along Euclid Avenue to provide greater porosity and pedestrian access to the alley.
- **Orient public artwork as part of new development within the public realm** to be visually and/or physically accessible to the public to showcase the culture and identity of downtown Ontario.

# 3.2 Downtown Mixed-Use Transitional (Blocks E-H)




The Downtown Mixed-Use Transitional sub-district encompasses Blocks E–H located between E Street to the north, Holt Boulevard to the south, Laurel Avenue to the east, and Palm Avenue to the west. The purpose of the sub-district is to:

- **Enable a mix of commercial uses and multi-family residential infill development that accommodates various housing typologies** that support the creation of a complete community and act as a transition from Downtown Mixed-Use Retail Core to existing residential neighborhood west of Palm Avenue. Support residential-only, multi-family infill housing in Block H.
- **Support development flexibility** by allowing vertical and horizontal mixed-use projects, as well as commercial and entirely residential projects. **Allow for variations in building height that respond to the surrounding context,** including lower heights along Palm Avenue in proximity to existing residential uses.
- **Enable greater height within the core of the sub-district** along Laurel Avenue of up to 50 feet (4 stories).
- **Encourage the transformation of Laurel Avenue into a neighborhood greenway** with pedestrian-scaled lighting, crosswalks and bicycle infrastructure, enhanced landscaping, and tree canopy to provide a safe and local connection for residents to downtown.
- **Introduce placemaking elements**, such as new suspended lighting, parklets, signage, landscape bulbouts, and enhanced crosswalks on B Street to enhance the sub-district and create an east–west "main street" with retail shops and services.
- **Orient public artwork as part of new development within the public realm** to be visually and/or physically accessible to the public to showcase the culture and identity of downtown Ontario.
- **Integrate shared infrastructure facilities, s**uch as parking and open space opportunities to support new development and uses in downtown.
- **Designate Block H exclusively for residential uses** to support additional multi-family housing that accommodates a variety of housing typologies.
- **Provide first-last mile improvements along Holt Boulevard** to support pedestrian and bicycle connections from the West Valley Connector Bus Rapid Transit (BRT) station at Holt Boulevard and Lemon Avenue to downtown.

# 3.3 Downtown Residential (Block I)

The Downtown Residential sub-district includes Block I located between D Street to the north, an alley connecting Palm Avenue and Fern Avenue to the south, Palm Avenue to the east, and Fern Avenue to the west. The purpose of the sub-district is to:

- **Support additional multi-family infill housing** that accommodates various housing typologies.
- **Ensure compatible development with surrounding low-scale residential neighborhood** through development and design standards.
- **Create height districts that respond to the surrounding residential neighborhood** and create transitions between new and existing development.

# 4 Zoning and Land Use Plan

The Land Use Plan for the PUD is organized by zoning districts which use the same boundary as the sub-districts established in Chapter 2. Zoning districts are defined and described in the following sub-section and shown in **Map 5 (Zoning Districts).**

## 4.1 Zoning Districts

### 4.1.1 Downtown Mixed-Use Retail Core (MU-RC)

*The MU-RC Zone intends to:*

a. Provide a variety of shopping, restaurant, entertainment, cultural offerings, and multi-family housing options within a mixed-use setting that promotes a vibrant district and pedestrian activity.

b. Reinforce and enhance Euclid Avenue's historic commercial character within Downtown Ontario through tailored ground floor uses that also support an active pedestrian environment, including retail, restaurant, and entertainment.

c. Support a diverse ground floor environment along Laurel Avenue through a mix of residential units and commercial uses, including residential units directly accessible from the sidewalk along all streets, except Euclid Avenue.

## 4.1.2 Downtown Mixed-Use Transitional (MU-T)

*The MU-T Zone intends to:*

a. Provide for a variety of neighborhood services and amenities and multi-family housing options within a mixed-use setting that promotes pedestrian activity.

b. Support a diverse ground floor environment through a mix of residential units and commercial uses that focus on the provision of community-serving uses that support a complete neighborhood.

c. Support projects that are entirely commercial, entirely multi-family, or a mix of the two, either horizontally or vertically configured.

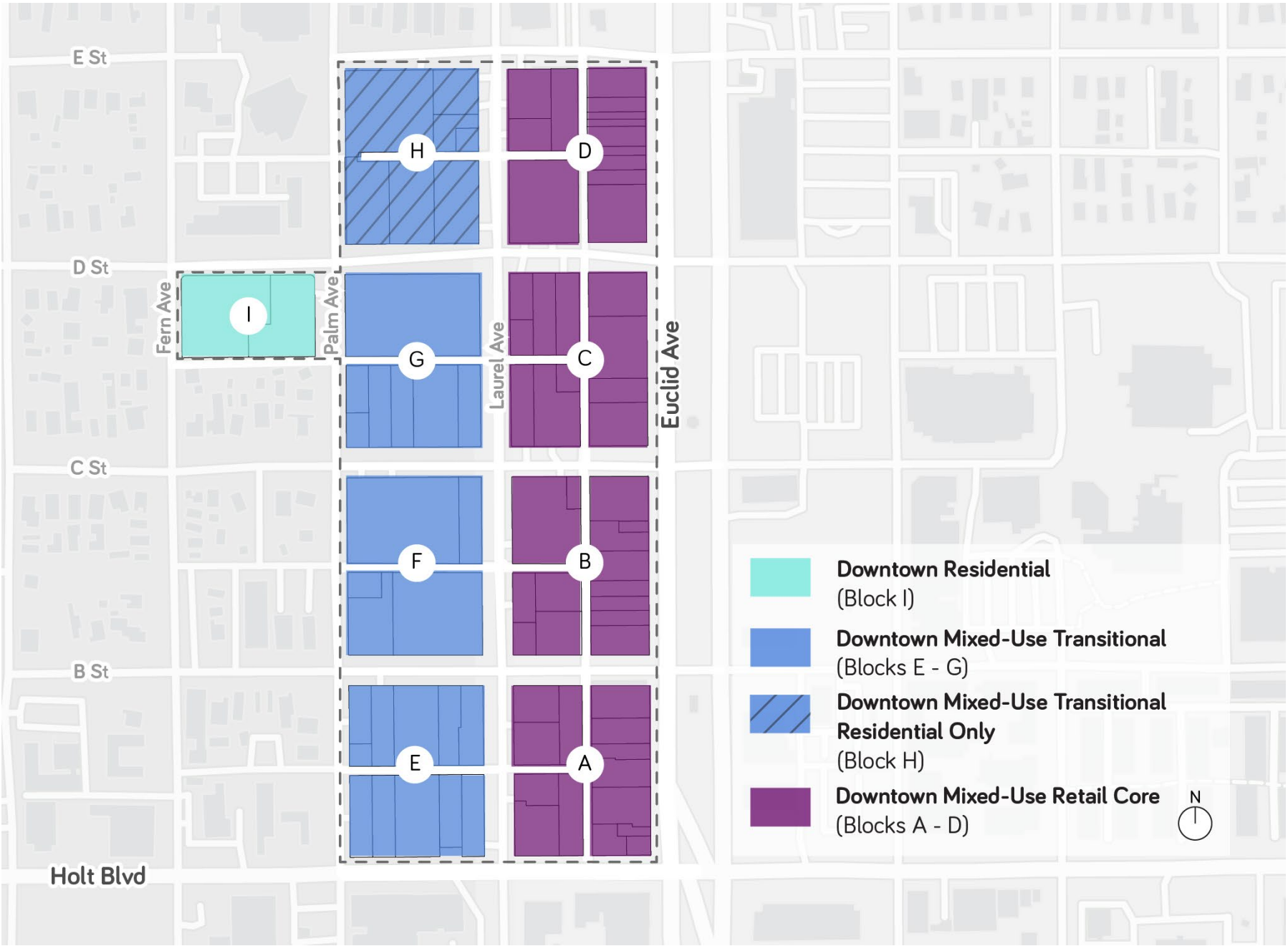
d. Require new development on Block H to be residential-only projects through the establishment of a distinct subarea to support more multi-family housing in downtown within walking distance to destinations and amenities.

### 4.1.3 Downtown Residential (DR)

*The DR Zone intends to:*

a. Provide a variety of multi-family residential housing options that create additional housing opportunities within Downtown Ontario and support residents who are within walking distance of services and amenities.

Map 5: Zoning Districts



## 4.2 Permitted Land Uses

Permitted land uses, activities, and facilities in the PUD area which are not addressed in the Ontario Development Code are listed in **Table 4-1** (Permitted Land Uses by Zoning District). 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.

The Downtown West PUD defers to existing allowed land uses, activities, and facilities for those parcels located within the boundaries of the LUA-1 (Euclid Avenue Entertainment) sub-district of the MU-1 (Downtown Mixed Use) and Euclid Avenue (EA) Overlay Zoning Districts established by the Ontario Development Code. The EA Overlay District is established to protect Euclid Avenue as a major scenic and historic resource of the City. Within LUA-1/MU-1, the Euclid Avenue Protection Corridor is established by the Ontario Development Code to restrict ground floor uses fronting Euclid Avenue to retail, restaurant, and entertainment uses per Table 5.02 Land Use Matrix and Figure 5.01-2: MU-1 (Downtown Mixed Use) Zoning District Land Use Map of the Ontario Development Code. Uses not allowed on the ground floor along Euclid Avenue but permitted within the MU-1 Zoning District may occupy the upper floors to create a mixed-use corridor.

This PUD extends the Euclid Avenue Protection Corridor ground floor use restrictions per Table 5.02 Land Use Matrix of the Ontario Development Code to B Street, Holt Boulevard, and sections of Laurel Avenue as identified in **Map 6**. In addition, this PUD establishes a ground floor use restriction for residential uses as listed in Table 4-1.

The symbols shown in **Table 4-1** have the following meanings:

| Symbol | Description | ODC Section |
|---|---|---|
| P | Permitted | - |
| C | Conditionally Permitted | Section 4.02.025 (Conditional Use Permits) of the Ontario Development Code |
| L1 | Residential land uses are not permitted on the ground floor within 35 feet of the property line in specific locations indicated by Map 6. Entries to upper floor or ground floor spaces behind the 35 feet are allowed. | - |

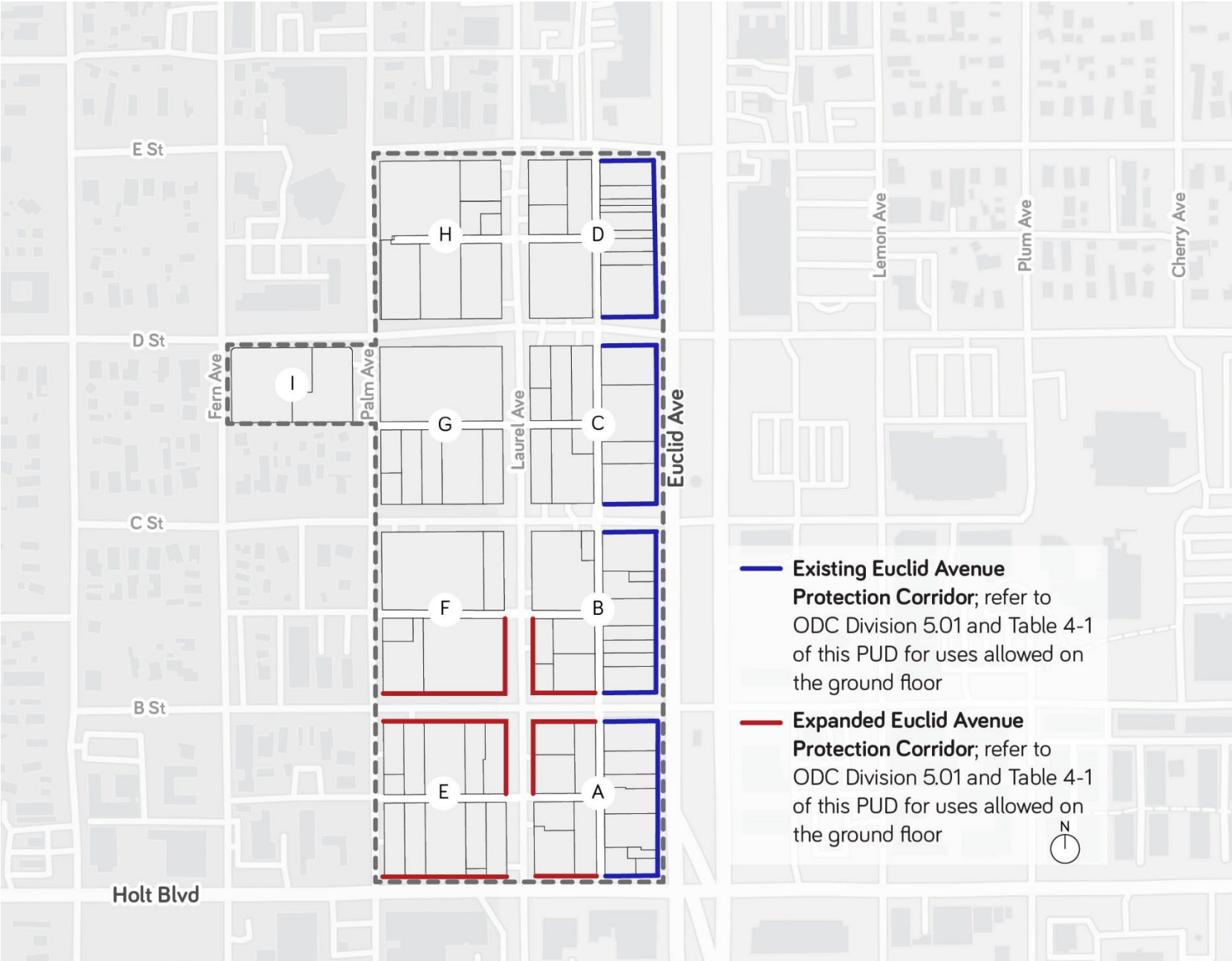
**Promoting Ground Floor Land Use Flexibility**

Aligned with the Euclid Avenue Protection Corridor, allowed ground floor uses along Euclid Avenue are limited to retail, restaurant, and entertainment uses per the Ontario Development Code. To further support and complement Euclid Avenue, this PUD establishes the same ground floor use allowances to portions of B Street, Holt Boulevard, and Laurel Avenue as shown in Map 6. However, to promote additional residential development in the PUD area and flexibility, this PUD establishes an additional ground floor restriction, L1, which indicates that residential uses are allowed on the ground floor beyond 35 feet of the property line as indicated in Table 4-1. L1 is intended to support development flexibility while ensuring that uses lining the sidewalk encourage pedestrian

## Table 4-1: Permitted Land Uses by Zoning District

| Uses | | Zoning District | | | |
|---|---|---|---|---|---|
| | MU-RC | MU-T | | DR | Additional Regulations/Notes |
| | | Blocks E-G | Block H | Block I | |
| **Residential** | | | | | |
| Multiple Family Dwellings | P ($L_1$) | P ($L_1$) | P | P | |
| Senior Housing | P ($L_1$) | P ($L_1$) | P | P | |
| Townhomes | P ($L_1$) | P ($L_1$) | P | P | |
| Mixed-Use Developments (commercial developments incorporating single-family and/or multiple-family dwellings) | P | P | - | - | |
| Work/Live Unit | C | C | - | - | |

## Map 6: Ground Floor Land Use



# 5 Development Regulations and Guidelines

This chapter sets forth standards to govern the placement, height and bulk of permitted buildings and other structures, and to establish requirements for vehicular access, parking and loading, open space, landscaping, and signs for commercial uses to be incorporated into Development Plans. Unless otherwise stated herein, all development within the PUD area shall meet the applicable standards and requirements of the Ontario Development Code.

Guidelines and informational text are woven throughout this chapter to communicate design principles and desired features for the PUD area for relevant topic areas. Guidelines, which are recommendations, are listed in a separate box adjacent to the relevant development regulations, which are required, to provide guidance to business owners, property owners, homeowners, City staff, and design professionals for the development and/or rehabilitation of properties in the PUD area. The design guidelines included in this chapter are complementary to the Downtown Ontario Design Guidelines, which are included as Reference “C” of the Ontario Development Code, which establishes a set of architectural, graphic, and lighting design principles within the City’s historic original downtown area, which includes the PUD area.

## 5.1 Applicability

The standards and guidelines established by this chapter shall apply to Development Projects (Project) within the PUD area for any new construction, addition, remodel, or reallocation requiring a building permit, encroachment permit, or other similar entitlement by the City.

Table 5-1 (Development Regulations Summary) provides an overview of development standards for the PUD area with references to specific sections, where applicable, for more detailed regulations and information.

### Table 5-1: Development Regulations Summary Table

| Standard | Zoning District | | |
|---|---|---|---|
| | MU-RC | MU-T | DR |
| **Density and Intensity** | | | |
| **Dwelling Units per Acre** | 25–75 DU/Acre | | |
| **Floor Area Ratio** | 2.0 FAR Commercial | | |
| **Building Height** | | | |
| **Allowed Height** | **Map 8** | | |
| **Upper-Level Stepbacks** | See Section 5.3.1 | | |
| **Setbacks** | | | |
| **Street Setbacks** | **Map 9** | | |
| **Other Setbacks** | | | |
| Block A-G | None required | | |
| Block H and Block I | **Table 5-2** (Minimum Setbacks) | | |
| **Minimum Building Separation** | Individual buildings on the same lot must have a minimum separation of 10’ clear between structures. Other requirements for clearance between buildings as regulated by the Uniform Building Code. | | |
| **Allowable Encroachments into Required Setbacks** | - | ODC Sec. 6.01-D.2 (Block H only) | ODC Sec. 6.01-D.2 |
| **Building Design** | | | |
| **Entrances** | | | |
| **Entrances** | | | |
| Commercial | Along Euclid Avenue, Holt Boulevard, and B Street, all primary entrances for commercial uses shall be distinguished by architectural features or overhead projections, such as an awning or canopy. | | |
| Residential | See Section 5.151 | | |
| **Modulation** | | | |
| **Modulation** | Projects shall provide a horizontal change in plane in the building façade of at least 1.5’ every 50’ linear. | | |
| **Transparency** | | | |
| **Blank Walls** | Windowless expanses of walls shall not exceed 20’ length. | | |
| **Façade Articulation** | | | |
| **Façade Articulation** | See Section 5.5.4 | | |
| **Ground Floor** | | | |

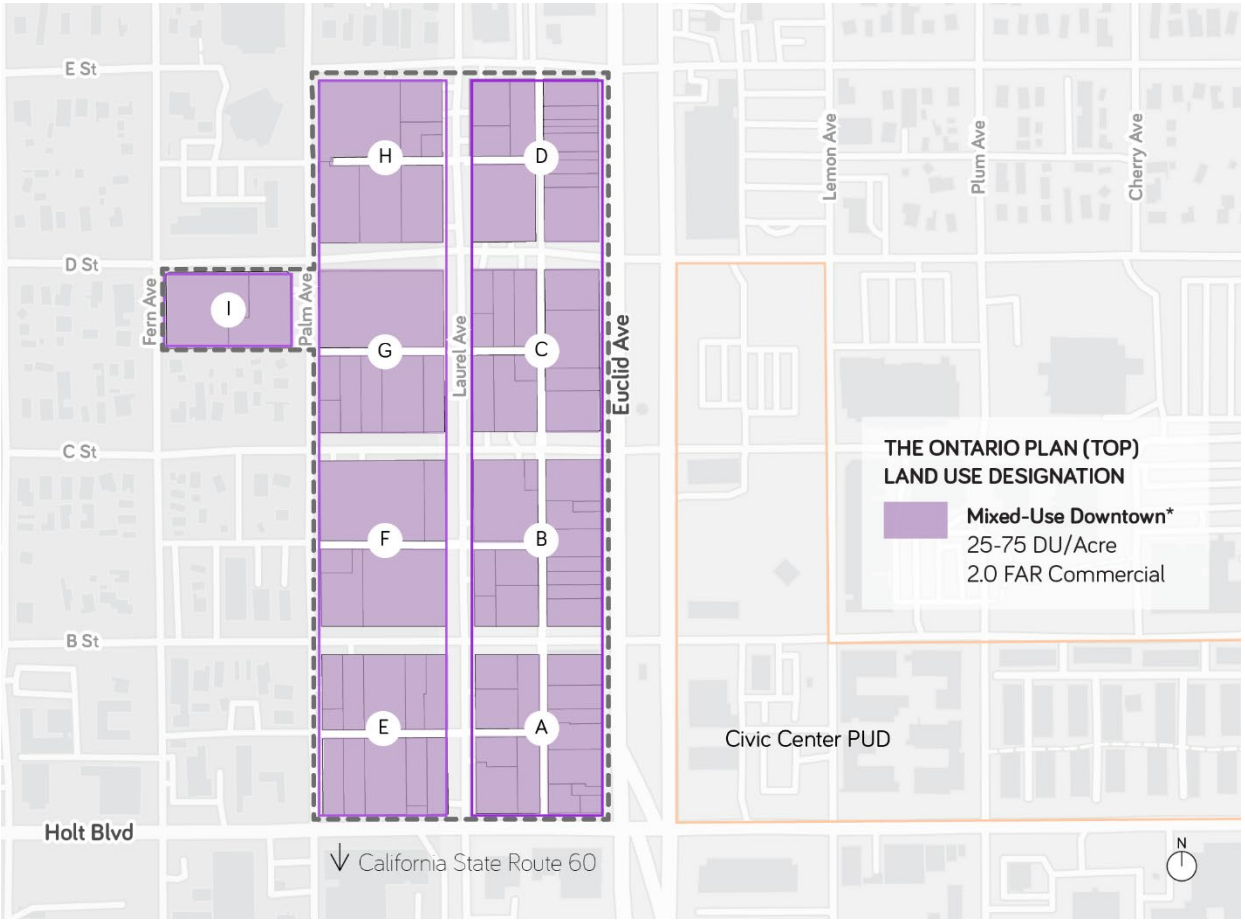
| | |
|---|---|
| **Materials** | A durable base material (12- 15 inches high min./max.) such as brick, tile, exterior cement plaster, or pre-cast architectural concrete shall be used. |
| **Transparency** | |
| Commercial | Glazing shall be clear glass to permit clear views into the interior space for a minimum of 70% of the ground floor. |
| Residential | Glazing shall be clear glass to permit clear views into the interior space for a minimum and 15% for residential units on the ground floor. |
| **Doors** | All glass doors are prohibited. Glass doors with kickplates are required. No part of any open doors shall extend into the public right-of-way. |
| **Varied Roofline** | |
| **Varied Roofline** | See Section 5.156 |
| **Roof Decks** | |
| **Roof Decks** | Shall be stepped back a min. depth of 5' from the roof edge. |
| **Open Space** | |
| **Private and Common Open Space** | |
| **Minimum Average Amounts** | Min. average 200 sq. ft. combined open space per residential unit required through a combination of either private open space or common open space. At least 90 percent of residential units shall provide private open space at a minimum of 40 square feet. |
| **Types** | **Private open space**: balconies, patios, and rooftops decks with direct access from residential unit. **Common open space**: passive and active, indoor, and outdoor spaces, open landscaped and hardscaped areas, and roof decks and patios if available to building community. |
| **Minimum Dimensions** | **Private open space**: 40 sq. ft., min. of 6' for any dimension thereof. **Common open space**: 15 sq. ft. |
| **Paseos** | |
| **Requirements** | See Section 5.158 (2) |
| **Landscaping** | |
| **Requirements** | Detailed Landscape and Irrigation Plan required for each Development Plan; see Section 5.5.9. |
| **Vehicle Access and Parking** | |
| **Vehicle Access** | |
| **Vehicle Access** | Driveway locations shall be consistent with the City of Ontario's Traffic and Transportation Guidelines. Max. of 1 vehicle access point permitted per parcel as approved by the City Engineer unless required by the Fire Department. No vehicle access shall be taken from Euclid Avenue, B Street, or Holt Boulevard. |
| **Off-street Parking and Loading** | |
| **Surface Parking** | Setback a min. of 20' from primary frontage, 10' from open space, and 7' from back of sidewalk |
| **Layout and Design** | See Section 5.1.11 (2.a.i) |
| **Required Number of Parking Spaces** | **Table 5-4** (Parking Requirements) |

# 5.2 Density and Intensity

1. Density and Intensity. Residential densities (dwelling units per acre [du/ac]) and Floor Area Ratio (FAR) are defined for the PUD area by The Ontario Plan and designated as follows by zoning district, and shown in **Map 7 (Allowed Density and FAR):**

    a. Within the MU-RC, MU-T and DR Zones, the residential density range shall be 25–75 du/ac and maximum FAR shall be 2.0 for commercial uses; residential uses are only permitted on Block H and I.

Map 7: Allowed Density and FAR



## 5.3 Building Height

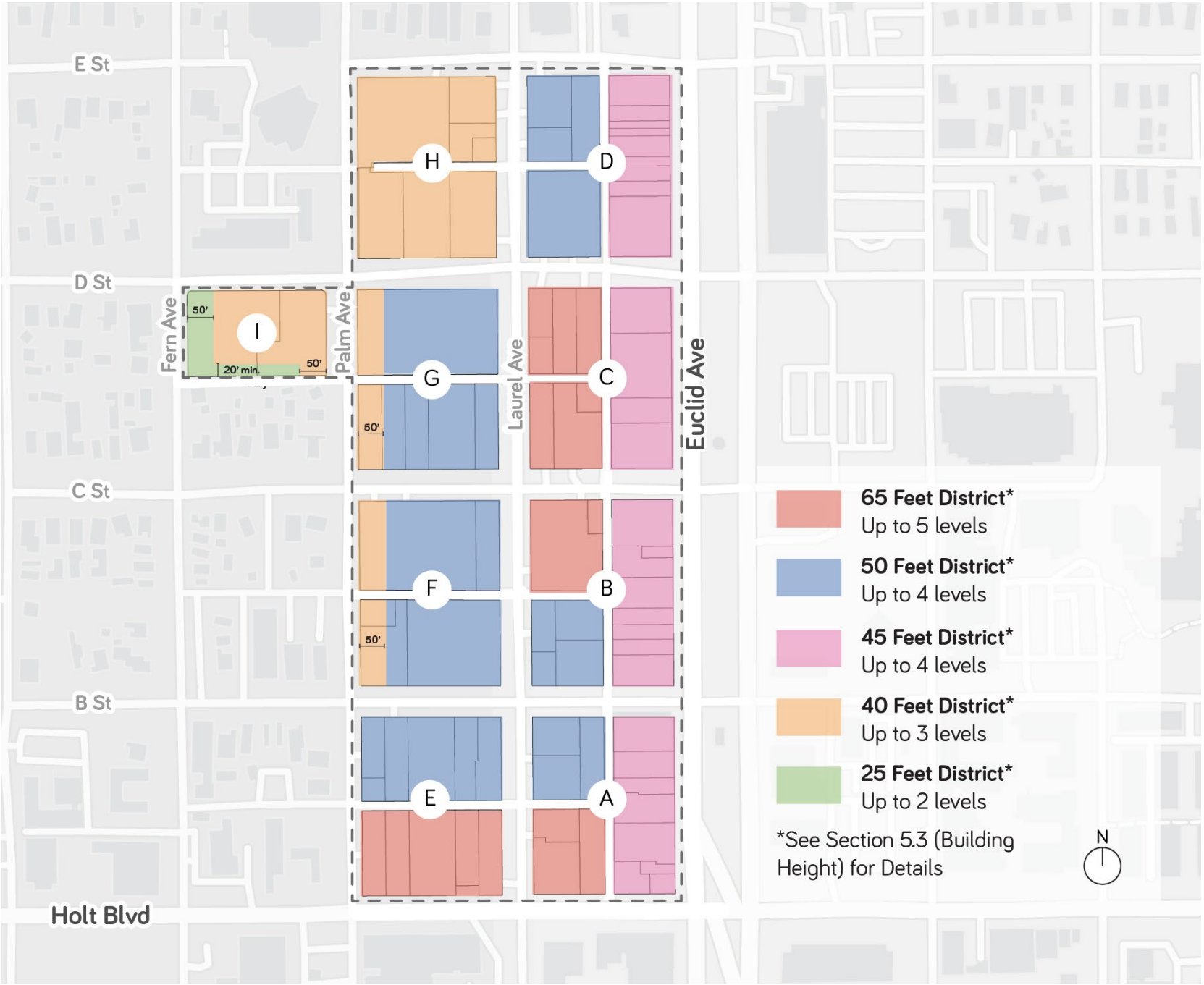
1. **Allowed Heights.** Total building height (to flat roofline or eave of roof) shall not exceed the heights specified in **Map 8 (Allowed Heights)** above the highest existing sidewalk elevation.
   a. **Architectural Projections.** Architectural projections, such as parapets, roofed towers and gable roofs, or elevator towers may extend up to 15 feet above the highest permitted height.
      i. **Rooftop Equipment.** Any rooftop mechanical, venting or communications equipment shall be built within or otherwise screened by the roof structure, so that they do not project above parapets and are not visible from any public rights- of-way or neighboring buildings.
   b. **Temporary Construction and/or Maintenance Machinery.** Temporary construction and/or maintenance machinery shall not exceed a height of 122 feet, measured from existing grade, unless approved by the Federal Aviation Administration.

### Context Sensitive Building Heights

To implement the TOP and support the established maximum densities and intensities, block-specific height districts were created, which also respond to place-based conditions and goals. They include:

- Up to 65 feet (5 stories) along Holt Boulevard to create a southern gateway and enable additional height along this future multi-modal transit corridor to promote housing near transit, as well as along Laurel Avenue and west of the alley, between B Street (north of east-west running alley) and D Street, to focus height within the downtown core of the PUD area.
- Up to 50 feet (4 stories) along Laurel Avenue in strategic areas to focus height within the downtown core of the PUD area while responding to the existing scale and character.
- Up to 45 feet (4 stories) along Euclid Avenue with required 15’ upper story stepbacks to promote additions to historic resources while maintaining existing character.
- Up to 40 feet (3 stories) west of Laurel Avenue and north of D Street (Block H), as well as along Palm Avenue to support mid-rise multi-family residential projects and respect neighboring lower-scale residential.
- Transitional height districts are in place to reduce height of development surrounding residential neighborhood to the west of the PUD boundary for parcels fronting Palm and Fern Avenues.

Map 8: Allowed Heights



## 5.3.1 Upper-Level Stepbacks

1. **Upper-Level Stepbacks.**
   a. **Alley.** Projects with property lines that front the alley between C Street and D Street, connecting Palm Avenue and Fern Avenue, shall not exceed the height established in **Map 8 (Allowed Height)** before stepping back a minimum depth of 10 feet as measured from the existing façade.
   b. Uses allowed within the stepback include:
      i. Private Open Space (e.g., balconies, terraces);
      ii. Shade structures, trellises, and similar;
      iii. Green roofs and photovoltaic panels (screened by parapet roof); and
      iv. Other open space features per the Approving Authority.
2. **Upper-level Additions to Designated Historic Buildings.** Upper-level additions to buildings that have been identified as historic resources shall stepback a minimum depth of 15 feet as measured from the existing façade. See **Section 5.3.1 (1.b)** for the list of uses allowed with the stepback.

# 5.4 Setbacks

1. **Street Setbacks.** Projects shall comply with the street setbacks set in **Map 9 (Street Setbacks).** Street setback ranges establish a minimum and a maximum. Street setbacks are measured from the property line (back of sidewalk) to the building or structure. Property line(s) along public streets are subject to right of way dedication as required per the City Master Plan of Streets and Highways and Street Standard Drawings.

   a. **Minimum Setback for Ground Floor Residential Units.** Where residential units on the ground floor are allowed per **Table 4-1 (Permitted Land Uses by Zoning District**), a minimum setback of 5 feet is required.

   b. **Setback Features.** Features allowed within the street setback may include:

      i. Landscaping and planters;
      ii. Hardscape (e.g. stoops, patios);
      iii. Shade structures;
      iv. Arcades and galleries;
      v. Walls and fences per ODC Sections 6.02.020 and 6.02.025;
      vi. Seating and furniture;
      vii. Outdoor dining; and
      viii. Other open space amenities per the Approving Authority.

**Street Setbacks**

Street setbacks are established as ranges to support flexibility while responding to sub-district visions and the allowed uses on each block. They include:

- 0-3 feet setback to support existing commercial-only ground floor character and active public realm while promoting some variation.
- 3-10 feet min/max setbacks to support a commercial or residential ground floor character while promoting some variation.
- 5-10 feet min/max setbacks to support a residential-only ground floor character.

2. **Other Setbacks.**

   a. **Blocks A-G.** None required.

   b. **Blocks H and I.** All other required setbacks are listed in **Table 5-2 (Minimum Setbacks and Building Separation).**

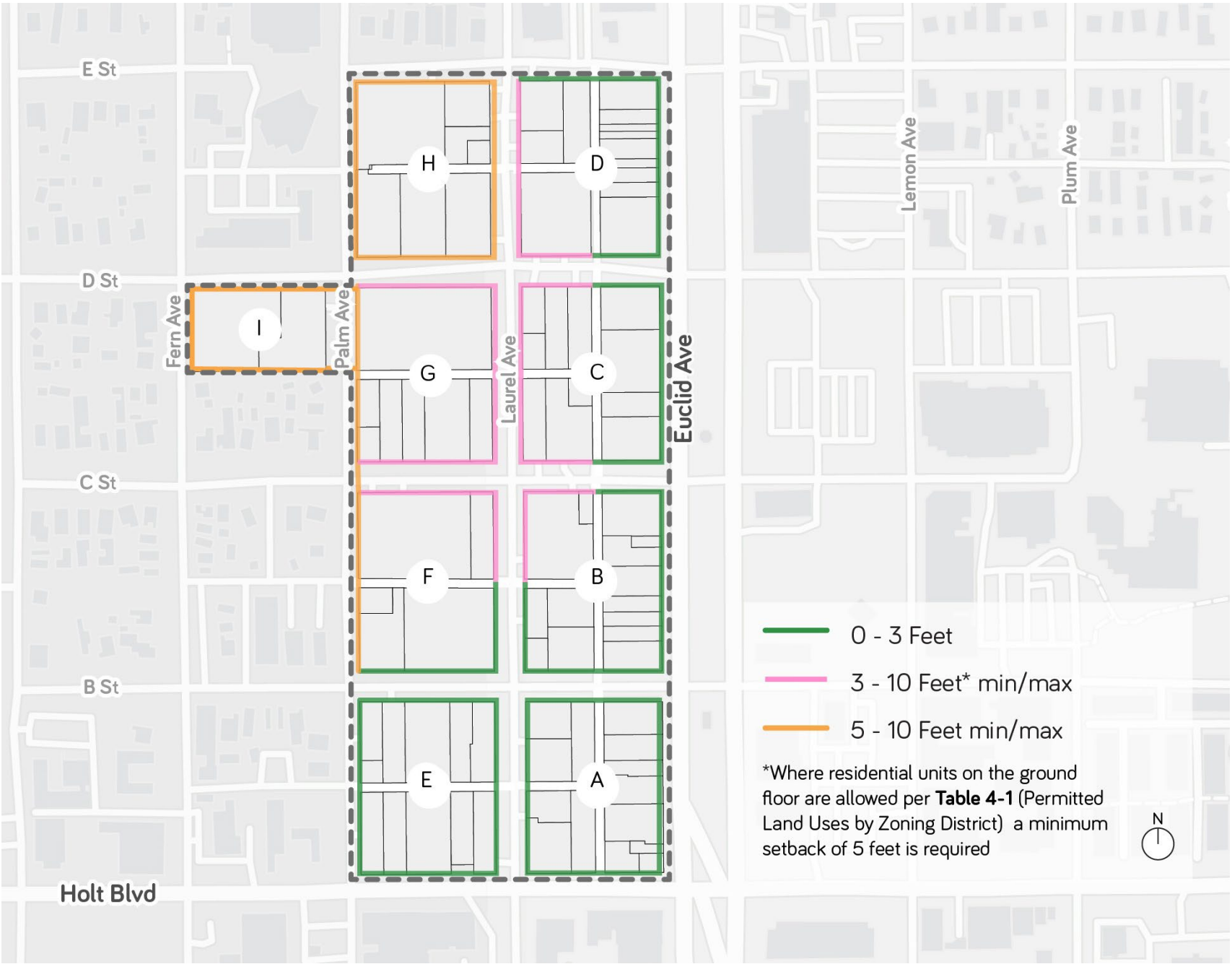
3. **Minimum Building Separation.** Discrete buildings on the same lot must have a minimum separation of 10’ clear between structures. Other requirements for clearance between buildings as regulated by the Uniform Building Code.

**Table 5-2: Minimum Setbacks**

| Location | Requirement |
|---|---|
| **All Blocks** | |
| Street Setbacks | See **Map 9 (Street Setbacks)** |
| **Blocks A-G** | |
| Other Setbacks | None required |
| **Block H and Block I** | |
| Interior Side | 5’ |
| Rear Setback | 5’ |
| Porches, Patio Covers, and Similar Architectural Projections[1] | See ODC Sec. 6.01 (Exceptions to Development Standards – Encroachments into Required Setback Areas) |
| Private Drives/Alleyways (from edge of drive aisle) | |
| Living Area | 10’ |
| Garages and other Nonhabitable Structures | 5’ |
| Dwellings to Parking Spaces | |
| Living Area | 10’ |
| Garages and other Nonhabitable Structures | 5’ |
| Parking Space or Drive Aisle to Wall or Fence | 5’ |

[1] No projection may encroach into any required easements.

Map 9: Street Setbacks



# 5.5 Building Design

## 5.5.1 Entrances

1. **Entrances.** A minimum of one primary entrance shall be located on the primary frontage of each building and open onto a sidewalk or other public space. All primary entrances shall include a minimum of one lighting fixture designed to provide illumination of pathways for pedestrians.

   a. **Commercial**. Along Euclid Avenue, Holt Boulevard, and B Street, all primary entrances for commercial uses shall be distinguished by architectural features or overhead projections, such as an awning or canopy.

   b. **Residential.** In locations where dwelling units are allowed on the ground floor abutting a public or private street per **Table 4-1 (Permitted Land Uses by Zoning District)** and **Map 6 (Ground Floor Land Use),** the primary entryway (front door) shall be oriented toward the street. Where there is a physical site constraint, provide a clearly identifiable pedestrian entry to the site from the street.

      i. **Upper Floor Entries.** Entries to upper floor residential uses shall not front Euclid Avenue. When located on other street frontages with ground floor use restrictions per **Table 4-1 (Permitted Land Uses by Zoning District)** and Map 6 **(Ground Floor Land Use)**, the visible entry shall be no wider than 15 feet to avoid disturbing the rhythm of the retail spaces.

**Designing Visual Interest and Complementary Building Materials**

Building façades that articulate a mixture of horizontal and vertical projections help to visually break up the building mass into varying modulations and identified clusters to create visual interest.

Building exterior treatments including brick and smooth stucco finishes that complement the historic character of the PUD area are encouraged.

## 5.5.2 Modulation

1. **Modulation.** Projects shall provide a horizontal change in plane in the building façade of at least 1.5 feet every 50 linear feet. The Approving Authority may approve alternate exterior building designs that achieve the City's desired variation in building massing.

## 5.5.3 Transparency

1. **Blank Walls.** Windowless expanses of walls shall not exceed 20 feet in length.

## 5.5.4 Building Façades

1. **Window Treatments.** All windows shall have a recess minimum of 2 inches from the building wall plane. Window trim shall not be counted towards recessed minimum.

2. **Façade Articulation.** Façades facing a public or private street, the project perimeter, and all portions of exterior building elevations shall provide a minimum of two (2) of the following façade articulation techniques:

   a. Change in exterior building materials to include at least two high quality building façade materials that accentuate or correspond to variations in building massing. Building materials may include, but are not limited to wood, glass, brick, metal spandrel, cement board siding, tile, or other material acceptable to the Approving Authority.

   b. Porticos, awnings, terraces, balconies, eyebrows, or trellises of at least 12 inches in depth that provide variations in the building plane.

   c. A break in the façade plane of at least 8 inches in depth, which is applied to at least 10 vertical feet of the facade.

   d. Other additional architectural enhancements that create a human scale to the building. Examples include handrails, fixed planters, and ornamental details such as lighting, molding, tiles, or other similar design elements acceptable to the Approving Authority.

   e. **Encroachment.** Awnings, canopies, residential balconies, commercial signs, and decorative architectural elements may encroach into the public rights-of-way for a maximum of 4 feet.

**Traditional Building Style**

Traditional building styles are common in Downtown Ontario. To align with this traditional style, glass doors with a kickplate are encouraged for new development.

## 5.5.5 Ground Floor

1. **Materials.** A durable base material (12- 15 inches high min./max.) such as brick, tile, exterior cement plaster, or pre-cast architectural concrete shall be used.

2. **Transparency.**

   a. **Commercial.** Glazing shall be clear glass to permit clear views into the interior space for a minimum of 70% of the ground floor to create a traditional storefront. Display windows shall be kept free from all visual obstructions into the store itself, reflective tinting and mirrored glass is prohibited. Even if the business is a non-retail business, the windows shall be kept unobstructed to maintain appearance of facade and retail continuity along the sidewalk. To manage heat, glare, and Ultraviolet light (UV) energy, window tinting with 70% Visible Light Transmission (ULT) or greater may be allowed with approval from the Planning Department. Roll up window shades, or similar, may also be used during day light peak hours and for no

more than 4 hours per day. Installation of security gates over storefronts are prohibited. Installation of security gates behind storefronts located within the interior may be considered with approval from the Planning Department.

b. **Residential.** Glazing shall be clear glass to permit clear views into the interior space for a minimum 15% for residential units on the ground floor.

3. **Doors.**

a. All glass doors are prohibited.

b. No part of any open doors shall extend into the public right-of-way.

### 5.5.6 Varied Roofline

1. Any Project with a façade exceeding two stories in height, which faces a public or private street, shall be provided with an articulated roofline incorporating at least two of the following design elements:

a. A roof with a slope equal to or greater than 3 inches of rise for every 12 inches of run, including but not limited to a sloped or curved roofline at the top of the dwelling.

b. An open deck having a minimum clear area of 6 feet in depth and 8 feet in width.

c. A flat roof with a minimum of 2 feet vertical height difference for a minimum of 10 horizontal feet along the roofline of each building façade.

d. A vertical break in the façade plane of at least 1.5 feet in depth, which extends up and through the roofline.

e. Any form of roofline variation incorporating a change or break in roof plane, such as horizontal recesses, incorporation of dormers, or other similar design elements acceptable to the Approving Authority.

### 5.5.7 Roof Decks

1. Roof decks shall be stepped back a minimum depth of 5 feet from the roof edge to prevent direct views of abutting residential neighbors.

### 5.5.8 Open Space

1. **Private and Common Open Space.** Private and common open space shall be provided for passive and active recreation opportunities within each project site intended for the use of the on-site residents and their guests.

a. **Minimum Average Amounts.** A minimum average of 200 square feet of open space per residential unit is required through a combination of either private open space or common open space. At least 90 percent of residential units shall provide private open space at a minimum of 40 square feet.

i. Off-street parking spaces, drive aisles, driveways, loading areas, service areas, or street setbacks shall not be included in minimum open space calculations.

b. **Types.**

i. Private open space may include balconies, screened patios, and rooftop decks or in any combination thereof, and shall have direct access from each residential unit, intended for the exclusive use by the occupant of the residential unit and their guests.

i. Common open space may include passive and active, indoor, and outdoor spaces, recreational spaces, open landscaped and hardscaped areas with fountains, seating, fire pits, or play structures, pool, and indoor fitness center. Other open space provided can include roof-top decks and patios available to the building community.

c. **Minimum Dimensions.**

i. A minimum area of 40 square feet with a minimum dimension of 6 feet in each direction shall be required for private open space.

ii. A minimum dimension of 15 feet in each direction shall be required for common open space.

**2. Paseos.**

a. **Dimensions.** Paseos shall have an average width of 22 feet, a minimum width of 15 feet, and a minimum clear pedestrian path of 5 feet.

b. **Access.** Paseos shall be physically and visually accessible from the connecting public sidewalk.

c. **Elevation.** Paseos shall be at ground level and ADA accessible.

d. **Blank Walls.** Windowless expanses of walls lining paseos shall not exceed 20 feet in length, or be mitigated using one the following techniques:

i. Green wall, vines, or other vertical landscaping element that covers a minimum of 75 percent of the non-conforming blank wall area.

ii. Public art, including but not limited to, murals.

**Residential Paseos**

Paseos are encouraged for townhomes in the PUD area to provide internal access for pedestrians and break up building massing.

## 5.5.9 Landscaping

1. **Detailed Landscape and Irrigation Plan.** A detailed Landscape and Irrigation Plan, fulfilling the requirements listed in the City of Ontario Landscape Development Guidelines and the Ontario Development Code, shall be submitted with each Development Plan. The plan shall specify all landscape and hardscape elements of the common open space area, as well as the perimeter yards abutting the street rights-of-way and all street trees and irrigation. The final plan shall also show the location of all ground level utility boxes and mechanical equipment, along with methods of screening such devices from the public right-of-way and adjacent residences, where possible. A detailed Landscape and Irrigation plan shall be required prior to the issuance of building permits.

   a. **Water Conservation in Landscaping Act Requirement.** The detailed Landscape and Irrigation Plan shall comply with the Water Conservation in Landscaping Act of 2006 (AB 1881), commencing with the California Government Code Section 65591.

## 5.5.10 Vehicle Access and Parking

1. **Vehicular Access.** A maximum of 1 vehicular access point is permitted per parcel per the City of Ontario's Traffic and Transportation Guidelines as approved by the City Engineer unless required by the Fire Department.
   a. No vehicular access shall be taken from Euclid Avenue, B Street, or Holt Boulevard.
2. **Off-Street Parking and Loading.** Off-street parking and loading shall conform to the standards set forth in Division 6.03 (Off-Street Parking and Loading) of the Ontario Development Code.
   a. **Exceptions:**
      i. **Layout and Design.**
         1. **Surface Parking.**
            a. **Location.** Off-street surface parking shall be located to the rear of the interior side of a building and away from public streets.
            b. **Screening and Landscaping.** Parking areas shall be screened from public streets and adjacent parcels, except for access and driveways, using one or any combination of the methods listed below:
               i. Walls and fences. Low profile walls or fences consisting of brick, stone, or stucco for a minimum of 3 feet and a maximum of 3.5 feet in height. Plain concrete blocks, chain-link, or vinyl fencing are prohibited for screening purposes.
               ii. Planting. Plant materials consisting of compact evergreen plants that form an opaque screen that achieves a minimum height of 2 feet within 18 months after initial installation.
         2. **Structured Parking.** All off-street and above ground parking structures shall be screened from public streets and designed to be compatible with the architectural character and quality of adjacent buildings.
            a. **Ground Floor.** The ground floor level of any off-street and above ground parking structure shall use one or any combination of the methods listed below:

i. **Wrap.** Wrapped by habitable floor area, except for permitted entrances and exits, so that no portion of such facility is visible from adjacent public sidewalks or publicly accessible areas. Such habitable floor area shall have a minimum depth of 35 feet, as measured from the building façade.

ii. **Landscaping.** Landscaping for a minimum of 60 percent of the ground floor level of the structure's street frontage, excluding areas occupied by driveways and portions occupied by habitable floor area.

iii. **Screening.** Screening for a total of at least 50 percent of the ground floor façade, including permitted signs, graphic or sculptural art, decorative screening or latticework.

b. **Utility Transfer Boxes.** Placement of utility transfer boxes within a parking structure is prohibited.

3. **Residential Tandem Parking.** Allow up to 50% tandem spaces for required parking for residential uses. Tandem parking shall be limited to a two (2) car maximum. Both spaces in the tandem arrangement shall be assigned to the same dwelling unit. Handicapped and guest parking spaces shall not be in tandem.

ii. **Required Number of Parking Spaces.** The number of off-street automobile parking spaces required are listed in **Table 5-3 (Parking Requirements)** based on general use classification, and subject to the following requirements:

1. All required residential parking spaces shall be provided on-site.
2. Commercial and visitor parking may be considered for off-site location within a public facilities or on-street with a parking demand and supply study approved by the Planning Director.
3. Parking for dwellings shall be provided on-site and guest parking may be provided on-street and off-site.
   a. Off-site parking requirements are subject to the following conditions:

**Parking Structure Design**

Design standards for parking structures are intended to minimize the visual impact on the public realm. Treatments such as landscaping and screening, as well as wrapping the parking structure with active uses, such as retail or restaurants, can help to activate the ground floor of the structure adjacent to the sidewalk. Parking structures can also include decorative screening and art, such as murals, to complement the building design.

Source: Loveland Reporter-Herald

i. On-street parking shall not be used for required resident parking.

ii. On-street parking shall only be counted along the public streets that are within approximately four blocks from the project site.

iii. On-street parallel parking spaces shall be calculated by the length of unobstructed curb adjacent to the project site.

**iii. Parking Management Plan:** A parking management plan shall be submitted to the Planning Director for approval to ensure that tandem parking spaces will be assigned to residents of the same dwelling unit.

### Parking in Downtown Ontario

A park once strategy is encouraged in Downtown Ontario in which business patrons and visitors park in a single location and make multiple trips on foot, given the pedestrian-oriented nature of the area. Public transit is also available in Downtown Ontario, with an existing bus stop located in the northeast corner of Euclid Avenue and D Street for Omnitrans Route 83. Additionally, located near Euclid Avenue on Holt Boulevard is Omnitrans Route 61 which has been identified as the future West Valley Connector Bus Rapid Transit (BRT).

**Table 5-3: Parking Requirements**

| Use | Number of Spaces Required |
|---|---|
| Residential | 1 space per bedroom up to two bedrooms<br>2 spaces per unit for three bedrooms and above<br><br>0.20 spaces per unit for guest/visitor parking |
| Commercial | 1 space per 250 square feet gross floor area for all permitted or conditionally permitted use |

# 5.6 Signs

1. **Master Sign Program.** A Master Sign Program shall be submitted for approval by the Planning Department, prior to issuance of a building permit, for new development or adaptive reuse projects. The sign program should be consistent with the Downtown Ontario Design Guidelines and the Development Code, and shall include tenant signs, pedestrian signs, directional signs, historical markers, etc. as needed.

### Signs for Downtown Ontario

Sign programs that utilize complementary materials, colors, and themes that draw from existing buildings and Downtown Ontario, and consistent with the Downtown Ontario Design Guidelines, are encouraged. Specifically, themes for sign programs should be aligned with the Downtown Ontario Design Guideline's Historic Preservation Retail Subdistrict for the PUD area. Signage should be designed to effectively communicate and direct users to various aspects of the development, including amenities, such as publicly accessible open space or paseo connections, and complement the overall character of the buildings. Examples of existing buildings and signs that represent the existing character of Downtown are shown below for reference.

## 5.7 Service Facilities

1. **Electrical Equipment.** Electrical equipment shall be mounted on the interior of a building or mitigated through being enclosed and screened from public streets with walls, fencing, and/or landscaping that allows for sufficient ventilation or buried in vaults.
2. **Antenna Pole or Dish.** No antenna pole or dish shall be placed on any structure so that it is visible from ground level.
3. **Service and Storage Areas.**
   a. Locations, sizes and design of service and storage areas shall be readily accessible by trash disposal company equipment and work crews, as reviewed and approved through the Development Plan Approving Authority.
      i. **Commercial.** Trash receptables/recyclable container storage areas shall be provided for all commercial uses. When located within the ground floor parking structure area, storage areas may be partially enclosed.
      ii. **Residential.** Trash receptacles/recyclable container storage areas shall be provided for all residential uses, within the ground floor parking area or within an enclosed room inside the buildings. When located within the ground floor parking structure area, storage areas shall be full enclosed.

## 5.8 Infrastructure

It is important that projects maintain and enhance the quality of life for residents and consumer alike, and that new projects enhance the community within which it is built. To that end, all projects constructed within the City shall be properly served by a full array of utilities – water, sanitary sewer, storm drain, electrical, gas, telecoms, data, etc. The properties within the boundary of this PUD shall be served by existing water lines and wastewater flows and/or upgraded to satisfy the required capacities as determined by the City and its service purveyors/agencies, including the Fire Department. If existing utilities do not exist to service the project, the project may be required to install new utilities and/or extend existing utilities as needed to provide service. Existing utilities are also subject to improvement, such as removal and replacement or upsizing, to meet demand. On-site stormwater drainage facilities shall be provided 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, and/or underground stormwater retention/infiltration vaults.

The properties within the boundary of this PUD are considered a Priority Land Use (PLU). A PLU 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. Drainage from the PLU shall be designed with conveyance tributary to a Full Trash Capture System which has been approved by the SWRCB.

# 5.9 Historic Preservation

## 5.9.1 Brief Development History of Ontario and the PUD Area

Downtown Ontario and Euclid Avenue - 1885

The City of Ontario was established in 1881 when George and William Chaffey purchased 6,218 acres of land to develop a community called the Ontario Colony. Initially the colony was surrounded by undeveloped land, Southern Pacific Railroad tracks to the south, and the Kincaid Ranch and San Antonio Canyon to the north. The two-hundred-foot-wide Euclid Avenue and landscaped parkway were developed along eight miles through the community from San Antonio Heights at the base of the San Gabriel Mountains south to the Southern Pacific Railroad Tracks. The median was landscaped Pepper trees and Palm trees and the street and curb were made of granite cobble stones. Likewise, miles of cement pipes were laid to provide water to the town. Land in the community became available for purchase by November 1882. Settlers were given a provision of water that is proportional to their land acreage, an innovation in city planning that alleviated problems settlers faced elsewhere. By 1886, the Chaffey brothers sold their interest in Ontario to Charles Frankish and moved to Australia to develop similar planned community. Frankish expanded the town and formed the Ontario Land and Improvement Company. The Downtown Area of Ontario encompassing the PUD area developed as an extension of the original irrigation system and subdivision grid established by the Chaffey Brothers in 1881 (City of Ontario 2023a; City of Ontario 2013: 1; Arroyo Group 1998: 4).

In 1891, Ontario was incorporated as a city and adopted a City Council. The City's industry was primarily focused on agriculture and much of the area contained citrus groves. In addition to citrus, the harvest of peaches, walnuts, and grapes were prominent in Ontario (City of Ontario 2023a). The City's location included a gradual incline that provided the ideal landscape for gravity irrigation that supported the areas agricultural. As an Act of Congress of the Unites States, Ontario was declared the "Model Colony" in 1903 because of its high standard of urban development and innovative planning (City of Ontario 2023b).

### 5.9.1.1 Commercial Development

The majority of Ontario was agricultural during the late 1880s into the 1930s, when much of the city was undergoing large-scale residential, commercial, manufacturing and civic development. Commercial buildings from this period, such as the Old City Hall (built in 1937), Citizens Bank Block (built in 1895) and the Frankish Building (built in 1916), display the Period Revival styles such as the Italianate and Mediterranean style as well as brick commercial buildings (City of Ontario Planning Department 2012). The major commercial throughfares running east to west or north to south through the community were established to accommodate the infrastructure needs of a growing population and the inhabitants of the new single-family residential tracts, to the north, east and west of the downtown, constructed during the 1920s, to the 1940s.

Development of the city's downtown and the PUD area during the 1950s saw the construction of single-story Modern style commercial buildings or facade rehabilitation of existing storefronts to "modernize" the aesthetics in downtown in an attempt to compete with new low-rise strip commercial style centers

located outside of the downtown. Some of the former residential buildings constructed in the Victorian style were converted to commercial use. It was common that styles typical for residential buildings were used for the new construction of commercial buildings. Commercial buildings located near residential neighborhoods often exhibit a small scale, one-story height, a front yard setback, low-pitched roof, and large windows (City of Ontario 2013: 2).

#### 5.9.1.2 Residential Development

Early residential development in Ontario began with the establishment of the Ontario Colony in 1881. After land became available for purchase in 1882, a purchaser would buy a lot within the tract and construct residences in whatever architectural style and size of their choosing. Often these rural residences were associated with agricultural property as well, and an electric railway along Euclid Avenue provided efficient travel between the scattered properties (City of Ontario 2023a; City of Ontario 2013: 1; City of Ontario 2005: 1).

After the Ontario Land and Improvement Company in 1886, the development of Victorian style large single-family residences occurred along Euclid Avenue, Holt Boulevard (A Street), and on Emporia Avenue (known as Developer's Row). During the early 1900s, small and large sized Victorian style homes were constructed in the neighborhoods located north and west of the project area. Soon the Craftsman style homes became the predominant style until 1920. The boom of the 1920s saw an increase in residential development further away from the downtown core as the oil, citrus, and tourism industries increased. During the Great Depression, homes were generally constructed with less decoration in a more modest style. Although jobs associated with construction funded by the WPA spurred population growth during the late 1930s, the 1940s saw a decline in construction until 1944 when the city's industry shifted to post-war production. Nearly 743 new residences were constructed by 1946 often in the Early Post War Tract, Minimal Traditional, and Ranch styles (City of Ontario 2013: 2).

By the 1950s, development of the city's downtown saw the demolition and replacement of many of the Victorian style residences along Euclid Avenue, the retail corridor. Some homes were converted to commercial uses while other were replaced with mid-century modern commercial buildings or relocated elsewhere in the city (City of Ontario 2013: 2). However, many of the historic Victorian and Craftsman homes located in the Downtown West neighborhood have been preserved and are present today.

### 5.9.2 Relevant Regulatory and Guidance Document References

The following section provides an overview of the relevant documents that are utilized by the City to determine findings related to the suitability of construction activities in the plan area. To ensure that any proposed project within the plan area involving new construction (infill), addition, alteration or demolition (full or partial), a Certificate of Appropriateness is required to ensure the preservation of the historic resource and any surrounding resources including their character defining features and integrity (see section 6.9.3.3 below). Additional reference documents and resources for historic preservation guidance are provide in **Section 8.1.**

#### 5.9.2.1 Local Historic Preservation Ordinance

Ontario's Historic Preservation Program seeks to preserve and protect the significant architectural, historical, and cultural resources, which reflect Ontario's unique character and heritage. Planning staff along with the Historic Preservation (HP) Commission and the Historic Preservation Sub-Committee, who are appointed from the HP Commission, review all historic preservation applications, including proposed alterations to the exterior of historic buildings and alterations to public improvements, such as street trees that are located within Ontario's historic neighborhoods. The Historic Preservation Program implements the Historic Preservation Ordinance by processing Certificates of Appropriateness or Waivers for minor alterations, restoration, and rehabilitation, Landmark Designations for

local, state, and national registers, historic property evaluations, historic property surveys, and ensuring environmental compliance. The Program offers incentives for historic preservation such as the Mills Act Contract (Preservation Agreements), bronze plaques, the use of the California Historic Building Code, and the City Council hosted Model Colony Awards for historic resources within the City. Staff is currently preparing an Adaptive Reuse Ordinance (ARO) to further incentive preservation of historic buildings. Additionally, the City coordinates and collaborates with the local non-profit Ontario Heritage and other organizations to promote, inform, educate, and celebrate historic preservation and the program.

In 1983, a group of volunteer citizens, under the leadership of a qualified historic resource consultant, and funded by the State of California Office of Historic Preservation, surveyed nearly three thousand properties within the City that were at least fifty years of age at the time. Intensive level surveys and nominations were completed and submitted to the Office of Historic Preservation and the National Register of Historic Places for hundreds of properties thought to be historically eligible for designation. In 1991, the City Council had adopted the City's first Ordinance intended to preserve historic resources through identifying processes for nomination, designation and appropriate treatment for alterations and additions of historic resources. Through the mid-1990s, a few amendments to the Ordinance were approved which further developed the program. During the late 1990s, the Planning Commission was assigned the duties of the Historic Preservation Commission and the Planning Department allocated staff to the historic preservation program. During this period, the program grew at a rapid rate designating nearly 60 landmarks and 5 historic districts. Additional updates were made in 2001, 2003 and in 2015, with a comprehensive Development Code update dividing the Ordinance into 2 sections. The Ontario Development Code Chapters 4 and 7 establish the City's scope of historic preservation activities and is the primary body of local law relating to historic preservation. Division 7.01 includes the purpose and authority for historic preservation, and Division 4.02 includes criteria for local historic designation and procedures for the alteration or demolition of historic properties.

On August 7, 2001, the City became a Certified Local Government (No. 46) by the State of California. To date, there are approximately 69 local governments within the State of California that participate in the CLG program. Pursuant to the National Preservation Act of 1966 and as amended in 1980, the Certified Local Government (CLG) program encourages the preservation of cultural resources by promoting a partnership among local governments, the State of California Office of Historic Preservation (OHP), and the National Park Service. Becoming a CLG, through the development and implementation of the local historic preservation program which is based on federal (The Secretary of Interior Standards) and state standards, provides the local jurisdiction the tools, technical training, and more meaningful leadership roles in the preservation of the community's cultural heritage. The six (6) basic requirements to maintain certification are listed below:

1. Maintain a comprehensive local historic preservation plan that identifies the preservation mission, goals, and priorities of the local government.
2. Enforce appropriate local legislation for designation and protection of historic properties.
3. Establish and maintain an adequate and qualified historic preservation review commission and non-commissioned staff.
4. Maintain a system for the survey and inventory of historic properties.
5. Provide for adequate public participation in the local historic preservation program.
6. Review and recommendation of historic properties within the local jurisdiction to the National Register of Historic Places.

The State of California conducts the annual review from each period beginning October 1st and ending September 30th to ensure that each CLG continues to meet the minimal requirements for participation and is satisfactorily performing its responsibilities. Pursuant to the CLG requirements, the HP Program oversees reconnaissance and intensive level surveys and is responsible for maintaining a Historic Resource Inventory (HRI) which includes surveyed properties, potential, proposed, designated and eligible properties. Staff works directly with the Historic Preservation Subcommittee, who are the keepers of the Ontario Register of Historic Properties, to review surveys and determine levels of historic significance and eligibility to the Ontario Register.

### 5.9.2.2 Downtown Design Guidelines

The Downtown Design Guidelines (adopted in 1998) feature a set of architectural, graphic, and lighting design principles that provide guidance on rehabilitation of historic resources and makes recommendations on new infill construction that is located within the City's historic original downtown area. The Guidelines were prepared to recognize and enhance the character of downtown. The recommendations are grounded in best practices and are consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties. Section 1. Concept Plan identifies seven element districts, including the Euclid Avenue median, Historic Retail District, Civic Center, Museum/Transit Center, Education center, Residential neighborhoods, and Neighborhood commercial, within the downtown area. The PUD area straddles the Historic Retail District and the Residential Neighborhoods areas defined in the guidelines, each of which are summarized below, and shown in **Figure 5-1**. The Guidelines should be referred to throughout project development.

#### *5.9.2.2.1 Historic Retail District*

Section 2A. Architectural Design Guidelines: Retail Districts, establishes three subdistricts within the Historic Retail District based on the ages of buildings in the subdistrict as they relate to major architectural development periods within the overall area:

1. **Historic Turn-of-the-Century Subdistrict** (1880s to 1910s),
2. **Historic 1920s -1940s Subdistrict**, and the
3. **Historic 1950s Subdistrict**

The section also establishes three categories of buildings that appear throughout the each of the subdistricts within the Historic Retail District, and specific guidelines that should be followed for the preservation, rehabilitation, and restoration of the buildings within each category:

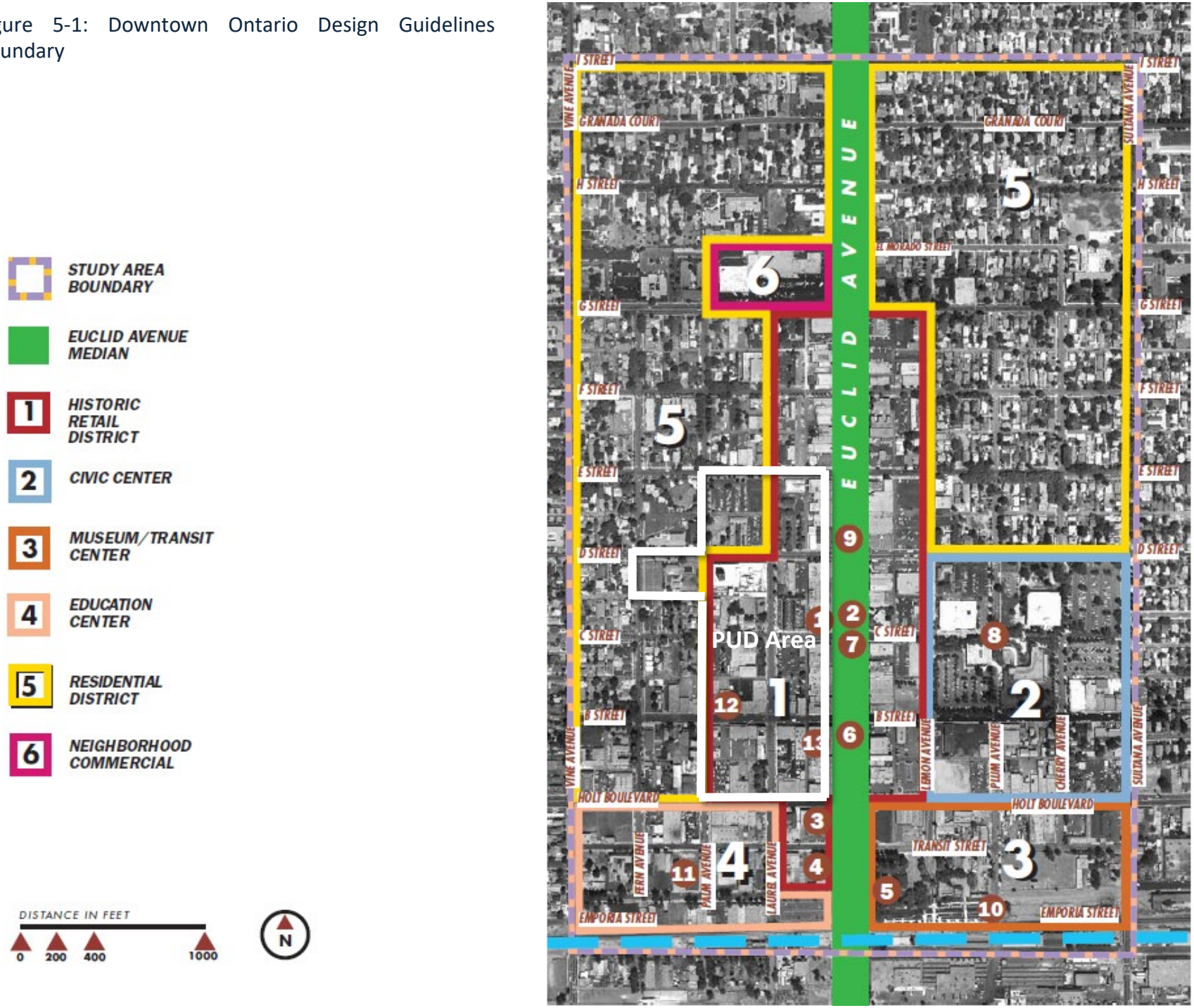
- **Designated Buildings**: Presently Listed on the Ontario Historic Building List and maintain a high degree of historic integrity,
- **Significant Buildings**: Buildings constructed before 1950 for which historical development information is available. The original architectural features and elements of the building are intact but may be obscured by new additions, and
- **Context Buildings**: Buildings constructed before 1950 for which no historical development information is available and/or no original architectural features and elements remain.

For Designated and Significant Buildings within the Historic Retail District, the guidelines provide architectural design guidelines in the areas of design, materials, color, signage, and lighting.

For Context Buildings and new infill construction within the Historic Retail District, the architectural design guidelines are discussed in terms of their associated subdistrict in the areas of building usage, massing, setbacks, storefront modulation, entrances, roof design, mechanical equipment, building elements, awnings, materials, and colors.

Additional guidelines are provided for projects related to alley walkways, mid-block pass-throughs in private structures, outdoor dining areas, adding leasable area to existing buildings in the historic retail area, and landscape design.

Figure 5-1: Downtown Ontario Design Guidelines Boundary



#### *5.9.2.2.2 Residential Neighborhoods*

Section 4. Residential Design Guidelines establishes the process and objectives for residential properties within the residential neighborhoods in the guideline area. The section asserts that there are roughly 17 architectural styles present within the residential neighborhoods and no dominant style overall. The section provides general guidelines that pull from the Secretary of the Interior's Standards for Rehabilitation (see section 5.14.4.1 below) and are applicable for "additions, renovations, or restorations of all existing homes (154)" within the guideline area. The section also provides specific design guidelines for properties displaying the Craftsman Bungalow, Second Empire, Queen Anne, Colonial Revival, Tudor Revival, Wood Framed Farm or Grove House, Spanish Colonial Revival, and Mediterranean Revival architectural styles, and closes with guidance for non-historic and infill structures and landscape design guidelines.

### 5.9.2.3 Secretary of the Interior's Standards for the Treatment of Historic Properties

The Secretary of the Interior's Standards for the Treatment of Historic Properties (the Standards) are historic preservation principles which promote best practices for the treatment of historic properties. The Standards include four approaches for the treatment of historic properties – Preservation, Rehabilitation, Restoration, and Reconstruction – and the choice of which approach best suits a project is dependent on the historical significance, physical condition, proposed use, and the intended interpretation of the historic property. Each approach includes guidelines that assist with the application of the approach to a wide range of property types. The following section provides a brief description of each of the four approaches and their application as quoted from the Standards (NPS 2017:2-3):

> ***Preservation*** *is defined as the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project. However, new exterior additions are not within the scope of this treatment.* The Standards for Preservation require retention of the greatest amount of historic fabric along with the building's historic form.
>
> ***Rehabilitation*** *is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.* The Rehabilitation Standards acknowledge the need to alter or add to a historic building to meet continuing or new uses while retaining the building's historic character.
>
> ***Restoration*** *is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.* The Restoration Standards allow for the depiction of a building at a particular time in its history by preserving materials, features, finishes, and spaces from its period of significance and removing those from other periods.
>
> ***Reconstruction*** *is defined as the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.*

The Reconstruction Standards establish a limited framework for recreating a vanished or non-surviving building with new materials, primarily for interpretive purposes.

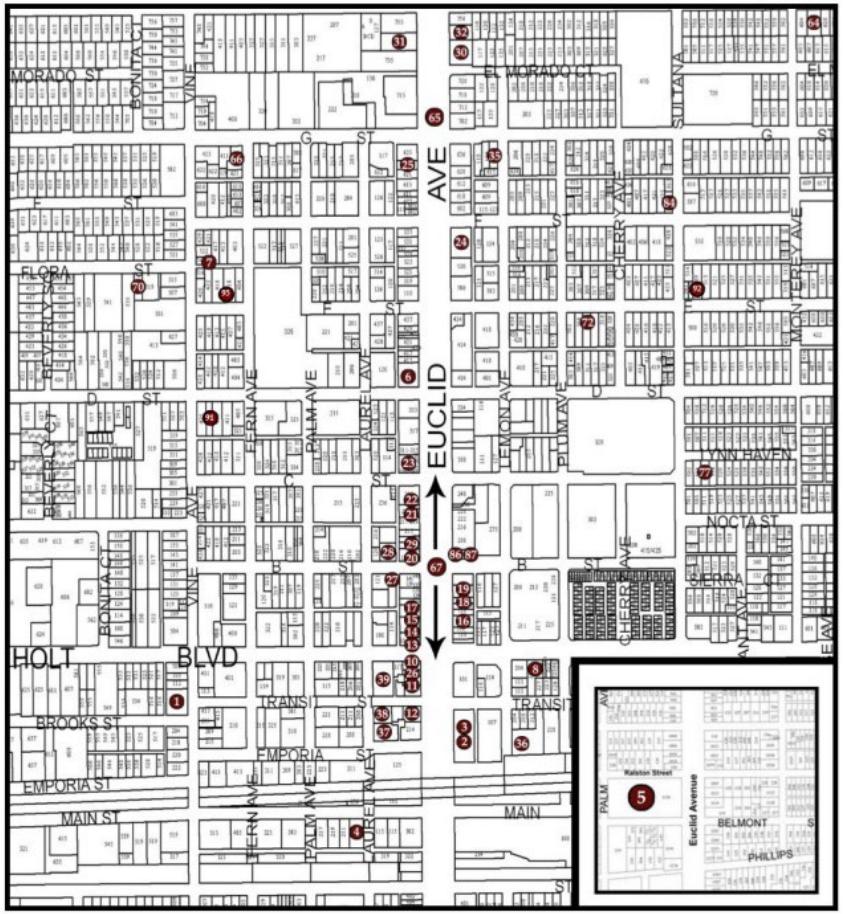
The selection of an appropriate treatment is dependent on the building's individual historic significance, character-defining features, and the proposed new use. The Standards encourage consideration of the building's level of significance (National, State, and/or Local level), existing physical condition, proposed new use, and code compliance needs when selecting an appropriate treatment approach (NPS 2017: 3).

## 5.9.3 Review of Resources in the PUD Area

### 5.9.3.1 Summary of Survey Activities and the Ontario Register of Historic Resources

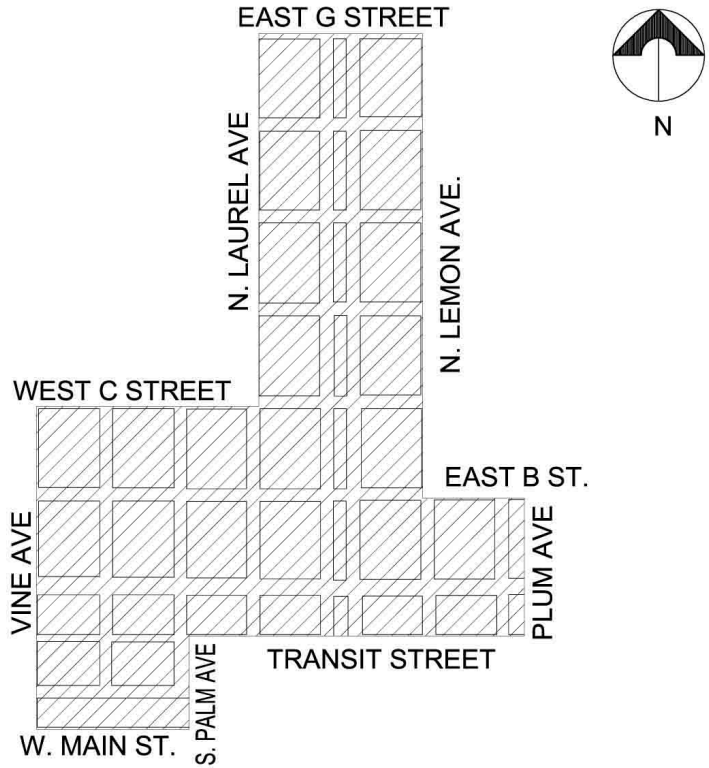
The State of California awarded a grant to fund a citywide survey between 1983 and 1984 to identify potentially historic resources located within the City. Between 1986 and 1987, the City of Ontario continued the survey efforts which resulted in documentation and evaluation of historic significance of nearly 3,000 properties, and the creation of Ontario's Historic Resource Inventory (HRI) in which 835 properties were formally listed. In 1991, the City retained Architectural Resources Group (ARG) to further analyze historic properties located within the downtown, a former Redevelopment Area, and recommend an improvement strategy to revitalize the area. Shortly thereafter, 65 local landmarks were designated. An additional survey was conducted in 2003 that updated information on buildings within the downtown. The City currently has 100 designated local landmarks, 14 of which are located within the downtown, 8 designated historic districts, 2 potential historic districts located in the downtown, 5 historic properties listed on the National Register of Historic Places and contains nearly 1,500 historic resources on the Ontario Register (HRI). See Figure 5-2 and the City of Ontario Historic Preservation Program for more details.

Figure 5-2: Historic Landmarks Map - South Section



The 2003 survey identified a potential district, District 3, that is associated with the core commercial development in the City. District 3 was divided into geographic regions, or subdistricts, that were identified as they were related to observed patterns of historic urban development, as shown in Figure 5-3. Two of these subdistricts overlap the plan area, District 3-A and 3-D. The overall district record describes the primary architectural character of District 3 as a commercial area where the predominant styles are, "Twentieth Century Vernacular Commercial. These buildings tend to be modest and pragmatic in style. They rarely exceed two-stories and primarily possess one-part commercial block façade compositions. Wood frames, brick, and masonry are the main materials used to construct the buildings. Some notable architectural styles include commercial buildings in an Art Moderne, International Style, Contemporary, and Googie Style."

Figure 5-3: District 3



### 5.9.3.2 List of Designated/Nominated/Eligible Historic Resources in the PUD Area as of 2023

As of November 2023, the PUD area contains the following designated, nominated, and eligible historic resources. In addition to the high concentration of historic and potentially historic resources within the PUD area, there are a number of properties that have reached 45 years of age since the last survey effort in 2003. The following map and table provides a list of the Designated (Purple), Nominated (Magenta), and Eligible (Pink) historic resources within the plan area, as well as the properties over 45 years of age that have not been previously surveyed (Green).

Figure 5-4: Historic Resources

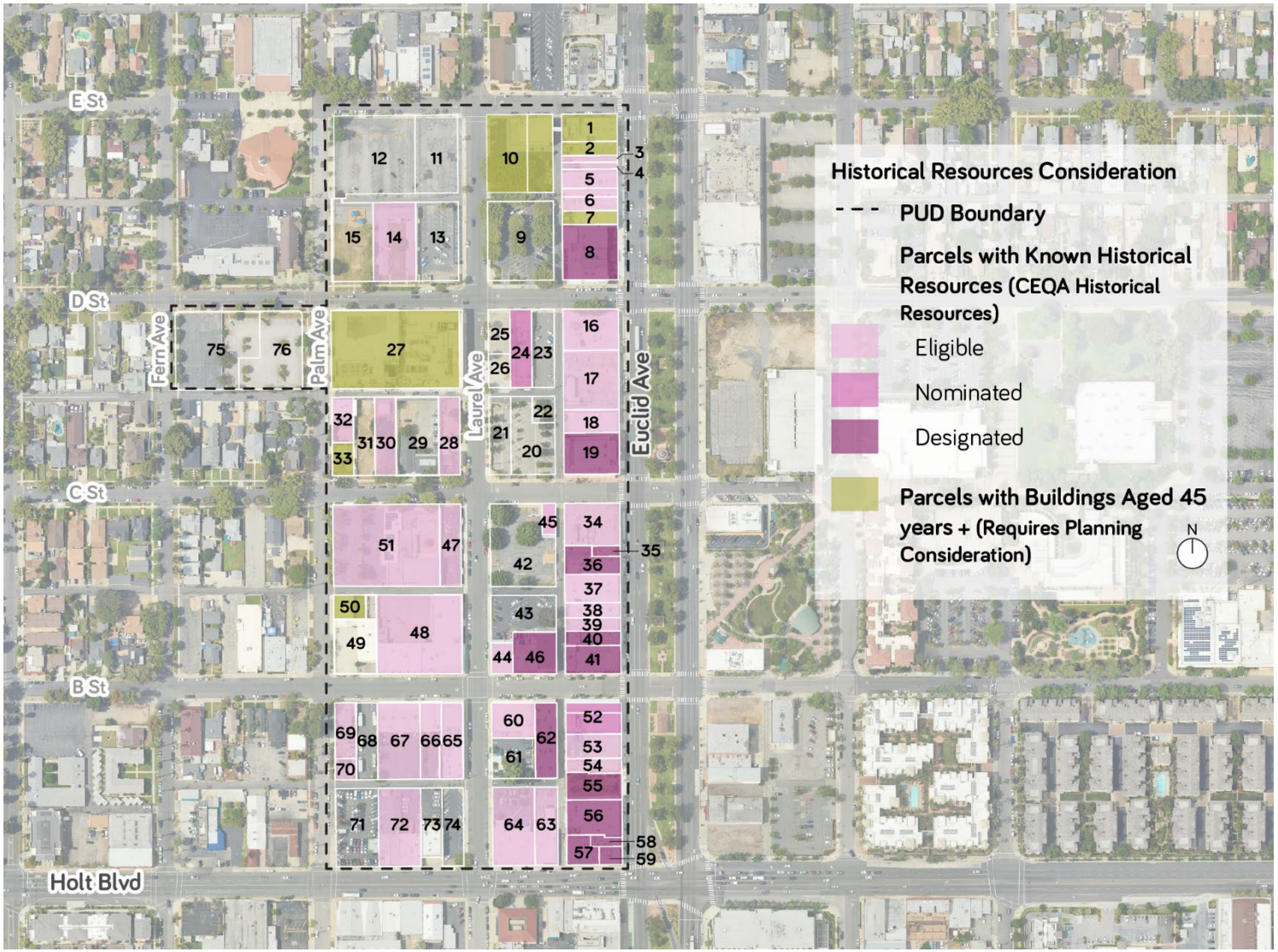


**Table 5-4: Historic Resources**

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 1 | 437 N. Euclid Ave. | 104835403 | Unicare Community Health Center | 1967 | - | Not Surveyed | |
| 2 | 429 N. Euclid Ave. | 104835404 | Immigration Attorney | c.1948 (NETR) | - | Not Surveyed | |
| 3 | 427 N. Euclid Ave. | 104835405 | Aktiva Nutrition | 1946 | Commercial | Eligible | |
| 4 | 425 N. Euclid Ave. | 104835406 | Downtown Ontario Improvement Association | 1948 | Commercial | Eligible | |
| 5 | 421 N. Euclid Ave. | 104835407 | Work Boot Warehouse | c. 1930 | Commercial | Eligible | |
| 6 | 417 and 419 N. Euclid Ave. | 104835408, -09 | Optometrist | c. 1950 | Commercial | Eligible | |
| 7 | 413 and 415 N. Euclid Ave. | 104835410 | Rogers Flower Shop and Barber Shop | c. 1930 | - | Not Surveyed | |
| 8 | 401 N. Euclid Ave. | 104835411 | Gloria's Cocina Mexicana | 1937 | Moderne | Designated Landmark | Ontario Laundry Co. |
| 10 | 123 W. E St. and 420 N. Laurel Ave. | 104835401,-02, 104835413 | Unicare Community Health Center, Parking | c. 1960 | | Not Surveyed | |
| 14 | 210-220 W. D St. | 104835309 | Multiple-family residential | 1946 | Minimal Traditional | Eligible | |
| 16 | 331 and 333 N. Euclid Ave. | 104856604 | U.S. Bank Branch | 1965 | - | Eligible | |
| 17 | 317 N. Euclid | 104856605 | Treasure Banquet Hall | 1950 | | Eligible | |

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 18 | 311, 313, 315 N. Euclid Ave. | 104856606 | Cancha Verde/Strum Brewing | c. 1931 | Brick Commercial | Eligible | |
| 19 | 108 W. C St.. 301/303 N. Euclid | 104856607 | Emmon's Building/ Granada Theater | 1926 | Moderne/Art Deco | Designated Landmark | Emmon's Building (Granada Theater) |
| 24 | (123 W. D St) 121 W. D St. | 104856602 | Associated Telephone Company Building | 1936 | Art Deco | Nominated | |
| 27 | 211 W. D St./ 207 W. D St. | 104856113 | Frontier Communications | c.1959 (NETR) | - | Not Surveyed | |
| 28 | 303-305 and 311-315 N. Laurel Ave. | 104856107 | Multiple-family residential | c. 1920 | Craftsman Bungalow | Eligible | |
| 30 | 218 W. C St. | 104856109 | Single Family residence | 1908 | Craftsman Bungalow | Eligible | |
| 32 | 312 N. Palm Ave. | 104856112 | Single Family residence and commercial building | 1920 | Minimal Traditional | Eligible | |
| 33 | 228 W. C St. | 104856111 | Superior Justice Law Group | 1955 | - | Not Surveyed | |
| 34 | 245 N. Euclid Ave. | 104856503 | Valley Dept Store | 1950 | Mid-Century Modern | Eligible | |
| 35 | 233 N. Euclid Ave. 223 N. Euclid Ave. 235 N Euclid Ave. | 104856504 | The Golden Web Boutique store | 1916 | Brick Commercial (Mediterranean Revival) | Designated Landmark | People's Mutual Building and Loan |
| 36 | 231 N. Euclid Av. | 104856505 | Unique Café | 1904 | Brick Commercial | Designated Landmark | Masonic Hall |

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 37 | 219 N. Euclid Ave. | 104856506 | Herradura De Oro | 1948 | Colonial Revival | Eligible | |
| 38 | 215 N. Euclid Ave. | 104856507 | Newsboy books | 1946 | Brick Commercial | Eligible | |
| 39 | 211 N. Euclid Ave. | 104856508 | Euclid Family Dentistry | c.1925 | Brick Commercial | Eligible | |
| 40 | 207 N. Euclid Ave. | 104856509 | Vacant Commercial Building | 1910 | Brick Commercial | Designated Landmark | W.W. Smith Grocery |
| 41 | 106 W. B St. 203 N. Euclid Ave. | 104856510 | Furniture Dreams (Residential on second floor) | 1908 | Brick Commercial | Designated Landmark | Ostran's Department Store |
| 44 | 126 W. B St. | 104856512 | Beautiful Smiles Ontario | 1906 | Brick Commercial | Eligible | |
| 45 | 108 W. C St. 115 W St. | 104856502 | Vacant Bank | 1936 | Brick Commercial | Eligible | |
| 46 | 120 W. B St. 112 W. B St. | 104856511 | Nightmare on B Street/ Dance Studio/ Odd fellows - Eligible (Aria Kabob, Electric Beauty Salon - Historic LL) | 1922 | Commercial | Designated Landmark | Intl Order of Odd Felows ( I.O.O.F) |
| 47 | 223, 225, 229, 235 N. Laurel Ave. | 104856202 | Centro Legal De Accidentes & Cedar Pointe Chiropractic | 1947 | Minimal Traditional | Eligible | |
| 48 | 206 ,208, 210, 214, 216, 218, 220 W. B St./ 205, 207, 209, 211, 213, 215 N Laurel Ave | 104856203 | Multiple shops including barber, Fitness, beauty | 1947 | Commercial | Eligible | |

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 50 | 212, 214, 216, 218 N. Palm Ave. | 104856206 | Small shops (Tax services and fitness) | 1957 | - | Surveyed | |
| 51 | 215 W. C St. | 104856201 | Great Commission Church International (Christian Church) | 1948 (additions 1955,1959,1966 | Mid-Century Modern | Eligible | |
| 52 | 137, 139, 143, 141 N. Euclid Ave. and 105 W. B St. | 104856403 | Old Gemmel's Pharmacy | 1889 | Brick Commercial | Nominated | |
| 53 | 129 and133 N. Euclid Ave. | 104856404 | DolEx Financial Services | c. 1907 | Brick Commercial | Eligible | |
| 54 | 125 N. Euclid Ave. | 104856405 | Bravo's Store | 1910 | Brick Commercial | Eligible | Friend Block / O.O.F. Sommerest Hall/ People's Store |
| 55 | 121 and 123 N. Euclid Ave. | 104856406 | Demolished - Vacant | 1894 | Commercial | Designated Landmark | Friend Block / O.O.F. Sommerest Hall/ People's Store |
| 56 | 105, 109, 111, 115, 117 N. Euclid Av. | 104856407 | Verizon, Bally Spa, Night club, Motorcycle run | 1889 | Commercial | Designated Landmark | Rose Block |
| 57 | 104,108, 110 & 112 W. Holt Blvd. | 104856410 | Botanica, Sabor Honduren, Beauty and Barber | 1895 | Commercial | Designated Landmark | Citizens Bank Block |
| 58 | 105 N. Euclid Av. | 104856408 | Xolos Birria | 1888 | Brick Commercial | Designated Landmark | Holbrook Block |

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 59 | 101 N. Euclid Av. | 104856409 | T Mobile | 1895 | Commercial | Designated Landmark | Citizens Bank Block |
| 60 | 121, 123, 125,127 W. B St | 104856401 | B St. Professional Bldg.; Document Preparation Services Inc., Logan's Candies, Isaprint, | c. 1930 | | Eligible | |
| 62 | 115 W. B St.. 117 & 119 W. B St.. | 104856402 | Income Tax office and residential upper floor | 1922 | Brick Commercial | Designated Landmark | Ontario Herald Building |
| 63 | 114, 116, 118 W. Holt Blvd | 104856411 | Pirate staffing, Ontario Boxing Club | c. 1915 | Brick Commercial | Eligible | |
| 64 | 108 N. Laurel Ave./ 120, 122, 124, 126 W. Holt Blvd. | 104856412 | Jobs, Insurance, Pawnshop, paved parking | C 1910 (addition c. 1950) | Brick Commercial | Eligible | |
| 65 | 203 W. B St./ 123, 127, 129 N. Laurel Ave | 104856313 | Body X Beauty, Pet grooming, Spa, Karate | 1922 (retail commercial addition c. 1940) | Brick Commercial | Eligible | |
| 66 | 207 W. B St. | 104856312 | Iglesia Fuente and paved parking | 1949 | Commercial | Eligible | |
| 67 | 211, 213, 215, 217 W. B St. | 104856303 | Majestic Trophy, Boxing Club, Mary Kay, office | 1953 | Commercial | Eligible | |

| | Address | Parcel Number | Current Use/ Description | Year Built | Architectural Style | Current Historic Status | Local Landmark Name |
|---|---|---|---|---|---|---|---|
| 69 | 225-227-229 W. B St. and 128-130 N Palm Ave | 104856301 | Evc Insurance & Services and the Vault Barbershop and Home | c. 1915 (commercial additions c. 1950) | Vernacular wood frame | Eligible | |
| 70 | 120 N. Palm Ave. | 104856311 | House | c. 1915 | Craftsman Bungalow | Eligible | |
| 72 | 210, 212, 214, 216, 218 W. Holt Blvd. | 104856308 | Eagles Aere and Sams Liquor | 1920 | Brick Commercial | Eligible | |

### 5.9.4 Historic Preservation - Certificates of Appropriateness and Demolition

To ensure that a proposed project involving new construction (infill), addition, alteration or demolition (full or partial) of a historic resource protects the historic character and integrity of the resource and any surrounding resources, an application for a Historic Preservation - Certificate of Appropriateness must be filed pursuant to section *4.02.050: Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources* of the Development Code. Issuance of a Waiver by the Planning Director or a Certificate of Appropriateness approved by the Historic Preservation Subcommittee or the Historic Preservation Commission shall be required for projects involving any of the following (4.02.050:B.2):

- Alteration, addition, restoration, rehabilitation, remodeling, relocation, repainting, and/or resurfacing of an historic resource.
- For any work to the exterior of any noncontributing historic resource located within the PUD area.
- Infill development within the PUD area; and
- Any demolition, whether in whole or in part, of a historic resource or a noncontributor within the PUD area.

*The following findings need to be met for the Historic Preservation-Certificate of Appropriateness application to be acted upon (4.02.050:D.1):*

- The proposed alteration, restoration, relocation, or construction will not detrimentally change, destroy or adversely affect any significant architectural feature of the resource;
- The proposed alteration, restoration, relocation, or construction will not detrimentally change, destroy or adversely affect the historic character or value of the resource;
- The proposed alteration, restoration, relocation, or construction will be compatible with the exterior character-defining features of the historic resource; and
- The proposed alteration, restoration, relocation, or construction will not adversely affect or detract from the character of the historic district.

*The following findings need to be met for the Historic Preservation-Certificate of Appropriateness and Demolition application to be acted upon* (4.02.050:D.2):

- The proposed demolition is necessary because all efforts to restore, rehabilitate, and/or relocate the resource have been exhausted;
- The proposed demolition is necessary because restoration/rehabilitation is not practical because the extensive alterations required would render the resource not worthy of preservation;
- The proposed demolition is necessary because failure to demolish the resource would adversely affect or detract from the character of the District; and
- The resource proposed to be demolished has been assigned a Tier III designation.

*For approval of a Historic Preservation-Certificate of Appropriateness related to infill development within the PUD area, the following infill guidelines need to be incorporated into the design of all new buildings and structures* (4.02.050:G.2; 4.02.050:I.1-4):

- New buildings, structures, or improvements constructed shall be designed to be compatible with the architectural style, features, and historic character of the properties within the PUD plan area.
- New buildings shall be compatible with the original style of the contributing buildings within the PUD plan area. The design of the new buildings shall therefore incorporate the following considerations:
    - The design features and details of contributing structures;
    - The height, width, and length of the new construction shall be consistent with the original characteristic of the contributing structures; and
    - The exterior materials and treatment shall be similar to the contributing structures.
- New buildings, structures, and/or improvements constructed on a historic property shall be designed to be compatible with the architectural style and features of contributing historic buildings and/or structures located on the historic property; and
- New buildings/structures shall be compatible with the original architectural style of the contributing historic buildings on the historic property. The design of the new construction shall incorporate the following considerations:
    - The design shall incorporate the design features and details of the historic structure;
    - The height, width, and length of the new building shall be consistent with the original characteristic of the historic building; and
    - The exterior materials and treatment shall be similar to the historic building.

### 5.9.5 Historic Architectural Guidelines

Section *7.01.065: Guidelines for the Treatment of Historic Properties* of the Development Code, which are supported by the Secretary of the Interior Standards for the Treatment of Historic Properties (Standards), is intended to provide appropriate design solutions that avoid adverse impacts to historic resources located within the PUD area. The guidelines provided in Section 7.01.065 of the Development Code should be used for any project in the PUD area.

To recognize and protect the historic significance of an architectural resource, it is important to understand the physical characteristics that are associated with various architectural styles to ensure that appropriate treatment approaches are used during any project involving a historic building, or when developing new buildings on or adjacent to a historic property. The City maintains a list of architectural styles with corresponding descriptions of the features that define each style on the Historic Preservation Program website. See the References and Resources at the end of this section for information on accessing the architectural style list.

New development that promotes context-sensitive and complementary buildings relative to the existing range of historic architectural buildings in Downtown West can help to create a cohesive district. Representative examples of existing historic buildings and their architectural styles in Downtown West and their associated characteristics are included below and on the following pages to help guide developers and architects in understanding the architectural styles and specific features present in the PUD area. While this is not an exhaustive list of the architectural styles present within the PUD area, the architectural styles referenced in the following pages constitute the primary styles present in the PUD area. To promote a cohesive district, new infill in the PUD area should use materials that are appropriate for and found within the district, such as glass, metal, siding, and brick.

Best practices for historic preservation propose that the architecture of new buildings and additions should not exactly replicate historic architectural styles, but rather be obviously differentiated while harmonizing with the scale, rhythm, and character of historic predecessors. Adjacent new construction, if it is not related to the property, should include clear differentiation. In addition, new construction should incorporate appropriate massing, scale, and buffers when located adjacent to a historic resource. Buffers may include setbacks and upper story stepbacks, for example. If construction is physically attached or located on a historic property, it should be reviewed for conformance with the Secretary of Interior's Standards.

# MODERNE

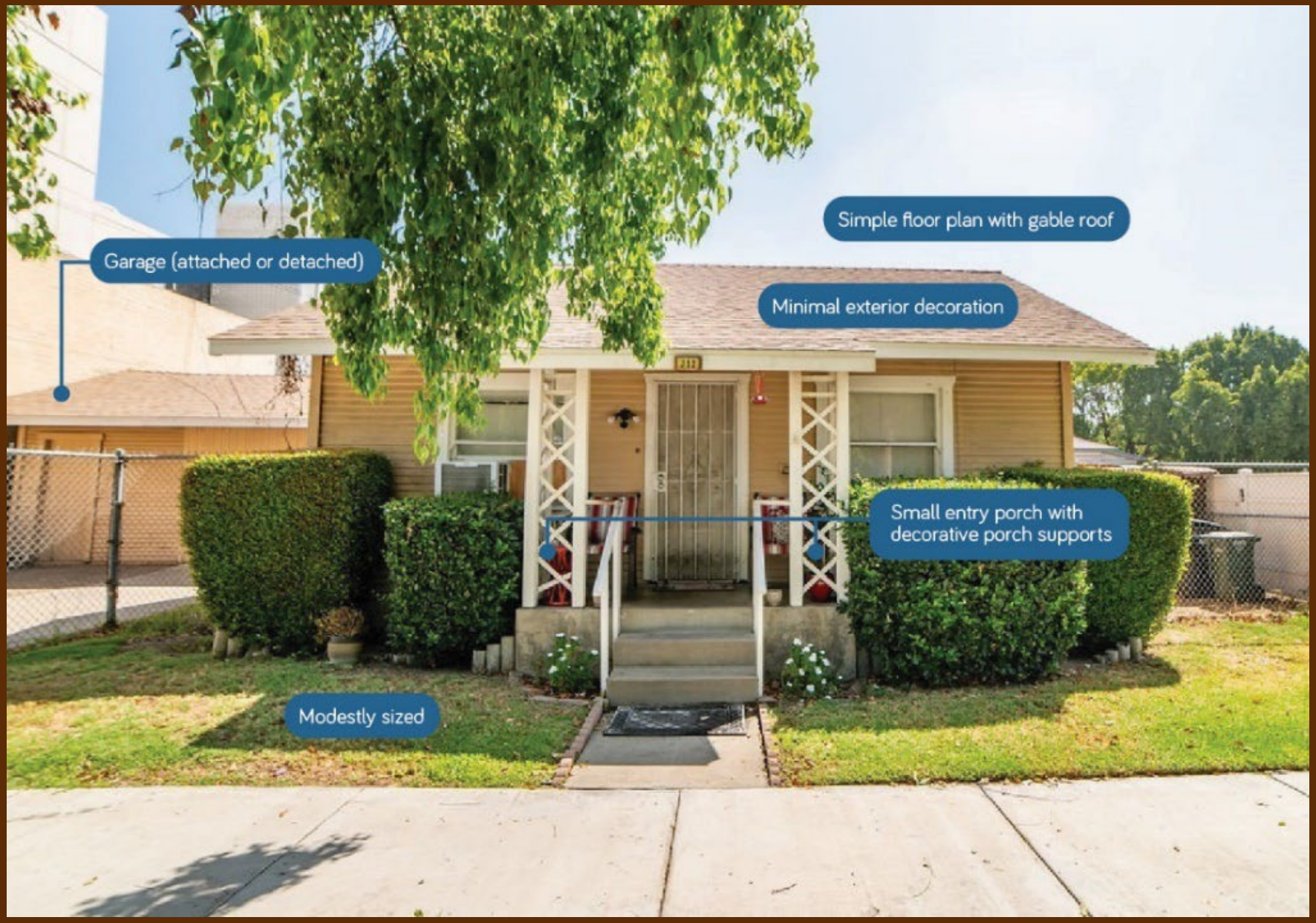
Tower
Horizontal Orientation with Horizontal Grooves in Walls
Grouped Windows Create Strong Horizontal Lines
Flat Roof with Coping
Asymmetrical Facade
Smooth Stucco Wall Surface
Curved Wall with Window that Turns a Corner
Gloria's
Gloria's

# ART DECO

Sharp "hard edge" corners
Smooth wall surface
Carved, fluted details on facade and pilasters
Vertical emphasis displayed through vertical roof projections
Flat roof with coping
"Setbacks" in the facade
Grouped windows draw eye up and emphasize verticality

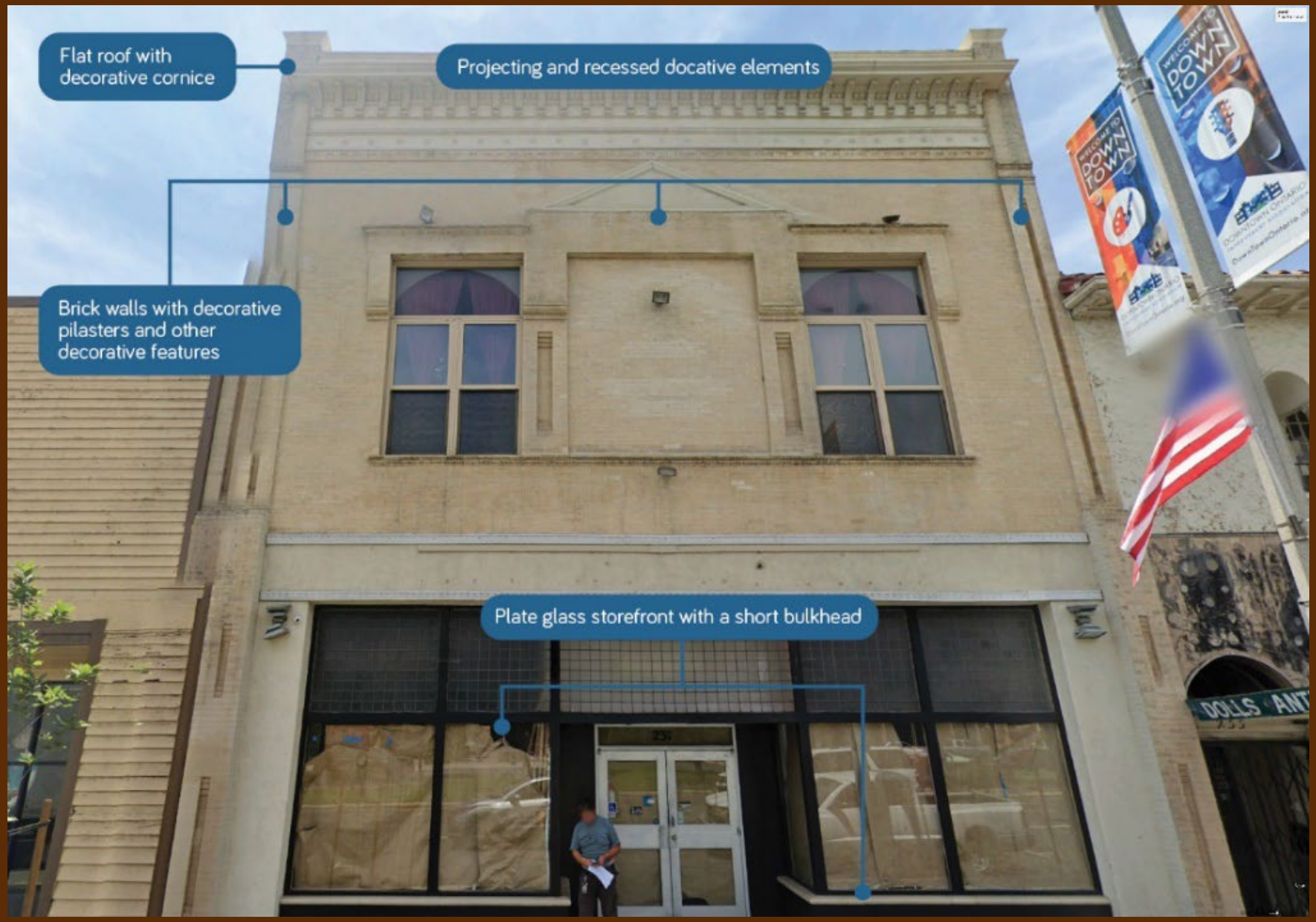
# CRAFTSMAN BUNGALOW

# MINIMAL TRADITIONAL



# BRICK COMMERCIAL

# BRICK COMMERCIAL



# BRICK COMMERCIAL

# 5.10 Public Art

As the City of Ontario continues to define itself as a desirable destination, the arts have taken on a greater role in enriching the lives of residents and enhancing the visitor experience. Public art may serve to delight and surprise, reflect upon the natural world, explore local history, express identity, or celebrate the contributions of important citizens. Ontario's vision is to expand this dialogue and interaction through site-specific, distinctive landmarks designed by professional artists. With this in mind, in 2022 the City established a new Public Art Program for private and civic development under Title 5 Chapter 33 of the Ontario Municipal Code. For a public art program to be successful, careful consideration must be given to the selection of artists and artwork concepts, materials, locations, and length of display. While the following typologies and applications listed below are intended for the PUD, planning will ultimately be governed by a comprehensive citywide master planning effort which will equitably address all regions and be developed in consultation with the Department of Museum, Arts & Culture's staff and the Public Art Advisory Commission.

## 5.10.1 Landmark Sculptures

Iconic and permanent large-scale outdoor works become inextricably linked with a district or city, and, over time, serve as enduring and cherished landmarks that are immediately recognizable. Portals, parklets, plazas and medians warrant special consideration as prime locations. Lighting helps showcase the artwork, while also making the space appear larger, safer, and more welcoming. Lighting can also serve as an integral part of the sculpture to captivate pedestrians in evening hours.

## 5.10.2 Murals

Murals add immediate vibrancy and vitality to facades, setbacks, and blank walls. While murals may appear relatively easy and inexpensive to commission, careful planning needs to be in place in property-owner agreements, site selection, surface preparation, material quality, maintenance responsibilities, and the level of security in vulnerable areas such as alleys. Murals may be painted directly on to a surface or mounted on panels, or fabricated from tile or mosaic, depending on anticipated length of display.

**Cliff Garten. Zuckerberg Medical Center.**

Ralph Helmick. Pasadena.

David Byrne. NYC.

### 5.10.3 Streetscape Amenities

Artists bring a unique and original perspective to design. The City can take advantage of this expertise and talent to beautify and energize the pedestrian environment through artist-designed enhancements to functional furnishings such as bike racks, bollards, benches, street poles and transit shelters.

### 5.10.4 Private Development

Artists bring a unique and original perspective to design. The City can take advantage of this expertise and talent to beautify and energize the pedestrian environment through artist-designed enhancements to functional furnishings such as bike racks, bollards, benches, street poles and transit shelters.

### 5.10.5 Temporary Programming

Artists bring a unique and original perspective to design. The City can take advantage of this expertise and talent to beautify and energize the pedestrian environment through artist-designed enhancements to functional furnishings such as bike racks, bollards, benches, street poles and transit shelters.

**Chris Burden. *LACMA*.**

**Sonia Romero. MacArthur Park.**

**Deborah Ashheim. San Francisco.**

**Sonia Romero. Grand Park.**

# 6 Public Realm Standards and Guidelines

## 6.1 Overview

Chapter 6 provides standards and guidelines for the public realm aimed at improving the sidewalk experience for all users. The public realm is defined as any publicly owned space, including streets, sidewalks, passageways, plazas, and other spaces that are accessible by everyone. An accessible, comfortable, and well-designed public realm is a crucial component to creating a sense of place, encouraging new development, and supporting the community.

This section will cover the following:

- Design standards for sidewalk clearance and outdoor dining to ensure that the sidewalk space throughout the PUD area can properly accommodate the multiple and simultaneous uses.
- Design guidelines for street furniture, pedestrian connections, signage and wayfinding, street trees, and parkways.

# 6.2 Design Standards

## 6.2.1 Sidewalk Clearance

1. **Minimum Sidewalk Clear Area.** A minimum clear area shall be maintained for pedestrian circulation within the public sidewalk zone. This minimum clear area may be reduced to 4 feet in width adjacent to City-approved outdoor dining facilities or tree grates per review authority. Exceptions include:

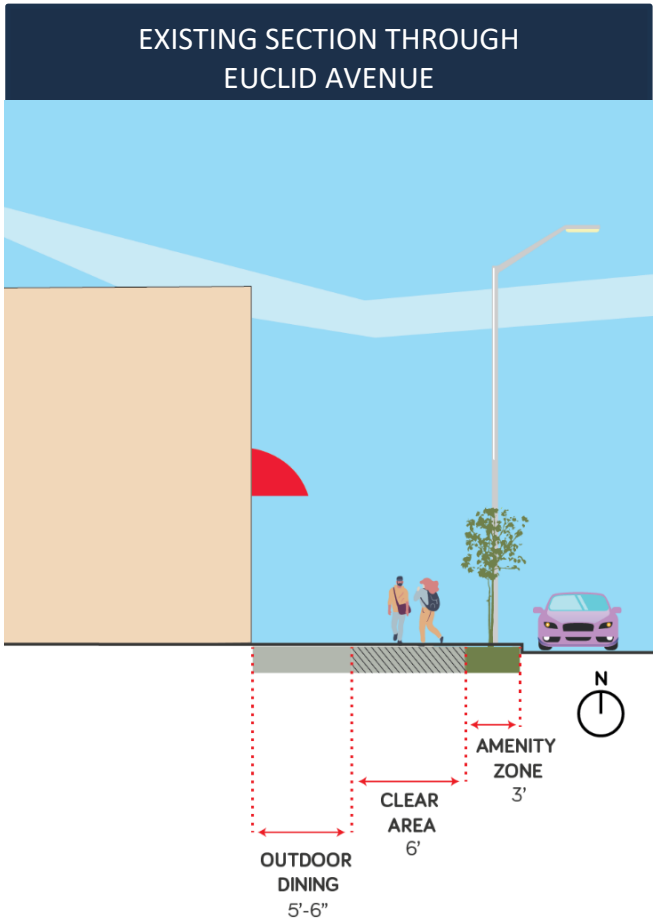
   a. **Euclid Avenue.** A minimum clear area of 6 feet shall be maintained for pedestrian movement.

   b. **B Street.** A minimum clear area of 4 feet on the southside of B Street shall be maintained for pedestrian movement.

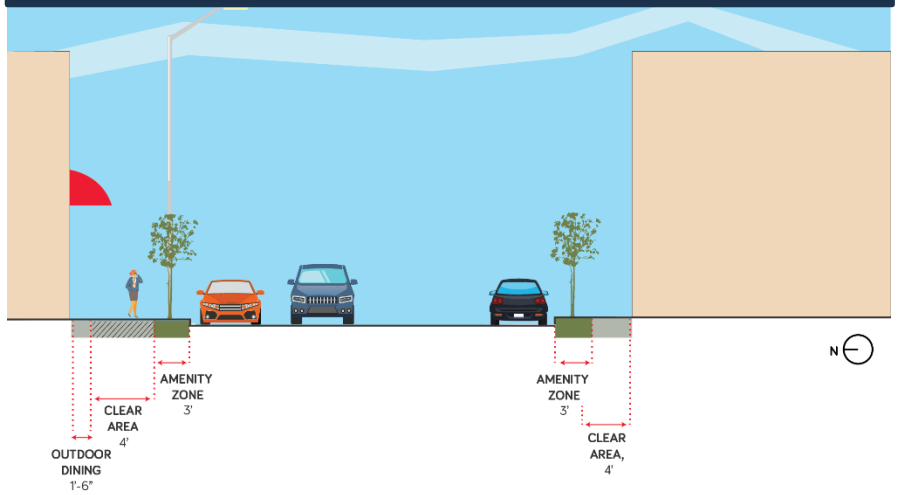
   c. **Laurel Avenue.** A minimum clear area of 5 feet shall be maintained for pedestrian movement.

   d. **Holt Boulevard.** A minimum clear area of 6 feet shall be maintained for pedestrian movement.

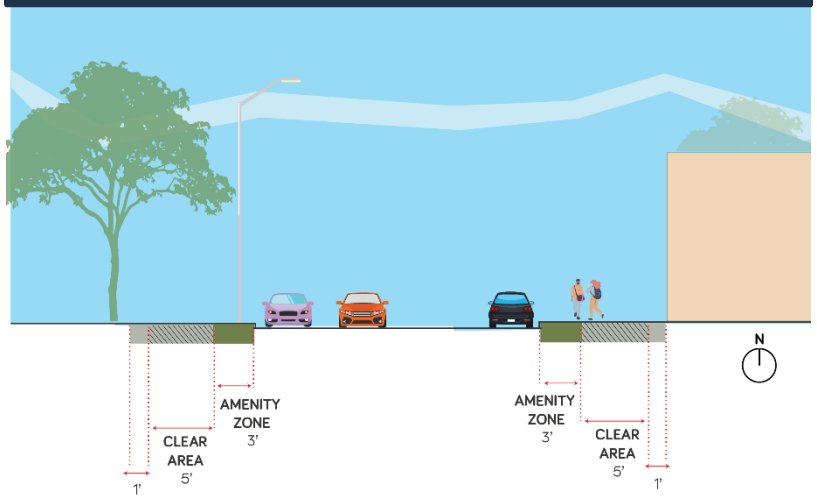
   e. **The Alley** A minimum clear area of 5 feet shall be maintained for pedestrian movement.



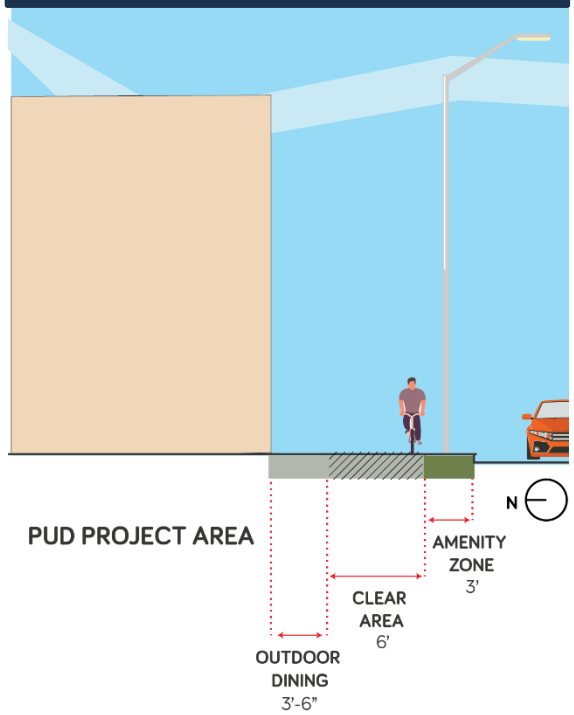
## EXISTING SECTION THROUGH B STREET



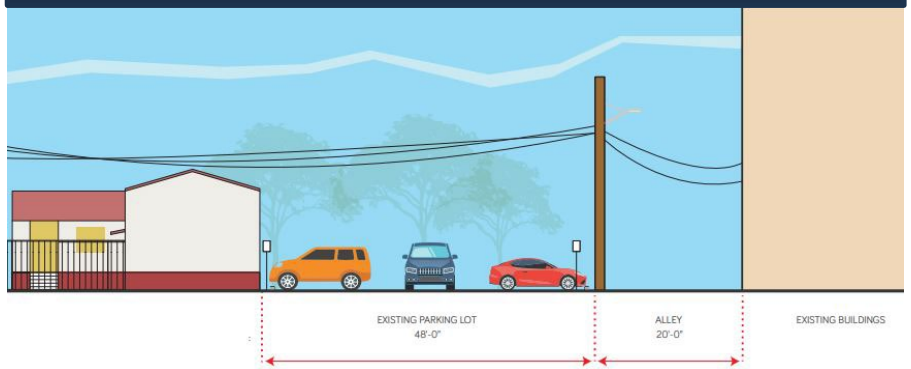

## EXISTING SECTION THROUGH LAUREL AVENUE




## EXISTING SECTION THROUGH HOLT BOULEVARD




## EXISTING SECTION THROUGH THE ALLEY LOOKING NORTH TOWARDS D STREET



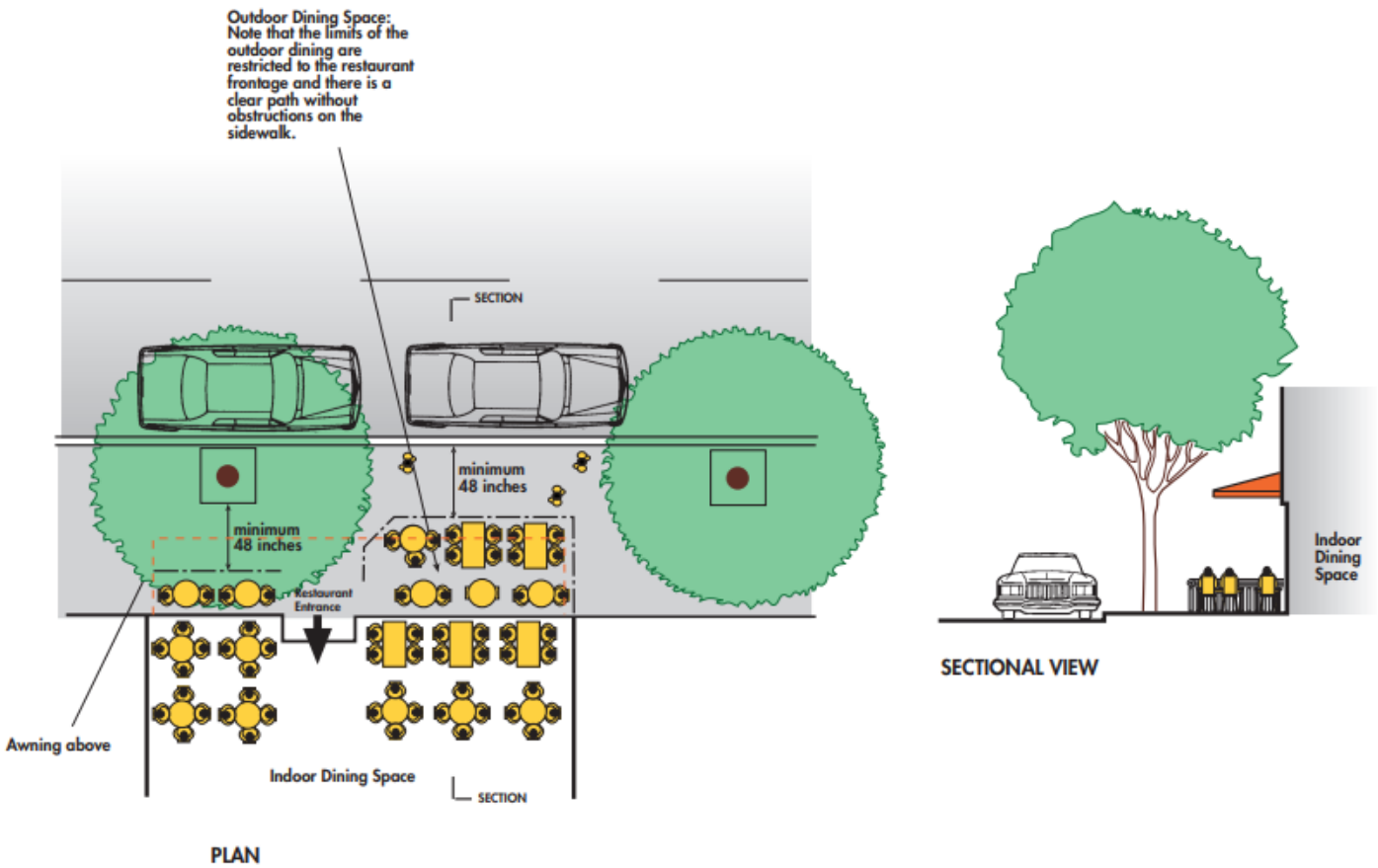
## 6.2.2 Outdoor Dining

1. **Outdoor Dining.** Outdoor Dining areas adjacent to a street level eating or drinking establishment along any street frontage will require a permit to ensure sidewalk clearance and ADA requirements. Any such areas shall be designed in accordance with the provisions set forth in **Section 2A.7 of the Downtown Ontario Design Guidelines,** plus any additional features that may be required as part of a Conditional Use Permit for on-sale alcoholic beverages. Typical layout of outdoor sidewalk dining space is shown in Figure 6-1 from the Downtown Ontario Design Guidelines.

### Outdoor Dining to Promote a Vibrant Euclid Avenue

Outdoor dining along Euclid Avenue is encouraged to promote a vibrant street. Outdoor dining along the sidewalk contributes to an active public realm with "eyes on the street" throughout the day. Providing a clear area on any public sidewalk is critical to ensuring that pedestrian movement is maintained, while allowing sidewalk dining and other uses on the sidewalk, such as street trees, benches, and other amenities.

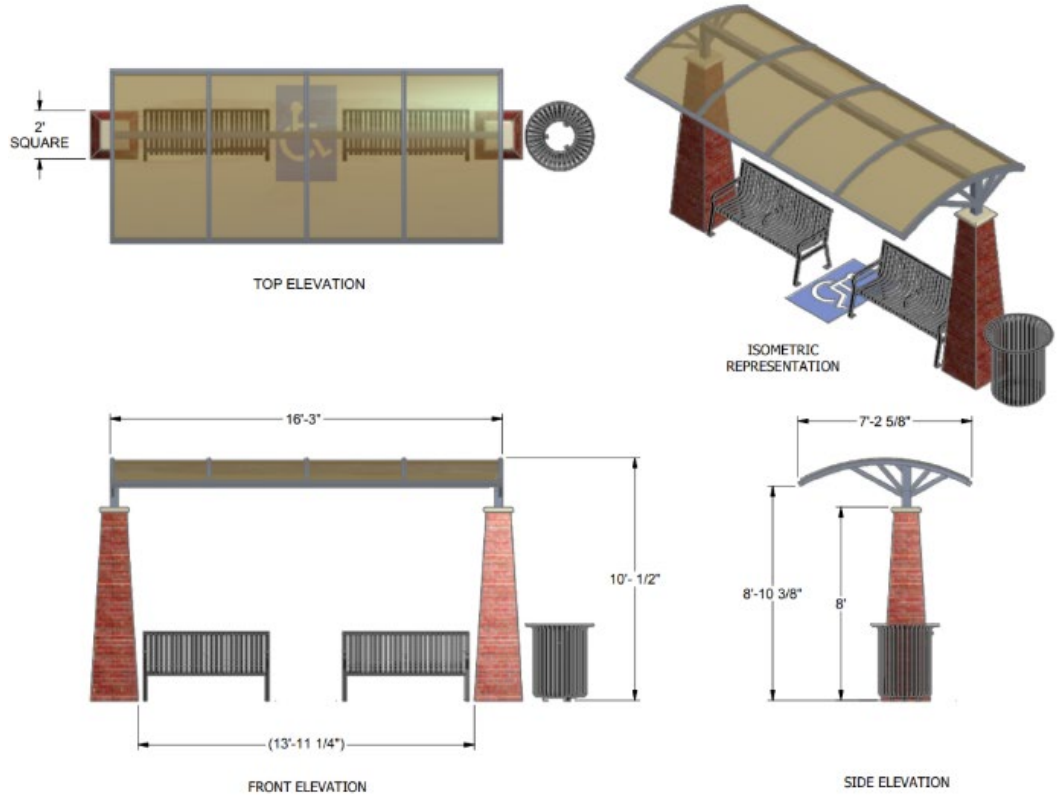
Figure 6-1: Typical Layout of Outdoor Sidewalk Dining Space (Downtown Design Guidelines)




Source: Downtown Design Guidelines

# 6.3 Design Guidelines

## 6.3.1 Street Furniture




1. **Street Furniture.** Incorporate a high level of street furniture including lighting, bus shelters, benches, tree grates, bike racks, and trash receptables.

    a. **Location.** The selection of appropriate elements should consider those streets with the heaviest foot traffic, such as Euclid Avenue, Holt Avenue and B Street, as well as existing sidewalk widths, size and spacing of trees, proximity to store entrances, etc.

    b. **Identity.** Street furniture should reflect the special character and theme of downtown Ontario to create a district identity. The use of repetitive materials and textures will create a rhythm and consistency that will bring continuity to the Districts and Blocks within the PUD area. Bus shelter furniture shall be constructed with decorative brick,.

    c. **ADA.** All street furniture shall comply with American with Disabilities Act of 1990.

    d. **Lighting.** Incorporate pedestrian-scaled lighting fixtures that emit a warm light along the streets and sidewalks; the sidewalks should be well-lit.

        i. **Euclid Avenue.** A combination of standard concrete and "King" standard post-top streetlights (Standard Drawing #5103) with LED lamps should be placed within the public sidewalk zone.

        ii. **Holt Boulevard.** A "King" standard post-top streetlights with LED lamps should be placed within the public sidewalk zone.

        iii. **Local Streets.** King standard post-top lights should be placed within the public sidewalk zone.

    e. **Glare.** Direct lighting along sidewalks and pedestrian pathways to produce a minimal glare.

i. All post-top lamps should incorporate shielding within the luminaire and/or globe to prevent glare into upper-level residential windows.

f. **Overhead Lighting.** Provide a minimum clearance height as required by City Services and the Fire Department for overhead lighting above local streets, such as B Street and The Alley to accommodate commercial trucks, service and maintenance vehicles, and emergency vehicles.

g. **Furniture Requirements.**

i. Benches should have arms and backs.

ii. A powder-coated, dark finish should be applied to all fixtures and furniture.

iii. Bollards may be placed at entrances to bicycle/pedestrian pathways and where controlled emergency, or maintenance access is required or desired. A bottom locking mechanism shall be provided to enable easy removal by authorized City personnel.

iv. Litter receptacles should have a fixed top.

v. Design of bus stop benches and shelters should satisfy the criteria specified by the City and local transit agency (currently Omnitrans).

vi. Bike racks should be located adjacent to parking areas or bicycle/pedestrian pathways.

*Street Benches*

*Trash Receptacles*

*Street furniture in the PUD area is intended to match those identified in the Downtown Civic Center Planned Unit Development, shown at left, to create a consistent streetscape identity along the west and east sides of Euclid Avenue*

## 6.3.2 Pedestrian Connections

1. **Pedestrian Pathways**. Regard sidewalks and paseos as unifying elements throughout the PUD area. Design and locate enhanced pathways and connections to promote walkability within Downtown.

2. **Euclid Avenue Pedestrian Paseos.** Provide mid-block paseos, where appropriate for clear and comfortable pedestrian circulation between Euclid Avenue and The Alley. Provide mid-block paseos and connections between Euclid Avenue to public outdoor spaces and public parking garages. See **Section 5.6.2** for required paseo dimensions.

3. **Traffic Calming.** Where applicable, implement traffic calming measures throughout the PUD area, including bulb-outs, enhanced crosswalks, and others to facilitate safe and comfortable pedestrian connections.

## 6.3.3 Public Realm Signage and Wayfinding

1. **The Alley Gateways.** Points of entry to the alley should include gateway elements or signage to create a sense of "welcoming" and wayfinding into the space.

2. **Signage.** Utilize signage and/or environmental graphics to aid in pedestrian orientation and wayfinding.

### Signs and Wayfinding in the Public Realm to Promote Identity

Signs and wayfinding within the public realm can provide many functions in a downtown area and can be oriented for pedestrians or vehicles. The types that are encouraged for the PUD area include district markers, banners, monument signage, pedestrian signage (eye level or on the ground), important places, such as historic or cultural resources, and alleys. Themes for signs and wayfinding in the public realm should be aligned with the Downtown Ontario Design Guideline's Historic Preservation Retail Subdistrict for the PUD area.

### 6.3.4 Parkways and Street Trees

1. **Parkways and Street Trees.** Parkways and street trees in the PUD area are subject to the City of Ontario Landscape Development Guidelines, the Master Street Tree Plan, and the City of Ontario Development Code. Tree plantings and design, such as tree sizes, irrigation methods, and tree wells require flexibility in the PUD area.

    a. **Euclid Avenue and Laurel Avenue Street Trees.** Appropriate street tree species and recommended sizes for Euclid Avenue is provided in **Table 6-1.**

**Table 6-1: Recommended Street Trees in the PUD Area**

| Botanical Name | Common Name | Recommended Size | Comments |
|---|---|---|---|
| **Euclid Avenue** | | | |
| Brachychiton Populneus | Bottle Tree | 24” Box | Standard |
| Pinus Elderica | Afghan Pine | 24” Box | Standard |
| **Laurel Avenue** | | | |
| Eucalyptus Torquata | Coral Gum | 24” Box | Standard |

**Importance of Street Trees and Parkways**

Street trees and parkways are important components of the public realm, and help to contribute to shade, a sense of place, and overall pedestrian comfort. The consistent use of tree species, size, and spacing along a street can help to create a pleasant rhythm and identify for an area. Species choices should consider access to both shade and sun along sidewalks.

# 7 Administration and Implementation

## 7.1 Development Code

Any terms not defined herein and any issues affecting the design and development of Projects in the PUD area that not specifically addressed in this PUD shall be governed by the provisions of the Ontario Development Code and the City's Standard Conditions of Approval Resolution No. R2017-027 for development.

## 7.2 Development Applications

Development Plan approval, pursuant to the requirements of Ontario Development Code Section 4.02.025 (Development Plans), shall be required for any Project that entails the physical alteration of any lot, construction of a building, or addition or significant alteration of an existing building in the PUD area as required by the Ontario Development Code. For each Project, a Development Plan application shall be submitted to the Planning Department on a City application form pursuant to the requirements of Ontario Development Code Division 2.02 (Application Filing and Processing), commencing with Subsection B (Discretionary Permits and Actions) of Section 2.02.015 (Application Processing Procedures).

## 7.3 Certificate of Appropriateness

To ensure proper implementation of the historic resource preservation and mitigation measures established in the Mitigated Negative Declaration for the PUD, an application for a Certificate of Appropriateness ("C of A") shall be submitted and approved in conjunction with each private or public improvement in the PUD area. Application requirements and required findings for approval of a C of A are pursuant to Section 4.02.050 (Historic Preservation—Certificates of Appropriateness and Demolition of Historic Resources) of the Ontario Development Code.

## 7.4 Exceptions

Deviation from the development standards set forth in this PUD 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 an amendment to this PUD.

## 7.5 CEQA Compliance

The Downtown West PUD Mitigated Negative Declaration was prepared in coordination with the City and in compliance with the City's Guidelines for the Implementation of the "California Environmental Quality Act (CEQA)" (See Appendix B). In 2022 The Ontario Plan or the City's General Plan was approved and the SEIR certified which approved updated land use designations through the City. Preparation of this Planned Unit Development or PUD has demonstrated that a Mitigated Negative Declaration for the approval of the PUD should be prepared. The Ontario Plan Final SEIR serves as a guide and many of the policies from the plan have been incorporated by reference. The Mitigated Negative Declaration for this project includes programmatic and project-level analysis of future land use intensities and changes to the public realm. Issues identified included historic resources, transportation, and aesthetics. No unmitigated impacts were present.

The City will be responsible for implementation of the Mitigation Monitoring and Reporting Program approved for the Downtown West Planned Unit Development project. This may involve application of one or more mitigation measures to implement this PUD, or fair-share proportions thereof.

## 7.6 Implementation

Implementation of the PUD will be primarily through the adoption of the new land use and development regulations. However, implementation of the holistic vision and guiding principles for the PUD area will require coordination across City departments and regional agencies, as well as funding to plan, design, and construct supportive investments in the public realm. These next steps will be implemented over time and will complement the land use and development regulations included in this PUD.

**Integrated shared infrastructure facilities,** such as parking, trash services, and open space opportunities to support new development and uses in the downtown area.

**Traffic calming and public realm enhancements,** such as bulb outs, crosswalk improvements, new street trees, and others.

**Downtown Historic Designation** which will be determined through a survey of Ontario's historic district using the themes of early commerce and settlement.

**Downtown Wayfinding and Signage Program** can help to create a consistent image for the city; improve navigation for all modes of travel; guide visitors to landmarks, facilities, and services; and promote walking, bicycling, and mass transit.

**Active transportation improvements,** such as the planned bike boulevard on Vine Avenue and B Street that will connect Ontario's historic downtown with De Anza Community & Teen Center and park, funded through the State's Active Transportation Program (ATP). Additional ATP grants can be explored to fund future active transportation improvements that benefit the PUD area.

**Public transit investments,** such as the West Valley Connector (WVC) project, which will be a 100% zero-emission Bus Rapid Transit (BRT) system that will upgrade a portion of existing Route 61 which runs along Holt Boulevard, additional approximately 3.5 miles of center running, dedicated bus-only lanes, and provide an improved transit connection to Ontario International Airport, two Metrolink lines, and multiple major activity centers.

# 8 Section References and Additional Resources

## 8.1 Historic Preservation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# Appendix A
# Ordinance Adopting PUD

# Appendix B
# Mitigation Monitoring Program