

**CITY OF ONTARIO
CITY COUNCIL/HOUSING AUTHORITY/ONTARIO PUBLIC
FINANCING AUTHORITY
AGENDA
NOVEMBER 16, 2021**

Paul S. Leon
Mayor

Alan D. Wapner
Mayor pro Tem

Jim W. Bowman
Council Member

Debra Dorst-Porada
Council Member

Ruben Valencia
Council Member



Sheila Mautz
City Clerk

James R. Milhiser
Treasurer

Scott Ochoa
City Manager

Ruben Duran
City Attorney

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 chambers will not be permitted. All those wishing to speak including Council and Staff need to be

WEARING A MASK DURING THE PUBLIC MEETING IS STRONGLY ENCOURAGED.

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

ORDER OF BUSINESS

The regular City Council and Housing Authority meeting begins with Closed Session and Closed Session Comment at 4:00 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.

CALL TO ORDER

ROLL CALL

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

CLOSED SESSION PUBLIC COMMENT

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

CLOSED SESSION

GC 54957.6, LABOR NEGOTIATIONS: City Negotiator: City Manager or his designees; Bargaining Units: AFSCME Local 3061, Teamsters Local 1932, AOME; and Confidential Group.

GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: Donastorg v. City of Ontario, et al., U.S. District Court, Central District of California, Case No. 5:18-cv-00992 JGB (SPx)

GC 54957, PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATIONS

Property: APN: 1083-351-07; 4200 E. Mission Boulevard, Ontario, CA 91761; City/Authority

negotiator: Scott Ochoa or his designee: Negotiating parties: Sample Real Estate, LLC: Under Negotiation: Price and terms of payment.

GC 54956.9(d)(1), CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Chino Basin Municipal Water District v. City of Chino et al., San Bernardino Superior Court Case No. RCV51010

GC 54956.9(d)(4), CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Two (2) Cases

ATTACHMENT: [20211116 Closed Session](#)

PLEDGE OF ALLEGIANCE

Council Member Dorst-Porada

INVOCATION

Pastor Bob Arreola, Truth In Love Family Ministries

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS

6:30 p.m.

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

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

AGENDA REVIEW/ANNOUNCEMENTS

The City Manager will go over all updated materials and correspondence received after the Agenda was distributed to ensure Council Members have received them.

He will also make any necessary recommendations regarding Agenda modifications or announcements regarding Agenda items to be considered.

CONSENT CALENDAR

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

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

1. APPROVAL OF MINUTES

Minutes for the regular meetings of the City Council and Housing Authority of October 19, 2021, and approving same as on file in the Records Management Department.

ATTACHMENT: [20211019 Minutes \(not official until approved\).pdf](#)

2. BILLS & PAYROLL

Bills October 15, 2021 through October 28, 2021, and Payroll October 10, 2021 through October 23, 2021 when audited by the Finance Committee.

3. A RESOLUTION APPROVING IMPROVEMENT AGREEMENTS, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 20273, LOCATED AT THE NORTHEAST CORNER OF MERRILL AVENUE AND GROVE AVENUE

That the City Council adopt a Resolution approving the following:

- A. Final Parcel Map No. 20273 located at the northeast corner of Merrill Avenue and Grove Avenue within the Merrill Commerce Center Specific Plan area;
- B. An Improvement Agreement and Improvement Security for the first phase of improvements required for the development of Final Parcel Map No. 20273; and
- C. A Phased Improvement Agreement deferring the construction of the remaining improvements required for the development of Final Parcel Map. No. 20273

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA APPROVING IMPROVEMENT AGREEMENTS, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 20273, LOCATED AT THE NORTHEAST CORNER OF MERRILL AVENUE AND GROVE AVENUE.

ATTACHMENT: [20211116 Parcel Map No. 20273^01 EXH A](#)

ATTACHMENT: [20211019 Parcel Map No. 20273^02^RESO^RM](#)

4. A PROFESSIONAL SERVICES AGREEMENT, STATEMENT OF WORK, AND SUBSCRIPTION LICENSE AGREEMENT FOR POLARIS INTEGRATED LIBRARY SYSTEM

That the City Council approve and authorize the City Manager to execute a Master Professional Services Agreement, Statement of Work, and Subscription License Agreement (on file in the

Records Management Department) in the amount of \$217,689 with Innovative Interfaces Incorporated, of Emeryville, California, to migrate the Polaris Integrated Library System (ILS) to a cloud environment and maintain the software for an initial three-year term.

5. ***AN AMENDMENT TO PROFESSIONAL SERVICES AGREEMENTS FOR ON-CALL APPRAISAL, LAND ACQUISITION, RELOCATION AND PROPERTY MANAGEMENT SERVICES***

That the City Council (“City”) and Ontario Housing Authority Board (“Authority”) approve and authorize the City Manager/Executive Director to execute Amendment No. 2 to Professional Services Agreements with R.P. Laurain & Associates to increase the not-to-exceed amount by \$50,000 to \$220,000, and to execute Amendment No. 2 to Professional Services Agreements with Property Specialists, Inc dba CPSI to increase the not-to-exceed amount by \$200,000 to \$995,813.

6. ***A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 17449, LOCATED SOUTH OF CHINO AVENUE, EAST OF CUCAMONGA CREEK CHANNEL AND WEST OF ARCHIBALD AVENUE***

That the City Council adopt a Resolution approving an Improvement Agreement, Improvement Security and Final Tract Map No. 17449, located south of Chino Avenue, east of Cucamonga Creek Channel and west of Archibald Avenue of the Countryside Specific Plan area.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 17449, LOCATED SOUTH OF CHINO AVENUE, EAST OF CUCAMONGA CREEK CHANNEL AND WEST OF ARCHIBALD AVENUE.

ATTACHMENT: 20211116 Tract Map No. 17449^01 EXH A

ATTACHMENT: 20211116 Tract Map No. 17449^02^RESO^RM

7. ***A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 17450, LOCATED SOUTH OF CHINO AVENUE, EAST OF CUCAMONGA CREEK CHANNEL AND WEST OF ARCHIBALD AVENUE***

That the City Council adopt a Resolution approving an Improvement Agreement, Improvement Security and Final Tract Map No. 17450 located south of Chino Avenue, east of Cucamonga Creek Channel and west of Archibald Avenue of the Countryside Specific Plan area.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 17450, LOCATED SOUTH OF CHINO AVENUE, EAST OF CUCAMONGA CREEK CHANNEL AND WEST OF ARCHIBALD AVENUE.

ATTACHMENT: 20211116 Tract Map No. 17450^01 EXH A

ATTACHMENT: 20211116 Tract Map No. 17450^02^RESO^RM

8. ***A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 20265, LOCATED AT THE SOUTHEAST***

CORNER OF MILL CREEK AVENUE AND ALMOND BLOSSOM STREET

That the City Council adopt a resolution approving an Improvement Agreement, Improvement Security and Final Tract Map No. 20265 located at the southeast corner of Mill Creek Avenue and Almond Blossom Street of the Rich Haven Specific Plan area.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 20265, LOCATED AT THE SOUTHEAST CORNER OF MILL CREEK AVENUE AND ALMOND BLOSSOM STREET.

ATTACHMENT: 20211116 Tract Map No. 20265^01 EXH A

ATTACHMENT: 20211116 Tract Map No. 20265^02^RESO^RM

9. FISCAL YEAR 2021-22 FIRST QUARTER BUDGET UPDATE REPORT

That the City Council approve the budget adjustments and recommendations as presented in the Fiscal Year 2021-22 First Quarter Budget Update Report.

ATTACHMENT: 20211116 FY 2021-22 First Quarter Budget Update Report^01 EXH A

10. ACCEPT WRITTEN PETITIONS TO CREATE A COMMUNITY FACILITIES DISTRICT; AND A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 56 (PARKSIDE/LA AVENIDA), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES; A RESOLUTION TO INCUR BONDED INDEBTEDNESS

That the City Council consider and:

- A. Accept written petitions (on file in the Records Management Department) from Woodside O5S, LP; SC Ontario Development Company, LLC; The New Home Company Southern California LLC; Lennar Homes of California, Inc; and Arroyo Cap II-1, LLC ("Landowners"), to create a Community Facilities District ("CFD") and to waive certain procedural matters, under the Mello-Roos Community Facilities Act of 1982; and
- B. Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 56 (Parkside/La Avenida), authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, December 21, 2021.
- C. Adopt a Resolution to Incur Bonded Indebtedness of proposed Community Facilities District No. 56 (Parkside/La Avenida).

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. 56 (PARKSIDE) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO INCUR BONDED INDEBTEDNESS OF THE PROPOSED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 56 (PARKSIDE/LA AVENIDA).

ATTACHMENT: 20211116 Community Facilities District No. 56 Parkside La Avenida^01 RESO of Intention^RM
ATTACHMENT: 20211116 Community Facilities District No. 56 Parkside La Avenida^01A RMA EXH C
ATTACHMENT: 20211116 Community Facilities District No. 56 Parkside La Avenida^02 RESO to Incur Bonded Indebtedness^RM

11. *APPROVAL OF A PRE-AUTHORIZED LIST OF SOLE-SOURCE VENDORS TO PROVIDE SPECIAL TAX CONSULTING, LEGAL, AND INVESTMENT BANKING SERVICES FOR THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICTS*

That the City Council approve the request for a pre-authorized Sole Source list of vendors for the City's bond financing team for future Community Facility District (CFD) formations and bond issues for a term of five years.

12. *A DEVELOPMENT CODE AMENDMENT, FILE NO. PDCA20-002, REVISING CERTAIN PROVISIONS ADDRESSING PUBLIC HEARING NOTIFICATIONS, ALLOWED USES WITHIN THE CS (CORNER STORE) ZONING DISTRICT, MINIMUM RECREATION AMENITIES WITHIN COMMON ACTIVE OPEN SPACE AREAS, AND OFF-STREET PARKING REQUIREMENTS FOR SMALL LOT INFILL SUBDIVISIONS*

That the City Council consider and adopt an ordinance approving File No. PDCA20-002, a Development Code Amendment proposing to revise certain provisions addressing public hearing notifications, allowed uses within the CS (Corner Store) zoning district, minimum recreation amenities within common active open space areas, and off-street parking requirements for small lot infill subdivisions.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA20-002, A DEVELOPMENT CODE AMENDMENT REVISING CERTAIN PROVISIONS ADDRESSING PUBLIC HEARING NOTIFICATIONS, ALLOWED USES WITHIN THE CS (CORNER STORE) ZONING DISTRICT, MINIMUM RECREATION AMENITIES WITHIN COMMON ACTIVE OPEN SPACE AREAS AND OFF-STREET PARKING REQUIREMENTS FOR SMALL LOT INFILL SUBDIVISIONS, AND MAKING FINDINGS IN SUPPORT THEREOF.

ATTACHMENT: 20211116 File No. PDCA20-002^01 EXH A
ATTACHMENT: 20211116 File No. PDCA20-002^03 ORD^RM

13. *AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 32 TO TITLE 5 OF VOLUME I TO THE ONTARIO MUNICIPAL CODE, RELATING TO ENFORCING VIOLATIONS OF CODES OF CONDUCT IN THE CITY LIBRARIES, MUSEUM OF HISTORY AND ART, AND RECREATION AND COMMUNITY SERVICES COMMUNITY CENTERS*

That the City Council adopt an ordinance to add Chapter 32 to Title 5 of Volume I to the Ontario Municipal Code relating to enforcing violations of Codes of Conduct in City libraries, the Museum of History and Art, and Recreation and Community Services community centers.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 32 TO TITLE 5 OF VOLUME I TO THE

ONTARIO MUNICIPAL CODE, RELATING TO ENFORCING VIOLATIONS OF CODES OF CONDUCT IN THE CITY LIBRARIES, MUSEUM OF HISTORY AND ART, AND RECREATION AND COMMUNITY SERVICES COMMUNITY CENTERS.

ATTACHMENT: 20211116 Granting Police Authorization to Assist CLC Staff in Enforcing Violations of Code of Conduct ORD^RM

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.

14. *A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT (FILE NO. PDA21-003) BETWEEN THE CITY OF ONTARIO AND CHINO AVENUE, LLC., TO ESTABLISH THE TERMS AND CONDITIONS FOR THE DEVELOPMENT OF TENTATIVE TRACT MAP 20281 (FILE NO. PMTT19-008), A 4.79 ACRE PROPERTY LOCATED AT 9510 EAST CHINO AVENUE, WITHIN THE NEIGHBORHOOD 3A LAND USE DISTRICT OF THE COUNTRYSIDE SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF - (APN: 0218-111-56)*

That the City Council introduce and waive further reading of an ordinance approving the Development Agreement (File No. PDA21-003) between the City of Ontario and Chino Avenue, LLC., to establish the terms and conditions for development of Tentative Tract Map 20281 (File No. PMTT19-008), a 4.79-acre property located at 9510 East Chino Avenue, within the Neighborhood 3A land use district of the Countryside Specific Plan.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA21-003, A DEVELOPMENT AGREEMENT, BETWEEN THE CITY OF ONTARIO AND CHINO AVENUE, LLC., TO ESTABLISH THE TERMS AND CONDITIONS FOR THE DEVELOPMENT OF TENTATIVE TRACT MAP 20281 (FILE NO. PMTT19-008), A 4.79 ACRE PROPERTY LOCATED AT 9510 EAST CHINO AVENUE, WITHIN THE NEIGHBORHOOD 3A LAND USE DISTRICT OF THE COUNTRYSIDE SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0218-111-56.

ATTACHMENT: 20211116 File No. PDA21-003 Chino Avenue LLC^01 AR EXH A & B

ATTACHMENT: 20211116 File No. PDA21-003 Chino Avenue LLC^02 ORD^RM

ATTACHMENT: 20211116 File No. PDA21-003 Chino Avenue LLC^03 AGMT

15. *A PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 8A OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATED TO THE WATER CONSERVATION PLAN AND AN ORDINANCE AMENDING CHAPTER 8C OF TITLE 6*

OF THE ONTARIO MUNICIPAL CODE RELATED TO RECYCLED WATER

That City Council introduce and waive further reading of an ordinance amending Chapter 8A of Title 6 of the Ontario Municipal Code pertaining to the City's Water Conservation Plan and introduce and waive further reading of an ordinance amending Chapter 8C of Title 6 of the Ontario Municipal Code pertaining to protection and regulation of the City's recycled water system.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 8A, OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE CITY'S WATER CONSERVATION PLAN.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 8C OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO RECYCLED WATER USE.

ATTACHMENT: [20211116 Water Conservation Plan^01 ORD^RM](#)
ATTACHMENT: [20211116 Water Conservation Plan^02 ORD EXH A^RM](#)
ATTACHMENT: [20211116 Recycled Water Use^03 ORD^RM](#)
ATTACHMENT: [20211116 Recycled Water Use^04 ORD EXH A^RM](#)

ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

16. APPROVAL OF THE ISSUANCE AND SALE OF BONDS TO REFINANCE CERTAIN PUBLIC CAPITAL IMPROVEMENTS FOR PUBLIC PURPOSES

That the City Council and the Ontario Public Financing Authority adopt a Resolution authorizing proceedings and agreements relating to the refinancing of public capital improvements for public purposes.

- A. City Council adopt a Resolution approving issuance and sale of bonds by the Ontario Public Financing Authority;
- B. Approving an Official Statement and authorizing official actions;
- C. Ontario Public Financing Authority adopt a Resolution of the Ontario Public Financing Authority authorizing the issuance of its Refunding Revenue Bonds in the aggregate principal amount of not to exceed \$37,000,000 in connection with the refinancing of public capital improvements;
- D. Authorizing and directing execution of an indenture of trust and an amended and restated lease agreement, escrow deposit and trust agreement;
- E. Authorizing the sale of the bonds and an Official Statement and authorizing official actions and execution of related documents; and
- F. Authorize the City Manager to negotiate and execute contracts for the services of Bond Counsel, Municipal Advisor, Underwriter, and Trustee.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING PROCEEDINGS AND AGREEMENTS RELATING TO THE REFINANCING OF PUBLIC CAPITAL IMPROVEMENTS FOR PUBLIC PURPOSES, APPROVING ISSUANCE AND SALE OF BONDS BY THE ONTARIO PUBLIC FINANCING AUTHORITY, APPROVING AN

OFFICIAL STATEMENT AND AUTHORIZING OFFICIAL ACTIONS.

A RESOLUTION OF THE ONTARIO PUBLIC FINANCING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE ISSUANCE OF ITS REFUNDING REVENUE BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$37,000,000 IN CONNECTION WITH THE REFINANCING OF PUBLIC CAPITAL IMPROVEMENTS, AUTHORIZING AND DIRECTING EXECUTION OF AN INDENTURE OF TRUST AND AN AMENDED AND RESTATED LEASE AGREEMENT, ESCROW DEPOSIT AND TRUST AGREEMENT AUTHORIZING THE SALE OF THE BONDS AND AN OFFICIAL STATEMENT AND AUTHORIZING OFFICIAL ACTIONS AND EXECUTION OF RELATED DOCUMENTS.

ATTACHMENT: [20211116 Ontario PFA 2021 Refunding LRBs -CITY Approving Bonds 01^RESO^RM](#)

ATTACHMENT: [20211116 Ontario PFA 2021 Refunding LRBs-OPFA Authority Authorizing Financing 02^RESO^RM](#)

17. *APPROVAL OF THE TAXABLE REFUNDING OF OUTSTANDING WATER REVENUE BONDS*

That the City Council and the Ontario Public Financing Authority adopt a Resolution authorizing the issuance and sale of water revenue refunding bonds, series 2021 (the “2021 Bonds”), to refinance 2013 water revenue bonds, authorizing execution of Indenture of Trust, and authorizing execution of and approving related agreements and official actions. Authorize the City Manager to negotiate and execute contracts for the services of Bond Counsel, Municipal Advisor, Underwriter, and Trustee.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE ISSUANCE AND SALE OF WATER REVENUE REFUNDING BONDS, SERIES 2021 TO REFINANCE 2013 WATER REVENUE BONDS, AUTHORIZING EXECUTION OF INDENTURE OF TRUST, AND AUTHORIZING EXECUTION OF AND APPROVING RELATED AGREEMENTS AND OFFICIAL ACTIONS.

A RESOLUTION OF THE ONTARIO PUBLIC FINANCING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION OF AN ESCROW AGREEMENT IN RELATION TO THE ISSUANCE AND SALE OF WATER REVENUE REFUNDING BONDS, SERIES 2021 TO REFINANCE 2013 WATER REVENUE BONDS.

ATTACHMENT: [21211116 Ontario 2021 Water Revenue Refunding Bonds^01 CITY RESO^RM](#)

ATTACHMENT: [20211116 Ontario 2021 Water Revenue Refunding Bonds- 02 OPFA RESO^RM](#)

STAFF MATTERS

CITY MANAGER OCHOA

COUNCIL MATTERS

MAYOR LEON

MAYOR PRO TEM WAPNER

COUNCIL MEMBER BOWMAN

COUNCIL MEMBER DORST-PORADA

COUNCIL MEMBER VALENCIA

ADJOURNMENT

CITY OF ONTARIO
CLOSED SESSION REPORT
City Council // Housing Authority // Other // (GC 54957.1)
November 16, 2021

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

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

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

- GC 54957.6, LABOR NEGOTIATIONS: City Negotiator: City Manager or his designees; Bargaining Units: AFSCME Local 3061, Teamsters Local 1932, AOME; and Confidential Group.

No Reportable Action	Continue	Approved
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Disposition: _____

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

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: Donastorg v. City of Ontario, et al., U.S. District Court, Central District of California, Case No. 5:18-cv-00992 JGB (SPx)

No Reportable Action	Continue	Approved
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Disposition: _____

**CITY OF ONTARIO
CLOSED SESSION REPORT**
City Council // Housing Authority // Other // (GC 54957.1)
November 16, 2021
(continued)

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

- GC 54957, PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

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

- GC 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS Property: APN: 1083-351-07; 4200 E. Mission Boulevard, Ontario, CA, 91761; City/Authority negotiator: Scott Ochoa or his designee: Negotiating parties: Sample Real Estate, LLC.; Under Negotiation: Price and terms of payment.

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

**CITY OF ONTARIO
CLOSED SESSION REPORT**
City Council // Housing Authority // Other // (GC 54957.1)
November 16, 2021
(continued)

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

- GC 54956.9(d)(1), CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Chino Basin Municipal Water District v. City of Chino et al., San Bernardino Superior
Court Case No. RCV51010

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

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

- GC 54956.9(d)(4), CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED
LITIGATION: Two (2) Cases

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

Reported by:

City Attorney / City Manager / Executive Director

**ONTARIO CITY COUNCIL/
ONTARIO HOUSING AUTHORITY
MINUTES
OCTOBER 19, 2021
(Not Official Until Approved)**

JOINT MEETINGS

Regular meetings of the Ontario City Council and Ontario Housing Authority were held on Tuesday, October 19, 2021 at the Ontario City Hall, 303 East B Street Ontario, California.

CALL TO ORDER

Mayor Leon called the Joint City Council and Ontario Housing Authority meetings to order at 6:01 p.m.

ROLL CALL

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

ABSENT: Council/Authority Members: None.

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

CLOSED SESSION PUBLIC COMMENT

Mayor Leon inquired whether persons were on the phone line 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 the City Council recessed to Closed Session at 6:03 p.m. for discussion of the following:

CLOSED SESSION

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: Donastorg v. City of Ontario, et al., U.S. District Court, Central District of California, Case No. 5:18-cv-00992 JGB (SPX)
- GC 54956.9(e)(5), CONFERENCE WITH LEGAL COUNSEL – SIGNIFICANT EXPOSURE TO LITIGATION. A copy of the documented threats are available in the Records Management Department

CALL TO ORDER – OPEN SESSION

Mayor Leon called the City Council and Ontario Housing Authority meetings to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE

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

INVOCATION

Mayor Leon led a moment of silent reflection in lieu of the Invocation.

REPORT ON CLOSED SESSION

City Attorney Duran announced there was no reportable action.

PUBLIC COMMENTS

Assistant City Clerk Isbell announced there were no emailed public comments.

Mayor Leon called on the public speakers:

Edgar Estrada, provided an update regarding upcoming events at the Hispanic Chamber of Commerce.

Oscar Hernandez, provided an update regarding upcoming events with the D'Andre Lampkin Foundation.

Martha Aragon, spoke regarding Francis explosion and requested permits be expedited.

Nya Palmer, spoke regarding Francis explosion and requested permits be expedited.

Jesse Fonseca, spoke on airplane noise.

Monica Ibarra, with the Ontario Mountain View Little League, expressed concerns about the safety at Westwind Park.

City Manager Ochoa, noted that the City will address an increase in staffing at parks.

Bertha Rodriguez, with the Ontario Mountain View Little League, expressed concerns about the safety at Westwind Park.

Chris Huicochea, with the Ontario Mountain View Little League expressed concerns about the safety at Westwind Park.

AGENDA REVIEW/ANNOUNCEMENTS

City Manager Ochoa announced updated materials to Exhibit A to the Resolution on Item No. 4. Materials were entered into the record.

CONSENT CALENDAR

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

1. APPROVAL OF MINUTES

The City Council approved Minutes for the special meetings of the City Council and Housing Authority on September 20, 2021 and September 21, 2021; and the regular meetings of the City Council and Housing Authority of September 21, 2021, and approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

The City Council approved **Bills** for the period September 17, 2021, through September 30, 2021, in the amount of \$10,996,618.74 and **Payroll** for the period September 12, 2021, through September 25, 2021, in the amount of \$3,681,452.87 when audited by the Finance Committee.

3. LEGISLATIVE UPDATE

The City Council received and filed the legislative update.

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

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

RESOLUTION NO. 2021-155 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A REPORT REQUESTING THE PLACEMENT OF SPECIAL ASSESSMENTS ON PROPERTY TAX BILLS FOR CIVIL PENALTIES OR RECOVERY OF COSTS INCURRED FOR ABATEMENT OF VIOLATIONS OF CITY CODES AND ORDINANCES.

5. A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT AND IMPROVEMENT SECURITY FOR LOTS 2 THROUGH 4 OF FINAL TRACT MAP NO. 20316, LOCATED AT THE NORTHWEST CORNER OF EUCALYPTUS AVENUE AND ARCHIBALD AVENUE

The City Council adopted a Resolution approving an Improvement Agreement and Improvement Security for Lots 2 through 4 of Final Tract Map No. 20316, located at the northwest corner of Eucalyptus Avenue and Archibald Avenue.

RESOLUTION NO. 2021-156 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT AND IMPROVEMENT SECURITY FOR LOTS 2 THROUGH 4 OF FINAL TRACT MAP NO. 20316, LOCATED AT THE NORTHWEST CORNER OF EUCALYPTUS AVENUE AND ARCHIBALD AVENUE.

6. AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH HARRIS & ASSOCIATES TO CREATE THE CITY OF ONTARIO'S STREET LIGHTING MAINTENANCE DISTRICT'S CAPITAL REPLACEMENT PLAN

The City Council authorized the City Manager to negotiate and execute an amendment to the existing agreement with Harris & Associates to create the City of Ontario's Street Lighting Maintenance District's Capital Replacement Plan, not to exceed \$25,900, subject to non-substantive changes as mutually agreed to by the City and Harris & Associates of Irvine, California.

7. AN AMENDMENT TO THE MAINTENANCE SERVICES AGREEMENT WITH RYMAX ELECTRICAL, INC. FOR ON-CALL ELECTRICAL SERVICES

The City Council approved and authorized the City Manager to execute Amendment No. 2 to the Maintenance Services Agreement with Rymax Electrical, Inc. of Upland, California, for on-call electrical services in the amount of \$225,000, for a revised not to exceed amount of \$370,952; and to exercise the two option years and extend the term of the agreement to June 30, 2025.

8. PROFESSIONAL SERVICES AGREEMENT FOR IMPLEMENTATION OF INTEGRATED WASTE ROUTING SOFTWARE

The City Council authorized the City Manager to execute a one-year Professional Services Agreement with Routeware, Inc., of Portland, Oregon, for the implementation of Integrated Waste Collection Routing Software with a one-time charge in the amount of \$390,115 and monthly recurring cost for nine months in the amount of \$105,451, for a total amount not to exceed \$495,566; and authorized the City Manager to extend the agreement for up to two additional one-year terms at the City's discretion for an amount not to exceed \$776,767 over a three-year term, consistent with future budgets approved by the City Council.

9. CONSTRUCTION CONTRACT FOR THE CNG COMPRESSOR REPLACEMENT AND UPGRADE

The City Council took the following actions:

- A. Authorized the City Manager to execute Construction Contract No. D&C19-006 – CNG Compressor Replacement Project with EFS West of Valencia, California, for the replacement and upgrade of the Compressed Natural Gas Compressors located at 1425 South Bon View Avenue in an amount not to exceed \$2,038,000;
- B. Authorized the City Manager or his designee to approve change orders and a 10% contingency of \$203,800 to address any unforeseen issues that may arise during construction; 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.

PUBLIC HEARINGS

10. A PUBLIC HEARING TO CONSIDER RESOLUTION REGARDING THE FORMATION OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES); AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES

The City Council:

- A. Adopted a Resolution of formation of the City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services), authorizing the levy of special tax within the Community Facilities District; and establishing an appropriations limit for the Community Facilities District
- B. Adopted a Resolution calling a special election for City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services);
- C. Adopted a Resolution declaring results of the special election and directing the recording of a Notice of Special Tax Lien; and
- D. Introduced and waived further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services).

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

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

RESOLUTION NO. 2021-157 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

RESOLUTION NO. 2021-158 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING A SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES).

MOTION: Moved by Council Member Bowman seconded by Council Member Dorst-Porada and carried by 5-0 vote, to approve Resolution No. 2021-157 and 2021-158.

City Clerk Mautz opened and announced the results of the ballot.

RESOLUTION NO. 2021-159 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF A SPECIAL ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN.

MOTION: Moved by Council Member Bowman, seconded by Council Member Dorst-Porada and carried by 5-0 vote, to approve Resolution No. 2021-159.

ORDINANCE NO. 3192 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES).

MOTION: Moved by Council Member Bowman, seconded by Council Member Dorst-Porada and carried by 5-0 vote, to introduce Ordinance No. 3192.

- 11. A PUBLIC HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S ACTION TO UPHOLD THE ZONING ADMINISTRATOR'S APPROVAL AND DENY THE APPEAL OF A CONDITIONAL USE PERMIT TO ESTABLISH AND CONSTRUCT A SECOND FLOOR, 574 SQUARE FOOT ACCESSORY DWELLING UNIT (ADU) EXCEEDING 16 FEET IN HEIGHT ON 0.245-ACRE OF LAND LOCATED AT 1515 SOUTH SAN ANTONIO AVENUE, WITHIN THE RE-2 (RURAL ESTATE 0 TO 2.0 DU/ACRE) ZONING DISTRICT (APN: 1050-031-44).**

The City Council conducted a public hearing on the Appeal and, after receiving all public testimony, upheld the Planning Commission's approval and denied the appeal of a Conditional Use Permit, File No. PCUP21-002, to establish and

construct an Accessory Dwelling Unit (ADU) exceeding 16 feet in height, on property located at 1515 S. San Antonio Avenue.

RESOLUTION NO. 2021-160 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, UPHOLDING THE PLANNING COMMISSION'S DECISION TO UPHOLD THE ZONING ADMINISTRATOR'S ACTION TO APPROVE FILE NO. PCUP21-002, A CONDITIONAL USE PERMIT TO ESTABLISH AND CONSTRUCT A 574 SQUARE FOOT ACCESSORY DWELLING UNIT ("ADU") EXCEEDING 16 FEET IN HEIGHT ON 0.245-ACRE OF LAND LOCATED AT 1515 SOUTH SAN ANTONIO AVENUE, WITHIN THE RE-2 (RURAL ESTATE - 0 TO 2.0 DU/ACRE) ZONING DISTRICT; AND MAKING FINDINGS IN SUPPORT THEREOF - APN: 1050-031-44.

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

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

Vincent Roldan, the Appellant, spoke in opposition of the Accessory Dwelling Unit (ADU) and proposed an option where the dwelling meets the property roofline, as opposed to a free-standing addition.

Tamara Soussa, representing the owner, spoke in support of the ADU.

Executive Director of Community Development Scott Murphy provided a brief background.

Vincent Roldan, reiterated his point that he was not opposed to the building of the ADU, but rather had suggestions of it being aligned with the roof of the existing home.

Hearing no one else, Mayor Leon closed the public hearing.

MOTION: Moved by Mayor pro Tem Wapner, seconded by Council Member Bowman and carried by 5-0 vote, to deny the appeal.

STAFF MATTERS

City Manager Ochoa made no comments.

COUNCIL MATTERS

Council Member Dorst-Porada thanked Downtown Ontario Improvement Association for the fall decorations. She also spoke on the success of the 3rd Annual Arts Festival.

Mayor pro Tem Wapner, reminded everyone October was Breast Cancer Awareness month and spoke on the importance of medical screenings and preventative health.

Council Member Bowman, reminded all Ontario residents of the recreation programs that can be found in the Ontario Living Magazine.

Council Member Valencia, spoke on the success of the first Farmers Market in Ontario and announced an upcoming event at the Ovitt Library regarding services offered to veterans.

Mayor Leon recommend that the Farmers Market be moved to Saturday or extended hours on Sunday. He also noted his walk-through with City staff at the new Anthony Muñoz Community Center. Lastly, he sent condolences to the Powell family regarding the recent death of former United States Secretary of State, Colin Powell.

ADJOURNMENT

Mayor Leon adjourned the meetings of the Joint Agencies at 7:34 p.m., in memory of Colin Powell, and announced the next regular meeting to be held on Tuesday, November 2, 2021.

Respectfully submitted,

SHEILA MAUTZ, CITY CLERK/SECRETARY

APPROVED:

PAUL S. LEON, MAYOR/CHAIRMAN

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Engineering
Prepared By: Jesus Plasencia
Staff Member Presenting:
Scott Murphy, Executive Director Community
Development
Reviewed By: Raymond Lee, Khoi Do
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 3

SUBJECT: A RESOLUTION APPROVING IMPROVEMENT AGREEMENTS, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 20273, LOCATED AT THE NORTHEAST CORNER OF MERRILL AVENUE AND GROVE AVENUE

RECOMMENDATION: That the City Council adopt a Resolution approving the following:

- A. Final Parcel Map No. 20273 located at the northeast corner of Merrill Avenue and Grove Avenue within the Merrill Commerce Center Specific Plan area;
- B. An Improvement Agreement and Improvement Security for the first phase of improvements required for the development of Final Parcel Map No. 20273; and
- C. A Phased Improvement Agreement deferring the construction of the remaining improvements required for the development of Final Parcel Map. No. 20273

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. All public infrastructure improvements required for this subdivision will be constructed by the Developer at its sole cost.

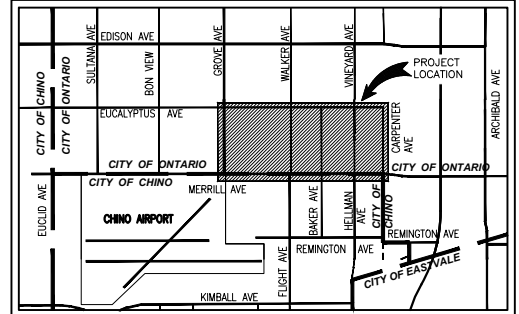
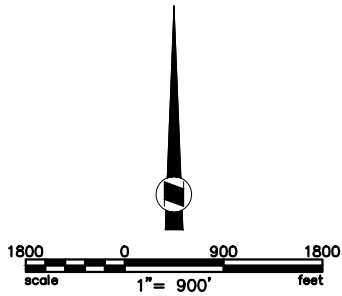
BACKGROUND & ANALYSIS: Final Parcel Map No. 20273, consisting of 22 industrial lots and five lettered lots on approximately 386 acres of land, as shown on Exhibit A, has been submitted by the Developer, Prologis L.P., A Delaware Limited Partnership. The Tentative Parcel Map No. 20273 was approved by the Planning Commission on March 23, 2021.

Improvements will include AC pavement, curb, gutter, sidewalk, landscaped parkways, fiber optic conduits, sewer, water, recycled water mains, storm drain, and street lights. Improvements in the parkways will be consistent with current City approved drought measures.

The Developer has entered into an Improvement Agreement with the City for the first phase of public improvements for Final Parcel Map No. 20273 and has posted adequate security to ensure construction of those improvements. The City and the Developer agreed that the remaining improvements for Final Parcel Map No. 20273 can be deferred pursuant to a Phased Improvement Agreement, which has been reviewed and approved by the City Attorney. This map meets all conditions of the Subdivision Map Act and the Ontario Municipal Code and has been reviewed and approved by the City Engineer.

EXHIBIT A PM-20273 MERRILL COMMERCE CENTER

25



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING IMPROVEMENT AGREEMENTS, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 20273, LOCATED AT THE NORTHEAST CORNER OF MERRILL AVENUE AND GROVE AVENUE.

WHEREAS, Tentative Parcel Map No. 20273, submitted for approval by Prologis L.P., a Delaware Limited Partnership was approved by the Planning Commission of the City of Ontario on March 23, 2021; and

WHEREAS, Tentative Parcel Map No. 20273 consists of 22 industrial lots and 5 lettered lots within the Merrill Commerce Center Specific Plan area being a subdivision of Lots 1 through 32, inclusive of Section 21, together with Lots 7 through 10, inclusive, and Lots 23 through 26, inclusive of Section 22, both in Township 2 South, Range 7 West, San Bernardino Meridian, According to the Map of Subdivision of Part of Rancho Santa Ana Del Chino, Recorded in Book 6 of Maps, Page 15, excepting land described in Grant Deeds Recorded 10/27/1981 as Instrument No. 1981-237434 of Official Records and Recorded 3/17/2020 as Instrument No. 2020-0095627 of Official Records, all in the Office of the County Record of San Bernardino County; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Parcel Map No. 20273, said Developer has offered an improvement agreement for the first phase of improvements together with good and sufficient improvement security, in conformance with the City Attorney's approved format, for approval and execution by the City; and

WHEREAS the City and Developer agreed the remaining improvements for Parcel Map No. 20273 can be deferred pursuant to a Phased Improvement Agreement, reviewed by the City Attorney, for approval and execution by the City; and

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

1. That Final Parcel Map No. 20273 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of the City.
2. That said Improvement Agreement be, and the same is, approved and the City Manager is authorized to execute same on behalf of said City, and the City Clerk is authorized to attest thereto; and
3. That said Improvement Security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney; and

4. That said Phased Improvement Agreement be, and the same is, approved and the City Manager is authorized to execute same on behalf of said City, and the City Clerk is authorized to attest thereto.

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

PASSED, APPROVED, AND ADOPTED this 16th day of November 2021.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST, BEST & KREIGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 16, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held November 16, 2021.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Library
Prepared By: Alonso Ramirez
Staff Member Presenting:
Helen McAlary, Executive Director Community
Life and Culture
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 4

SUBJECT: A PROFESSIONAL SERVICES AGREEMENT, STATEMENT OF WORK, AND SUBSCRIPTION LICENSE AGREEMENT FOR POLARIS INTEGRATED LIBRARY SYSTEM

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute a Master Professional Services Agreement, Statement of Work, and Subscription License Agreement (on file in the Records Management Department) in the amount of \$217,689 with Innovative Interfaces Incorporated, of Emeryville, California, to migrate the Polaris Integrated Library System (ILS) to a cloud environment and maintain the software for an initial three-year term.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Operate in a Businesslike Manner

Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: The total citywide Polaris Integrated Library System cost, which includes implementation, training, data extraction, migration, installation, and an annual 10% contingency, will total \$217,689 over three (3) years. Funding for year one (1), totaling \$72,727, is included in the Fiscal Year 2021-22 Information Technology Internal Service Fund. Funding for year (2), in the amount of \$71,060, and year (3), in the amount of \$73,902, will be secured as part of the IT Annual Operating budget process.

BACKGROUND & ANALYSIS: The Ontario City Library uses an integrated library system (ILS) to conduct library business. The ILS is an online searchable database of all library materials, as well as an online database of all library patron accounts; the ILS allows library staff and patrons to search for books, check them out, return them, and calculate any fines or fees associated with them.

In 2012, the City went live with the Polaris Integrated Library System. At the time, Polaris was a cutting-edge ILS. However, the system remains hosted on-premises and requires considerable administrative overhead to keep it up-to-date. The hardware running the system is dated and therefore it is recommended to migrate the Polaris ILS to a cloud environment to improve efficiency and provide better value.

Migrating the Polaris ILS to a cloud environment will allow the library to update to the latest version of Polaris, giving both staff and patrons the latest features and providing a richer mobile-friendly experience. The move will also reduce the administrative overhead of the system, eliminate the need for

Library and IT staff to perform system updates, system backups, and will also provide enhanced cyber security. Lastly, this move to a hosted environment will provide a level of redundancy that was not available with the system running on-premise, better protecting data stored within the system.

Final contract approval will also be contingent upon approval of insurance by Risk Management.

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Economic Development
Prepared By: Karla Tavera
Staff Member Presenting:
Jennifer McLain Hiramoto, Economic
Development Director
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 5

SUBJECT: AN AMENDMENT TO PROFESSIONAL SERVICES AGREEMENTS FOR ON-CALL APPRAISAL, LAND ACQUISITION, RELOCATION AND PROPERTY MANAGEMENT SERVICES

RECOMMENDATION: That the City Council (“City”) and Ontario Housing Authority Board (“Authority”) approve and authorize the City Manager/Executive Director to execute Amendment No. 2 to Professional Services Agreements with R.P. Laurain & Associates to increase the not-to-exceed amount by \$50,000 to \$220,000, and to execute Amendment No. 2 to Professional Services Agreements with Property Specialists, Inc dba CPSI to increase the not-to-exceed amount by \$200,000 to \$995,813.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Operate in a Businesslike Manner

Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: The Fiscal Year 2021-22 Adopted Budget includes appropriations from the Water Capital Fund, Housing Authority Fund, and General Fund for these services. These proposed amendments will increase on-call appraisal services by \$50,000 and on-call land acquisition, relocation and property management services by \$200,000. The amended not-to-exceed amount for R.P Laurain & Associates will be \$220,000 and \$995,813 for Property Specialists, Inc dba CPSI.

BACKGROUND & ANALYSIS: On August 19, 2019, after an extensive solicitation and procurement selection process, the City and Authority entered into on-call Professional Services Agreements with R.P. Laurain & Associates for appraisal services and with Property Specialists, Inc dba CPSI for on-call land acquisition, relocation and property management services. These selections were based on the firms' experience, knowledge and qualifications. The City and the Authority have continued working on high priority projects that require the need for land valuation estimates, appraisal reports, environmental assessments, property acquisition activities, and title and escrow services. The Professional Services Agreements with both R.P. Laurain and Property Specialists, Inc dba CPSI are currently in the second (2) year of three (3) year terms. The Professional Services Agreements allow for options to extend for a period of up to two (2) additional years. There is a current need to amend the on-call Professional Services Agreement for appraisal, land acquisition, relocation and property management services to increase the not-to-exceed amounts and continue to use these firms for ongoing projects.

Since 2019, the City has utilized these two contracts as Staff has been actively pursuing real estate acquisitions and relocations as a way to improve the quality of life for the business and residential community. With newly announced infrastructure projects, such as the West Valley Connector,

continued progress in revitalizing Downtown Ontario, and ongoing improvements near the Ontario International Airport, the City is currently investigating the purchase of property surrounding these areas. Ultimately, acquiring these properties will result in eliminating blight, increasing property and sales tax revenues, and providing enhanced amenities to Ontario residents, businesses and visitors.

The requested increases in both contracts will enable the City to continue its ongoing real estate and acquisition services in an effort to achieve the highest and best use of property throughout Ontario.

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Engineering
Prepared By: Michael Bhatanawin
Staff Member Presenting:
Scott Murphy, Executive Director Community
Development
Reviewed By: Raymond Lee, Khoi Do
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 6

SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 17449, LOCATED SOUTH OF CHINO AVENUE, EAST OF CUCAMONGA CREEK CHANNEL AND WEST OF ARCHIBALD AVENUE

RECOMMENDATION: That the City Council adopt a Resolution approving an Improvement Agreement, Improvement Security and Final Tract Map No. 17449, located south of Chino Avenue, east of Cucamonga Creek Channel and west of Archibald Avenue of the Countryside Specific Plan area.

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)

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. All public infrastructure improvements required for this subdivision will be constructed by the Developer at its sole cost.

BACKGROUND & ANALYSIS: Final Tract Map No. 17449, consisting of 97 numbered lots and 19 lettered lots on approximately 17 acres of land, as shown on Exhibit A, has been submitted by the Developer, Lennar Homes of California, Inc., a California corporation. Tentative Tract Map No. 17449 was approved by the Planning Commission on February 22, 2011.

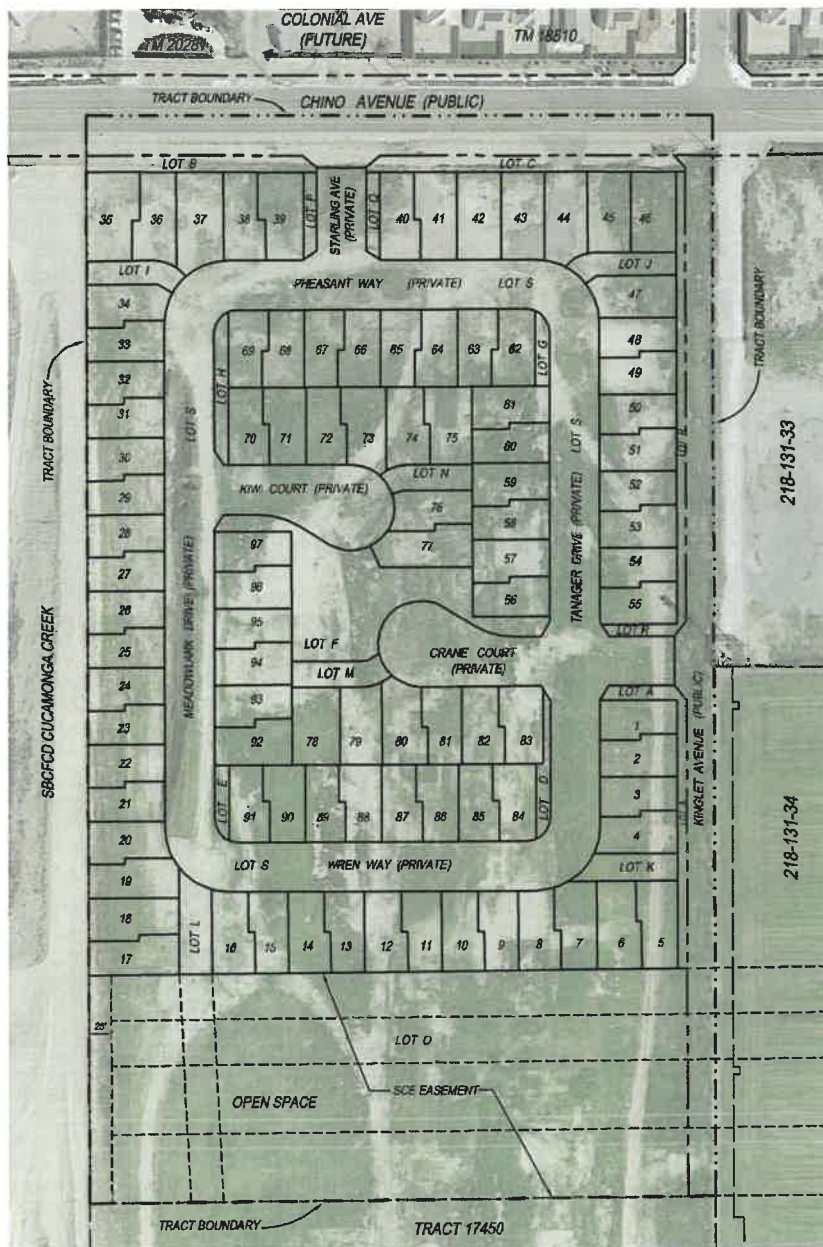
Improvements will include AC pavement, curb, gutter, sidewalk, landscaped parkways, fiber optic conduits, fire hydrants, sewer, water, recycled water mains, storm drain, and streetlights. Improvements in the parkway will be consistent with current City approved drought measures.

The Developer has entered into an Improvement Agreement with the City for Final Tract Map No. 17449 and has posted adequate security to ensure construction of the required public improvements. This map meets all conditions of the Subdivision Map Act and the Ontario Municipal Code and has been reviewed and approved by the City Engineer.

EXHIBIT A

TRACT MAP 17449

SHEET 1 OF 1



L.D. KING

Engineers/Surveyors

L.D. KING, INC.
975 N. HAVEN AVENUE SUITE 200
ONTARIO, CA 91764
PHONE: (909) 945-0526

CITY OF ONTARIO
ENGINEERING DEPARTMENT

APPLICANT:
LENNAR HOMES OF CALIFORNIA INC.,
A CALIFORNIA CORPORATION

PROJECT: TRACT MAP 17449

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 17449 LOCATED SOUTH OF CHINO AVENUE, EAST OF CUCAMONGA CREEK CHANNEL AND WEST OF ARCHIBALD AVENUE.

WHEREAS, Tentative Tract Map No. 17449 submitted for approval by Forestar Countryside, LLC, was approved by the Planning Commission of the City of Ontario on February 22, 2011; and

WHEREAS, Tentative Tract Map No. 17449 consists of 97 numbered lots and 19 lettered lots being a subdivision of a portion of the West $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 10, Township 2 South, Range 7 West, San Bernardino Meridian, in the City of Ontario, County of San Bernardino, State of California, according to the official plat of said land in the office of the Bureau of Land Management, filed September 16, 1873, together with a portion of Block 5 of the Moist Belt Tract, in the City of Ontario, County of San Bernardino, State of California, as per plat recorded in Book 12 of Maps, Page 45, records of said County; and

WHEREAS, Tentative Tract Map No. 17449 was subsequently sold to Lennar Homes of California, Inc., a California corporation; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Tract Map No. 17449, Lennar Homes of California, Inc., a California corporation has offered the Improvement Agreement together with good and sufficient improvement security, in conformance with the City Attorney's approved format, for approval and execution by the City; and

WHEREAS, the requirement for the preparation of Covenants, Conditions and Restrictions (CC&R's), approved by the City Attorney's Office, to ensure the right to mutual ingress and egress and continued maintenance of common facilities by the commonly affected property owners has been deferred to a date that coincides with the recordation of the subject Tract Map.

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

1. That said Improvement Agreement be, and the same is, approved and the City Manager is authorized to execute same on behalf of said City, and the City Clerk is authorized to attest thereto; and
2. That said Improvement Security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney; and
3. That Final Tract Map No. 17449 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

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

PASSED, APPROVED, AND ADOPTED this 16th day of November 2021.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST, BEST & KREIGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 16, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held November 16, 2021.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Engineering
Prepared By: Michael Bhatanawin
Staff Member Presenting:
Scott Murphy, Executive Director Community
Development
Reviewed By: Raymond Lee, Khoi Do
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 7

SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 17450, LOCATED SOUTH OF CHINO AVENUE, EAST OF CUCAMONGA CREEK CHANNEL AND WEST OF ARCHIBALD AVENUE

RECOMMENDATION: That the City Council adopt a Resolution approving an Improvement Agreement, Improvement Security and Final Tract Map No. 17450 located south of Chino Avenue, east of Cucamonga Creek Channel and west of Archibald Avenue of the Countryside Specific Plan area.

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)

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. All public infrastructure improvements required for this subdivision will be constructed by the Developer at its sole cost.

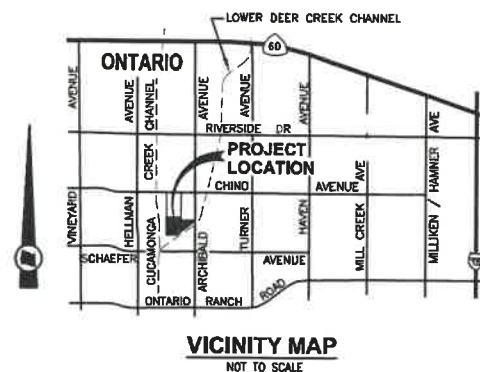
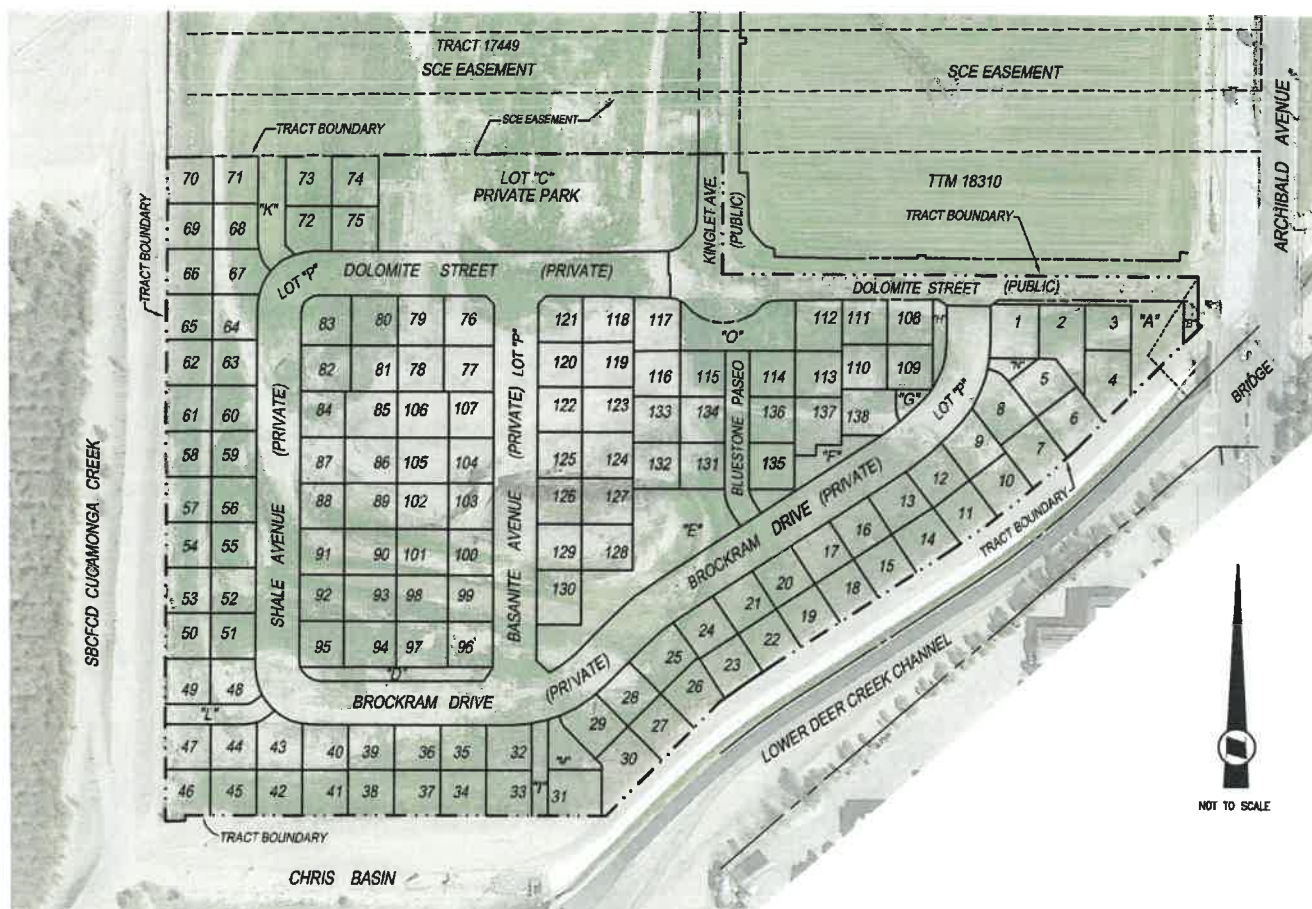
BACKGROUND & ANALYSIS: Final Tract Map No. 17450, consisting of 138 numbered lots and 16 lettered lots on approximately 16 acres of land, as shown on Exhibit A, has been submitted by the Developer, Lennar Homes of California, Inc., a California corporation. Tentative Tract Map No. 17450 was approved by the Planning Commission on February 22, 2011.

Improvements will include AC pavement, curb, gutter, sidewalk, landscaped parkways, fiber optic conduits, fire hydrants, sewer, water, recycled water mains, storm drain, and streetlights. Improvements in the parkway will be consistent with current City approved drought measures.

The Developer has entered into an Improvement Agreement with the City for Final Tract Map No. 17450 and has posted adequate security to ensure construction of the required public improvements.

This map meets all conditions of the Subdivision Map Act and the Ontario Municipal Code and has been reviewed and approved by the City Engineer.

EXHIBIT A TRACT MAP 17450



LKING

Engineers/Surveyors

L.D. KING, INC.
975 N. HAVEN AVENUE SUITE 200
ONTARIO, CA 91764
PHONE: (909) 945-0526

CITY OF ONTARIO
ENGINEERING DEPARTMENT

APPLICANT:
LENNAR HOMES OF CALIFORNIA INC.,
A CALIFORNIA CORPORATION

PROJECT: TRACT MAP 17450

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 17450 LOCATED SOUTH OF CHINO AVENUE, EAST OF CUCAMONGA CREEK CHANNEL AND WEST OF ARCHIBALD AVENUE.

WHEREAS, Tentative Tract Map No. 17450 submitted for approval by Forestar Countryside, LLC, was approved by the Planning Commission of the City of Ontario on February 22, 2011; and

WHEREAS, Tentative Tract Map No. 17450 consists of 138 numbered lots and 16 lettered lots being a subdivision of a portion of the Southeast $\frac{1}{4}$ of Section 10, Township 2 South, Range 7 West, San Bernardino Meridian, in the City of Ontario, County of San Bernardino, State of California, according to the official plat of said land in the office of the Bureau of Land Management, filed September 16, 1873, together with a portion of Block 5 of the Moist Belt Tract, in the City of Ontario, County of San Bernardino, State of California, as per plat recorded in Book 12 of Maps, Page 45, records of said County; and

WHEREAS, Tentative Tract Map No. 17450 was subsequently sold to Lennar Homes of California, Inc., a California corporation; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Tract Map No. 17450, Lennar Homes of California, Inc., a California corporation has offered the Improvement Agreement together with good and sufficient improvement security, in conformance with the City Attorney's approved format, for approval and execution by the City; and

WHEREAS, the requirement for the preparation of Covenants, Conditions and Restrictions (CC&R's), approved by the City Attorney's Office, to ensure the right to mutual ingress and egress and continued maintenance of common facilities by the commonly affected property owners has been deferred to a date that coincides with the recordation of the subject Tract Map.

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

1. That said Improvement Agreement be, and the same is, approved and the City Manager is authorized to execute same on behalf of said City, and the City Clerk is authorized to attest thereto; and
2. That said Improvement Security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney; and
3. That Final Tract Map No. 17450 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

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

PASSED, APPROVED, AND ADOPTED this 16th day of November 2021.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST, BEST & KREIGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 16, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held November 16, 2021.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Engineering
Prepared By: Michael Bhatanawin
Staff Member Presenting:
Scott Murphy, Executive Director Community
Development
Reviewed By: Raymond Lee, Khoi Do
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 8

SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 20265, LOCATED AT THE SOUTHEAST CORNER OF MILL CREEK AVENUE AND ALMOND BLOSSOM STREET

RECOMMENDATION: That the City Council adopt a resolution approving an Improvement Agreement, Improvement Security and Final Tract Map No. 20265 located at the southeast corner of Mill Creek Avenue and Almond Blossom Street of the Rich Haven Specific Plan area.

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

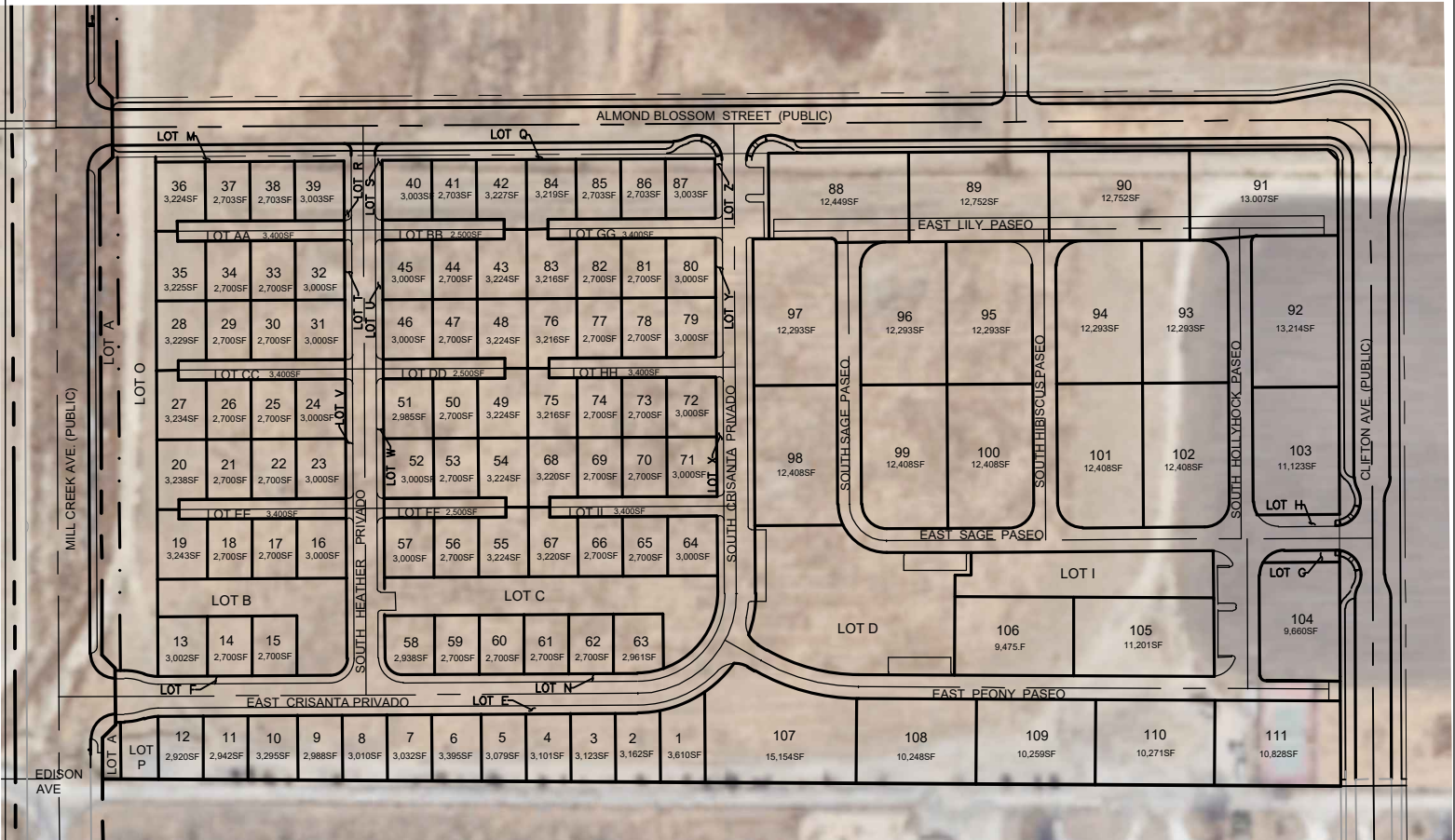
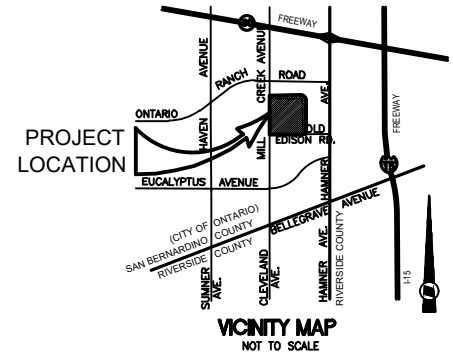
FISCAL IMPACT: There is not a direct fiscal impact associated with this action. All public infrastructure improvements required for this subdivision will be constructed by the Developer at its sole cost.

BACKGROUND & ANALYSIS: Final Tract Map No. 20265, consisting of 111 numbered lots and 39 lettered lots on approximately 16 acres of land, as shown on Exhibit A, has been submitted by the Developer, Shea Homes Limited Partnership, a California limited partnership. Tentative Tract Map No. 20265 was approved by the Planning Commission on March 23, 2021.

Improvements will include AC pavement, curb, gutter, sidewalk, landscaped parkways, fiber optic conduits, fire hydrants, sewer, water, recycled water mains, storm drain, and streetlights. Improvements in the parkway will be consistent with current City approved drought measures.

The Developer has entered into an Improvement Agreement with the City for Final Tract Map No. 20265 and has posted security to ensure construction of the required public improvements. This map meets all conditions of the Subdivision Map Act and the Ontario Municipal Code and has been reviewed and approved by the City Engineer.

EXHIBIT A TRACT 20265



PREPARED BY:



2850 Inland Empire Blvd. Suite B
Ontario, California 91764
Phone (909) 581-0676
FAX (909) 581-0696

APPLICANT/OWNER



2 ADA, Suite 200
Irvine, CA 92618
(949) 526-8800

CITY OF ONTARIO
ENGINEERING DEPARTMENT

FILE NO. TM. 20265

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 20265 LOCATED AT THE SOUTHEAST CORNER OF MILL CREEK AVENUE AND ALMOND BLOSSOM STREET.

WHEREAS, Tentative Tract Map No. 20265 submitted for approval by GDC-RCC 2, L.P., was approved by the Planning Commission of the City of Ontario on March 23, 2021; and

WHEREAS, Tentative Tract Map No. 20265 consists of 111 numbered lots and 39 lettered lots being a subdivision of Parcel B of Lot Line Adjustment No LLA 19-014, as shown on the lot line adjustment recorded January 25, 2021 as instrument number 2021-0033895 of official records in the office of the County Recorder of San Bernardino County; and

WHEREAS, Tentative Tract Map No. 20265 was subsequently sold to Shea Homes Limited Partnership, a California limited partnership; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Tract Map No. 20265, Shea Homes Limited Partnership, a California limited partnership has offered the Improvement Agreement together with good and sufficient improvement security, in conformance with the City Attorney's approved format, for approval and execution by the City; and

WHEREAS, the requirement for the preparation of Covenants, Conditions and Restrictions (CC&R's), approved by the City Attorney's Office, to ensure the right to mutual ingress and egress and continued maintenance of common facilities by the commonly affected property owners has been deferred to a date that coincides with the recordation of the subject Tract Map.

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

1. That said Improvement Agreement be, and the same is, approved and the City Manager is authorized to execute same on behalf of said City, and the City Clerk is authorized to attest thereto; and
2. That said Improvement Security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney; and
3. That Final Tract Map No. 20265 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

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

PASSED, APPROVED, AND ADOPTED this 16th day of November 2021.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST, BEST & KREIGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 16, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held November 16, 2021.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Financial Services

Prepared By: Doreen Nunes

Staff Member Presenting:

Armen Harkalyan, Executive Director of Finance

Reviewed By: Armen Harkalyan, Darlene M

Sanchez

Approved By:



Submitted To: Council/OHA

Approved: _____

Continued To: _____

Denied: _____

Item No: 9

SUBJECT: FISCAL YEAR 2021-22 FIRST QUARTER BUDGET UPDATE REPORT

RECOMMENDATION: That the City Council approve the budget adjustments and recommendations as presented in the Fiscal Year 2021-22 First Quarter Budget Update Report.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Operate in a Businesslike Manner

FISCAL IMPACT: The recommended actions will affect several fund budgets as outlined in the Fiscal Year 2021-22 First Quarter Budget Update Report.

BACKGROUND & ANALYSIS: The First Quarter Budget Update Report for Fiscal Year 2021-22 reflects the Financial Services Agency's continued efforts to provide timely, accurate, and understandable financial information to assist the City Council with decision making and achievement of core goals. All Funds have been reviewed in preparing this report. The emphasis of this report is on the General Fund, which funds most government services including public safety, recreation, library, museum, parks, building and planning.

The primary purposes of this report are to:

- Discuss Fiscal Year 2020-21 Year-End Results and Fiscal Year 2021-22 First Quarter Update and provide a reconciliation of budgeted-to-actual financial data;
- Address annual carryforward appropriations across all funds;
- Recognize budgetary carryforward amounts for prior year's approved Capital Improvement Projects and Grant appropriations, which are ongoing;
- Revise the City's budget to reflect the City Council's actions taken since the beginning of the current fiscal year;
- Recommend personnel and organizational changes to enhance program operations and efficiency;
- Recommend budget adjustments that are consistent with City Council goals and objectives; and
- Comment on significant budget and economic trends which may impact fiscal year's budget development.

Fiscal Year 2020-21 General Fund Year-End Results (unaudited)

The General Fund activity for FY 2020-21 resulted in a positive year-end balance of approximately \$35.87 million. This result is primarily due to higher sales tax revenue than anticipated for the latter half

of the fiscal year (January through June 2021), increased charges for services revenues (development related revenue) as Ontario Ranch and commercial/industrial development in the City continue to move forward at a strong pace, and personnel savings from the eliminated positions as a result of the Retirement/Separation Incentive Program (RSIP) implemented as a result of the financial impact of the COVID-19 pandemic. In addition, the City was able to realize approximately \$22.8 million of American Rescue Plan Act (ARPA) funding for citywide revenue losses experienced during the COVID-19 pandemic period.

Fiscal Year 2021-22 First Quarter Budget Update Recommendations

First Quarter Budget Update recommendations are routine in nature and comprised predominately by: City Council actions taken since the beginning of the fiscal year, encumbrance carryforward items to rollover purchase orders that have not yet been expended, and Capital Improvement Program (CIP) and Grant carryforward appropriations on projects and grants that have not been completed or fully expended. In addition, First Quarter includes proposed new expenditure budget requests, as well as revised revenue estimates for FY 2021-22. For the General Fund, the net result of these actions will bring the General Fund estimated available and unencumbered ending fund balance to \$47,502,809 or 16.3% of total appropriations. This amount achieves the 15% goal adopted by City Council effective July 1, 2020, as a result of the uncertainty from the COVID-19 pandemic. Staff recommends City Council adopt a new General Fund reserve amount of 16%, with the goal of 20% to be attained in future fiscal years. The General Fund reserve is for specific and defined emergency events (such as an earthquake or pandemic) and to address immediate needs in resources without impacting City services.

The following are some significant First Quarter Budget highlights for the General Fund and Other Funds. The complete list of first quarter recommendations are included on the attached exhibit A, pages 18 through 28 and pages 31 through 42.

General Fund Highlights

- \$15.0M Transfer-out from General Fund to fund future CalPERS Unfunded Actuarial Liability (UAL)/RSIP
- \$15.8M Transfer-out from General Fund to fund Economic Development Activities
- \$8.2M Transfer-out from General Fund for additional funding to Information Technology fund
- \$7.8M Carryforward Encumbrances from FY 2020-21
- \$5.4M Allocation to Economic Uncertainty Reserve (bringing the total Economic Uncertainty Reserve to \$15 million)
- \$1.4M Transfer of Fire Strike Team appropriations and related estimated revenues from General Fund to a new Special Revenue Fund/Fire Mutual Aid Fund
- \$1.1M Agreement with Inland Valley Humane Society for Animal Control Services/offset by revenue of \$733K (City Council approved 7/20/2021)
- \$1.0M Recommended personnel changes (approximately \$248K offset by revenue)
- \$942K Funding for the replacement purchase of LIFEPAK 15 cardiac monitors
- \$645K Additional appropriations for engineering plan check and inspection services (offset by revenue)
- \$573K Additional appropriations for tree trimming five-year cycle catch-up and windstorm damage

Other Funds (non-General Fund) Highlights

- \$249.8M Carryforward Encumbrances from FY 2020-21
- \$30.1M Repayment of lease financing arrangement with the Ontario Industrial Development Authority (City Council approved 3/02/2021)
- \$11.5M Appropriations for Broadband expansion project/Phase 1; total financing approved of

- approximately \$18.25M (City Council approved 7/20/2021)
- \$11.4M Contribution to Sec 115 OPEB Trust for future retiree medical costs
- \$9.5M Additional appropriations for construction of well 37 and 39
- \$5.0M Appropriations for Ontario Ranch Great Park land purchase installment agreement (City Council approved 11/05/2019)
- \$3.6M Additional appropriations for well number 43 (City Council Approved 5/17/2021)
- \$3.3M Property acquisition on North Euclid, West D Street, and West E Street (City Council Approved 9/07/2021)
- \$2.3M Property acquisition on South Grove, Main Street, South Von View, and East Washington (9/03/2019)
- \$1.9M Appropriations for Climatec/energy efficient equipment lease purchase agreement (City Council Approved 9/15/2020)
- \$1.9M Additional appropriations for Mountain & Holt Intersection widening project
- \$713K Recommended personnel changes

Interim budget updates also present recommendations for personnel and organizational changes necessary to enhance program operations and efficiencies. Current recommendations for this First Quarter report include reclassification changes, adds/deletes, and other modifications to the authorized full-time positions resulting in a net increase of 28 positions citywide (16.6 positions are funded from General Fund and 11.4 positions are funded from other funds). More detail is presented in the attached exhibit A under Recommended Personnel Changes section, pages 18 through 21, of the FY 2021-22 First Quarter Budget Update Report.

Gainshare Program

The Gainshare Program was developed in Spring 2020 to recognize and reward employees' collective progress towards City goals and objectives. The program rewards high-performance and cost-efficient operations in attaining Agency Strategic Objectives (ASO) and achievement as measured by Key Performance Indicators (KPI). ASOs are outcome-driven objectives that the City uses to communicate and commit to our Agencies' missions, visions, and values. KPIs are intended to be output-driven and are measurable values that demonstrate how effectively the City is achieving key objectives. Together, ASOs and KPIs are used as guides to keep score of our successes and challenges.

Through dedication, hard work and overall contributions, as well as providing essential governmental services during the COVID-19 pandemic, Ontario employees achieved program requirements for FY 2020-21 and have unlocked a Gainshare incentive of 1% of base compensation for all employees. Included in the First Quarter Budget Update Report is appropriations of \$1,057,161 for this Gainshare or premium pay, with General Fund's share at \$824,823 and Other Funds' share at \$232,338.

COVID-19 Vaccination Incentive Program

Authorize the City Manager to execute a COVID-19 Vaccination Incentive Program. The COVID-19 vaccine is our most powerful tool to minimize the transmission of the coronavirus or its associated variants and has been found to drastically reduce the chances of experiencing severe symptoms from the disease. The City is committed to promoting a safe and healthy work environment while continuing to attract and retain a highly qualified workforce. Therefore, the City of Ontario is encouraging employees to get fully vaccinated by implementing a COVID-19 Vaccination Incentive Program and providing the incentives described below for employees who are, or do become, fully vaccinated by January 31, 2022 or within 90 days of hire whichever is later. The incentive program (on record in the City Clerk's Office) will provide eligible full-time or part-time/seasonal employees who have been fully vaccinated for COVID-19 a leave bank credit equal to one (1) day for full-time employees or five (5) hours for part-time employees and an additional day for employees who receive the booster

vaccination upon eligibility. If an employee does not use this time within twelve (12) months of receipt of these hours, the hours shall be paid out to the employee at their then current base rate of pay. Additional paid sick leave may be granted to vaccinated employees who are absent due their own illness related to COVID-19 upon depletion of any federal and state mandated leave. The City's COVID-19 Vaccination Incentive Program shall remain in effect until the City modifies or rescinds said Program.

Economic Outlook

Most current data and economists' forecast expect growth to be around 6% in 2021 and 4.2% in 2022. The following economic indicators are the most recent measures of economic activity.

- Gross Domestic Product (GDP): the broadest measure of economic output, increased at an annual rate of 2.0% in the third quarter of 2021 (advance estimate), following an increase of 6.7% in the second quarter. The deceleration in real GDP in the third quarter was led by a slowdown in consumer spending. A resurgence of COVID-19 cases resulted in new restrictions and delays in the reopening of establishments in some parts of the country.
- Unemployment Rate: the national unemployment rate for October 2021 was at 4.6% as compared to 6.9% in October 2020 and 3.6% in October of 2019. California's unemployment rate for September 2021 was at 7.5% as compared to 10.6% in September 2020 and 4.1% in September 2019. Locally, unemployment rate in September 2021 was at 6.6% as compared to 10.6% in September 2020 and 3.9% in September 2019. Employment continues to grow as the economy recovers from the COVID-19 pandemic.
- Consumer Confidence Index (CCI): for September 2021, the CCI was at 109.3. This is a decrease from the previous index of 115.2 for August 2021 and 125.1 for July 2021. The CCI has dropped for three straight months suggesting concerns over the delta variant and higher commodity prices.
- Purchasing Manager's Index (PMI): for October 2021, PMI was at 60.8% compared to 58.8% in October 2020 and 48.3% in September of 2019. This reading designated an overall expansion of the manufacturing economy compared to prior years.
- Housing market: in California, 438,190 existing home sales have been recorded year to date. This represents a decrease of 10.5% year to year and a 16.8% increase year to date. In the Inland Empire, the median sale price of existing single-family homes experienced no change from August 2021 to September 2021 but did record a 16.9% increase year-to-year from September 2020 to September 2021. For 2022, supply constraints and higher home prices will bring California home sales down slightly in 2022. Existing, single-family home sales are forecasted to total 416,800 units in 2022, a decline of 5.2% from 2021's projected pace of 439,800.

Conclusion

While the economy has begun to rebound slowly, uncertainties still exist as the COVID-19 pandemic does not appear to be going away anytime soon. The City of Ontario has been taking every precaution to prioritize community health, slow the rate of transmission of COVID-19, and assist community members who are at risk of serious illness. The effects of the COVID-19 recession are inevitably forcing the City to change the way it conducts business to ensure its future financial stability. Economic indicators suggest a slow recovery over the next several years. Although it is unlikely to realize structural balance until the crisis is resolved; the City has been able to sustain its operationally balanced budget with continued expenditure restraint, ongoing fiscal monitoring, and the use of additional fund balance reserves.

Other major challenges are the City's revenues which will soon be outpaced in the forthcoming fiscal years by increasing pension expenses, rising medical benefit costs, and the overall cost of labor. Moreover, the City should be mindful that in providing service to Ontario Internal Airport Authority

(OIAA) and Ontario Ranch, there is an absorption cost factor to consider as service demands continue to grow and evolve. For the City to successfully manage these significant budget issues, while coping with a lean organization as a result of the retirement separation incentive program for the recent budget balancing strategies, it is recommended that the City continue to practice fiscal discipline and establish proactive measures to safely navigate the current and upcoming fiscal challenges.

The Adopted Operating Budget for Fiscal Year 2021-22, as modified through this First Quarter Budget Update, reflects the City Council's continued commitment to support high quality public safety and municipal services, provides for the maintenance and expansion needs of the City's infrastructure and facilities, profiles an aggressive economic development strategy, and assures the investment and reinvestment of City resources into the community - all in the name of affording Ontario residents and businesses an exceptional quality of life. Although there are a lot of unknowns about the rate of the nation's recovery from the COVID-19 pandemic, there is no doubt Ontario will recover. As the economy continues to bounce back, public health guidelines become less restrictive for businesses to safely reopen, and travel restrictions are minimized or lifted, revenue sources are anticipated to increase in the coming years. With the City Council's leadership and their prudent fiscal policies, the City's long-term financial health will further solidify its standing as the economic leader in the Inland Empire, and a formidable player in California, and the nation.

Fiscal Year 2021-22 First Quarter Budget Update



November 16, 2021

City of Ontario
Fiscal Year 2021-22
First Quarter Budget Update Report

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FY 2020-21 Year-End Results (unaudited)



City of Ontario General Fund Year-End Results - Revenues by Category Fiscal Year 2020-21					
	FY 2020-21 Current Budget ¹	FY 2020-21 Actuals ²	FY 2020-21 Budget Variance	% Received	
Sales Tax	\$ 95,000,000	\$ 105,424,829	\$ 10,424,829	111.0%	
Property Tax	70,425,000	72,179,907	1,754,907	102.5%	
Transient Occupancy Tax	9,460,000	10,614,109	1,154,109	112.2%	
Business License Tax	7,160,000	8,559,248	1,399,248	119.5%	
Franchise Tax	3,000,000	3,251,867	251,867	108.4%	
Parking Tax	2,000,000	1,725,332	(274,668)	86.3%	
Other Taxes	800,000	1,781,853	981,853	222.7%	
License & Permits	6,050,000	8,423,831	2,373,831	139.2%	
Fines & Forfeitures	428,800	656,407	227,607	153.1%	
Use of Money & Property	1,981,797	464,089	(1,517,708)	23.4%	
Intergovernmental	4,100,720	4,337,898	237,178	105.8%	
Intergovernmental - ARPA ³	13,753,816	22,804,646	9,050,830	165.8%	
Charges for Services	12,280,979	15,487,750	3,206,771	126.1%	
Charges for Services - OIAA ⁴	17,760,013	13,495,517	(4,264,497)	76.0%	
Miscellaneous Revenue	11,395,466	14,959,887	3,564,421	131.3%	
Sub-Total	\$ 255,596,591	\$ 284,167,170	\$ 28,570,579	111.2%	
Transfers-In	11,134,138	15,815,917	4,681,779	142.0%	
Total Resources	\$ 266,730,729	\$ 299,983,087	\$ 33,252,358	112.5%	

¹Reflects adjustments made at First Quarter, Mid-Year and Year-End

²FY 2020-21 Actuals are unaudited

³ ARPA: American Rescue Plan Act

⁴ OIAA: Ontario International Airport Authority

City of Ontario General Fund Year-End Results - Expenditures by Agency Fiscal Year 2020-21					
	FY 2020-21	FY 2020-21	FY 2020-21		
	Current Budget¹	Actuals²	Budget Variance	% Expended	
Community Development	\$ 26,370,171	\$ 22,720,874	\$ 3,649,297	86.2%	
Community Life & Culture	15,198,495	14,105,001	1,093,494	92.8%	
Elected Officials	643,516	489,998	153,518	76.1%	
Financial Services	10,171,883	9,145,202	1,026,681	89.9%	
Human Resources	4,266,948	4,173,431	93,517	97.8%	
Management Services	22,974,119	24,201,664	(1,227,545)	105.3%	
Ontario Fire Department	65,185,866	68,720,993	(3,535,127)	105.4%	
Ontario Police Department	97,939,170	97,066,112	873,058	99.1%	
Public Works	13,992,267	12,955,999	1,036,268	92.6%	
Sub-Total	\$ 256,742,435	\$ 253,579,274	\$ 3,163,161	98.8%	
Transfers-Out	7,755,288	10,410,848	(2,655,560)	134.2%	
Total Expenditures & Transfers-Out	\$ 264,497,723	\$ 263,990,122	\$ 507,601	99.8%	

¹ Reflects adjustments made at First Quarter, Mid-Year and Third Quarter

² FY 2020-21 Actuals are unaudited and includes Carryforward Encumbrances total of \$5.02M from FY 2019-20

City of Ontario <u>General Fund</u> Year-End Results - Expenditures by Category Fiscal Year 2020-21					
	FY 2020-21	FY 2020-21	FY 2020-21		
	Current Budget¹	Actuals²	Budget Variance	% Expended	
Personnel Costs	\$ 173,809,457	\$ 176,913,041	\$ (3,103,584)	101.8%	
Operating Expenditures	28,717,884	\$ 24,332,780	4,385,104	84.7%	
Contractual Services	17,976,703	\$ 14,787,436	3,189,267	82.3%	
Internal Service Allocations	28,047,098	\$ 27,868,545	178,553	99.4%	
Reimbursement Agreements	6,662,000	\$ 8,355,494	(1,693,494)	125.4%	
Capital Outlay	1,529,294	\$ 1,321,978	207,315	86.4%	
Sub-Total	\$ 256,742,435	\$ 253,579,274	\$ 3,163,161	98.8%	
Transfers-Out	7,755,288	\$ 10,410,848	(2,655,560)	134.2%	
Total Expenditures & Transfers-Out	\$ 264,497,723	\$ 263,990,122	\$ 507,601	99.8%	

¹ Reflects adjustments made at First Quarter, Mid-Year and Third Quarter

² FY 2020-21 Actuals are unaudited and includes Carryforward Encumbrances total of \$5.02M from FY 2019-20

City of Ontario General Fund Year-End Reconciliation (unaudited) Fiscal Year 2020-21	
Fiscal Year 2020-21 Revised Budget:	
Beginning Fund Balance 7/01/2020	\$ 69,767,177
Resources & Transfers-In ¹	\$ 299,983,087
Appropriations & Transfers-Out	\$ (263,990,122)
Assigned to ILS Pension Obligation	\$ (120,000)
<i>Surplus/(Deficit)</i>	<i>\$ 35,872,965</i>
Estimated Ending Fund Balance - 6/30/2021	\$ 105,640,142
Fiscal Year 2020-21 Carryforward Encumbrances	\$ (7,898,379)
Recommended Funding for Future CalPERS UAL/RSIP	\$ (15,000,000)
Recommended Funding for Economic Development Activities	\$ (15,800,000)
Recommended Allocation to Economic Uncertainty Reserve	\$ (5,400,000)
Recommended Funding for Information Technology Fund	\$ (8,200,000)
Revised Estimated Fund Balance	\$ 53,341,763
Estimated General Fund Reserve %²	20.2%

¹ Includes \$22.8M in American Rescue Plan Act (ARPA) funding.

² Council adopted the FY 2020-21 budget by reducing Fund Balance Reserve from 18% to 15% as part of the Balancing Strategies, with direction to strive back at 20% reserve level.

City of Ontario General Fund Strategic Use of Funds	
(1) Issuance of Pension Obligation Bonds/Safety PERS Unfunded Liability FY 2019-20	\$ 236,585,000
(2) Internal Borrowing for Miscellaneous PERS Unfunded Liability FY 2019-20	\$ 102,069,692
(3) Real Property Investment Loan FY 2020-21	\$ 30,000,000
Property Sale (pending October 2021) FY 2021-22	\$ 41,421,938
Gain on Sale of Property FY 2021-22	\$ 11,421,938
(4) Real Property Investment for Airport Drive FY 2020-21	\$ 28,000,000
(5) Recommended Funding for Future CalPERS Unfunded Liability (RSIP) FY 2021-22	\$ 15,000,000
(6) Recommended Funding for Economic Development Activities FY 2021-22	\$ 15,800,000
(7) Economic Uncertainty Reserve Balance FY 2020-21	\$ 9,600,000
Recommended Allocation to Economic Uncertainty Reserve FY 2021-22	\$ 5,400,000
Recommended Economic Uncertainty Reserve Balance FY 2021-22	\$ 15,000,000
(8) Recommended Funding for Information Technology Fund FY 2021-22	\$ 8,200,000

FY 2021-22 First Quarter Budget Update



City of Ontario <u>General Fund Revenue by Category</u> Fiscal Year 2021-22 First Quarter Budget Update							
	FY 2021-22 Adopted Budget	Post Adoption Budget Update	First Quarter Budget Update	FY 2021-22 Revised Budget	Actuals as of 09/30/2021	% Received	
Sales Tax	\$ 100,500,000	\$ -	\$ -	\$ 100,500,000	\$ 9,640,991	9.6%	
Property Tax	73,821,754	-	-	73,821,754	-	0.0%	
Transient Occupancy Tax	11,000,000	-	-	11,000,000	1,864,846	17.0%	
Business License Tax	7,700,000	-	-	7,700,000	1,388,580	18.0%	
Franchise Tax	3,000,000	-	-	3,000,000	-	0.0%	
Parking Tax	2,100,000	-	-	2,100,000	545,257	26.0%	
Other Taxes	1,000,000	-	-	1,000,000	415,533	41.6%	
License & Permits	4,752,000	-	802,500	5,554,500	1,880,619	33.9%	
Intergovernmental	382,000	-	-	382,000	6,860	1.8%	
Intergovernmental - ARPA ¹	14,651,623	-	-	14,651,623	-	0.0%	
Charges for Services	21,006,178	-	1,120,253	22,126,431	2,924,896	13.2%	
Charges for Services - OIAA ²	20,465,576	1,516,641	-	21,982,217	3,228,653	14.7%	
Use of Money & Property	1,661,198	-	-	1,661,198	87,646	5.3%	
Fines & Forfeitures	703,000	-	50,000	753,000	158,466	21.0%	
Miscellaneous	9,417,060	-	(1,561,843) ⁴	7,855,217	1,995,694	25.4%	
Total General Fund Revenues	\$ 272,160,389	\$ 1,516,641	\$ 410,910	\$ 274,087,940	\$ 24,138,041	8.8%	
Transfers-In	4,000,000	-	-	4,000,000	4,000,000	100.0%	
TOTAL RESOURCES	\$ 276,160,389	\$ 1,516,641	\$ 410,910	\$ 278,087,940	\$ 28,138,041	10.1%	
TOTAL EXPENDITURES & TRANSFERS-OUT	\$ 271,858,334	\$ 1,908,888	\$ 49,159,672³	\$ 330,825,273	\$ 69,554,246	21.0%	
Net Surplus / (Use of Fund Balance)	\$ 4,302,055	\$ (392,247)	\$ (48,748,762)	\$ (52,737,333)	\$ (41,416,205)	78.5%	

¹ American Rescue Plan Act² Ontario International Airport Authority³ Transfers-out includes one time transfers for \$15M Future CalPERS UAL/RSIP, \$15.8M for Economic Development Activities and \$8.2M for Information Technology funding⁴ Includes \$1.4M transfer of Fire Strike Team from General Fund to Special Revenue Fund (Fire Mutual Aid)

City of Ontario <u>General Fund Expenditures by Category</u> Fiscal Year 2021-22 First Quarter Budget Update								
	FY 2021-22 Adopted Budget	Post Adoption Budget Update	CIP/Grants/POs Carryforward	First Quarter Budget Update	FY 2021-22 Revised Budget	Actuals as of 9/30/2021 ¹	% Expended	
Personnel Costs	\$ 181,990,473	\$ 1,550,759	\$ -	\$ 556,435 ²	\$ 184,097,667	\$ 36,565,618	19.9%	
Operating Expenditures	25,470,902	20,000	1,270,689	1,425,245 ³	28,186,836	11,730,000	41.6%	
Contractual Services	13,978,664	-	3,010,777	2,922,669 ⁴	19,912,110	7,984,261	40.1%	
Internal Service Allocations	31,572,580	102,278	-	26,001 ⁵	31,700,859	7,568,098	23.9%	
Reimbursement Agreements	7,265,412	-	10,803	165,637 ⁶	7,441,852	216,439	2.9%	
Capital Outlay	720,000	-	30,679	1,737,000 ⁷	2,487,679	13,904	0.6%	
Transfers-Out	10,860,303	235,851	3,575,431	42,326,685 ⁸	56,998,270	5,475,927	9.6%	
Total General Fund Appropriations	\$ 271,858,334	\$ 1,908,888	\$ 7,898,379	\$ 49,159,672	\$ 330,825,273	\$ 69,554,246	21.0%	
FTE General Fund	839.16	12.40	-	15.58	867.14			
FTE Other Funds	379.84	0.60	-	11.42	391.86			
Total FTE All Funds	1,219.00	13.00	-	27.00	1,259.00			

¹ Includes expenses and encumbrances/PO's.

² Personnel costs includes \$960K in personnel requests, \$824K for gainshare program and a reduction of \$1.4M for Fire Strike Team (Fire Mutual Aid) to Special Revenue Fund.

³ Operating expenditures includes \$120K for Inland Library System Pension Obligation, \$180K for OPD equipment and \$95K for paint and restore decorative streetlights on Euclid.

⁴ Contractual services includes \$1.1M for Humane Society contract, \$845K for development related contract increases and \$573K for tree-trimming funding.

⁵ Internal service allocations includes personnel related costs for workers' compensation and self-insurance.

⁶ Reimbursement agreements includes \$165K for Lewis Piemonte Land agreement.

⁷ Capital Outlay includes \$942K for paramedic program cardiac monitors, \$300K for Phase 2 fire station alerting.

⁸ Transfers-Out includes \$15M for CalPERS UAL/RSIP, \$15.8M for Economic Development activities, \$8.2M for Information Technology funding and \$1.4M Fire Strike Team to Special Revenue Fund (Fire Mutual Aid).

City of Ontario General Fund Expenditures by Agency Fiscal Year 2021-22 First Quarter Budget Update									
	FY 2021-22 Adopted Budget		Post Adoption Budget Update	CIP/Grants/POs Carryforward	First Quarter Budget Update	FY 2021-22 Revised Budget	Actuals as of 9/30/2021 ¹	% Expended	
Community Development	\$	23,439,619	\$ -	\$ 2,575,961	\$ 2,287,841 ²	\$ 28,303,421	\$ 6,506,764	23.0%	
Community Life & Culture		16,891,835	20,000	457,268	715,567 ³	18,084,670	3,884,083	21.5%	
Elected Officials		654,329	-	-	-	654,329	115,087	17.6%	
Financial Services		11,406,092	-	86,948	186,137 ⁴	11,679,177	2,746,384	23.5%	
Human Resources		4,386,945	-	161,399	468,661 ⁵	5,017,005	1,304,203	26.0%	
Management Services		19,663,610	136,396	341,954	846,989 ⁶	20,988,949	3,943,247	18.8%	
Ontario Fire Department		69,086,214	321,821	420,058	386,379 ⁷	70,214,472	16,370,577	23.3%	
Ontario Police Department		101,064,446	1,194,820	151,749	1,012,977 ⁸	103,423,992	22,217,360	21.5%	
Public Works		14,404,941	-	127,611	928,436 ⁹	15,460,988	6,990,614	45.2%	
Transfers-Out		10,860,303	235,851	3,575,431	42,326,685 ¹⁰	56,998,270	5,475,927	9.6%	
Total Appropriations & Transfers-Out	\$	271,858,334	\$ 1,908,888	\$ 7,898,379	\$ 49,159,672	\$ 330,825,273	\$ 69,554,246	21.0%	
FTE General Fund		839.16	12.40	-	15.58	867.14			
FTE Other Funds		379.84	0.60	-	11.42	391.86			
Total FTE All Funds		1,219.00	13.00	-	27.00	1,259.00			

¹ Includes expenses and encumbrances/PO's.

² Community Development includes \$1.1M for Humane Society contract, \$845K for development related contracts and \$207K for personnel requests.

³ Community Life & Culture includes \$133K for personnel requests, \$120K for Inland Library System Pension Obligation, \$65K for Holiday Parade, and \$40K for CoC Data Collection Module.

⁴ Financial Services includes \$158K for personnel requests and \$28K for gainshare program.

⁵ Human Resources includes \$175K for retired annuitant costs, \$90K for recruitment services contract, \$75K for new workstations, \$61K for personnel requests and \$50K for employee development subscription.

⁶ Management Services includes \$165K for agreement with Lewis Piemonte Land LLC and \$80K for Central Services printer replacement.

⁷ Ontario Fire Department includes transfer of \$1.4M OT for Fire Strike Team to Special Revenue Fund, \$972K for paramedic program cardiac monitors, \$200K for Phase II alerting station and \$172K for personnel requests.

⁸ Ontario Police Department includes \$355K for gainshare program, \$180K for equipment purchase, \$175K for personnel requests, \$92K for billing and collection contract and \$51K for crossing guard services.

⁹ Public Works includes \$573K for 5 year cycle tree trimming, \$95K for paint and restore of decorative streetlights on Euclid, \$79K for new concrete sidewalk on Francis and \$55K for personnel requests.

¹⁰ Transfers- Out includes \$15M for CalPERS UAL/RSIP, \$15.8M for Economic Development activities, \$8.2M for Information Technology funding and \$1.4M Fire Strike Team to Special Revenue Fund (Fire Mutual Aid).

City of Ontario General Fund Budget Summary Fiscal Year 2021-22 First Quarter Budget Update	
Fiscal Year 2021-22 Revised Budget:	
Estimated Beginning Fund Balance	\$ 105,640,142
Fiscal Year 2021-22 Adopted Budget:	
Resources	276,160,389
Appropriations	(271,858,334)
Post Adoption Budget Adjustment	
Resources	1,516,641
Appropriations	(1,908,888)
First Quarter Budget Recommendations	
Resources	410,910
Appropriations	(10,159,672)
Fiscal Year 2020-21 Carryforward Encumbrances	(7,898,379)
Recommended Funding for Future CalPERS UAL/RSIP	(15,000,000)
Recommended Funding for Economic Development Activities	(15,800,000)
Recommended Allocation to Economic Uncertainty Reserve	(5,400,000)
Recommended Funding for Information Technology Fund	(8,200,000)
Estimated Ending Fund Balance	\$ 47,502,809
Estimated General Fund Reserve % ¹	16.3%

¹ (A) Total GF Reserves is adjusted for a one time transfer exclusion of \$15M Future CalPERS UAL, \$15.8M for Economic Development Activities, \$5.4M allocation to Economic Uncertainty Reserve and \$8.2M transfer to Information Technology fund.

(B) For FY 2021-22, recommending a reserve level of 16% with the goal to reach 20%.

City of Ontario Citywide Expenditures by Category Fiscal Year 2021-22 First Quarter Budget Update								
	FY 2021-22 Adopted Budget	Post Adoption Budget Update	CIP/Grants/POs Carryforward	First Quarter Budget Update	FY 2021-22 Revised Budget	Actuals as of 09/30/2021 ¹	% Expended	
Personnel Costs	\$ 238,075,099	\$ 2,285,977	\$ 804,253	\$ 2,914,735 ²	\$ 244,080,064	\$ 47,235,010	19.4%	
Operating Expenditures	165,319,970	54,015	49,592,397	41,236,780 ³	256,203,162	67,747,935	26.4%	
Contractual Services	125,051,514	10,000	166,864,249	29,815,200 ⁴	321,740,963	73,183,977	22.7%	
Internal Service Allocations	59,064,708	117,525	-	(230,416) ⁵	58,951,817	14,285,161	24.2%	
Reimbursement Agreements	30,221,809	-	18,031,654	18,699,022 ⁶	66,952,485	3,538,508	5.3%	
Capital Outlay	4,471,950	-	11,010,311	3,647,563 ⁷	19,129,824	9,127,838	47.7%	
Transfers-Out	35,275,986	235,851	3,575,431	43,326,685 ⁸	82,413,953	239,351	0.3%	
Total Citywide Appropriations	\$ 657,481,036	\$ 2,703,368	\$ 249,878,295	\$ 139,409,569	\$ 1,049,472,268	\$ 215,357,781	20.5%	
FTE General Fund	839.16	12.40	-	15.58	867.14			
FTE Other Funds	379.84	0.60	-	11.42	391.86			
Total FTE All Funds	1,219.00	13.00	-	27.00	1,259.00			

¹ Includes expenses and encumbrances/PO's.

² Includes \$1M Gainshare and Personnel Requests of \$1.6M: Comm Dev \$231k, CLC \$133k, FS \$327k, OFD \$172k, HR &181k, IT \$82K, Mgmt Svcs \$157k, OPD \$175k, and PW \$194k.

³ Operating Expenditures include \$30M in repayment of Internal Borrowing Loan, \$5.6M Property Acquisitions.

⁴ Contractual Services includes \$9.2M for Broadband Expansion, \$9.5M in Construction of Well 37 and 39, and \$3.6M for Well 43.

⁵ Internal Service Allocations includes Cost Allocations revisions.

⁶ Reimbursement Agreements includes \$11.4M Contribution to SEC 115 Trust, \$5M Great Park Debt service.

⁷ Capital Outlay includes \$1.6M for Broadband Expansion, \$942k Paramedic Program cardiac monitors, \$300k for Phase II Fire Station Alerting.

⁸ Transfers- Out includes \$15M for CalPERS UAL/RSIP, \$15.8M for Economic Development activities, \$8.2M for Information Technology funding and \$1.4M Fire Strike Team to Special Revenue Fund (Fire Mutual Aid).

City of Ontario <u>Citywide</u> Expenditures by Fund Type Fiscal Year 2021-22 First Quarter Budget Update								
	FY 2021-22 Adopted Budget	Post Adoption Budget Update	CIP/Grants/POs Carryforward	First Quarter Budget Update	FY 2021-22 Revised Budget	Actuals as of 09/30/2021 ¹	% Expended	
General Fund	\$ 271,858,334	\$ 1,908,888	\$ 7,898,379	\$ 49,159,672	\$ 330,825,273 ²	\$ 64,317,670	19.4%	
Special Revenue	43,317,918	794,480	68,958,769	18,529,847	131,601,014 ³	24,421,351	18.6%	
Capital Project	66,458,115	-	75,916,630	7,934,704	150,309,449 ⁴	30,004,398	20.0%	
Enterprise	180,547,404	-	46,497,541	11,398,285	238,443,230 ⁵	55,956,298	23.5%	
Internal Service	88,291,529	-	41,602,533	52,679,573	182,573,635 ⁶	40,241,067	22.0%	
Total City Funds	\$ 650,473,300	\$ 2,703,368	\$ 240,873,852	\$ 139,702,081	\$ 1,033,752,601	\$ 214,940,784	20.8%	
Agency Funds (OHA)	7,007,736	-	9,004,443	(292,512)	15,719,667	416,996	2.7%	
Total All Funds	\$ 657,481,036	\$ 2,703,368	\$ 249,878,295	\$ 139,409,569	\$ 1,049,472,268	\$ 215,357,781	20.5%	
FTE General Fund	839.16	12.40	-	15.58	867.14			
FTE Other Funds	379.84	0.60	-	11.42	391.86			
Total FTE All Funds	1,219.00	13.00	-	27.00	1,259.00			

¹ Includes expenses and encumbrances/PO's.

² General Fund includes \$15M for CalPERS UAL/RSIP, \$15.8M for Economic Development related activities, \$8.2M for Information Technology funding and \$1.4M for Fire Strike Team transfer-out.

³ Special Revenue includes \$11.5M for Broadband Expansion, \$5M for Ontario Ranch debt service and \$1M for Fiber Optic Ring.

⁴ Capital Projects includes \$3.6M for Well Number 43, \$800K for C-Block additional funding and \$840K for Mountain & Holt Widening.

⁵ Enterprise includes \$9.5M for construction of Well 37 and 39, \$244K for personnel requests (OMUC/IT/PW), \$460K for Route Optimization Software and \$432K Integrated Waste operating costs.

⁶ Internal Service includes \$30M for internal borrowing repayment, \$11.4M for contribution to Sec 115 Trust, \$1.9M for Climatec debt service and \$330K for personnel requests (IT, PW, HR, Finance).

City of Ontario Authorized Full-Time Positions Fiscal Year 2020-21 First Quarter Budget Update							
Agency	FY 2020-21 Adopted Budget	(A) FY 2020-21 Revised Budget	Vacant Positions		(B) Total Vacant	(C) FY 2021-22 Increase	(D)=(A)-(B)+(C) FY 2021-22 Adopted Budget
			General Fund	Non-General Fund			
Community Development	127.00	127.00	21.60	1.40	23.00	3.00	107.00
Community Life & Culture	61.00	63.00	12.00	-	12.00	4.00	55.00
Elected Officials	7.00	7.00	-	-	-	-	7.00
Financial Services	60.00	38.00	9.00	-	9.00	8.00	37.00
Human Resources	22.00	23.00	2.70	1.30	4.00	2.00	21.00
Information Technology	33.00	34.00	-	4.00	4.00	1.00	31.00
Management Services	34.00	36.00	5.00	-	5.00	2.00	33.00
Ontario Fire Department	231.00	231.00	16.00	-	16.00	4.00	219.00
Ontario Municipal Utilities Company	202.00	117.00	-	2.00	2.00	6.00	121.00
Ontario Police Department	409.00	409.00	50.00	-	50.00	8.00	367.00
Public Works	127.00	237.00	8.00	14.00	22.00	6.00	221.00
Total Authorized Full-Time Positions	1,313.00	1,322.00	124.30	22.70	147.00	44.00	1,219.00

City of Ontario Authorized Full-Time Positions Fiscal Year 2021-22 First Quarter Budget Update				
Agency	FY 2021-22 Adopted Budget	Post-Adoption Budget Update	Recommended First Quarter Budget Update	Total Authorized Full-Time Positions
Community Development	107.00	-	3.00	110.00
Community Life & Culture	55.00	-	2.00	57.00
Elected Officials	7.00	-	-	7.00
Financial Services	37.00	-	4.00	41.00
Human Resources	21.00	-	2.00	23.00
Information Technology	31.00	-	2.00	33.00
Management Services	33.00	2.00	3.00	38.00
Ontario Fire Department ¹	219.00	4.00	4.00	227.00
Ontario Municipal Utilities Company	121.00	-	1.00	122.00
Ontario Police Department ²	367.00	7.00	2.00	376.00
Public Works	221.00	-	5.00	226.00
Total Authorized Full-Time Positions³	1,219.00	13.00	28.00	1,260.00
General Fund	839.16	12.40	15.58	867.14
Other Funds	379.84	0.60	12.42	392.86
Total FTE All Funds	1,219.00	13.00	28.00	1,260.00
¹ OFD positions includes the following sworn positions	180.00	4.00	2.00	186.00
² OPD positions includes the following sworn positions	273.00	7.00	1.00	281.00
³ FY 2020-21 Adopted Full-Time Positions: 1,313				

City of Ontario Recommended Personnel Changes Fiscal Year 2021-22 First Quarter Budget Update							
Proposed Change							
Agency	Department	General Fund	Other Fund	Total	Position	Action	Salary Range
Community Development							
	Building Department	1.00	-	1.00	Senior Permit Technician*	Addition	\$ 5,049 - \$ 6,139
	Engineering Department	1.00	-	1.00	Assistant Engineer*	Addition	\$ 7,320 - \$ 8,899
	Engineering Department	(0.65)	(0.35)	(1.00)	Principal Engineer	Deletion	\$ 10,313 - \$ 12,534
	Engineering Department	0.65	0.35	1.00	Assistant City Engineer	Addition	\$ 12,135 - \$ 14,749
	Planning Department	0.70	0.30	1.00	Associate Planner*	Addition	\$ 7,037 - \$ 8,551
		2.70	0.30	3.00			
Community Life & Culture							
	Library	(1.00)	-	(1.00)	Librarian	Deletion	\$ 5,030 - \$ 6,171
	Library	1.00	-	1.00	Senior Librarian	Addition	\$ 5,529 - \$ 6,791
	Recreation	1.00	-	1.00	Recreation/Community Services Coordinator	Addition	\$ 4,309 - \$ 5,233
	Recreation	1.00	-	1.00	Senior Recreation/Community Services Supervisor	Addition	\$ 5,973 - \$ 7,257
		2.00	-	2.00			
Financial Services							
	Fiscal Services	2.00	-	2.00	Accountant	Addition	\$ 5,510 - \$ 6,698
	Fiscal Services	-	2.00	2.00	Management Analyst (ERP Core Team)	Addition	\$ 5,805 - \$ 7,056
	Fiscal Services	(1.00)	-	(1.00)	Budget Manager	Deletion	\$ 8,741 - \$ 10,625
	Fiscal Services	1.00	-	1.00	Management Analyst	Addition	\$ 5,805 - \$ 7,056
	Investments & Revenue Resources	-	(1.00)	(1.00)	Management Analyst	Deletion	\$ 5,805 - \$ 7,056
	Investments & Revenue Resources	0.20	0.80	1.00	Financial Analyst	Addition	\$ 7,270 - \$ 8,833
	Investments & Revenue Resources	(0.50)	(0.50)	(1.00)	Deputy Finance Director	Deletion	\$ 11,272 - \$ 13,700
	Investments & Revenue Resources	0.50	0.50	1.00	Chief Investment Officer	Addition	\$ 10,478 - \$ 12,733
		2.20	1.80	4.00			
Human Resources							
	Human Resources	0.34	0.66	1.00	Departmental Administrator	Addition	\$ 10,478 - \$ 12,733
	Human Resources	0.34	0.66	1.00	Management Analyst	Addition	\$ 5,805 - \$ 7,056
	Human Resources	(0.80)	(0.20)	(1.00)	Executive Director Human Resources	Reclassification	\$ 13,047 - \$ 17,479
	Human Resources	0.80	0.20	1.00	Executive Director Human Resources/Risk Management	Reclassification	\$ 13,047 - \$ 17,479
	Human Resources	(0.34)	(0.66)	(1.00)	Assistant Human Resources Director	Reclassification	\$ 11,835 - \$ 14,387
	Human Resources	0.34	0.66	1.00	Assistant Human Resources/Risk Management Director	Reclassification	\$ 11,835 - \$ 14,387
	Human Resources	-	(1.00)	(1.00)	Risk Management Coordinator	Reclassification	\$ 6,401 - \$ 7,777
	Human Resources	-	1.00	1.00	Human Resources Analyst	Reclassification	\$ 6,401 - \$ 7,777
		0.68	1.32	2.00			

City of Ontario Recommended Personnel Changes Fiscal Year 2021-22 First Quarter Budget Update							
Proposed Change							
Agency	Department	General Fund	Other Fund	Total	Position	Action	Salary Range
Information Technology	Information Technology	-	(1.00)	(1.00)	Telecommunications Manager	Deletion	\$ 8,509 - \$ 12,733
	Information Technology	-	2.00	2.00	Systems Specialist	Addition	\$ 5,366 - \$ 6,524
	Information Technology	-	1.00	1.00	Senior Systems Analyst	Addition	\$ 7,954 - \$ 9,669
		-	2.00	2.00			
Management Services	Broadband	-	1.00	1.00	Broadband Analyst	Addition	\$ 6,287 - \$ 7,641
	Broadband	-	1.00	1.00	Administrative Assistant	Addition	\$ 4,394 - \$ 5,340
	Economic Development	(1.00)	-	(1.00)	Senior Project Manager	Deletion	\$ 8,746 - \$ 10,632
	Economic Development	1.00	-	1.00	Project Manager	Addition	\$ 7,920 - \$ 9,622
	Economic Development	(1.00)	-	(1.00)	Economic Development Coordinator	Deletion	\$ 7,197 - \$ 8,746
	Economic Development	1.00	-	1.00	Economic Development Analyst	Addition	\$ 5,805 - \$ 7,056
	Innovation, Performance & Audit	(1.00)	-	(1.00)	Internal Audit Manager	Deletion	\$ 8,055 - \$ 9,790
	Innovation, Performance & Audit	1.00	-	1.00	City Auditor	Addition	\$ 8,741 - \$ 10,625
	Innovation, Performance & Audit	(1.00)	-	(1.00)	Performance and Optimization Analyst	Deletion	\$ 7,953 - \$ 9,667
	Innovation, Performance & Audit	1.00	-	1.00	Senior Performance and Optimization Analyst	Addition	\$ 7,953 - \$ 9,667
	Office of the City Manager/City Clerk	1.00	-	1.00	Office Specialist	Addition	\$ 3,635 - \$ 4,418
		1.00	2.00	3.00			
Ontario Fire Department	Emergency Management	1.00	-	1.00	Emergency Management Coordinator	Addition	\$ 6,401 - \$ 7,777
	Fire Administrative Services	1.00	-	1.00	Administrative Assistant	Addition	\$ 4,394 - \$ 5,340
	Fire Prevention	(1.00)	-	(1.00)	Permit Technician	Deletion	\$ 4,536 - \$ 5,514
	Fire Prevention	1.00	-	1.00	Senior Permit Technician	Addition	\$ 5,049 - \$ 6,139
	Emergency Services	(1.00)	-	(1.00)	Fire Engineer	Deletion	\$ 8,649 - \$ 10,510
	Emergency Services	1.00	-	1.00	Firefighter	Addition	\$ 7,261 - \$ 8,823
	Emergency Services	(1.00)	-	(1.00)	Fire Engineer	Deletion	\$ 8,649 - \$ 10,510
	Emergency Services	1.00	-	1.00	Firefighter	Addition	\$ 7,261 - \$ 8,823
	Emergency Services	2.00	-	2.00	Firefighter	Addition	\$ 7,261 - \$ 8,823
		4.00	-	4.00			

City of Ontario Recommended Personnel Changes Fiscal Year 2021-22 First Quarter Budget Update							
Proposed Change							
Agency	Department	General Fund	Other Fund	Total	Position	Action	Salary Range
Ontario Municipal Utilities Company							
	Administration	-	1.00	1.00	Office Specialist	Addition	\$ 3,635 - \$ 4,418
	Water Resources and Regulatory Affairs	-	(1.00)	(1.00)	Water/Wastewater Technician	Deletion	\$ 5,158 - \$ 6,269
	Water Resources and Regulatory Affairs	-	1.00	1.00	Water Quality Coordinator	Addition	\$ 6,287 - \$ 7,641
		-	1.00	1.00			
Ontario Police Department							
	Airport Operations	(5.00)	-	(5.00)	Community Service Officer	Deletion	\$ 3,955 - \$ 4,807
	Airport Operations	5.00	-	5.00	Parking Enforcement Officer	Addition	\$ 3,378 - \$ 4,106
	Airport Operations	(1.00)	-	(1.00)	Police Officer	Deletion	\$ 6,796 - \$ 8,263
	Airport Operations	1.00	-	1.00	Police Sergeant	Addition	\$ 10,225 - \$ 12,426
	Patrol	1.00	-	1.00	Police Sergeant	Addition	\$ 10,225 - \$ 12,426
	Records/Communications	1.00	-	1.00	Police Records Specialist - Trainee	Addition	\$ 3,378 - \$ 4,106
		2.00	-	2.00			
Public Works							
	Commercial Bin Collection	-	1.00	1.00	Integrated Waste Maintenance Worker	Addition	\$ 3,406 - \$ 4,137
	Commercial Bin Collection	-	1.00	1.00	Integrated Waste Collector	Addition	\$ 3,545 - \$ 4,309
	Commercial Bin Collection	-	1.00	1.00	Senior Integrated Wasted Collector	Addition	\$ 3,914 - \$ 4,758
	Parks & Maint Supervision	1.00	-	1.00	Irrigation Maintenance Technician*	Addition	\$ 4,592 - \$ 5,578
	Parks & Street Maintenance	1.00	-	1.00	Parks and Maintenance Manager	Addition	\$ 7,455 - \$ 9,060
	Public Works Admin	(0.60)	(0.40)	(1.00)	Office Specialist	Deletion	\$ 3,634 - \$ 4,418
	Public Works Admin	0.60	0.40	1.00	Administrative Technician	Addition	\$ 4,094 - \$ 4,978
	Public Works Admin	-	-	-	Executive Director Public Works	Salary Realignment from	\$ 14,638 - \$ 19,613
		-	-	-		to	\$ 16,103 - \$ 21,575
		2.00	3.00	5.00			
Total Additions/(Deletions)		16.58	11.42	28.00			

City of Ontario Recommended Personnel Changes Fiscal Year 2021-22 First Quarter Budget Update							
Proposed Change							
Agency	Department	General Fund	Other Fund	Total	Position	Action	Salary Range
			Net Change By Fund		Annual Cost	First Quarter Adjustments	Net FTE Change
			001 General Fund	\$	1,640,979	\$ 1,073,115	16.58
			003 Gas Tax	\$	34,988	\$ 23,455	0.30
			013 A.D. Administration	\$	(14,453)	\$ (7,229)	(0.20)
			019 Parkway Maintenance	\$	701	\$ 352	-
			022 Ontario Intl Airport Authority	\$	56,067	\$ 11,245	-
			024 Water Operating Fund	\$	110,230	\$ 63,596	1.12
			026 Sewer Operating Fund	\$	39,421	\$ 20,231	0.43
			029 Integrated Waste Fund	\$	289,145	\$ 160,243	3.45
			032 Equipment Services	\$	852	\$ 498	-
			034 Information Technology	\$	275,655	\$ 209,523	3.00
			035 Information Technology Brdbnd	\$	211,607	\$ 123,437	2.00
			037 Workers Compensation	\$	89,465	\$ 59,754	0.66
			038 General Liability	\$	89,465	\$ 59,754	0.66
			070 Street Light Maintenance	\$	701	\$ 352	-
				\$	2,824,822	\$ 1,798,326	28.00
*Position cost is offset by revenue. Total personnel revenue offset in 1st Quarter is \$248,844							

City of Ontario Budget Adjustment Highlights Fiscal Year 2021-22 First Quarter Budget Update				
Agency	Description	Appropriation Adjustment	General Fund	Other Funds
Community Development				
	Ontario Ranch Great Park PA1904 Debt Service	5,000,000	-	5,000,000
	Agreement with Inland Valley Humane Society for Animal Control Services (CC Approved 07/20/2021)	1,107,551	1,107,551	-
	Purchase two vehicles for additional Community Improvement Officers (CC Approved FY 2020-21 and FY 2021-22)	70,000	35,000	35,000
	Engineering Plan Check Fees ¹	165,000	165,000	-
	Engineering Inspection Fees ¹	480,000	480,000	-
	Planning Plan Check Consultant ¹	200,000	200,000	-
	CDBG Program Funding First Quarter Revision	(879,578)	-	(879,578)
	HOME Program Funding First Quarter Revision	(244,042)	-	(244,042)
	Community Improvement Team (CIT) - CDBG One Year Action Plan Allocation	100,000	-	100,000
	FY 2020-21 Gainshare Program	99,737	92,667	7,070
	Recommended Personnel Changes ¹	231,078	207,623	23,455
	CIP - Art Piece for West Valley Connector	115,000	-	115,000
	CIP - Mission Blvd Project	150,000	-	150,000
	CIP - ATP Cycle 4 Water Improvements (CC Approved 09/21/2021)	139,500	-	139,500
	CIP - CityView Workspace Upgrade MS2208 (client-side interface, filed staff mobile interface & hardware) for Community Improvement Department	117,425	-	117,425
	CIP - Additional Funding for Mountain & Holt Intersection Widening ST1510 (Fund 005 and 171)	1,911,029	-	1,911,029
		8,762,700	2,287,841	6,474,859

¹ Offset by development revenue increases

City of Ontario Budget Adjustment Highlights Fiscal Year 2021-22 First Quarter Budget Update				
Agency	Description	Appropriation Adjustment	General Fund	Other Funds
Community Life & Culture	NEA General Operations Grant	10,000	-	10,000
	Lunch at the Library Grant	6,000	-	6,000
	Architecture Services for Conceptual Plans of the Westwind Community Center Upgrade	20,000	20,000	-
	Funding for Ontario Farmers Market	28,000	28,000	-
	Funding for New Holiday Parade	65,730	65,730	-
	Additional Funding for Summer Concerts (3) at Celebration Park	48,000	48,000	-
	Donation from Anthony Munoz for Youth Scholarship	25,000	25,000	-
	Utility Vehicle for Ontario Soccer Park	20,000	20,000	-
	Continuum of Care-Services for Disaster Response Data Collection Module	40,000	40,000	-
	FY 2020-21 Gainshare Program	99,852	99,852	-
	Recommended Personnel Changes	133,268	133,268	-
	Inland Library System Pension Obligation	120,717	120,717	-
	Mobile Stage	115,000	115,000	-
	CIP - Waterproofing for Museum's Basement	450,000	-	450,000
	CIP - Public Art Piece to be Located at C Block Parking Lot (From General Fund)	30,000	-	30,000
		1,211,567	715,567	496,000

City of Ontario Budget Adjustment Highlights Fiscal Year 2021-22 First Quarter Budget Update				
Agency	Description	Appropriation Adjustment	General Fund	Other Funds
Financial Services				
	Contribution to Sec 115 OPEB Trust ¹	11,413,986	-	11,413,986
	CFD Budget Adjustment	(497,150)	-	(497,150)
	Budget Adjustment to Fund 013 Assessment District Administration	(609,444)	-	(609,444)
	Budget Adjustment for CFD# 53 Tevelde Facilities	41,000	-	41,000
	Budget Adjustment for CFD# 54 Esperanza Facilities	12,000	-	12,000
	Harris & Associates agreement amendment (CC Approved 10/19/2021)	25,900	-	25,900
	Cost Allocation Plan Adjustment (Maintenance Districts)	(102,722)	-	(102,722)
	Cost Allocation Plan Adjustment (Business License)	(166,843)	-	(166,843)
	FY 2020-21 Gainshare Program	32,124	27,866	4,258
	Recommended Personnel Changes	327,838	158,271	169,567
		10,476,689	186,137	10,290,552
Human Resources				
	One-Time Increase for Retired Annuitant Support	242,979	175,400	67,579
	Contract with CPS for Recruitment and Selection Support	90,000	90,000	-
	Contract with Sapient Insights Group for Support with Cloverleaf (Employee Development Tool Subscription)	50,000	50,000	-
	New Work Stations, Office Furniture and File Cabinets for Additional Staff	75,000	75,000	-
	Increase to Insurance Premiums	736,676	-	736,676
	FY 2020-21 Gainshare Program	18,736	16,696	2,040
	Recommended Personnel Changes	181,073	61,565	119,508
		1,394,464	468,661	925,803

¹ Offset by transfers in Funding from General Fund and other City Funds

City of Ontario Budget Adjustment Highlights Fiscal Year 2021-22 First Quarter Budget Update				
Agency	Description	Appropriation Adjustment	General Fund	Other Funds
Information Technology	FY 2020-21 Gainshare Program	29,645	-	29,645
	Recommended Personnel Changes	82,072	-	82,072
		111,717	-	111,717
Management Services	Joint Improvement and Cost Sharing agreement with Lewis Piemonte Land LLC (CC Approved 11/21/2016)	165,637	165,637	-
	Records Management document shredding services	11,700	11,700	-
	Property Acquisition on North Euclid, West D Street, and West E Street (CC Approved 09/07/2021)	3,332,080	-	3,332,080
	Property Acquisition on South Grove, Main Street, South Von View, and East Washington (09/03/2019)	2,300,000	-	2,300,000
	Increase part-time to assist with graphics and communications work	30,000	30,000	-
	Replacement of printer for Citywide Central Services Printing/Graphics	80,000	80,000	-
	FY 2020-21 Gainshare Program	28,027	25,786	2,241
	Internal Borrowing Repayment including interest (to Fund 025, 026, 032, 033, 037) from Pension Benefit Fund ¹	30,187,500	-	30,187,500
	Recommended Personnel Changes	157,303	33,866	123,437
	Ontario Convention Center capital funding for Mayoral Ballroom - Phase 1 (total project cost \$1M)	500,000	500,000	
	CIP - Broadband Expansion Project (Fund 035) (CC Approved) ²	11,571,995	-	11,571,995
		48,364,242	846,989	47,517,253

¹ Offset by sale of real property

² Offset by Broadband Financing

City of Ontario Budget Adjustment Highlights Fiscal Year 2021-22 First Quarter Budget Update				
Agency	Description	Appropriation Adjustment	General Fund	Other Funds
OMUC	FY 2020-21 Gainshare Program	89,319	-	89,319
	Recommended Personnel Changes	57,074	-	57,074
	CIP - Well Number 43 Project WA9910 (Fund 184) (CC Approved 05/17/2021)	3,600,551	-	3,600,551
	CIP - Additional Funding for Construction of Well 37 and 39 WA1907 (Fund 025)	9,541,314	-	9,541,314
	CIP - Additional Funding for Gover Avenue Sewer Improvements SE1903 (Fund 027 and 177)	640,000	-	640,000
		13,928,258	-	13,928,258
Ontario Fire Department	Transfer of Fire Strike Team from General Fund to Special Revenue Fund (Fire Mutual Aid)	-	(1,418,000)	1,418,000
	Office relocation to Fire Station 6	35,000	35,000	-
	Phase 2 of Fire Station Alerting upgrade. Phase 1 included in Adopted Budget \$500,000	300,000	300,000	-
	Purchase replacements of LIFEPAK 15 cardiac monitors	942,000	942,000	-
	Budget adjustment for service contract of cardiac monitors and defibrillators	30,600	30,600	-
	Funding for California Firefighters Joint Apprenticeship Committee (J.A.C)	55,000	-	55,000
	Fire Department Part-Time Adjustment	(135,000)	(135,000)	-
	FY 2020-21 Gainshare Program	179,176	179,176	-
	Recommended Personnel Changes	172,603	172,603	-
	Purchase of chemical detection tool, 5 extractors, 12 BK Radios, hydraulic tools.	230,000	230,000	-
	Purchase one vehicle for additional Deputy Chief (CC Approved 7/20/21 Post Adoption)	50,000	50,000	-
		1,859,379	386,379	1,473,000

City of Ontario Budget Adjustment Highlights Fiscal Year 2021-22 First Quarter Budget Update				
Agency	Description	Appropriation Adjustment	General Fund	Other Funds
Ontario Police Department	Office of Traffic Safety (OTS) Grant GR2205 (CC Approved 2/16/2021)	470,000	-	470,000
	Police Department equipment purchase (CC Approved 10/05/2021)	180,000	180,000	-
	Service contract increase for Police Department	34,403	34,403	-
	City Management Crossing Guard Services contract increase	51,937	51,937	-
	Budget adjustment for Collection Services for False Alarm and Billing	92,000	92,000	-
	Additional distribution for Citizen's Option for Public Safety and Enhancing Law Enforcement Activities Sub-Account (COPS/ELEAS) Grant FY 2021 (CC Approved 01/19/2021)	170,334	-	170,334
	Data lines to comply with the Racial Identity and Profiling Act survey for every patrol stop	34,000	34,000	-
	Citizen's Option for Public Safety and Enhancing Law Enforcement Activities Sub-Account (COPS/ELEAS) Grant FY 2022 (CC Approved 11/2/2021)	278,823	-	278,823
	California Department of Alcoholic Beverage Control - Office of Traffic Safety (ABC-OTS) Grant	20,000	-	20,000
	New Truck for Community Engagement Team	90,000	90,000	-
	FY 2020-21 Gainshare Program	355,372	355,372	-
	Recommended Personnel Changes	175,265	175,265	-
		1,952,134	1,012,977	939,157

City of Ontario
Budget Adjustment Highlights
Fiscal Year 2021-22
First Quarter Budget Update

Agency	Description	Appropriation Adjustment	General Fund	Other Funds
Public Works				
	Integrated Waste funding for vehicle costs increase and outfitting for radio and installation services	50,000	-	50,000
	Integrated Waste funding for increase costs of hazardous waste	42,000	-	42,000
	Energy Resources Conservation and Development Commission debt service (CC Approved 11/05/2019)	337,641	-	337,641
	Integrated Waste funding for increase in production costs and number of carts required	520,000	-	520,000
	Bottle Bill Grant GR2122 (CC Approved 12/15/2020)	45,034	-	45,034
	Climatec Debt Service, Taxable and non-Taxable (CC Approved 9/15/2020)	1,990,352	-	1,990,352
	Purchase of Route Optimization Software System (CC Approved 10/19/2021)	460,415	-	460,415
	Rymax Electrical, Inc. agreement amendment (CC Approved 10/19/2021)	45,000	15,000	30,000
	Chaffey Museum carpet replacement	70,000	-	70,000
	Additional funding to paint and restore all decorative streetlights on Euclid and bordering streets	95,000	95,000	-
	Purchase of Automatic Transfer Switch (ATS) and portable generator at the Westwind and De Anza Community Centers	270,000	-	270,000
	Funding for security upgrades around warehouses at Utility Customer Services Center and Police Departm	150,000	-	150,000
	Remove existing asphalt on Francis Street and replace with concrete sidewalk	79,136	79,136	-
	Purchase of Traffic Jet Xpert printer to produce City signs	56,676	-	56,676
	Funding for Tree Trimming 5-year cycle catchup and windstorm damage	573,385	573,385	-
	HVAC repairs for Page One Café	50,885	-	50,885
	FY 2020-21 Gainshare Program	125,173	24,016	101,157
	Recommended Personnel Changes ¹	280,752	141,899	138,853
	CIP - Bonview Park Sporting Field Upgrade	150,000	-	150,000
	CIP - C-Block Parking Structure enhancements funding (Fund 017) (CC Approved 07/20/2021)	816,978	-	816,978
	CIP - Replacement and upgrade of Compressed Natural Gas compressors (Fund 014 and 029) (CC Approved 10/19/2021)	345,100	-	345,100
	CIP - Replacement of knocked down/damaged wooden net poles and light poles at Jay Littleton Ballpark and De Anza Park (Fund 076)	821,500	-	821,500
	CIP - Landscaping installation on G Street parkways from Benson to Mission (Fund 017)	210,467	-	210,467
	CIP - Installation of City monument on Benson and Mission and re-landscaping the center island from Benson to Mountain (Fund 017)	266,240	-	266,240
	CIP - City Hall reconfiguration of Economic Development and Communications cubicles (Fund 017)	170,000	-	170,000
		8,021,734	928,436	7,093,298
	Total Expenditures	96,082,884	6,832,987	89,249,897
	Transfers-Out	43,326,685	42,326,685	1,000,000
	Grand Total	\$ 139,409,569	\$ 49,159,672	\$ 90,249,897

¹ 75% Offset by CFD revenue increases

City of Ontario General Fund Personnel Ratios Fiscal Year 2021-22				
	FY 2019-20 Actuals	FY 2020-21 Actuals¹	FY 2021-22 Adopted	% Change from FY 2020-21
Salaries & Benefits	\$ 174,649,208	\$ 176,913,041	\$ 181,990,473	2.9%
Operating Costs ²	\$ 57,443,769	\$ 52,107,420	\$ 57,043,482	9.5%
Total Costs	\$ 232,092,977	\$ 229,020,461	\$ 239,033,955	4.4%
Salaries & Benefits % of Total Costs ³	75.2%	77.2%	76.1%	-1.4%
Total FTE Count	977	948	839	-11.5%
Average FTE Cost	\$ 178,761	\$ 186,617	\$ 216,914	16.2%
Non-Management FTE Count	817	789	704	-10.8%
Management FTE Count	160	159	135	-15.1%
Non-Management Ratios	83.6%	83.2%	83.9%	0.8%
Management Ratios	16.4%	16.8%	16.1%	-4.1%

Staffing ratio (total personnel versus total GF operating budget) meets target of >80%

Management ratio (management versus non-management) meets target of <20%

¹FY 2020-21 Actuals are unaudited

²Excludes Transfers-Out, Reimbursement Agreements, Debt Service and Capital Outlay

³Salaries & Benefits % of Total Costs target is <75%

City of Ontario Citywide Personnel Ratios Fiscal Year 2021-22				
	FY 2019-20 Actuals	FY 2020-21 Actuals¹	FY 2021-22 Adopted	% Change from FY 2020-21
Salaries & Benefits	\$ 219,725,465	\$ 226,262,538	\$ 238,075,099	5.2%
Operating Costs	\$ 272,130,298	\$ 283,059,810	\$ 224,384,678	-20.7%
Total Operating Costs²	\$ 491,855,763	\$ 509,322,348	\$ 462,459,777	-9.2%
Salaries & Benefits % of Total Costs ³	44.7%	44.4%	51.5%	15.9%
Total FTE Count	1,301	1,313	1,219	-7.2%
Average FTE Cost	\$ 168,890	\$ 172,325	\$ 195,304	13.3%
Non-Management FTE Count	1,093	1,103	1,027	-6.9%
Management FTE Count	208	210	192	-8.6%
Non-Management Ratios	84.0%	84.0%	84.2%	0.3%
Management Ratios	16.0%	16.0%	15.8%	-1.6%

Staffing ratio (total personnel versus total citywide operating budget) meets target of >80%

Management ratio (management versus non-management) meets target of <20%

¹FY 2020-21 Actuals are unaudited

²Excludes Transfers-Out, Reimbursement Agreements, Debt Service and Capital Outlay

³Salaries & Benefits % of Total Costs target is <75%

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
GENERAL FUND					
Fund 001 - General Fund					
Police Department equipment purchase (CC Approved 10/05/2021)	180,000				(180,000)
Joint Improvement and Cost Sharing agreement with Lewis Piemonte Land LLC (CC Approved 11/21/2016)	165,637				(165,637)
C-Block Parking Structure enhancements funding (to Fund 017) (CC Approved 07/20/2021)				816,978	(816,978)
Records Management document shredding services	11,700				(11,700)
Transfer of Fire Strike Team from General Fund to Special Revenue Fund (Fire Mutual Aid)	(1,418,000)	(1,420,000)		1,418,000	(1,420,000)
Public Art Piece to be Located at C Block Parking Lot (To Capital Projects)				30,000	(30,000)
Architecture Services for Conceptual Plans of the Westwind Community Center Upgrade	20,000				(20,000)
Agreement with Inland Valley Humane Society for Animal Control Services (CC Approved 07/20/2021)	1,107,551	732,500			(375,051)
Purchase one vehicle for additional Community Improvement Officer	35,000				(35,000)
Rymax Electrical, Inc. agreement amendment (CC Approved 10/19/2021)	15,000				(15,000)
Additional funding to paint and restore all decorative streetlights on Euclid and bordering streets	95,000				(95,000)
Remove existing asphalt on Francis Street and replace with concrete sidewalk	79,136				(79,136)
Funding for Tree Trimming 5-year cycle catchup and windstorm damage	573,385				(573,385)
Landscaping installation on G Street parkways from Benson to Mission Transfer to 017				210,467	(210,467)
Installation of City monument on Benson and Mission and re-landscaping the center island from Benson to Mountain Transfer to 017				266,240	(266,240)
Engineering Plan Check and Inspection Fees	645,000	645,000			-
Funding for Ontario Farmers Market	28,000				(28,000)
Funding for New Holiday Parade	65,730				(65,730)
Additional Funding for Summer Concerts (3) at Celebration Park	48,000				(48,000)
Plan Check Consultant for Planning Department	200,000	200,000			-
Building Permits - Revenue Adjustment		70,000			70,000
Planning Revenue Adjustment		85,000			85,000
Engineering Plan Check Revenue Adjustment		55,000			55,000
Office relocation to Fire Station 6	35,000				(35,000)
Phase 2 of Fire Station Alerting upgrade. Phase 1 included in Adopted Budget \$500,000	300,000				(300,000)
Paramedic Program purchase replacements of LIFEPAK 15 cardiac monitors and service contract	972,600				(972,600)
Contract increases for Police Department	34,403	52,029			17,626
City Management Crossing Guard Services contract increase	51,937				(51,937)
Budget adjustment for Collection Services for False Alarm and Billing	92,000	92,000			-
Data lines to comply with the Racial Identity and Profiling Act survey for every patrol stop	34,000				(34,000)
Donation from Anthony Munoz for Youth Scholarship	25,000	25,000			-
Utility Vehicle for Ontario Soccer Park	20,000				(20,000)
Continuum of Care-Services for Disaster Response Data Collection Module	40,000				(40,000)
Increase part-time to assist with graphics and communications work	30,000				(30,000)
Replacement of printer for Citywide Central Services Printing/Graphics	80,000				(80,000)
Funding for Future CalPERS UAL (to Fund 094)				15,000,000	(15,000,000)
Economic Development Activities				15,800,000	(15,800,000)
One-Time Increase for Retired Annuitant Support	175,400				(175,400)
Contract for Recruitment and Selection Support	90,000				(90,000)
Contract for Support with Cloverleaf (Employee Development Tool Subscription)	50,000				(50,000)
New Work Stations, Office Furniture and File Cabinets for Additional HR Staff	75,000				(75,000)
City Hall reconfiguration of Economic Development and Communications cubicles (to Fund 017)				170,000	(170,000)
Cost Allocation Plan Adjustment (Business License)		(166,843)			(166,843)
New Truck for Community Engagement Team	90,000				(90,000)
Carryforward Encumbrances from FY 2020-21	4,285,661				(4,285,661)
Carryforward Encumbrances from FY 2020-21 (Airport)	5,515				(5,515)
FY 2020-21 Gainshare Program	745,720				(745,720)
FY 2020-21 Gainshare Program (Airport)	75,711				(75,711)
Recommended Personnel Changes	1,073,115	41,224	-	-	(1,031,891)
Recommended Personnel Changes (Airport)	11,245				(11,245)
Inland Library System Pension Obligation (Funding was placed in a reserve during FY 2020-21)	120,717				(120,717)

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Purchase one vehicle for additional Deputy Chief	50,000				(50,000)
Fire Department Part-Time Adjustment	(135,000)				135,000
Ontario Convention Center Funding Carryforward from FY 2020-21	31,772				(31,772)
Carryforward CIP Transfer-Out to Fund 017 for FY 2020-21				3,575,431	(3,575,431)
Funding Transfer to Information Technology 034				8,200,000	(8,200,000)
Mobile Stage	115,000				(115,000)
Ontario Convention Center capital funding for Mayoral Ballroom - Phase 1 (total project cost \$1M)	500,000				(500,000)
Purchase of chemical detection tool, 5 extractors, 12 BK Radios, hydraulic tools.	230,000				(230,000)
Art Piece for West Valley Connector				115,000	(115,000)
Bonview Park Sporting Field Upgrade				150,000	(150,000)
Mission Blvd Project				150,000	(150,000)
GENERAL FUND TOTAL	11,155,935	410,910	-	45,902,116	(56,647,141)
SPECIAL REVENUE FUNDS					
Fund 003 - Gas Tax					
Purchase of Traffic Jet Xpert printer to produce City signs	56,676				(56,676)
Carryforward Encumbrances from FY 2020-21	23,724				(23,724)
FY 2020-21 Gainshare Program	7,830				(7,830)
Carryforward CIP Encumbrances from FY 2020-21	206,415				(206,415)
Carryforward CIP Appropriations from FY 2020-21	1,122,879	90,242			(1,032,637)
Carryforward Grant Encumbrances from FY 2020-21	37,306				(37,306)
Carryforward Grant Appropriations from FY 2020-21	32,242				(32,242)
Recommended Personnel Changes	23,455				(23,455)
	1,510,527	90,242	-	-	(1,420,285)
Fund 004 - Measure I					
Carryforward Encumbrances from FY 2020-21	9,000				(9,000)
	9,000	-	-	-	(9,000)
Fund 005 - Measure I Valley Major Project					
Additional Funding for Mountain & Holt Intersection Widening ST1510	1,067,361	1,067,361			-
Carryforward CIP Encumbrances from FY 2020-21	581,344	581,344			-
Carryforward CIP Appropriations from FY 2020-21	24,415,397	24,415,397			-
	26,064,102	26,064,102	-	-	-
Fund 007 - Park Impact/Quimby					
Ontario Ranch Great Park PA1904 Debt Service	5,000,000				(5,000,000)
Carryforward CIP Encumbrances from FY 2020-21	38,116				(38,116)
Carryforward CIP Appropriations from FY 2020-21	2,216,644				(2,216,644)
	7,254,760	-	-	-	(7,254,760)

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 008 - Community Development Block Grant					
CDBG Program Funding First Quarter Revision	(235,422)	(235,422)			-
Housing Department Personnel Budget Adjustment	(289,024)	(289,024)	-	-	-
Community Improvement Team (CIT) - CDBG One Year Action Plan Allocation	100,000	100,000			-
Carryforward Grant Appropriations from FY 2020-21	3,523	3,523			-
	(420,923)	(420,923)	-	-	-
Fund 009 - HOME Grants					
HOME Program Funding First Quarter Revision	(244,042)	(244,042)			-
Housing Department Personnel Budget Adjustment	(2,059)	(2,059)			-
Carryforward Grant Encumbrances from FY 2020-21	40,000	40,000			-
	(206,101)	(206,101)	-	-	-
Fund 010 - DOJ Asset Seizure					
Carryforward Encumbrances from FY 2020-21	14,484				(14,484)
	14,484	-	-	-	(14,484)
Fund 012 - Road Maint & Rehab Acct (SB1)					
Carryforward CIP Appropriations from FY 2020-21	1,371,223				(1,371,223)
	1,371,223	-	-	-	(1,371,223)
Fund 013 - A.D. Administration					
Budget Adjustment to Fund 013 Assessment District Administration	(609,444)				609,444
Cost Allocation Plan Adjustment (Business License)	(13,702)				13,702
Carryforward Encumbrances from FY 2020-21	269,211				(269,211)
FY 2020-21 Gainshare Program	3,674				(3,674)
Recommended Personnel Changes	(7,229)				7,229
	(357,490)	-	-	-	357,490
Fund 014 - Mobile Source Air					
Replacement and upgrade of Compressed Natural Gas compressors (CC Approved 10/19/2021)	177,471				(177,471)
Cost Allocation Plan Adjustment (Business License)	(31)				31
Carryforward CIP Encumbrances from FY 2020-21	10,000				(10,000)
Carryforward CIP Appropriations from FY 2020-21	1,072,343				(1,072,343)
	1,259,783	-	-	-	(1,259,783)
Fund 015 - General Fund Grants					
Office of Traffic Safety (OTS) Grant GR2205 (CC Approved 2/16/2021)	470,000	470,000			-
NEA General Operations Grant	10,000	10,000			-
Lunch at the Library Grant	6,000	6,000			-
Funding for California Firefighters Joint Apprenticeship Committee (J.A.C)	55,000	55,000			-
Add'l distribution for Citizen's Option for Public Safety and Enhancing Law Enforcement Activities Sub-Account (COPS/ELEAS) Grant FY 2021 (CC Approved 01/19/2021)	170,334	170,334			-
Citizen's Option for Public Safety and Enhancing Law Enforcement Activities Sub-Account (COPS/ELEAS) Grant FY 2022 (CC Approved 11/2/2021)	278,823	278,823			-
California Department of Alcoholic Beverage Control - Office of Traffic Safety (ABC-OTS) Grant	20,000	20,000			-
Housing Department Personnel Budget Adjustment	(55,016)	(55,016)			-
Carryforward CIP Encumbrances from FY 2020-21	99,417	99,417			-
Carryforward CIP Appropriations from FY 2020-21	5,377,647	5,377,647			-
Carryforward Grant Encumbrances from FY 2020-21	1,542,854	1,542,854			-
Carryforward Grant Appropriations from FY 2020-21	26,116,195	26,116,195			-
	34,091,254	34,091,254	-	-	-

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 019 - Parkway Maintenance					
Cost Allocation Plan Adjustment (Maintenance Districts)	(740)				740
Cost Allocation Plan Adjustment (Business License)	(414)				414
Recommended Personnel Changes	352				(352)
	(802)	-	-	-	802
Fund 023 - Treasury Asset Seizure					
Carryforward Encumbrances from FY 2020-21	43,175				(43,175)
	43,175	-	-	-	(43,175)
Fund 035 - Information Technology Broadband					
Transfer for Fiber Optic Ring in Ontario Ranch from DIF fund (189) to IT Broadband Fund (035)	(1,000,000)			1,000,000	-
Broadband Expansion Project (CC Approved)	11,571,995				(11,571,995)
Broadband Revenue Update		92,110			92,110
Cost Allocation Plan Adjustment (Business License)	(2,392)				2,392
Carryforward Encumbrances from FY 2020-21	32,995				(32,995)
FY 2020-21 Gainshare Program	869				(869)
Carryforward CIP Encumbrances from FY 2020-21	831,054				(831,054)
Carryforward CIP Appropriations from FY 2020-21	3,272,445				(3,272,445)
Carryforward Grant Encumbrances from FY 2020-21	31,238				(31,238)
Carryforward Grant Appropriations from FY 2020-21	77,775				(77,775)
Recommended Personnel Changes	123,437				(123,437)
	14,939,416	92,110	-	1,000,000	(15,847,306)
Fund 036 - State Asset Seizure					
Carryforward Encumbrances from FY 2020-21	15,546				(15,546)
	15,546	-	-	-	(15,546)
Fund 060 - OMC CFD#21-Parkside Services					
CFD# 21 Parkside Budget Adjustment	(8,000)				8,000
	(8,000)	-	-	-	8,000
Fund 061 - NMC CFD#31-Carriage House					
CFD# 31 Carriage House Budget Adjustment	(17,000)				17,000
	(17,000)	-	-	-	17,000
Fund 062 - NMC CFD#23-Park Place Svcs					
CFD# 23 Park Place Budget Adjustment	(121,000)				121,000
	(121,000)	-	-	-	121,000
Fund 064 - NMC CFD#27-New Haven Svc					
CFD# 27 New Haven Budget Adjustment	(114,000)				114,000
	(114,000)	-	-	-	114,000
Fund 069 - OMC CFD#20-Walmart Services					
CFD# 20 Walmart Budget Adjustment	(8,000)				8,000
	(8,000)	-	-	-	8,000

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 070 - Street Light Maintenance					
Harris & Associates agreement amendment (CC Approved 10/19/2021)	25,900				(25,900)
Cost Allocation Plan Adjustment (Maintenance Districts)	(101,982)				101,982
Cost Allocation Plan Adjustment (Business License)	(212)				212
Carryforward Encumbrances from FY 2020-21	4,577				(4,577)
Recommended Personnel Changes	352				(352)
	(71,365)	-	-	-	71,365
Fund 071 - OMC CFD#10-Airport Twr Svc					
CFD# 10 Airport Tower Budget Adjustment	(5,000)				5,000
	(5,000)	-	-	-	5,000
Fund 072 - NMC CFD# 9-Edenglen Services					
CFD# 9 Edenglen Budget Adjustment	(46,000)				46,000
	(46,000)	-	-	-	46,000
Fund 077 - Storm Drain Maintenance					
Cost Allocation Plan Adjustment (Business License)	(1,300)				1,300
Carryforward Encumbrances from FY 2020-21	50,000				(50,000)
FY 2020-21 Gainshare Program	2,477				(2,477)
	51,177	-	-	-	(51,177)
Fund 079 - NMC CFD#37 Park&Turner-NE Svcs					
CFD #37 Park & Turner Budget Adjustment	(36,000)				36,000
	(36,000)	-	-	-	36,000
Fund 122 - NMC CFD #19 Countryside Svcs					
CFD#19 Countryside Budget Adjustment	(25,000)				25,000
	(25,000)	-	-	-	25,000
Fund 123 - Fire Mutual Aid					
Transfer of Fire Strike Team from General Fund to Special Revenue Fund (Fire Mutual Aid)	1,418,000	1,420,000	1,418,000		1,420,000
	1,418,000	1,420,000	1,418,000	-	1,420,000
Fund 332 - CFD#32 Archibald/SchaeferSvcs					
CFD#32 Archibald/Schaefer Budget Adjustment	(28,000)				28,000
	(28,000)	-	-	-	28,000
Fund 344 - CFD#44 Esperanza Services					
CFD#44 Esperanza Budget Adjustment	(16,000)				16,000
CFD# 44 Esperanza Services Adjustment		93,079			93,079
	(16,000)	93,079	-	-	109,079
Fund 345 - NMC CFD#45 NorthPark & Countryside Services					
CFD#45 NorthPark & Countryside Budget Adjustment	(19,000)				19,000
	(19,000)	-	-	-	19,000
Fund 347 - CFD #47 Colony Commerce Center West Services					
CFD# 47 Colony Commerce Center West Budget Adjustment	(27,000)				27,000
	(27,000)	-	-	-	27,000

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 348 - CFD #48 Tevelde Services					
CFD# 48 Tevelde Services Adjustment		74,563			74,563
	-	74,563	-	-	74,563
Fund 350 - CFD #50 NMC Ontario Logistics Center Services					
CFD# 50 Ontario Logistics Center Budget Adjustment	(27,150)				27,150
	(27,150)	-	-	-	27,150
Fund 355 - CFD #55 Parklane Services					
CFD# 55 Parklane Services adjustment		50,070			50,070
	-	50,070	-	-	50,070
Fund 357 - CFD #57 Neuhouse Services					
CFD# 57 Neuhouse Services adjustment		(372,294)			(372,294)
	-	(372,294)	-	-	(372,294)
SPECIAL REVENUE FUNDS TOTAL	86,488,616	60,976,102	1,418,000	1,000,000	(25,094,514)
CAPITAL PROJECT FUNDS					
Fund 016 - Ground Access					
Carryforward CIP Appropriations from FY 2020-21	423,850	423,850			-
	423,850	423,850	-	-	-
Fund 017 - Capital Projects					
C-Block Parking Structure enhancements funding (from Fund 001) (CC Approved 07/20/2021)	816,978		816,978		-
Public Art Piece to be Located at C Block Parking Lot (From General Fund)	30,000		30,000		-
Landscaping installation on G Street parkways from Benson to Mission (from Fund 001)	210,467		210,467		-
Installation of City monument on Benson and Mission and re-landscaping the center island from Benson to Mountain (from Fund 001)	266,240		266,240		-
City Hall reconfiguration of Economic Development and Communications cubicles (from Fund 001)	170,000		170,000		-
Art Piece for West Valley Connector	115,000		115,000		-
Bonview Park Sporting Field Upgrade	150,000		150,000		-
Mission Blvd Project	150,000		150,000		-
Carryforward CIP Encumbrances from FY 2020-21	12,547,877				(12,547,877)
Carryforward CIP Appropriations from FY 2020-21	3,307,191				(3,307,191)
Carryforward CIP Transfer-In from Fund 001 for FY 2020-21			3,575,431		3,575,431
Carryforward CIP Revenues from FY 2020-21		693,896			693,896
	17,763,753	693,896	5,484,116	-	(11,585,741)
Fund 106 - Integrated Waste Impact					
Integrated Waste funding for vehicle costs increase and outfitting for radio and installation services	50,000				(50,000)
Integrated Waste funding for increase in production costs and number of carts required	130,000				(130,000)
Carryforward Encumbrances from FY 2020-21	335,070	-	-	-	(335,070)
	515,070	-	-	-	(515,070)
Fund 120 - Affordability In-Lieu					
Carryforward Grant Appropriations from FY 2020-21	6,610,200				(6,610,200)
	6,610,200	-	-	-	(6,610,200)

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 170 - OMC - Regional Streets					
Carryforward CIP Appropriations from FY 2020-21	5,246,818				(5,246,818)
	5,246,818	-	-	-	(5,246,818)
Fund 171 - OMC - Local Adjacent Streets					
Additional Funding for Mountain & Holt Intersection Widening ST1510	843,668				(843,668)
Carryforward CIP Encumbrances from FY 2020-21	2,588,595				(2,588,595)
Carryforward CIP Appropriations from FY 2020-21	6,272,183				(6,272,183)
	9,704,446	-	-	-	(9,704,446)
Fund 173 - OMC - Local Adjacent StrmDrain					
Carryforward CIP Encumbrances from FY 2020-21	22,955				(22,955)
Carryforward CIP Appropriations from FY 2020-21	3,653,589				(3,653,589)
	3,676,544	-	-	-	(3,676,544)
Fund 175 - OMC - Local Adjacent Water					
Carryforward CIP Appropriations from FY 2020-21	1,635,721				(1,635,721)
	1,635,721	-	-	-	(1,635,721)
Fund 177 - OMC - Local Adjacent Sewer					
Additional Funding for Gover Avenue Sewer Improvements SE1903	348,800				(348,800)
Carryforward CIP Encumbrances from FY 2020-21	465,406				(465,406)
Carryforward CIP Appropriations from FY 2020-21	2,928,918				(2,928,918)
	3,743,124	-	-	-	(3,743,124)
Fund 178 - OMC - Fire Impact					
Carryforward CIP Encumbrances from FY 2020-21	49,273				(49,273)
Carryforward CIP Appropriations from FY 2020-21	739,945				(739,945)
	789,218	-	-	-	(789,218)
Fund 180 - NMC - Regional Streets					
Carryforward CIP Appropriations from FY 2020-21	10,144,000	-	-	-	(10,144,000)
	10,144,000	-	-	-	(10,144,000)
Fund 184 - NMC - Regional Water					
Well Number 43 Project WA9910 (CC Approved 05/17/2021)	3,600,551				(3,600,551)
Carryforward CIP Encumbrances from FY 2020-21	673,558				(673,558)
Carryforward CIP Appropriations from FY 2020-21	10,844,552				(10,844,552)
	15,118,661	-	-	-	(15,118,661)
Fund 185 - NMC - Local Adjacent Water					
Carryforward CIP Encumbrances from FY 2020-21	418,455				(418,455)
Carryforward CIP Appropriations from FY 2020-21	1,327,864				(1,327,864)
	1,746,319	-	-	-	(1,746,319)
Fund 186 - NMC - Regional Sewer					
Carryforward CIP Appropriations from FY 2020-21	105,228				(105,228)
	105,228	-	-	-	(105,228)
Fund 187 - NMC - Local Adjacent Sewer					
Carryforward CIP Appropriations from FY 2020-21	69,778				(69,778)
	69,778	-	-	-	(69,778)

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 188 - NMC - Regional Fiber					
Carryforward CIP Encumbrances from FY 2020-21	217,702				(217,702)
Carryforward CIP Appropriations from FY 2020-21	531,499				(531,499)
	749,201	-	-	-	(749,201)
Fund 189 - NMC - Local Adjacent Fiber					
Transfer for Fiber Optic Ring in Ontario Ranch from DIF fund (189) to IT Broadband Fund (035)	1,000,000		1,000,000		-
Carryforward CIP Encumbrances from FY 2020-21	419,903				(419,903)
Carryforward CIP Appropriations from FY 2020-21	351,902				(351,902)
	1,771,805	-	1,000,000	-	(771,805)
Fund 190 - NMC - Fire Impact					
Carryforward CIP Encumbrances from FY 2020-21	2,638,603				(2,638,603)
Carryforward CIP Appropriations from FY 2020-21	1,345,995				(1,345,995)
	3,984,598	-	-	-	(3,984,598)
Fund 541 - CFD #41 Canvas Park Facilities					
CFD# 41 Canvas Park Facilities adjustment		83,000			83,000
	-	83,000	-	-	83,000
Fund 542 - CFD #42 Stratham West Facility					
CFD# 42 Stratham West Facilities adjustment		95,000			95,000
	-	95,000	-	-	95,000
Fund 546 - CFD 46 Ave 176 Facilities					
CFD# 176 Ave 176 adjustment		(545,000)			(545,000)
	-	(545,000)	-	-	(545,000)
Fund 553 - CFD #53 Tevelde Facilities CIP					
Budget Adjustment for CFD# 53 Tevelde Facilities	41,000				(41,000)
CFD# 53 Tevelde Facilities adjustment		(671,000)			(671,000)
	41,000	(671,000)	-	-	(712,000)
Fund 554 - CFD #54 Esperanza Facilities					
Budget Adjustment for CFD# 54 Esperanza Facilities	12,000	-	-	-	(12,000)
CFD# 54 Esperanza Facilities adjustment		233,000			233,000
	12,000	233,000	-	-	221,000
Fund 555 - CFD #55 Parklane FacilitiesCIP					
CFD# 55 Parklane Facilities CIP adjustment		109,864			109,864
	-	109,864	-	-	109,864
Fund 557 - CFD #57 Neuhouse FacilitiesCIP					
CFD# 57 Neuhouse Facilities CIP adjustment		129,000			129,000
	-	129,000	-	-	129,000
CAPITAL PROJECT FUNDS TOTAL	83,851,334	551,610	6,484,116	-	(76,815,608)

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
ENTERPRISE FUNDS					
Fund 024 - Water Operating					
Funding Source Adjustment	(600,000)				600,000
Cost Allocation Plan Adjustment (Business License)	(47,913)				47,913
Carryforward Encumbrances from FY 2020-21	225,868				(225,868)
FY 2020-21 Gainshare Program	64,750				(64,750)
Recommended Personnel Changes	63,596				(63,596)
	(293,699)	-	-	-	293,699
Fund 025 - Water Capital					
ATP Cycle 4 Water Improvements (CC Approved 09/21/2021)	139,500				(139,500)
Funding Source Adjustment	600,000				(600,000)
Additional Funding for Construction of Well 37 and 39 WA1907	9,541,314				(9,541,314)
Cost Allocation Plan Adjustment (Business License)	(3,000)				3,000
Carryforward Encumbrances from FY 2020-21	6,201				(6,201)
FY 2020-21 Gainshare Program	10,245				(10,245)
Carryforward CIP Encumbrances from FY 2020-21	4,465,843				(4,465,843)
Carryforward CIP Appropriations from FY 2020-21	30,615,636				(30,615,636)
Internal Borrowing Repayment Including Interest from Pension Benefit Fund		10,062,500			10,062,500
	45,375,739	10,062,500	-	-	(35,313,239)
Fund 026 - Sewer Operating					
Cost Allocation Plan Adjustment (Business License)	(21,552)				21,552
Carryforward Encumbrances from FY 2020-21	79,157				(79,157)
FY 2020-21 Gainshare Program	11,315				(11,315)
Recommended Personnel Changes	20,231				(20,231)
Internal Borrowing Repayment Including Interest from Pension Benefit Fund		5,031,250			5,031,250
	89,151	5,031,250	-	-	4,942,099
Fund 027 - Sewer Capital					
Additional Funding for Gover Avenue Sewer Improvements SE1903	291,200				(291,200)
Cost Allocation Plan Adjustment (Business License)	(1,479)				1,479
FY 2020-21 Gainshare Program	3,009				(3,009)
Carryforward CIP Encumbrances from FY 2020-21	617,424				(617,424)
Carryforward CIP Appropriations from FY 2020-21	7,641,355				(7,641,355)
	8,551,509	-	-	-	(8,551,509)

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 029 - Integrated Waste					
Integrated Waste funding for increase costs of hazardous waste	42,000				(42,000)
Integrated Waste funding for increase in production costs and number of carts required	390,000				(390,000)
Bottle Bill Grant GR2122 (CC Approved 12/15/2020)	45,034	45,034			-
Purchase of Route Optimization Software System (CC Approved 10/19/2021)	460,415				(460,415)
Purchase one vehicle for additional Community Improvement Officer	35,000				(35,000)
Replacement and upgrade of Compressed Natural Gas compressors (CC Approved 10/19/2021)	167,629				(167,629)
Cost Allocation Plan Adjustment (Business License)	(34,400)				34,400
Carryforward Encumbrances from FY 2020-21	794,549				(794,549)
FY 2020-21 Gainshare Program	61,148				(61,148)
Carryforward CIP Encumbrances from FY 2020-21	105,250				(105,250)
Carryforward CIP Appropriations from FY 2020-21	1,834,925				(1,834,925)
Carryforward Grant Appropriations from FY 2020-21	56,165	56,165			-
Recommended Personnel Changes	160,243				(160,243)
	4,117,958	101,199	-	-	(4,016,759)
Fund 031 - Integrated Waste Facilities					
Carryforward CIP Appropriations from FY 2020-21	55,168				(55,168)
	55,168	-	-	-	(55,168)
ENTERPRISE FUNDS TOTAL	57,895,826	15,194,949	-	-	(42,700,877)
INTERNAL SERVICE FUNDS					
Fund 032 - Equipment Services					
FY 2020/21 Vehicle Carryforward	1,712,584				(1,712,584)
FY 2020/21 Other Equipment Carryforward	68,896				(68,896)
Cost Allocation Plan Adjustment (Business License)	(12,711)				12,711
Carryforward Encumbrances from FY 2020-21	6,742,362				(6,742,362)
FY 2020-21 Gainshare Program	20,584				(20,584)
Carryforward CIP Encumbrances from FY 2020-21	11,487				(11,487)
Carryforward CIP Appropriations from FY 2020-21	138,259				(138,259)
Recommended Personnel Changes	498				(498)
Internal Borrowing Repayment Including Interest from Pension Benefit Fund		5,031,250			5,031,250
	8,681,959	5,031,250	-	-	(3,650,709)
Fund 033 - Unemployment/Disability					
Cost Allocation Plan Adjustment (Business License)	(449)				449
Internal Borrowing Repayment Including Interest from Pension Benefit Fund		7,043,750			7,043,750
	(449)	7,043,750	-	-	7,044,199
Fund 034 - Information Technology					
CityView Workspace Upgrade MS2208 (client-side interface, filed staff mobile interface & hardware) for Community Improvement Department	117,425				(117,425)
Cost Allocation Plan Adjustment (Business License)	(12,592)				12,592
Carryforward Encumbrances from FY 2020-21	575,191				(575,191)
FY 2020-21 Gainshare Program	30,229				(30,229)
Carryforward CIP Encumbrances from FY 2020-21	2,848,396				(2,848,396)
Carryforward CIP Appropriations from FY 2020-21	5,237,147				(4,985,147)
Recommended Personnel Changes	209,523				(209,523)
Funding Transfer from General Fund 001			8,200,000		8,200,000
	9,005,319	-	8,200,000	-	(805,319)

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 037 - Workers Compensation					
One-Time Increase for Retired Annuitant Support	31,772				(31,772)
Cost Allocation Plan Adjustment (Business License)	(3,864)				3,864
Recommended Personnel Changes	59,754				(59,754)
Internal Borrowing Repayment Including Interest from Pension Benefit Fund		3,018,750			3,018,750
FY 2020-21 Gainshare Program	210				(210)
	87,872	3,018,750	-	-	2,930,878
Fund 038 - General Liability					
One-Time Increase for Retired Annuitant Support	35,807				(35,807)
Increase to Insurance Premiums	736,676				(736,676)
Cost Allocation Plan Adjustment (Business License)	(4,540)				4,540
Carryforward Encumbrances from FY 2020-21	17,500				(17,500)
FY 2020-21 Gainshare Program	1,830				(1,830)
Recommended Personnel Changes	59,754				(59,754)
	847,027	-	-	-	(847,027)
Fund 076 - Facility Maintenance					
Energy Resources Conservation and Development Commission debt service (CC Approved 11/05/2019)	337,641				(337,641)
Climatec Debt Service, Taxable and non-Taxable (CC Approved 9/15/2020)	1,990,352				(1,990,352)
Rymax Electrical, Inc. agreement amendment (CC Approved 10/19/2021)	30,000				(30,000)
Chaffey Museum carpet replacement	70,000				(70,000)
Purchase of Automatic Transfer Switch (ATS) and portable generator at the Westwind and De Anza Community Centers	270,000				(270,000)
Funding for security upgrades around warehouses at Utility Customer Services Center and Police Department	150,000				(150,000)
Replacement of knocked down/damaged wooden net poles and light poles at Jay Littleton Ballpark and De Anza Park	821,500				(821,500)
HVAC repairs for Page One Café	50,885				(50,885)
Cost Allocation Plan Adjustment (Maintenance Districts)		(102,722)			(102,722)
Cost Allocation Plan Adjustment (Business License)	(5,410)				5,410
Carryforward Encumbrances from FY 2020-21	144,217				(144,217)
FY 2020-21 Gainshare Program	11,133				(11,133)
Carryforward CIP Encumbrances from FY 2020-21	571,493				(571,493)
Carryforward CIP Appropriations from FY 2020-21	21,321,615				(21,321,615)
Waterproofing for Museum's Basement	450,000				(450,000)
	26,213,426	(102,722)	-	-	(26,316,148)
Fund 094 - Pension Benefits Fund					
Land sale proceeds of real property on East State Street and South Campus Avenue		41,421,938			41,421,938
Property Acquisition on North Euclid, West D Street, and West E Street (CC Approved 09/07/2021)	3,332,080				(3,332,080)
Property Acquisition on South Grove, Main Street, South Von View, and East Washington (09/03/2019)	2,300,000				(2,300,000)
Funding for Future CalPERS UAL/RSIP (from Fund 001)			15,000,000		15,000,000
Economic Development Activities			15,800,000		15,800,000
Carryforward CIP Appropriations from FY 2020-21	2,213,386				(2,213,386)
Internal Borrowing Repayment including interest (to Fund 025, 026, 032, 033, 037) from Pension Benefit Fund	30,187,500				(30,187,500)
	38,032,966	41,421,938	30,800,000	-	34,188,972

City of Ontario Detail of Recommended Budget Adjustments by Fund Fiscal Year 2021-22 First Quarter Budget Update					
Description	Appropriation Adjustments	Revenue Adjustments	Operating Transfers-In	Operating Transfers-Out	Fund Balance Impact
Fund 099 - Other Post Employment Benefits					
California Employers' Retiree Benefit Trust (CERBT) Reimbursement		6,500,000			6,500,000
Contribution to Sec 115 OPEB Trust	11,413,986				(11,413,986)
	11,413,986	6,500,000	-	-	(4,913,986)
INTERNAL SERVICE FUNDS TOTAL	94,282,106	62,912,966	39,000,000	-	7,630,860
TOTAL CITY FUNDS BUDGET ADJUSTMENTS	333,673,817	140,046,537	46,902,116	46,902,116	(193,627,280)
Fund 048 - Ontario Housing Authority					
Housing Department Personnel Budget Adjustment	(251,026)				251,026
Cost Allocation Plan Adjustment (Business License)	(882)				882
Carryforward Encumbrances from FY 2020-21	77,221				(77,221)
FY 2020-21 Gainshare Program	6,427				(6,427)
FY 2020-21 Gainshare Program	1,398				(1,398)
FY 2020-21 Gainshare Program	1,372				(1,372)
FY 2020-21 Gainshare Program	3,657				(3,657)
Carryforward Grant Appropriations from FY 2020-21	8,927,222				(8,927,222)
	8,758,962	-	-	-	(8,758,962)
Fund 166 - Housing Asset Fund					
Project Funding First Quarter Revision	(47,031)	-	-	-	47,031
	(47,031)	-	-	-	47,031
AGENCY FUNDS TOTAL	8,711,931	-	-	-	(8,711,931)
TOTAL ALL FUNDS BUDGET ADJUSTMENTS	342,385,748	140,046,537	46,902,116	46,902,116	(202,339,211)

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Investments & Revenue Resources
Prepared By: Cruz Torres
Staff Member Presenting:
Armen Harkalyan, Executive Director of Finance
Reviewed By: Cecilia House, Armen Harkalyan
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 10

SUBJECT: ACCEPT WRITTEN PETITIONS TO CREATE A COMMUNITY FACILITIES DISTRICT; AND A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 56 (PARKSIDE/LA AVENIDA), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES; A RESOLUTION TO INCUR BONDED INDEBTEDNESS

RECOMMENDATION: That the City Council consider and:

- A. Accept written petitions (on file in the Records Management Department) from Woodside O5S, LP; SC Ontario Development Company, LLC; The New Home Company Southern California LLC; Lennar Homes of California, Inc; and Arroyo Cap II-1, LLC ("Landowners"), to create a Community Facilities District ("CFD") and to waive certain procedural matters, under the Mello-Roos Community Facilities Act of 1982; and
- B. Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 56 (Parkside/La Avenida), authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, December 21, 2021.
- C. Adopt a Resolution to Incur Bonded Indebtedness of proposed Community Facilities District No. 56 (Parkside/La Avenida).

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Operate in a Businesslike Manner

Focus Resources in Ontario's Commercial and Residential Neighborhoods

Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The use of Mello-Roos financing in the Parkside/La Avenida Development is projected to generate approximately \$748,034 per year, at buildout, to fund City services; and approximately \$18.4 million in bonds proceeds to fund a portion of the public infrastructure improvements that will 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 General Fund impact 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. 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; 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. Infrastructure improvements that will be financed as part of the bond financing include:

- Water
- Sewer
- Storm Drain
- Street, Bridges, and Circulation
- Fiber Optics

SC Ontario Development Company, LLC; Woodside 05S, LP; Arroyo Cap II-1, LLC; The New Home Company Southern California; and Lennar Homes of California, Inc have provided written petitions to the City requesting the formation of a CFD, along with deposits from SC Ontario Development Company, LLC and Woodside 05S, LP, pursuant to Deposit Agreements dated for July 1, 2021, to fund City services. The Parkside/La Avenida district is planned as a residential neighborhood that consists of three special tax zones; Zone 1 - Woodside Homes; Zone 2 - The New Home Company; and Zone 3 - PA27/Lennar Homes that addresses the development of approximately 50.84 gross acres. Location of the project areas are: Zone 1-Woodside Homes south of Schaefer Avenue, generally east of Archibald Avenue, west of Turner Avenue and north of La Avenida Drive Zone 2-New Home Company generally south of Edison Avenue, east of Cucamonga Creek Channel, west of Archibald Avenue, and north of Eucalyptus Avenue; Zone 3- PA27/Lennar Homes south of Merrill Avenue, generally west of Haven Avenue, generally east of Archibald Avenue and north of the County Line Channel. As proposed, the project is anticipated to include 482 units: zone 1-106 detached-condo units, zone 2- 303 detached-condo units and zone 3- 52 detached-condo units and 21 attached units.

Under the Mello-Roos Act, the initial steps in the formation of a CFD requires a Resolution declaring the City's intention to establish a community facilities district and levy special taxes. As part of the Resolution of Intention, is the proposed Rate and Method of Apportionment of Special Tax for the City of Ontario Community Facilities District No. 56 (Parkside/La Avenida). The terms of the Rate and Method of Apportionment of Special Tax are consistent with the City Council's adopted Mello-Roos Local Goals and Policies, Resolution No. 2006-021, in all aspects in zone 1. Exceptions to the Goals and Policies are the following: zone 2 was granted a full waiver on the first phase of their project based on future phases of construction; and zone 3, which was granted a partial waiver based on the percentage of the assessed value of the total annual tax obligation, plus the Homeowners Association (HOA) fee, which exceeds the adopted policy thresholds by .16% for detached units. The partial waiver for zone 3 is consistent with the previously granted waivers within the Park Place community.

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. The amount of bonds authorized (\$75 million) under the Resolution is set intentionally higher than the current proposed bond amount (approximately \$18.4 million) to allow future City Councils the option to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund City services without increasing the amount of the annual special taxes. The term

and structure of the Rate and Method of Apportionment of Special Tax for the Parkside/La Avenida project are consistent with those of the previously adopted Rate and Method of Apportionments for Ontario Ranch community facilities districts. This will ensure 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 Ontario Ranch community facilities districts will be required to disclose the maximum annual special tax amounts to each homeowner before entering into a sales contract.

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 district and to levy special taxes will set the public hearing date on the formation of the community facilities district for the regularly scheduled City Council meeting on Tuesday, December 21, 2021, to consider the matter.

RESOLUTION NO. _____

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. 56 (PARKSIDE/LA AVENIDA), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

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 in 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 community facilities district and specifying the 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 written petitions (the "Petitions") from each of SC Ontario Development Company, LLC, a Delaware limited liability company ("SC Ontario"), Lennar Homes of California, Inc., a California corporation, Arroyo Cap II-1, LLC, a Delaware limited liability company, The New Home Company Southern California LLC, a Delaware limited liability company and Woodside 05S, LP, a California limited partnership ("Woodside" and, collectively, the "Landowners") requesting the institution of proceedings for the establishment of a community facilities district (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, 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 SC Ontario have entered into a Deposit and Reimbursement Agreement, dated as of July 1, 2021 (the "SC Ontario Deposit Agreement"), relating to the Community Facilities District, that provides for the advancement of funds by SC Ontario to be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby, and provides for the reimbursement to SC Ontario of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

WHEREAS, the City and Woodside have entered into a Deposit and Reimbursement Agreement, dated as of July 1, 2021 (the "Woodside Deposit Agreement"), relating to the Community Facilities District, that provides for the advancement of funds by Woodside to be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby, and provides for the reimbursement to Woodside of such funds advanced, without interest, from the proceeds of any such bonds issued 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 SC Ontario Deposit Agreement and the Woodside 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 a 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 with 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. 56 (Parkside/La Avenida).”

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 described 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. Except where funds are otherwise available, 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, will be annually levied within the Community Facilities District. The rate and method of apportionment of the Special Tax (the “Rate and Method”), in sufficient detail to allow each landowner within the proposed Community Facilities District to estimate the maximum amount that he or she will have to pay, is described in Exhibit C attached hereto, which is by this reference incorporated herein. The conditions under which the obligation to pay the Special Tax 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.

SECTION 8. The tax year after which no further Special Tax to pay for Facilities will 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.

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 which 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, December 21, 2021, 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 December 21, 2021 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. The 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 the information prescribed by Section 53322 of the Act.

SECTION 12. The levy of the proposed Special Tax shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the Community Facilities District, 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. SC 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 establishment of the Community Facilities District and the issuance of special tax bonds thereby. The City Council proposes to repay all or a portion of such funds expended for such purpose, solely from the proceeds of such bonds, pursuant to the SC Ontario Deposit Agreement. Woodside 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 establishment of the Community Facilities District and the issuance of special tax bonds thereby. The City Council proposes to repay all or a portion of such funds expended for such purpose, solely from the proceeds of such bonds, pursuant to the Woodside Deposit Agreement. The SC Ontario Deposit Agreement and the Woodside Deposit Agreement are each hereby incorporated herein as though set forth in full herein.

SECTION 15. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 16. 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 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 16th day of November 2021.

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. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 16, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held November 16, 2021.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

BOUNDARY MAP

EXHIBIT B

FACILITIES AND INCIDENTAL EXPENSES

Facilities

The types of 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 system facilities, 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 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, 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 system facilities, general governmental office, administrative and meeting facilities, and land, rights-of-way and easements necessary for any of such facilities.

Services

The types of 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 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

PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT C

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 56 (PARKSIDE/LA AVENIDA)

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. 56 (Parkside/La Avenida) ("CFD No. 56") and collected each Fiscal Year, commencing in Fiscal Year 2022-23, 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. 56, 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. 56: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 56 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. 56 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 56 of complying with City, CFD No. 56, 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. 56 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. 56 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. 56; and amounts estimated or advanced by the City or CFD No. 56 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. 56 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. 56 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. 23" means City of Ontario Community Facilities District No. 23 (Park Place Services).

"CFD No. 32" means City of Ontario Community Facilities District No. 32 (Archibald/Schaefer – Services).

"CFD No. 56" means City of Ontario Community Facilities District No. 56 (Parkside/La Avenida).

"City" means the City of Ontario, California.

"City Council" means the City Council of the City, acting as the legislative body of CFD No. 56.

"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, 2021, and before May 1 of the prior Fiscal Year.

“Expected Residential Lot Count” means 106 Buildable Lots of Single Family Property in Tax Zone 1, 303 Buildable Lots of Single Family Property in Tax Zone 2, and 73 Buildable Lots of Single Family Property in Tax Zone 3, 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. 56.

“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, 3, and 4 below.

“Lower Income Household Welfare Exemption Property” means, for each Fiscal Year, an Assessor’s Parcel within the boundaries of CFD No. 56 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. 56 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. 56 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 56, (ii) the City, (iii) any owner of real property in CFD No. 56, or (iv) any real property in CFD No. 56, and (e) is not connected with CFD No. 56 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 56 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. 56 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. 56 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. 56. 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, 2021, 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. 56.

"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 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 Detached Dwelling Unit" means a Unit of Single Family Detached Property.

"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. 56 to be levied within the boundaries of CFD No. 56 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. 56 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. 56 to be levied within the boundaries of Tax Zone 2 of CFD No. 56 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. 56, 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. 56 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 three Tax Zones in CFD No. 56.

“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 boundary of TTM 20298, and is commonly referred to as the La Avenida/Woodside Homes project.

“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 20316, and is commonly referred to as the Parkside/New Home Company project.

“Tax Zone 3” means the geographic area designated in Attachment 1 of this Rate and Method of Apportionment as Tax Zone 3, is consistent with the boundary of TTM 18913-4, and is commonly referred to as the Park Place PA 27/Lennar project.

“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 of CFD No. 32 for such Land Use Class for such Fiscal Year; with respect to Tax Zone 2, the Special Tax B for such Land Use Class for such Fiscal Year; and with respect to Tax Zone 3, the Special Tax of CFD No. 23 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 18913-4” means Tentative Tract Map No. 18913-4, the area of which is located within CFD No. 56.

“TTM 20298” means Tentative Tract Map No. 20298, the area of which is located within CFD No. 56.

“TTM 20316” means Tentative Tract Map No. 20316, the area of which is located within CFD No. 56.

“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 2022-23, all Taxable Property within CFD No. 56 shall be organized into Tax Zone 1, Tax Zone 2, or Tax Zone 3, 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 Attached Property, Single Family Detached Property, 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 9, Single Family Property in Tax Zone 2 shall be assigned to Land Use Classes 12 through 24, and Single Family Property in Tax Zone 3 shall be assigned to Land Use Classes 27 through 38, as listed in Tables 1, 2, and 3 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 10 and 11, respectively, in Tax Zone 1, Land Use Classes 25 and 26 in Tax Zone 2, and Land Use Classes 39 and 40 in Tax Zone 3.

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, 2, and 3 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At such time, CFD No. 56 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.

Tax Zone 1 and Tax Zone 2

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 Tax Zone 1 or Tax Zone 2 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.

Tax Zone 3

If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Single Family Property to be constructed within Tax Zone 3 exceeds 2.34% of the Minimum Sale Price of Units of Single Family Detached Property or 2.64% of the Minimum Sale Price of Units of Single Family Attached Property, the Assigned Special Tax A shall be reduced to the extent necessary to cause the Total Tax Burden that shall apply to Units within such Land Use Class(es) not to exceed 2.34% or 2.64% of the Minimum Sale Price of Units of Single Family Detached Property or Single Family Attached Property, respectively. In addition, 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 Tax Zone 3 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. 56. Upon receipt thereof, if in satisfactory form, CFD No. 56 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. 56.

The Special Tax A reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien, which CFD No. 56 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 56. 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, 2, and 3.

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	< 1,801	\$2,758 per Unit
2	Single Family Property	1,801 – 1,900	\$2,845 per Unit
3	Single Family Property	1,901 – 2,000	\$2,868 per Unit
4	Single Family Property	2,001 – 2,100	\$2,935 per Unit
5	Single Family Property	2,101 – 2,200	\$3,066 per Unit
6	Single Family Property	2,201 – 2,300	\$3,102 per Unit
7	Single Family Property	2,301 – 2,400	\$3,169 per Unit
8	Single Family Property	2,401 – 2,500	\$3,255 per Unit
9	Single Family Property	> 2,500	\$3,349 per Unit
10	Other Residential Property		\$48,482 per Acre
11	Non-Residential Property		\$48,482 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
12	Single Family Property	< 901	\$2,184 per Unit
13	Single Family Property	901 – 1,000	\$2,371 per Unit
14	Single Family Property	1,001 – 1,100	\$2,542 per Unit
15	Single Family Property	1,101 – 1,200	\$2,693 per Unit
16	Single Family Property	1,201 – 1,300	\$2,924 per Unit
17	Single Family Property	1,301 – 1,400	\$3,175 per Unit
18	Single Family Property	1,401 – 1,500	\$3,283 per Unit
19	Single Family Property	1,501 – 1,600	\$3,340 per Unit
20	Single Family Property	1,601 – 1,700	\$3,436 per Unit
21	Single Family Property	1,701 – 1,800	\$3,561 per Unit
22	Single Family Property	1,801 – 1,900	\$3,778 per Unit
23	Single Family Property	1,901 – 2,000	\$4,221 per Unit
24	Single Family Property	> 2,000	\$4,406 per Unit
25	Other Residential Property		\$76,571 per Acre
26	Non-Residential Property		\$76,571 per Acre

TABLE 3
TAX ZONE 3
ASSIGNED SPECIAL TAX A – DEVELOPED PROPERTY

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax A
27	Single Family Detached Property	< 1,101	\$2,508 per Unit
28	Single Family Detached Property	1,101 – 1,300	\$2,694 per Unit
29	Single Family Detached Property	1,301 – 1,500	\$3,368 per Unit
30	Single Family Detached Property	1,501 – 1,700	\$3,421 per Unit
31	Single Family Detached Property	1,701 – 1,900	\$3,672 per Unit
32	Single Family Detached Property	1,901 – 2,100	\$4,153 per Unit
33	Single Family Detached Property	> 2,100	\$4,515 per Unit
34	Single Family Attached Property	< 1,301	\$2,716 per Unit
35	Single Family Attached Property	1,301 – 1,500	\$2,880 per Unit
36	Single Family Attached Property	1,501 – 1,700	\$3,452 per Unit
37	Single Family Attached Property	1,701 – 1,900	\$3,554 per Unit
38	Single Family Attached Property	> 1,900	\$3,885 per Unit
39	Other Residential Property		\$125,970 per Acre
40	Non-Residential Property		\$125,970 per Acre

3) *Backup Special Tax A*

The Backup Special Tax A shall be \$3,009 per Unit for Single Family Property in Tax Zone 1, \$3,175 in Tax Zone 2, and \$3,525 in Tax Zone 3. However, if the Expected Residential Lot Count does not equal 106 for Single Family Property in Tax Zone 1, 303 in Tax Zone 2, and 73 in Tax Zone 3, 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 = $\$318,961 \div \text{Expected Residential Lot Count in Tax Zone 1 for Single Family Property}$

Tax Zone 2 = $\$962,038 \div \text{Expected Residential Lot Count in Tax Zone 2 for Single Family Property}$

$$\text{Tax Zone 3} = \$257,356 \div \text{Expected Residential Lot Count in Tax Zone 3 for Single Family Property}$$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 56 to become Final Mapped Property – such as the area within TTM 18913-4, TTM 20298, TTM 20316, 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 \$48,482 per Acre in Tax Zone 1, \$76,571 per Acre in Tax Zone 2, and \$125,970 per Acre in Tax Zone 3, 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 2 shall be determined by reference to Table 4 below.

TABLE 4
TAX ZONE 2
MAXIMUM SPECIAL TAX B – DEVELOPED PROPERTY

Land Use Class	Maximum Special Tax B Fiscal Year 2022-23
Residential Property	
Single Family Detached Dwelling Unit	\$1,623.20 per Unit
Multiple Family Dwelling Unit	\$1,406.69 per Unit
Gated Community Attached Dwelling Unit	\$1,179.66 per Unit
Non-Residential Property	\$0.296000 per Sq. Ft.

On January 1 of each Fiscal Year, commencing January 1, 2023, 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 2 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 2.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

1. Special Tax A

Each Fiscal Year, beginning with Fiscal Year 2022-23, 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. 56 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 2022-23, 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 2 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 3.18 Acres of Property Owner Association Property. In Tax Zone 2, no Special Tax shall be levied on up to 19.08 Acres of Public Property and up to 1.32 Acres of Property Owner Association Property. In Tax Zone 3, no Special Tax shall be levied on up to 0.52 Acres of Public Property and up to 3.20 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. 56 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 \$20,384,000 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. 56.

“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, 2022, through June 30, 2056.

“Prepayment Period 2” means July 1, 2056, through June 30, 2089.

“Prepayment Period 3” means July 1, 2089, through June 30, 2123.

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 2 of CFD No. 56.

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, 2021, 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
<u>less</u>	<u>Reserve Fund Credit</u>
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. 56 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. 56, 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. 56, 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. 56, 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. 56.

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. 56 (after excluding 37.13 Acres of Public Property and 11.66 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, 2021, 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. 56 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 2122-2123, 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 2 of CFD No. 56.

Attachment 1
City of Ontario
CFD No. 56 (Parkside/La Avenida)

Identification of Tax Zones

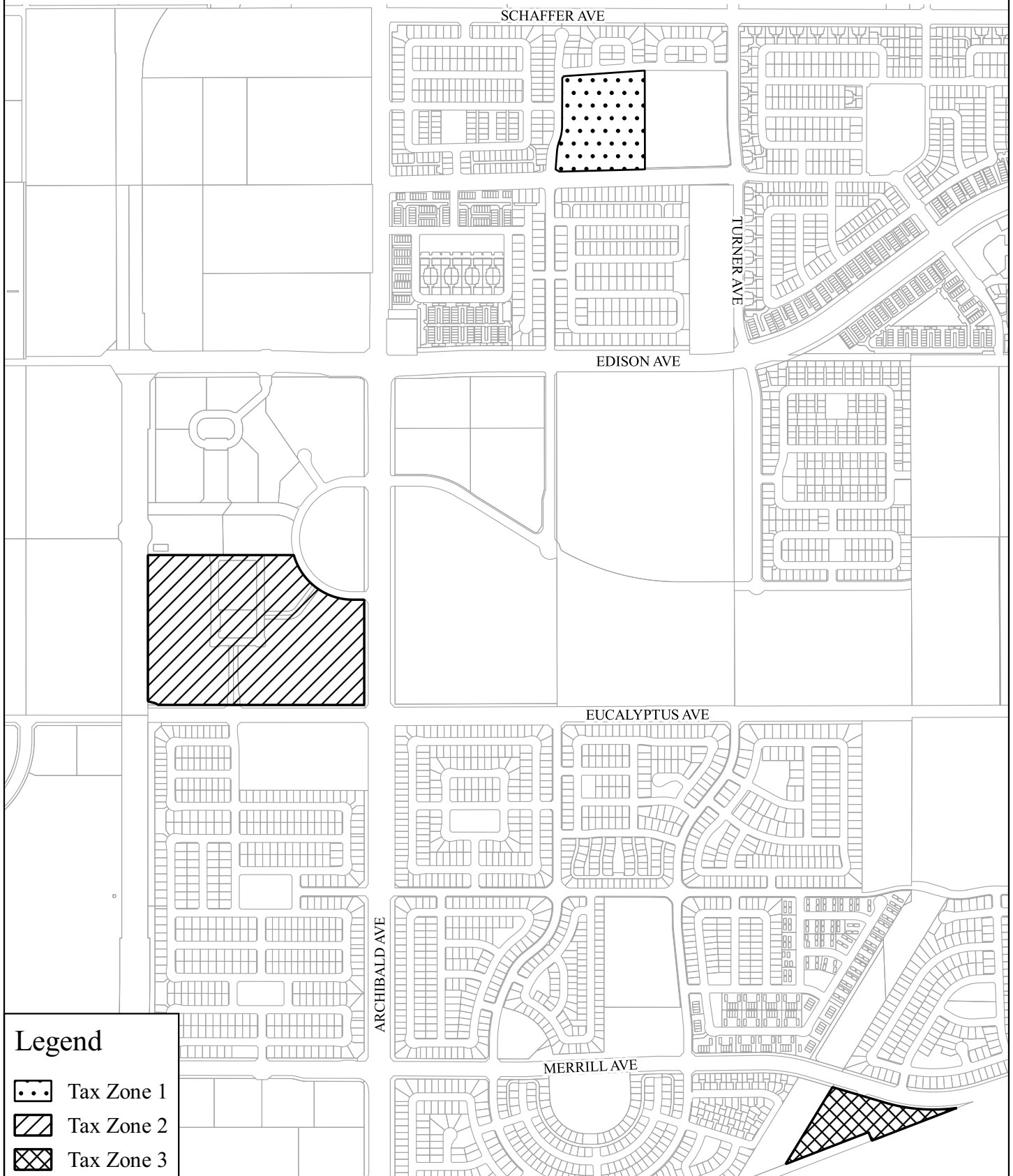


EXHIBIT A

CERTIFICATE OF MODIFICATION OF SPECIAL TAX A (PAGE 1 OF 4)

CITY OF ONTARIO AND CFD No. 56 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. 56 (Parkside/La Avenida) (“CFD No. 56”), the Assigned Special Tax A and the Backup Special Tax A for Developed Property within CFD No. 56 has been modified.
 - a. The information in Tables 1, 2, and 3 relating to Assigned Special Tax A for Developed Property within CFD No. 56, 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	< 1,801	\$[] per Unit
2	Single Family Property	1,801 – 1,900	\$[] per Unit
3	Single Family Property	1,901 – 2,000	\$[] per Unit
4	Single Family Property	2,001 – 2,100	\$[] per Unit
5	Single Family Property	2,101 – 2,200	\$[] per Unit
6	Single Family Property	2,201 – 2,300	\$[] per Unit
7	Single Family Property	2,301 – 2,400	\$[] per Unit
8	Single Family Property	2,401 – 2,500	\$[] per Unit
9	Single Family Property	> 2,500	\$[] per Unit
10	Other Residential Property		\$[] per Acre
11	Non-Residential Property		\$[] per Acre

EXHIBIT A

CERTIFICATE OF MODIFICATION OF SPECIAL TAX A (PAGE 2 OF 4)

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

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax A
12	Single Family Property	< 901	\$[] per Unit
13	Single Family Property	901 – 1,000	\$[] per Unit
14	Single Family Property	1,001 – 1,100	\$[] per Unit
15	Single Family Property	1,101 – 1,200	\$[] per Unit
16	Single Family Property	1,201 – 1,300	\$[] per Unit
17	Single Family Property	1,301 – 1,400	\$[] per Unit
18	Single Family Property	1,401 – 1,500	\$[] per Unit
19	Single Family Property	1,501 – 1,600	\$[] per Unit
20	Single Family Property	1,601 – 1,700	\$[] per Unit
21	Single Family Property	1,701 – 1,800	\$[] per Unit
22	Single Family Property	1,801 – 1,900	\$[] per Unit
23	Single Family Property	1,901 – 2,000	\$[] per Unit
24	Single Family Property	> 2,000	\$[] per Unit
25	Other Residential Property		\$[] per Acre
26	Non-Residential Property		\$[] per Acre

EXHIBIT A

CERTIFICATE OF MODIFICATION OF SPECIAL TAX A (PAGE 3 OF 4)

TABLE 3
TAX ZONE 3
ASSIGNED SPECIAL TAX A – DEVELOPED PROPERTY

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax A
27	Single Family Detached Property	< 1,101	\$[] per Unit
28	Single Family Detached Property	1,101 – 1,300	\$[] per Unit
29	Single Family Detached Property	1,301 – 1,500	\$[] per Unit
30	Single Family Detached Property	1,501 – 1,700	\$[] per Unit
31	Single Family Detached Property	1,701 – 1,900	\$[] per Unit
32	Single Family Detached Property	1,901 – 2,100	\$[] per Unit
33	Single Family Detached Property	> 2,100	\$[] per Unit
34	Single Family Attached Property	< 1,301	\$[] per Unit
35	Single Family Attached Property	1,301 – 1,500	\$[] per Unit
36	Single Family Attached Property	1,501 – 1,700	\$[] per Unit
37	Single Family Attached Property	1,701 – 1,900	\$[] per Unit
38	Single Family Attached Property	> 1,900	\$[] per Unit
39	Other Residential Property		\$[] per Acre
40	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, \$[] in Tax Zone 2, and \$[] in Tax Zone 3. However, if the Expected Residential Lot Count does not equal 106 for Single Family Property in Tax Zone 1, 303 in Tax Zone 2, and 73 in Tax Zone 3, 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 4 OF 4)

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 Property

Tax Zone 3 = \$[] ÷ Expected Residential Lot
Count in Tax Zone 3 for Single
Family Property

2. The Special Tax A for Developed Property may only be modified prior to the first issuance of CFD No. 56 Bonds.
3. Upon execution of this certificate by CFD No. 56, CFD No. 56 shall cause an amended notice of Special Tax lien for CFD No. 56 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. 56
(PARKSIDE/LA AVENIDA)

By: _____ Date: _____

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO INCUR BONDED INDEBTEDNESS OF THE PROPOSED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 56 (PARKSIDE/LA AVENIDA).

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 its 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. 56 (Parkside/La Avenida) and to Authorize the Levy of Special Taxes," stating its intention to establish City of Ontario Community Facilities District No. 56 (Parkside/La Avenida) (the "Community Facilities District") for the purpose of financing certain public facilities (the "Facilities") and services, as further provided in said Resolution; and

WHEREAS, in order to finance the Facilities it is necessary to incur bonded indebtedness in the amount of up to \$75,000,000; and

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

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

SECTION 2. The City Council hereby declares that in order to finance the Facilities, it is necessary to incur bonded indebtedness.

SECTION 3. The purpose for which the proposed debt is to be incurred is to provide the funds necessary to pay the costs of the Facilities, including all costs and estimated costs incidental to, or connected with, the accomplishment of said purpose and of the financing thereof, as permitted by Section 53345.3 of the Act.

SECTION 4. The maximum amount of the proposed debt is \$75,000,000.

SECTION 5. The City Council hereby fixes Tuesday, December 21, 2021, 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 December 21, 2021 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 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. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53346 of the Act.

SECTION 7. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 8. All actions heretofore taken by the officers, employees and agents of the City with respect to the proposed 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 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 16th day of November 2021.

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. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 16, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held November 16, 2021.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Investments & Revenue Resources
Prepared By: Christina C Aguirre
Staff Member Presenting:
Armen Harkalyan, Executive Director of Finance
Reviewed By: Cecilia House, Armen Harkalyan
Approved By: 

Submitted To: Council/OHA

Approved: _____

Continued To: _____

Denied: _____

Item No: 11

SUBJECT: APPROVAL OF A PRE-AUTHORIZED LIST OF SOLE-SOURCE VENDORS TO PROVIDE SPECIAL TAX CONSULTING, LEGAL, AND INVESTMENT BANKING SERVICES FOR THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICTS

RECOMMENDATION: That the City Council approve the request for a pre-authorized Sole Source list of vendors for the City's bond financing team for future Community Facility District (CFD) formations and bond issues for a term of five years.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

FISCAL IMPACT: There is no fiscal impact to the General Fund associated with the proposed pre-authorized list for services related to CFD formations and Bond Issuances. Individual developers will fund the cost of formation services and costs associated with bond issuance will be funded with bond proceeds at the time of issuance. Other related services for projects not included in the Developers' deposits are included in the Adopted Fiscal year 2021-22 Operating Budget.

Agreements for the suggested vendors will have a not-to-exceed amount of up to \$250,000 annually with an annual increase up to a maximum of 3% or CPI, annual rate changes will be negotiated and authorized by the City Manager or his/her designee.

BACKGROUND & ANALYSIS: In 2016, the City Council approved a similar action listing the Bond Formation and Financing Team for the Ontario Ranch development, which included all of the proposed vendors listed below. With the expected continued growth in Ontario Ranch, and potential projects in the Old Model Colony the City will need to continue CFD formations, bond financing, legal services, investment banking, and other related services.

Bond and Disclosure Counsel:

- Orrick, Herrington & Sutcliffe, LLP of Los Angeles, CA
- Stradling, Yocca Carlson & Rauth of Newport Beach, CA

Investment Bankers:

- Stiffel, Niclaus & Company, Incorporated of San Francisco, CA

Special Tax Consultants:

- Goodwin Consulting Group of Sacramento, CA
- Harris and Associates Corporation of Irvine, CA

Real Estate Economists:

- Empire Economics, Inc. of Capistrano Beach, CA

Financial Advisors:

- CSG Advisors of San Francisco, CA

The firms that are being recommended for the City's CFD formation and bond issuance team have significant experience in CFD formations and municipal bond financing. They are familiar with the City's community facilities' structure, district's local goals and policies, and the City's outstanding debt term obligations. The future selection of the specific CFD formations and bond issuance team members to participate in particular financings will be determined on a case by case basis dependent upon the project's specific needs and other circumstances existing at the time of formation and bond issuance. The recommendations to include the CFD formations, bond issuance, investment banking, legal, and related services providers as proposed are based on the following:

- Experience with municipal bonds;
- Staff qualifications;
- High quality of past performance with the City;
- Exceptional customer service; and
- Competitiveness of fees

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Planning
Prepared By: Charles Mercier
Staff Member Presenting:
Scott Murphy, Executive Director Community
Development
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 12

SUBJECT: A DEVELOPMENT CODE AMENDMENT, FILE NO. PDCA20-002, REVISING CERTAIN PROVISIONS ADDRESSING PUBLIC HEARING NOTIFICATIONS, ALLOWED USES WITHIN THE CS (CORNER STORE) ZONING DISTRICT, MINIMUM RECREATION AMENITIES WITHIN COMMON ACTIVE OPEN SPACE AREAS, AND OFF-STREET PARKING REQUIREMENTS FOR SMALL LOT INFILL SUBDIVISIONS

RECOMMENDATION: That the City Council consider and adopt an ordinance approving File No. PDCA20-002, a Development Code Amendment proposing to revise certain provisions addressing public hearing notifications, allowed uses within the CS (Corner Store) zoning district, minimum recreation amenities within common active open space areas, and off-street parking requirements for small lot infill subdivisions.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Invest in the Growth and Evolution of the City's Economy

Maintain the Current High Level of Public Safety

Operate in a Businesslike Manner

Pursue City's Goals and Objectives by Working with Other Governmental Agencies

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 November 2, 2021, the City Council introduced and waived further reading of an ordinance approving the Development Code Amendment. Staff has initiated several alterations to the Development Code that are necessary to adjust and clarify various provisions of the Development Code, which are described below. The proposed changes, as they would appear in the Development Code, are included as Exhibit A (Proposed Development Code Amendment).

Public Noticing Requirements. Staff is proposing changes to the public hearing notification procedures, established in the Development Code, to require supplemental public noticing that necessitates the posting of project sites with Large Public Notification Signs for certain project types, including:

- Projects proposed to be developed at a higher density or intensity than the existing surrounding neighborhood;

- Projects requiring a General Plan Amendment, Specific Plan Amendment, or Zone Change;
- Projects requiring the preparation of an environmental impact report; and
- Projects in which the Planning Director has determined that supplemental public notice is necessary and desirable based on the nature of the project.

Large Public Notification Signs will consist of a 6-foot-tall freestanding sign, with a sign face measuring 4 feet tall by 8 feet wide, which must be posted 300 lineal feet apart along each project site's street frontage. Sign locations are subject to Planning Director approval in conjunction with a Sign Plan application for a temporary sign.

The fabrication, installation, and removal of Large Public Notification Signs will be the responsibility of a project applicant. A project will not be scheduled for a public hearing until all required notification signs have been installed.

Allowed Uses in the CS (Corner Store) Zoning District. The CS zoning district is intended to accommodate pedestrian-oriented neighborhood retail and service establishments that would have few impacts to adjacent residential uses due to the types of uses allowed and their limited hours of operation. CS designated properties are within established neighborhoods, generally along residential collector streets, and are intended to provide their goods and services to a customer base that principally lives within walking distance.

In response to a property owner request, Staff has considered the list of permitted (uses allowed by correct zoning district) and conditionally permitted (uses requiring Conditional Use Permit approval) land uses in the CS zoning district and is proposing the addition of other certain land uses that are consistent with the purpose and intent of the zoning district, as follows:

Proposed Permitted Land Uses:

- Residential Mixed-Use Developments (development projects containing a mix of commercial and residential uses in the same building or on the same site);
- Pharmacies and drug stores;
- Cosmetics, beauty supplies, and perfume stores;
- Local messengers and local delivery services;
- Other Business Service Centers (limited to mailbox rental, photocopying, duplicating, blueprinting, mailing services, document copying services, facsimile services, word processing services, on-site PC rental services, and office product sales);
- Hair, nail, and skin care services;
- Color consulting services;
- Hair removal services;
- Hair replacement services;
- Make-up salons (includes the application of permanent cosmetics); and
- Tanning salons.

Proposed Conditionally Permitted Land Uses:

- Farmers markets and certified farmer's markets;
- Clothing stores (includes clothing for men, women, children, infants, and families; clothing accessory stores; and other clothing stores, such as bridal shops, costume stores, sports apparel stores, swimwear stores, T-shirt stores, and uniform stores);
- Shoe stores;
- Jewelry, luggage, and leather goods stores;

- Office supplies and stationery stores;
- Gift, novelty, and souvenir stores;
- Real estate renting or leasing (limited to offices of real estate lessors, agents and brokers, property managers and appraisers, and escrow and listing services);
- Real estate agents and brokers;
- Activities related to real estate (including offices of residential and nonresidential property managers; real estate appraisers; and other activities related to real estate, such as escrow services, fiduciaries, listing services, and asset managers); and
- Fine arts schools (nonacademic instruction, including music, dance, performing arts, drama, photography, ceramics, painting, and sculpture) – limited to a gross floor area of less than 2,000 square feet.

Minimum Requirements for Common Recreation Amenities. The Development Code establishes minimum recreation facilities requirements for multiple-family development projects, the multiple-family residential portion of mixed-use development projects, and residential common interest projects, such as townhome and cluster developments. The type and number of facilities required is based upon the number of dwellings proposed, as follows:

Minimum Requirements for Common Recreation Amenities

<i>No. Dwelling Units</i>	<i>No. Major Recreation Facilities Required</i>	<i>No. Minor Recreation Facilities Required</i>
4 to 10	0	1
10 to 25	1**	0
26 to 100	1	1
101 to 150	1	2
151 to 200	2	2
201 to 250	2	3
251 to 300	3	3
More than 300	1/100 dwelling units	1/50 dwelling units

** Projects consisting of 25 or fewer dwellings may provide 2 minor facilities in place of one major facility.

Currently, the Development Code allows projects consisting of 25 or fewer dwellings, to substitute two minor recreation facilities in place of one major recreation facility. Planning Department Staff is proposing that the maximum project size be increased to 45 or fewer dwellings, affording smaller residential projects requiring common recreation amenities, including small lot infill subdivisions, additional site design flexibility to aid in maximizing residential densities.

Off-Street Parking for Small Lot Infill Subdivisions. Development Code standards for Small Lot Infill Subdivisions were adopted by the City Council in December 2020. At the time of adoption, off-street parking standards for Small Lot Infill Subdivisions were inadvertently excluded from the ordinance. Consequently, Staff is now proposing the inclusion of the off-street parking standards, requiring that parking be provided at the minimum rate of one parking space per bedroom, with a minimum of one parking space per unit provided in a fully enclosed garage. Additionally, guest/visitor parking must be provided at the minimum rate of 0.2 parking space per bedroom.

The proposed off-street parking standard is based on the standard utilized for the newer multiple-family residential projects developed around the Downtown Civic Center area, which takes into consideration the availability of public transit and commercial services within the surrounding area. The following

table compares the current multiple-family off-street parking requirements to the proposed Small Lot Infill Subdivision off-street parking requirements, based on a 39-unit Small Lot Infill Subdivision approved by the Planning Commission on September 28, 2021.

Off-Street Parking Comparison Based on 39-Unit Small Lot Infill Subdivision

<i>Type</i>	<i>Current Multiple-Family Parking Requirements</i>	<i>Proposed Small Lot Infill Subdivision Parking Requirement</i>
(18) - One-Bedroom Units	27 (1.5 space/unit)	18 (1.0 space /bedroom)
(21) - Two-Bedroom Units	42 (2.0 spaces/unit)	42 (1.0 space /bedroom)
Guest/Visitor Spaces	10 (0.25 space/unit)	12 (0.2 space /bedroom)
TOTAL	79	72

The comparison above demonstrates an approximate 9.5 percent reduction in parking for the Small Lot Infill Subdivision. The parking reduction would be increased with the introduction of more one-bedroom units in place of two-bedroom units. Alternately, the parking reduction would decrease with the introduction of more two-bedroom units in place of one-bedroom units.

HOUSING ELEMENT COMPLIANCE: The Project will be consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project furthers the purposes, principals, goals, and policies of the Housing Element, in that it will provide smaller multiple-family development projects, the multiple-family residential portion of mixed-use development projects, and residential common interest projects, such as townhome and cluster developments added flexibility in residential site design, thereby further promoting alternate forms of home rental and fee-simple homeownership.

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

ENVIRONMENTAL REVIEW: 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: Proposed Development Code Additions/Revisions

PART I: Development Code Section 2.03.010 (Public Hearing Notification) is proposed to be amended, adding Subparagraph C.5 to read as follows:

5. Supplemental Public Noticing Requirements.

a. In addition to the requirements of paragraphs C.1 through C.4, above, supplemental public notice shall be provided, which consists of one or more large public notification signs consisting of a 6-foot-tall freestanding sign, having a sign face measuring 4 feet tall by 8 feet wide, which shall be posted on the project site for development related projects meeting any of the following criteria:

(1) The proposed project is planned to be developed at a higher density or intensity than the existing surrounding neighborhood; and/or

(2) The proposed project requires a General Plan Amendment, Specific Plan Amendment, or Zone Change; and/or

(3) The proposed project requires the preparation of an environmental impact report; and/or

(4) The Planning Director has determined that supplemental public notice is necessary and desirable based on the nature of the proposed project. For large projects, the planning director may determine that more than one sign is necessary.

b. A cash deposit is required in an amount adopted by resolution of the City Council, to ensure compliance with the supplemental notification requirements, including maintenance and removal of the large notification sign.

c. In order to implement the large public notification signs as an effective form of public notification, the following rules and standards shall apply:

(1) Large public notification signs shall be constructed and installed pursuant to the specifications established and published by the Planning Director.

(2) Large public notification signs shall be posted 300 lineal feet apart along each project site's street frontage. Sign locations shall be approved by the Planning Director in conjunction with a Sign Plan for a temporary sign issued pursuant to the requirements of Division 8.01 (Sign Regulations) of this Development Code.

(3) The fabrication and installation of a large public notification sign shall be the responsibility of the project applicant. Once the project application is deemed complete and all notification signs installed per city standards, the proposed project will be scheduled for all required public hearings.

(4) Large public notification signs shall be maintained in good condition and shall remain in place until the final decision on the proposed project has been made or the application is withdrawn.

(5) Large public notification signs shall be removed by the applicant within 14 days following the final decision on the project or the date of application withdrawal. Failure to remove the sign within the prescribed period shall result in forfeiture of the cash deposit and removal of the sign by the City.

PART II: Development Code Table 5.02-1 (Land Use Matrix) is proposed to be amended, adding the following as permitted land uses in the CS (Corner Store) zoning district:

2017 NAICS Code	<i>Land Uses, Activities, and Facilities</i>
	<u>Residential Mixed-Use Developments (development projects containing a mix of commercial and residential uses in the same building or on the same site)</u>
<u>446110</u>	<u>Pharmacies and Drug Stores</u>
<u>446120</u>	<u>Cosmetics, Beauty Supplies, and Perfume Stores</u>
<u>492210</u>	<u>Local Messengers and Local Delivery Services</u>
<u>561439</u>	<u>Other Business Service Centers (limited to mailbox rental, photocopying, duplicating, blueprinting, mailing services, document copying services, facsimile services, word processing services, on-site PC rental services, and office product sales)</u>
<u>812110</u>	<u>Hair, Nail, and Skin Care Services</u>
<u>812199</u>	<u>Color Consulting Services</u>
<u>812199</u>	<u>Hair Removal Services</u>
<u>812199</u>	<u>Hair Replacement Services</u>
<u>812199</u>	<u>Make-Up Salons (includes the application of permanent cosmetics)</u>
<u>812199</u>	<u>Tanning Salons</u>

PART III: Development Code Table 5.02-1 (Land Use Matrix) is proposed to be amended, adding the following as conditionally permitted land uses in the CS (Corner Store) zoning district:

2017 NAICS Code	<i>Land Uses, Activities, and Facilities</i>
<u>445230</u>	<u>Farmers Markets and Certified Farmer's Markets</u>
<u>448110</u> <u>448120</u> <u>448130</u> <u>448140</u>	<u>Clothing Stores (includes clothing for men, women, children, infants, and families; clothing accessory stores; and other clothing stores, such as bridal shops, costume stores, sports apparel stores, swimwear stores, T-shirt stores, and uniform stores)</u>

2017 NAICS Code	Land Uses, Activities, and Facilities
<u>448150</u> <u>448190</u>	
<u>448210</u>	<u>Shoe Stores</u>
<u>448310</u> <u>448320</u>	<u>Jewelry, Luggage, and Leather Goods Stores</u>
<u>453210</u>	<u>Office Supplies and Stationery Stores</u>
<u>453220</u>	<u>Gift, Novelty, and Souvenir Stores</u>
<u>531110</u> <u>531120</u> <u>531190</u>	<u>Real Estate Renting or Leasing (limited to offices of real estate lessors, agents and brokers, property managers and appraisers, and escrow and listing services)</u>
<u>531210</u>	<u>Real Estate Agents and Brokers</u>
<u>531311</u> <u>531312</u> <u>531320</u> <u>531390</u>	<u>Activities Related to Real Estate (including offices of residential and nonresidential property managers; real estate appraisers; and other activities related to real estate, such as escrow services, fiduciaries, listing services, and asset managers)</u>
<u>611610</u>	<u>Fine Arts Schools (nonacademic instruction, including music, dance, performing arts, drama, photography, ceramics, painting, and sculpture) – limited to a GFA of less than 2,000 SF</u>

PART IV: Development Code Table 6.01-5 (Minimum Requirements for Common Recreation Amenities) is proposed to be amended as follows:

Table 6.01-5: Minimum Requirements for Common Recreation Amenities

Recreation Facilities Type	No. of Dwelling Units							
	4-10	10-25	26-100	101-150	151-200	201-250	251-300	> 300
Major Facilities:	0	1**	<u>1**</u>	1	2	2	3	One per 100 DUs
Minor Facilities:	1	0	1	2	2	3	3	One per 50 DUs

** Projects consisting of 25 45 or fewer dwellings may provide two minor recreation facilities in place of one major recreation facility.

PART V: Development Code Section 6.01.010 (Residential Zoning Districts) is proposed to be amended, revising Subparagraph G.3.a(6) as follows:

(6) **Off-Street Parking.** ~~Refer to Division 6.03 (Off-Street Parking and Loading) for off-street parking requirements. For Small Lot Infill Subdivisions, there shall be no limitations on the use of tandem parking spaces, except that tandem parking shall be no more than 2 parking spaces in depth. Small Lot Infill Subdivisions shall provide off-street parking facilities pursuant to the requirements of Division 6.03 (Off-Street Parking and Loading) of this Development Code, except as follows:~~

(i) Off-street parking shall be provided for each dwelling at the minimum rate of 1.0 parking space per bedroom, plus guest/visitor parking at the minimum rate of 0.2 parking space per bedroom. A minimum of one space shall be provided in a fully enclosed garage.

(ii) There shall be no limitations on the use of tandem parking spaces, except that tandem parking shall be no more than 2 parking spaces in depth and shall not be used for guest/visitor parking.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA20-002, A DEVELOPMENT CODE AMENDMENT REVISING CERTAIN PROVISIONS ADDRESSING PUBLIC HEARING NOTIFICATIONS, ALLOWED USES WITHIN THE CS (CORNER STORE) ZONING DISTRICT, MINIMUM RECREATION AMENITIES WITHIN COMMON ACTIVE OPEN SPACE AREAS AND OFF-STREET PARKING REQUIREMENTS FOR SMALL LOT INFILL SUBDIVISIONS, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, THE CITY OF ONTARIO ("Applicant") has initiated a Development Code Amendment, File No. PDCA20-002, 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, certain minor changes are proposed to the City of Ontario Development Code, as follows:

- Section 2.03.010 (Public Hearing Notification) is to be amended, adding Subparagraph C.5 to require the posting of project sites with large public notification signs for certain proposed project types and establishing public notification sign standards;
- Table 5.02-1 (Land Use Matrix) is to be amended, expanding upon the types of permitted and conditionally permitted land uses allowed in the CS (Corner Store) zoning district; and
- Section 6.01.010 (Residential Zoning Districts) is to be amended, revising Subparagraph E.2.c(1)(a) to allow two minor recreation facilities in place of each required major recreation facility, for projects consisting of 45 or fewer dwellings, and Subparagraph G.3.a(6) is to be added, establishing off-street parking standards for small lot infill subdivisions.

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the Project is exempt from CEQA pursuant to a categorical exemption (listed in CEQA Guidelines Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

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

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport ("ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; 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 September 28, 2021, 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. PC21-069 recommending the City Council approve the Development Code Amendment; and

WHEREAS, on November 2, 2021, as the first action on the Application, the City Council of the City of Ontario conducted a public hearing to consider the introduction of this Ordinance, and concluded said hearing on that date; and

WHEREAS, on November 2, 2021, as the final action on the Application, the City Council of the City of Ontario conducted a hearing to consider the adoption of this Ordinance, and concluded said hearing on that date.

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

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

SECTION 1. *Environmental Determination and Findings.* As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the City Council, the City Council finds as follows:

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

(2) The Project is exempt from the requirements of the California Environmental Quality Act (CEQA) and the guidelines promulgated thereunder, pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that the activity is covered by the "common sense

exemption” (also known as the “general rule exemption”) that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

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

SECTION 2. *Housing Element Compliance.* The Project will be consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project furthers the purposes, principals, goals, and policies of the Housing Element, in that it will expand upon the types of housing that may be constructed throughout residential and mixed use zoning districts of the City and will allow for alternate forms of home rental and fee-simple homeownership.

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

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

(1) The proposed Development Code Amendment is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.

(2) The proposed Development Code Amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

SECTION 5. *City Council Action.* Based upon the findings and conclusions set forth in Sections 1 through 4, above, the City Council hereby APPROVES the herein described Development Code Amendment, File No. PDCA20-02, amending the City of Ontario Development Code as stipulated in “Attachment A”, incorporated herein by this reference.

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 16th day of November, 2021.

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. 3193 was duly introduced at a regular meeting of the City Council of the City of Ontario held on November 2, 2021, and adopted at the regular meeting held November 16, 2021, 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. 3193 duly passed and adopted by the Ontario City Council at their regular meeting held November 16, 2021, and that Summaries of the Ordinance were published on November 9, 2021, and on November 23 ,2021, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

ATTACHMENT A:
Development Code Amendment,
File No. PDCA20-002

PART I: Development Code Section 2.03.010 (Public Hearing Notification) is hereby amended, adding Subparagraph C.5 to read as follows:

“5. Supplemental Public Noticing Requirements.

a. In addition to the requirements of paragraphs C.1 through C.4, above, supplemental public notice shall be provided, which consists of one or more large public notification signs consisting of a 6-foot-tall freestanding sign, having a sign face measuring 4 feet tall by 8 feet wide, which shall be posted on the project site for development related projects meeting any of the following criteria:

(1) The proposed project is planned to be developed at a higher density or intensity than the existing surrounding neighborhood; and/or

(2) The proposed project requires a General Plan Amendment, Specific Plan Amendment, or Zone Change; and/or

(3) The proposed project requires the preparation of an environmental impact report; and/or

(4) The Planning Director has determined that supplemental public notice is necessary and desirable based on the nature of the proposed project. For large projects, the planning director may determine that more than one sign is necessary.

b. A cash deposit is required in an amount adopted by resolution of the City Council, to ensure compliance with the supplemental notification requirements, including maintenance and removal of the large notification sign.

c. In order to implement the large public notification signs as an effective form of public notification, the following rules and standards shall apply:

(1) Large public notification signs shall be constructed and installed pursuant to the specifications established and published by the Planning Director.

(2) Large public notification signs shall be posted 300 lineal feet apart along each project site's street frontage. Sign locations shall be approved by the Planning Director in conjunction with a Sign Plan for a temporary sign issued pursuant to the requirements of Division 8.01 (Sign Regulations) of this Development Code.

(3) The fabrication and installation of a large public notification sign shall be the responsibility of the project applicant. Once the project application is deemed complete and all notification signs installed per city standards, the proposed project will be scheduled for all required public hearings.

(4) Large public notification signs shall be maintained in good condition and shall remain in place until the final decision on the proposed project has been made or the application is withdrawn.

(5) Large public notification signs shall be removed by the applicant within 14 days following the final decision on the project or the date of application withdrawal. Failure to remove the sign within the prescribed period shall result in forfeiture of the cash deposit and removal of the sign by the City.”

PART II: Development Code Table 5.02-1 (Land Use Matrix) is hereby amended, adding the following as permitted land uses in the CS (Corner Store) zoning district:

2017 NAICS Code	<i>Land Uses, Activities, and Facilities</i>
	Residential Mixed-Use Developments (development projects containing a mix of commercial and residential uses in the same building or on the same site)
446110	Pharmacies and Drug Stores
446120	Cosmetics, Beauty Supplies, and Perfume Stores
492210	Local Messengers and Local Delivery Services
561439	Other Business Service Centers (limited to mailbox rental, photocopying, duplicating, blueprinting, mailing services, document copying services, facsimile services, word processing services, on-site PC rental services, and office product sales)
812110	Hair, Nail, and Skin Care Services
812199	Color Consulting Services
812199	Hair Removal Services
812199	Hair Replacement Services
812199	Make-Up Salons (includes the application of permanent cosmetics)
812199	Tanning Salons

PART III: Development Code Table 5.02-1 (Land Use Matrix) is hereby amended, adding the following as conditionally permitted land uses in the CS (Corner Store) zoning district:

2017 NAICS Code	<i>Land Uses, Activities, and Facilities</i>
445230	Farmers Markets and Certified Farmers Markets
448110 448120 448130 448140 448150 448190	Clothing Stores (includes clothing for men, women, children, infants, and families; clothing accessory stores; and other clothing stores, such as bridal shops, costume stores, sports apparel stores, swimwear stores, T-shirt stores, and uniform stores)
448210	Shoe Stores
448310 448320	Jewelry, Luggage, and Leather Goods Stores

2017 NAICS Code	Land Uses, Activities, and Facilities
453210	Office Supplies and Stationery Stores
453220	Gift, Novelty, and Souvenir Stores
531110 531120 531190	Real Estate Renting or Leasing (limited to offices of real estate lessors, agents and brokers, property managers and appraisers, and escrow and listing services)
531210	Real Estate Agents and Brokers
531311 531312 531320 531390	Activities Related to Real Estate (including offices of residential and nonresidential property managers; real estate appraisers; and other activities related to real estate, such as escrow services, fiduciaries, listing services, and asset managers)
611610	Fine Arts Schools (nonacademic instruction, including music, dance, performing arts, drama, photography, ceramics, painting, and sculpture) – limited to a GFA of less than 2,000 square feet

PART IV: Development Code Table 6.01-5 (Minimum Requirements for Common Recreation Amenities) is proposed to be amended as follows:

Table 6.01-5: Minimum Requirements for Common Recreation Amenities

Recreation Facilities Type	No. of Dwelling Units							
	4-10	10-25	26-100	101-150	151-200	201-250	251-300	
Major Facilities:	0	1**	1**	1	2	2	3	One per 100 DUs
Minor Facilities:	1	0	1	2	2	3	3	One per 50 DUs

** Projects consisting of 45 or fewer dwellings may provide two minor recreation facilities in place of one major recreation facility.

PART V: Development Code Section 6.01.010 (Residential Zoning Districts) is hereby amended, revising Subparagraph G.3.a(6) to read as follows:

“(6) Off-Street Parking. Small Lot Infill Subdivisions shall provide off-street parking facilities pursuant to the requirements of Division 6.03 (Off-Street Parking and Loading) of this Development Code, except as follows:

(i) Off-street parking shall be provided for each dwelling at the minimum rate of 1.0 parking space per bedroom, plus guest/visitor parking at the minimum rate of 0.2 parking space per bedroom. A minimum of one space shall be provided in a fully enclosed garage.

(ii) There shall be no limitations on the use of tandem parking spaces, except that tandem parking shall be no more than 2 parking spaces in depth and shall not be used for guest/visitor parking.”

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: CONSENT CALENDAR

Department: Community Life & Culture
Prepared By: Lacey A Marchese
Staff Member Presenting:
Helen McAlary, Executive Director Community
Life and Culture
Reviewed By: Matthew Hickey
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 13

SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 32 TO TITLE 5 OF VOLUME I TO THE ONTARIO MUNICIPAL CODE, RELATING TO ENFORCING VIOLATIONS OF CODES OF CONDUCT IN THE CITY LIBRARIES, MUSEUM OF HISTORY AND ART, AND RECREATION AND COMMUNITY SERVICES COMMUNITY CENTERS

RECOMMENDATION: That the City Council adopt an ordinance to add Chapter 32 to Title 5 of Volume I to the Ontario Municipal Code relating to enforcing violations of Codes of Conduct in City libraries, the Museum of History and Art, and Recreation and Community Services community centers.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

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

Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

FISCAL IMPACT: There is not a direct fiscal impact associated with this action.

BACKGROUND & ANALYSIS: This item was first introduced at the November 2, 2021 City Council Meeting.

The facilities under the jurisdiction of the Community Life & Culture (“CLC”) Agency include the City of Ontario libraries, the Ontario Museum of History and Art, and the Recreation and Community Services Department community centers (individually a “Facility” and collectively the “Facilities”). Their mission and purpose includes providing free and open access to a broad range of educational, leisure, and general interest materials and services to people of all ages and backgrounds in a safe, clean, civil, respectful, and tranquil environment that is conducive to making everyone’s visit at the Facilities a positive, productive, and enjoyable experience; whether one is engaged in reading, writing, researching, studying, learning, and/or attending and participating in the multitude of community programs and events offered therein.

At times, the Facilities receive patrons that are disruptive to the mission and purpose of the Facilities. During those times, when needed and appropriate, CLC staff may need to call Ontario Police

Department to assist with removing an individual from a Facility and/or enforcing a period of suspension from a Facility to an individual.

The proposed draft ordinance would make it a violation of the Ontario Municipal Code for a person to continue violating a Code of Conduct duly adopted by the Library Board of Trustees, Ontario Museum of History and Art Board of Trustees, and/or the Recreation and Parks Commission after being given a warning. Each Code of Conduct will be clearly posted in the Facilities and each Code of Conduct will have a clear appeal procedure. Any appeal would be heard by the appropriate board or commission.

The penalty for refusing to comply would be a misdemeanor, punishable by fine, imprisonment, or both. The same penalty would apply for someone who has been suspended from one of the Facilities for a specified period of time and returns to the Facility during the suspension period.

The Codes of Conduct are adopted by reference into the Ontario Municipal Code, including whenever they are amended. The Library Board of Trustees, the Museum of History and Art Board of Trustees, and the Recreation and Parks Commission will be responsible for adopting and amending the Codes of Conduct for their facilities. The Codes of Conduct can be adopted and/or amended without going to the City Council.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 32 TO TITLE 5 OF VOLUME I TO THE ONTARIO MUNICIPAL CODE, RELATING TO ENFORCING VIOLATIONS OF CODES OF CONDUCT IN THE CITY LIBRARIES, MUSEUM OF HISTORY AND ART, AND RECREATION AND COMMUNITY SERVICES COMMUNITY CENTERS AND FINDING THE ACTION EXEMPT FROM CEQA.

WHEREAS, Education Code Section 18960 states that any person who violates any rule, regulation, or bylaw established by the City of Ontario's ("City") Board of Library Trustees may be fined or excluded from the privileges of the library, in this case applicable to all of the City's library facilities ("Library"); and

WHEREAS, Education Code Section 18960 is incorporated by reference as part of the Ontario Municipal Code ("OMC") at Volume I, Title 2, Chapter 5; and

WHEREAS, Government Code Section 37550 states that any person who violates any regulation established by the City's Museum Board may be fined or excluded from the privileges of the City's museum, in this case the Ontario Museum of History and Art ("Museum"); and

WHEREAS, Government Code Section 37550 is incorporated by reference as part of the OMC at Volume I, Title 2, Chapter 9; and

WHEREAS, Penal Code Section 602.1(b) states that "Any person who intentionally interferes with any lawful business carried on by the employees of a public agency open to the public, by obstructing or intimidating those attempting to carry on business, or those persons there to transact business with the public agency, and who refuses to leave the premises of the public agency after being requested to leave by the office manager or a supervisor of the public agency, or by a peace officer acting at the request of the office manager or a supervisor of the public agency, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 90 days, or by a fine of up to four hundred dollars (\$400), or by both that imprisonment and fine."; and

WHEREAS, members of the City's Police Department are authorized to enforce state laws and the City's Municipal Code and members of the Code Enforcement Department are authorized to enforce the City's Municipal Code; and

WHEREAS, the mission and purpose of the Library, the Museum, and the Recreation and Community Services Department (collectively, the "City Facilities") includes providing free and open access to a broad range of educational, leisure, and general interest materials and services to people of all ages and backgrounds in a safe, clean, civil, respectful, and tranquil environment that is conducive to making everyone's visit at the City Facilities a positive, productive, and enjoyable experience, whether one is engaged in reading, writing, researching, studying, learning, and/or attending and participating in the multitude of community programs and events offered at the City Facilities; and

WHEREAS, policies related to the use of the City Facilities are necessary for the following purposes: (1) to maintain peace and tranquility in the City Facilities; (2) to allow members of the public to visit the City Facilities without fearing for their safety; (3) to allow members of the public to use and enjoy the programs and services offered at the City Facilities; (4) to prevent theft, vandalism, and damage of City property; and (5) to prevent interference with staff's ability to perform their duties and provide services to members of the public visiting the City Facilities; and

WHEREAS, the City Facilities are limited public forums in that they offer a venue for members of the public to gather for purposes of reading, writing, researching, studying, learning, and/or attending and participating in the multitude of community programs and events focused on or centered around specific subject matters or topics and which allows the public to express themselves in an orderly and relevant manner; and

WHEREAS, the City Council finds that the ability of the general public to access and enjoy the City Facilities in a peaceful and tranquil manner and free from undue interference is a compelling governmental interest in that it enhances the public's access to free educational and other information material in a safe, secure, clean, and sanitary environment; and

WHEREAS, the City Council finds that certain conduct and activities should be specifically prohibited to prevent patrons of the City facilities from incurring personal injuries; and

WHEREAS, the City Council finds that the ability of City staff to perform their duties in the City Facilities in a peaceful manner and free from undue interference is a compelling governmental interest in that it allows staff to continue to provide excellent services and programs to the public in a safe, secure, clean, and sanitary environment; and

WHEREAS, the City Council recognizes the valuable role of each of the relevant City Boards and Commissions to regulate the conduct of the patrons that visit the various City facilities.

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

SECTION 1. The recitals above are true and correct and are hereby incorporated herein by this reference.

SECTION 2. Chapter 32 is hereby added to Title 5 of Volume I of the Ontario Municipal Code to read, in full, as follows:

"Chapter 32: City Libraries, Museum of History and Art, and Recreation and Community Services Community Facilities Rules

5-32.01 Purpose; Findings

5-32.02 Definitions

5-32.03 Codes of Conduct

5-32.04 Penalties

Section 5-32.01. Purpose; Findings.

(a) The mission and purpose of the City Library and Ontario Museum of History and Art includes providing free and open access to a broad range of educational, leisure, recreational, and general interest materials and services to people of all ages and backgrounds in a safe, clean, civil, respectful, and tranquil environment that is conducive to making everyone's visit at the Library and Museum of History and Art a positive, productive, and enjoyable experience, whether one is engaged in reading, writing, researching studying, learning, and/or attending and participating in the multitude of community programs and events offered therein.

(b) The mission and purpose of the Recreation and Community Services Department may differ slightly from that of the City Library and the Ontario Museum of History and Art in that it provides some recreational programs that do not necessarily involve quiet contemplation as reading in a library or attending a museum exhibit might involve, such playing a sport. Nonetheless, the Recreation and Community Services Department's mission includes providing people with a safe, clean, civil, and respectful environment within which patrons can enjoy a positive, productive, and enjoyable experience.

Section 5-32.02. Definitions.

For purposes of this chapter, the following definitions apply:

(a) "City" means the City of Ontario.

(b) "City facility" means any facility which hosts programs to the public under the jurisdiction of the Community Life & Culture Agency, which includes all Ontario libraries, the Ontario Museum of History and Art, and the community centers of the Recreation and Community Services Department.

(c) "Code of Conduct" means a policy establishing a patron code of conduct duly adopted by the Library Board of Trustees, the Ontario Museum of History and Art Board of Trustees, and/or the Recreation and Parks Commission.

Section 5-32.03. Codes of Conduct.

(a) The Library Board of Trustees may establish a code of conduct to govern the behavior of patrons who visit the City's libraries in order to protect and further the mission of the City Library. The code of conduct, as it may be established and/or amended from time to time, shall be considered part of this chapter by reference.

(b) The Ontario Museum of History and Art Board of Trustees may establish a code of conduct to govern the behavior of patrons who visit the Ontario Museum of History and Art to protect and further the mission of the Museum of History and Art. The code of conduct, as it may be established and/or amended from time to time, shall be considered part of this chapter by reference.

(c) The Recreation and Parks Commission may establish a code of conduct to govern the behavior of patrons who visit the City's community centers to protect and further the mission of the Recreation and Community Services Department. The code of conduct, as it may be established and/or amended from time to time, shall be considered part of this chapter by reference.

(d) Any Code of Conduct shall include an appeal procedure to the respective board or commission.

(e) Any Code of Conduct shall be conspicuously posted on the City facility's premises. Any person who violates the Code of Conduct shall be advised of the violation and the requirements of the Code of Conduct, and be advised that if he or she continues to violate the Code of Conduct, it may result in being required to leave the premises and being subject to criminal penalties.

5-32.04. Penalties.

(a) Any person who has violated any Code of Conduct may be subject to the suspension of his or her borrowing, visitation, and/or participation privileges for a period of time as provided by each respective code of conduct.

(b) Any person subject to suspension of his or her borrowing, visitation, and/or participation privileges, as authorized by subsection (a) above, shall remain subject to such suspension during the pendency of any administrative or judicial appeal.

(c) Any person who fails or refuses to leave the City facility after being given the requisite notice, warning, and direction to leave, shall be guilty of a misdemeanor which shall be punishable by a fine not exceeding one thousand dollars (\$1,000) per violation, or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

(d) Any person who returns to the City facility during any suspension period shall be guilty of a misdemeanor which shall be punishable by a fine not exceeding one thousand dollars (\$1,000) per violation, or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment. 9

(e) Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of or failure to comply with any provision of this chapter, is committed, continued, or permitted by such person and shall be punishable accordingly.

(f) The penalties contained in this Section are cumulative."

SECTION 3. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof.

The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid or ineffective.

SECTION 4. This Ordinance shall become effective thirty (30) days after its adoption by the City Council.

SECTION 5. CEQA. The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15358 (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Moreover, the City Council finds that this Ordinance is also exempt under CEQA pursuant to Guidelines Section 15061(b)(3) (there exists no possibility that the activity will have a significant adverse effect on the environment).

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

PASSED, APPROVED, AND ADOPTED this 16th day of November 2021.

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. 3194 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 2, 2021 and adopted at the regular meeting held November 16, 2021 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. 3194 duly passed and adopted by the Ontario City Council at their regular meeting held November 16, 2021 and that Summaries of the Ordinance were published on November 9, 2021 and November 23, 2021, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: PUBLIC HEARINGS

Department: Development Administration
Prepared By: Derrick E Womble
Staff Member Presenting:
Scott Murphy, Executive Director Community
Development
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 14

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT (FILE NO. PDA21-003) BETWEEN THE CITY OF ONTARIO AND CHINO AVENUE, LLC., TO ESTABLISH THE TERMS AND CONDITIONS FOR THE DEVELOPMENT OF TENTATIVE TRACT MAP 20281 (FILE NO. PMTT19-008), A 4.79 ACRE PROPERTY LOCATED AT 9510 EAST CHINO AVENUE, WITHIN THE NEIGHBORHOOD 3A LAND USE DISTRICT OF THE COUNTRYSIDE SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF - (APN: 0218-111-56)

RECOMMENDATION: That the City Council introduce and waive further reading of an ordinance approving the Development Agreement (File No. PDA21-003) between the City of Ontario and Chino Avenue, LLC., to establish the terms and conditions for development of Tentative Tract Map 20281 (File No. PMTT19-008), a 4.79-acre property located at 9510 East Chino Avenue, within the Neighborhood 3A land use district of the Countryside Specific Plan.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Invest in the Growth and Evolution of the City's Economy

Operate in a Businesslike Manner

Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

FISCAL IMPACT: The proposed Development Agreement (File No. PDA21-003) will not have a direct impact on the City's general fund. The Development Agreement will provide funding from the formation of a Community Facilities District (CFD) for City services and facilities required to support the Countryside Specific Plan development, thereby mitigating the increased costs associated with such services. In addition, the City will receive public service funding fees plus development impact, compliance processing, licensing, and permitting fees. No General Fund revenue will be used to support the Ontario Ranch development.

BACKGROUND & ANALYSIS: On April 18, 2006, the City Council certified the Environmental Impact Report (State Clearing Housing No. 2004071001) and related Countryside Specific Plan, File No. PSP04-001 (the "Specific Plan"). The Specific Plan addressed the potential development of up to 819 single family detached residential units with connectivity to surrounding commercial and recreational facilities through a network of pedestrian sidewalks, bicycle trails, and landscaped paseos.

Chino Avenue, LLC (“Owner”) has amended the Specific Plan (File No. PSPA19-001) to allow for: (1) the introduction of Neighborhood 3A; (2) an increase in allowable dwelling units from 819 to 825; and (3) use of the Cluster Court product within Neighborhood 3A.

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

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

The proposed Development Agreement (File No. PDA21-003) is based on upon the model development agreement that was developed in coordination with the City Attorney and legal counsel for NMC Builders. This model development agreement is consistent with the provisions of the Construction Agreement. The terms of the agreement between NMC Builders’ members requires that members of the LLC enter into development agreements that are consistent with the provisions of the Construction Agreement.

The proposed Development Agreement proposes to include 4.79 acres of land within the Neighborhood 3A land use district of the Countryside Specific Plan, as shown on the attached Exhibit A. The Development Agreement grants the Owner a vested right to develop Tentative Tract Map 20281 (the “Map”), provided the Owner complies with the terms and conditions of the Specific Plan and EIR.

The Map (Exhibit B) is located at 9510 East Chino Avenue and proposes to subdivide 4.79 acres of land into 37 numbered lots and one common lettered lot in conjunction with a Development Plan (File No. PDEV19-023) to construct 37 dwelling units, an associated recreation facility, residential, public/private streets, landscaped neighborhood 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 proposed Agreement address funding for all new City expenses created by the project, which includes: Development Impact Fees (“DIF”) for construction of public improvements (i.e. streets and bridges, sewer, water, storm drain and fiber); Public Service Funding to ensure adequate provisions of public services (police, fire and other public services); and, the creation of a Community Facilities District (“CFD”) for the maintenance of public facilities.

In considering the application at their meeting on October 26, 2021, the Planning Commission found that the Development Agreement was consistent with State law, The Ontario Plan, and the City’s Development Agreement policies. As a result, the Planning Commission adopted Resolution No. PC21-076, recommending City Council approval of the Development Agreement with a 7-0 vote.

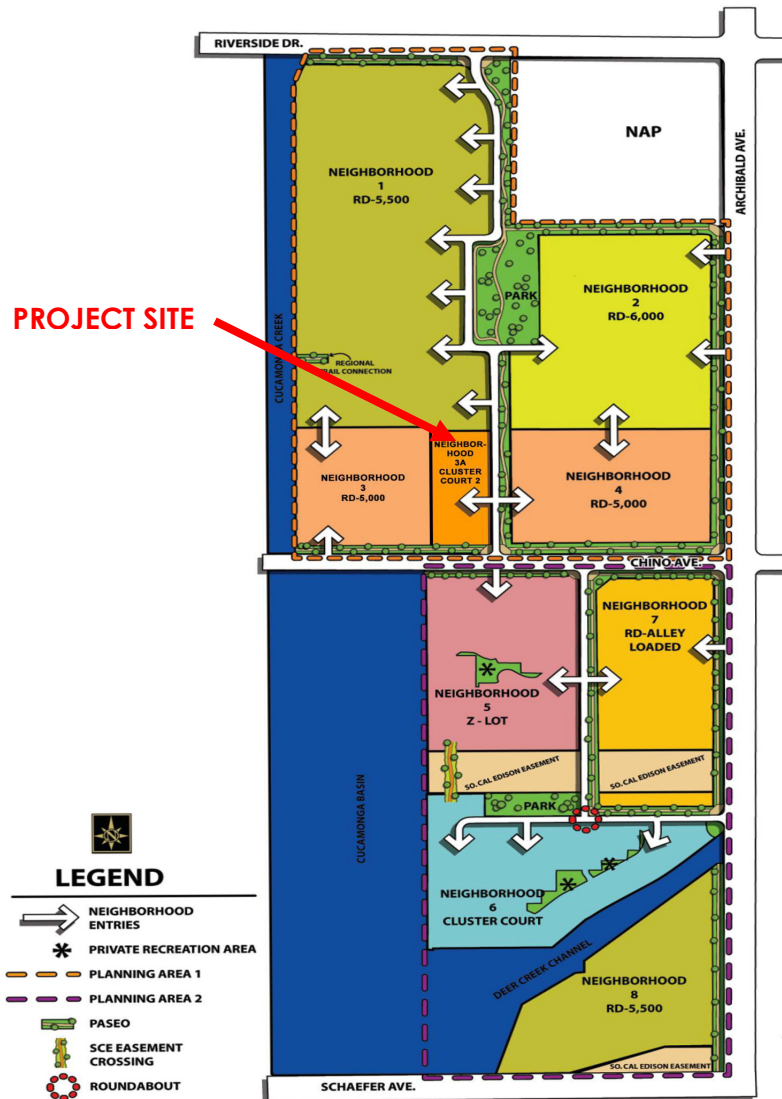
HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (37) and density (5-9 du/ac) specified in the Available Land Inventory.

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

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with the Countryside Specific Plan (File No. PSP04-001), for which an Environmental Impact Report (SCH No. 2004071001) was adopted by the City Council on April 18, 2006. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

Exhibit A—COUNTRYSIDE SPECIFIC PLAN LAND USE PLAN

Section 3. LAND USE



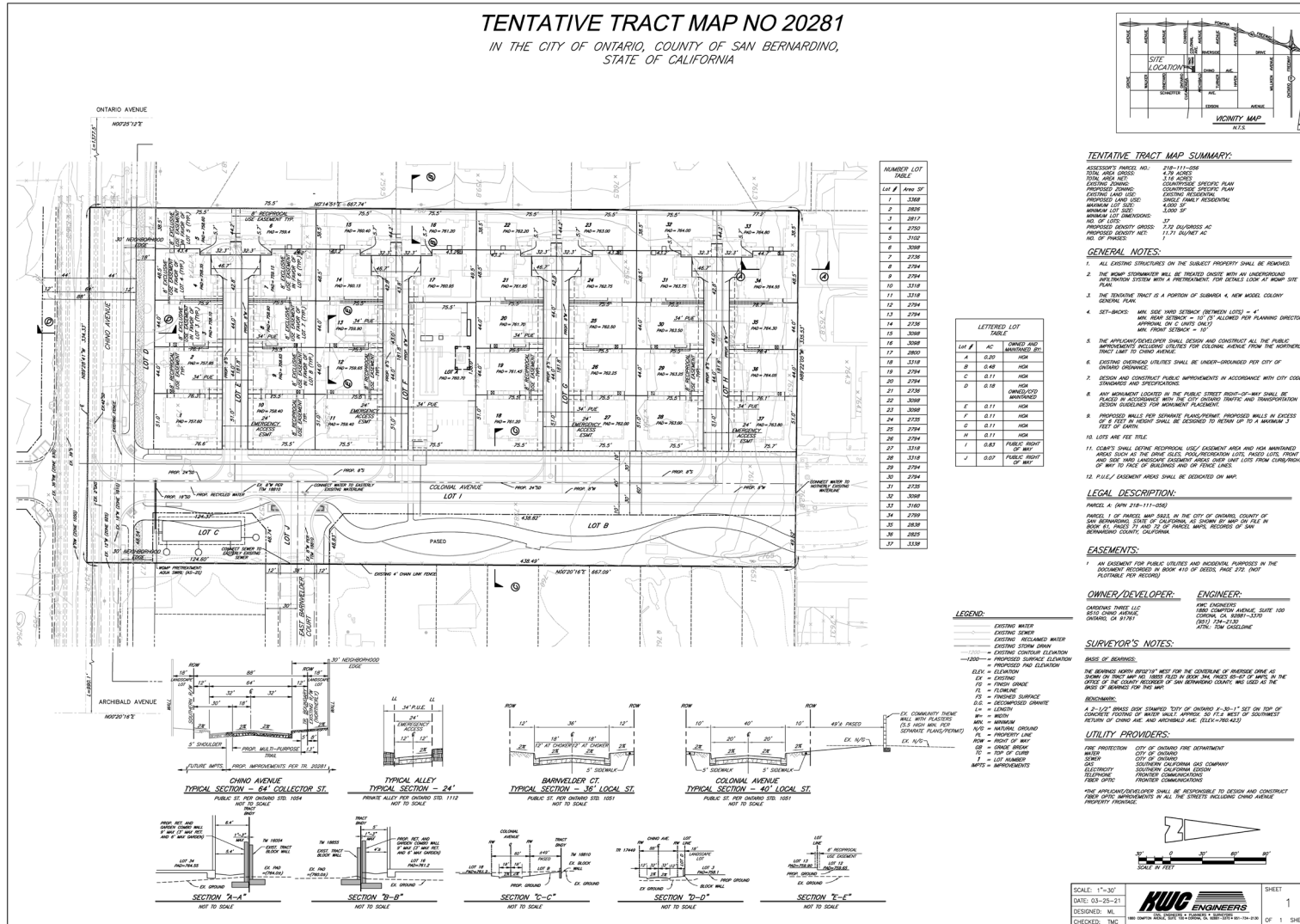
Note: Roundabout location and dimensions to be determined as part of tentative tract map approval.

Exhibit 10
Land Use Plan

Exhibit B—TENTATIVE TRACT MAP NO. 20281

TENTATIVE TRACT MAP NO 20281

IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO,
STATE OF CALIFORNIA



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDA21-003, A DEVELOPMENT AGREEMENT, BETWEEN THE CITY OF ONTARIO AND CHINO AVENUE, LLC., TO ESTABLISH THE TERMS AND CONDITIONS FOR THE DEVELOPMENT OF TENTATIVE TRACT MAP 20281 (FILE NO. PMTT19-008), A 4.79 ACRE PROPERTY LOCATED AT 9510 EAST CHINO AVENUE, WITHIN THE NEIGHBORHOOD 3A LAND USE DISTRICT OF THE COUNTRYSIDE SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 0218-111-56.

WHEREAS, Chino Avenue, LLC. ("Applicant") has filed an Application for the approval of a Development Agreement, File No. PDA21-003, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 4.79 acres of land generally located at 9510 East Chino Avenue, within the Neighborhood 3A land use district of the Countryside Specific Plan; and

WHEREAS, the Applicant amended the Countryside Specific Plan (File No. PSPA19-001) to allow for (1) the introduction of Neighborhood 3A; (2) an increase in allowable dwelling units from 819 to 825; and (3) use of the Cluster Court product within Neighborhood 3A; and

WHEREAS, the Applicant has submitted a Tentative Tract Map 20281 (File No. PMTT19-008) to subdivide approximately 4.79 acres of land into 37 numbered lots and one common lettered lot in conjunction with a Development Plan (File No. PDEV19-023) to construct 37 dwelling units and an associated recreation facility; and

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with File No. PSP04-001, the Countryside Specific Plan for which an Environmental Impact Report — State Clearinghouse No. 2004071001 — (hereinafter referred to as "Certified EIR") was adopted by the City Council on April 18, 2006, and 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 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 ONT 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 October 26, 2021, 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. PC21-076 recommending the City Council approve the Application; and

WHEREAS, on November 16, 2021, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

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

(1) The environmental impacts of this project were previously reviewed in conjunction with File No. PSP04-001, the Countryside Specific Plan for which a Certified EIR was adopted by the City Council on April 18, 2006; 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. Ontario International Airport Land Use Compatibility Plan (“ALUCP”) Compliance. The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan (“ALUCP”), establishing the Airport Influence Area for Ontario International Airport (“ONT”), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors,

including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

SECTION 4. *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. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (37) and density (5-9 du/ac) specified in the Available Land Inventory.

SECTION 5. *Concluding Facts and Reasons.* Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 4, above, the City Council hereby concludes as follows:

a. The Development Agreement applies to approximately 4.79 acres of land located at 9510 East Chino Avenue, within the Neighborhood 3A land use district of the Countryside Specific Plan; and

b. The Development Agreement establishes parameters for the development of the Neighborhood 3A land use district of the Countryside 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 Countryside Specific Plan; and

c. The Development Agreement grants the Owner a vested right to develop Tentative Tract Map 20281 (File No. PMTT19-008) as long as the Owner, complies with the terms and conditions of the Specific Plan and EIR. Tentative Tract Map 20281 is located at 9510 East Chino Avenue and proposes to subdivide 4.79 acres of land into 37 numbered lots and one common lettered lot in conjunction with the Development Plan (File No. PDEV19-023) to construct 37 dwelling units and an associated recreation facility; and

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

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

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

g. This Development Agreement will not be materially injurious or detrimental to the adjacent properties and will have a significant impact on the environment or the surrounding properties. The environmental impacts of this project were previously reviewed in conjunction with the Countryside Specific Plan (File No. PSP04-001), for which an Environmental Impact Report (SCH No. 2004071001) was adopted by the City Council on April 18, 2006. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

SECTION 6. City Council Action. Based upon the findings and conclusions set forth in Sections 1 through 5, above, the City Council hereby APPROVES the herein described Development Agreement (File No. PDA21-003), attached hereto as "Attachment A," and incorporated herein by this reference.

SECTION 7. Indemnification. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 8. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 9. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 10. Effective Date. This Ordinance shall become effective 30 days following its adoption.

SECTION 11. Publication and Posting. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within 15 days following the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2021.

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 _____, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

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

SHEILA MAUTZ, CITY CLERK

(SEAL)

ATTACHMENT A:

File No. PDA21-003

DEVELOPMENT AGREEMENT

By and Between

**City of Ontario
a California municipal corporation**

and

**Chino Avenue, LLC
a California 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. PDA21-003

DEVELOPMENT AGREEMENT

By and Between

**City of Ontario
a California municipal corporation**

and

**Chino Avenue, LLC
a California limited liability company**

_____, **2021**

San Bernardino County, California

DEVELOPMENT AGREEMENT NO. PDA21-003

This Development Agreement (hereinafter "Agreement") is entered into effective as of the ____ day of _____, 2021 by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and Chino Avenue, LLC., a California 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 Countryside Specific Plan (State Clearinghouse No. 2004071001 (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 Countryside 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 superseded, including by amendment or replacement.

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

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

1.1.10 “Existing Development Approvals” means all Development Approvals approved or issued 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 January 27, 2010, as amended up to the date of the first reading of the ordinance adopting and approving this Agreement.

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. 20281 as further described in Exhibit “E” and depicted 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 “Model Units” means a maximum of five (5) 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 until after the issuance of the first certificate of occupancy for a Production Unit.

1.1.17 “Net MDD” means the maximum daily demand potable water supply, net of the requirements for public schools and parks, made available through the construction of water supply, storage and transmission facilities included in the Improvements and described in the Water Phasing Plan of the Construction Agreement.

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

1.1.19 “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.

1.1.20 “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.

1.1.21 “Property” means the real property described on Exhibit “A” and shown on Exhibit “B” to this Agreement.

1.1.22 “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.

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

1.1.24 “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.

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

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

1.1.27 “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(s)

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. Within thirty (30) days following such complete submittal, CITY shall review, and if the above conditions are satisfied, 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.

2.6 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.

2.7 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.

2.8 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:

Phillip LoSasso, Member
CHINO AVENUE, LLC.
12223 Highland Avenue #106-553
Rancho Cucamonga, CA 91739
philliplosasso@yahoo.com

with a copy to:

Ruben Duran, City Attorney
Best Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

with a copy to :

Kenneth B. Bley
Cox, Castle & Nicholson LLP
2029 Century Park East Suite 2100
Los Angeles, CA 90067
kbley@coxcastle.com

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

3. DEVELOPMENT OF THE PROPERTY.

3.1 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.

3.3.1 Infrastructure Improvement Exhibit. Attached hereto as Exhibits "E" and "F" are a description and depiction, respectively, of the Improvements needed for the development of the Property. In the event of any discrepancy between Exhibit E and Exhibit F, Exhibit F shall control.

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 Exhibit "F" is a description of the infrastructure improvements needed for the development of the Property ("the Infrastructure Improvement Exhibit").

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 five (5) Model Units, private common recreation facilities and sales facilities. CITY may issue a maximum of five (5) 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 shall be responsible for the construction of the necessary extension of storm drain facilities. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the storm drain improvements, 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, as described in Exhibit E and depicted in Exhibit F.

3.7.3 OWNER agrees that development of the Property shall require the extension of permanent water and recycled water improvements as described in Exhibit E and depicted in Exhibit F to serve the Property. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the water and recycled water improvements 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 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, 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 permanent fiber optic communications infrastructure, 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, as described in Exhibit E and depicted in Exhibit F.

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 issued to OWNER for Production Units. 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 the New Model Colony 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. 20281.

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 4.3.2.1 through 4.3.2.1. 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 Two Dollars Eighty Five Cents (\$2.85) per square foot of residential development within OWNER's Project or, if pre-paid as set forth below, Two Dollars Fifty Cents (\$2.50) 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 Two Dollars, Eighty-Five Cents (\$2.85) and the Two Dollars Fifty Cents (\$2.50) per square foot amounts shall automatically be increased annually, commencing on July 1, 2022, 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 2 occupants per bedroom plus 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 Public Services Funding Fee.

4.6.1 Requirement for Payment of Public Services Funding Fee. In order to ensure that the adequate provision of public services, including without limitation, police, fire and other public safety services, are available to the residents of each Project in a timely manner, OWNER shall pay to CITY a "**Public Services Funding Fee.**" The Public Services Funding Fee shall apply to residential and non-residential uses as set forth below.

4.6.2 Public Services Funding Fee Amount. OWNER shall pay a Public Services Funding fee in the total amount of Two Thousand One Hundred Twelve dollars (\$2,112.00) per residential dwelling unit. The Public Services Funding Fee shall be paid in one (1) installment within one hundred eighty (180) calendar days after the effective date of the Development Agreement or in two (2) installments, at OWNER's option, as follows:

4.6.2.1 First Installment (Residential uses). The First Installment of the Public Services Funding Fee shall be One Thousand Fifty-Six dollars (\$1,056) per residential dwelling unit. The First Installment shall be based upon the "**Maximum Development Density**" of the OWNER Project, as defined in Section 3.7.2.3 of the First Amended and Restated Construction Agreement. The First Installment shall be due and payable 30 days following the Effective Date of this Agreement.

If the First installment amount is not paid for all residential dwelling units within the Project (based on the Maximum Development Density, or the number of units described on "B Maps" if approved) by January 1, 2022, the amount of the First Installment shall be increased. Such increase 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. Additionally, the amount shall be further increased automatically by the percentage increase in the Consumer Price Index (Riverside - San Bernardino - Ontario, CA) (December 2017=100) on each January 1 thereafter.

4.6.2.2 Second Installment (Residential Uses). The Second Installment of the Public Services Funding Fee shall be One Thousand Fifty-Six dollars (\$1,056) per residential unit. The Second Installment shall be paid at the time of the issuance of each building permit for the Project. The amount of the Second Installment shall increase automatically by percentage increase (but no decrease) in the Consumer Price Index (Riverside - San Bernardino - Ontario, CA) (December 2017=100) over the preceding year on January 1st of each year, beginning on January 1, 2022. OWNER may exercise the option to pay the Second Installment amount for all residential units, a portion of the residential units, or for the remainder of the residential units within OWNER's Project on or before each December 31st, before the Second Installment amount is automatically increased.

4.6.2.3 Single Installment (Non-residential Uses). A single installment payment of the Public Services Funding Fee shall be required in the amount of Sixty Four Cents (\$.64) per square foot of non-residential buildings. The single installment for non-residential uses shall be due and payable prior to the issuance of the building permit for a non-residential building. The amount of the Single Installment for non-residential uses shall automatically increase by percentage increase (but no decrease) in the Consumer Price Index (Riverside - San Bernardino - Ontario, CA), (December 2017=100) over the preceding year on January 1st of each year, beginning on January 1, 2022. OWNER may exercise the option to pay any single installment amounts for the remainder of the non-residential square footage within the Project on or before December 31st, before the Single Installment amount is automatically increased.

4.7 Net MDD/Water Availability Equivalents.

4.7.1 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.

4.7.2 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.

4.7.3 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.

4.7.4 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” thereof pursuant to the terms and conditions of the operating agreement of NMC Builders within 30 days following the Effective Date of this Agreement.

4.8 Storm Water Capacity Availability.

4.8.1 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.

4.8.2 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.

4.8.3 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.

4.9 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.

4.11 Compliance with Public Benefits Requirements.

4.11.1 Failure to Provide Public Benefits. In the event OWNER fails or refuses to comply with any condition referenced in Section 4.1 through 4.10, 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 \$1,560.77 per Single Family Detached Dwelling Unit, \$1,352.65 per Multiple-Family Dwelling Unit, \$1,134.14 per Gated Apartment Community Dwelling Unit, and \$.29 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. 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.

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 NO. PDA21-003**

"OWNER"

CHINO AVENUE, LLC a California limited liability company

By: Alta Loma Enterprises LLC,
a California limited liability company

By: _____
Jesus Cardenas Jr., Manager of Alta Loma Enterprises LLC as Managing Member of Chino Avenue LLC
Date: _____

By: _____
Jose Cardenas, Manager of Alta Loma Enterprises LLC as Managing Member of Chino Avenue LLC
Date: _____

"CITY"

CITY OF ONTARIO

By: _____
Scott Ochoa
City Manager

Date: _____

APPROVED AS TO FORM:
BEST BEST & KRIEGER, LLP

ATTEST:

City Attorney

City Clerk, Ontario

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

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.

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.

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EXHIBIT "A"
TO DEVELOPMENT AGREEMENT

Legal Description of Property

Real property in the City of Ontario, County of San Bernardino, State of California, described as follows:

PARCEL A:

PARCEL 1 OF PARCEL MAP 5923, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 61, PAGES 71 AND 72 OF PARCEL MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA.

PARCEL B:

AN UNDIVIDED 20 PERCENT INTEREST IN A WELL SITE OF UNDETERMINED SIZE THE POINT IS SHOWING AS BEING 45 FEET EAST OF THE WEST LINE AND 223 FEET NORTH OF THE SOUTH LINE OF PARCEL 2 OF PARCEL MAP NO. 5923, AS SHOWN BY MAP ON FILE IN BOOK 61, PAGES 71 AND 72 OF PARCEL MAPS, RECORDS OF SAN BERNADINO COUNTY, CALIFORNIA.

APN: 0218-111-56-0-000

EXHIBIT "B"
TO DEVELOPMENT AGREEMENT

Map showing Property and its location

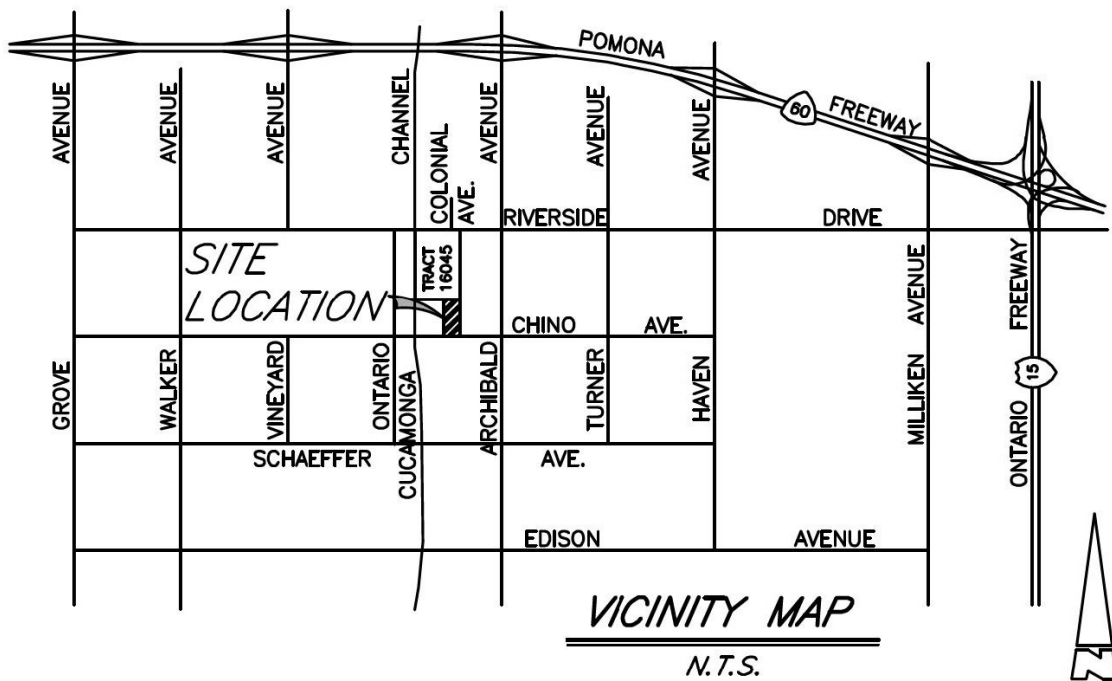


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Existing Development Approvals

On March 28, 2006, the Planning Commission:

- a) Issued Resolution No. PC06-020 recommending City Council adopt and certify the Countryside Specific Plan Environmental Impact Report (SCH #2004071001).
- b) Issued Resolution No. PC06-021 recommending City Council approval of the Countryside Specific Plan (PSP04-001).

On April 18, 2006, the City Council:

- a) Issued Resolution No. 2006-013 certifying the Countryside Specific Plan Environmental Impact Report.

On April 25, 2006, the Planning Commission:

- a) Issued Resolution No. PC06-031, recommending the City Council approval of an amendment (File No. PSPA06-003) to the Countryside Specific Plan.

On May 2, 2006, the City Council:

- a) Issued Ordinance No. 2828 approving the Countryside Specific Plan (PSP04-001).

On June 20, 2006 the City Council:

- a) Issued Ordinance No. 2830 approving an amendment to the Countryside Specific Plan (File No. PSPA06-063).

EXHIBIT "D"
TO DEVELOPMENT AGREEMENT

Existing Land Use Regulations

These documents are listed for reference only:

1. Countryside Specific Plan (File No. PSP04-001), Ordinance No. 2828
2. Countryside Specific Plan Environmental Impact Report (SCH# 2004071001)
3. Countryside Specific Plan (File No. PSPA06-063), Ordinance No. 2830
4. Countryside Specific Plan Amendment (File No. PSPA19-001)
5. 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 Improvements

OWNER shall design, construct, and complete all improvements including but not limited to sewer, water, recycled water, storm drain, fiber, and street improvements necessary to serve the Property, prior to the request of any Production Units.

EXHIBIT "F"
TO DEVELOPMENT AGREEMENT

Depiction of Required Improvements

(SEE ATTACHMENT)

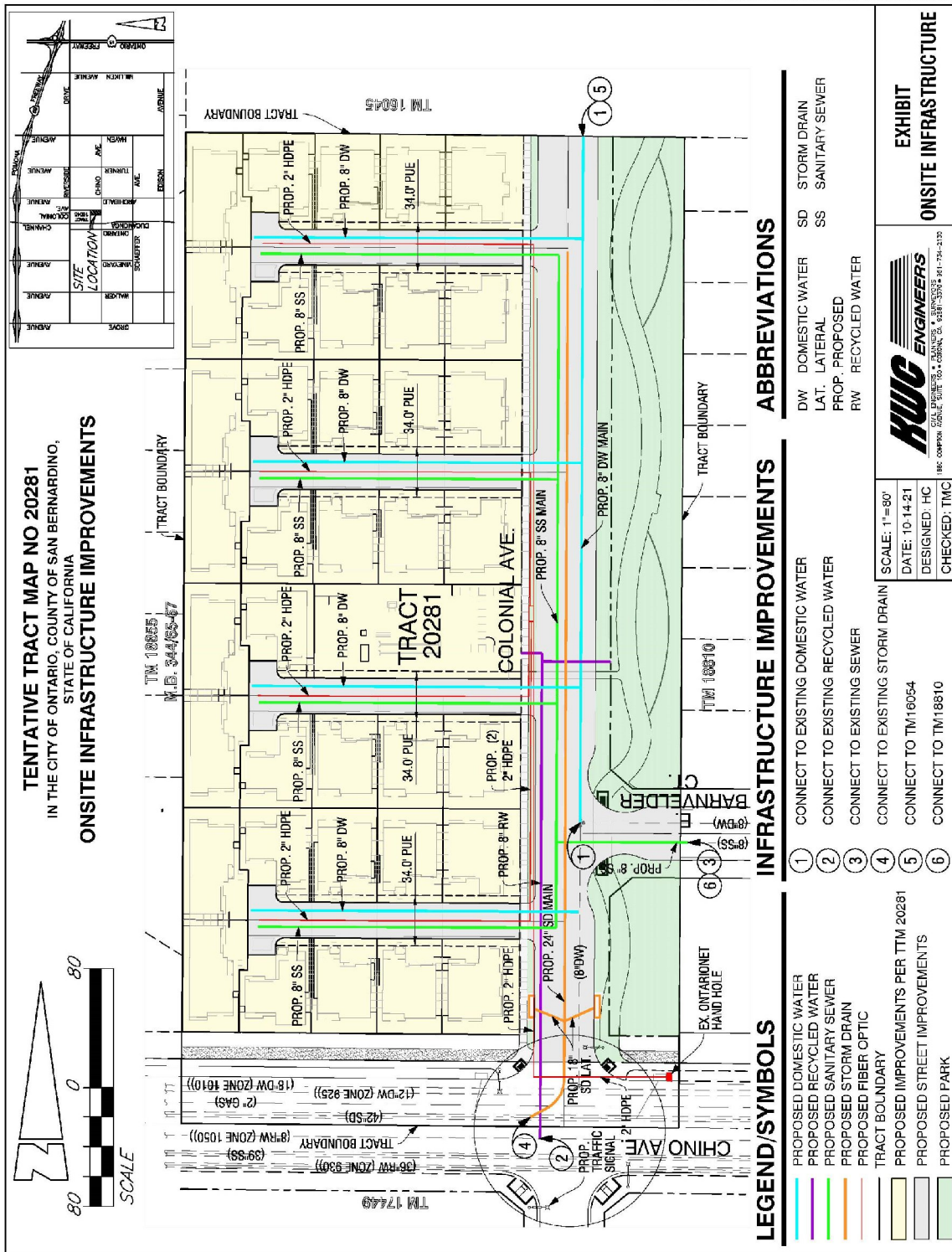
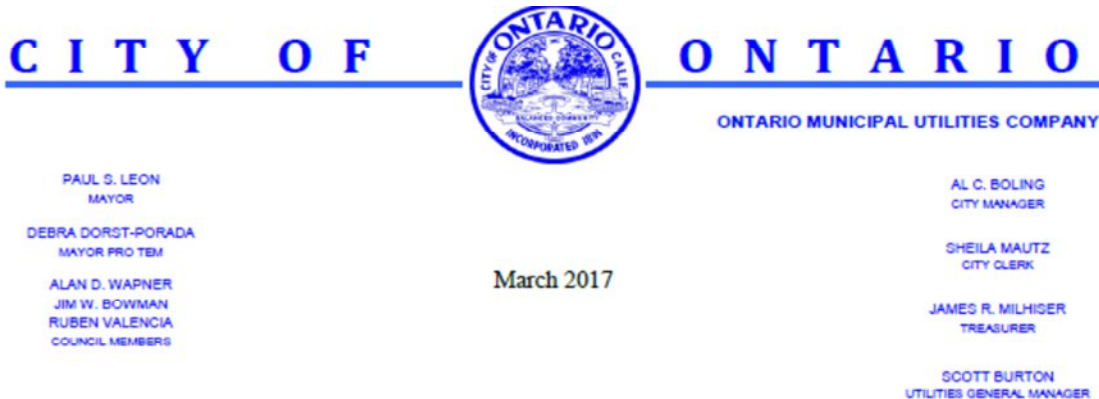


EXHIBIT "G"
TO DEVELOPMENT AGREEMENT

Form of Plume Disclosure Letter



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

Agenda Report
November 16, 2021

SECTION: PUBLIC HEARINGS

Department: Utilities
Prepared By: Courtney Jones
Department: Utilities
Prepared By: Joline Neal
Staff Member Presenting:
Scott Burton, Utilities General Manager
Reviewed By: Dennice Raygoza, Albert G
Gastelum, Michael Sigsbee
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 15

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 8A OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATED TO THE WATER CONSERVATION PLAN AND AN ORDINANCE AMENDING CHAPTER 8C OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATED TO RECYCLED WATER

RECOMMENDATION: That City Council introduce and waive further reading of an ordinance amending Chapter 8A of Title 6 of the Ontario Municipal Code pertaining to the City's Water Conservation Plan and introduce and waive further reading of an ordinance amending Chapter 8C of Title 6 of the Ontario Municipal Code pertaining to protection and regulation of the City's recycled water system.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Operate in a Businesslike Manner

Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: There is not a direct fiscal impact associated with the adoption of this ordinance. Reductions in potable water sales due to conservation efforts may result in decreased revenue for the Water Fund and a corresponding decrease in some operational costs such as water purchases. No changes to the schedule of fees and charges are being recommended and there is no impact to the General Fund.

BACKGROUND & ANALYSIS: Chapter 8A - Water Conservation Plan Ordinance: The City's Water Conservation Plan is intended to minimize the potential for a water shortage and impacts to the City's customers through the practice of water conservation. It is required that the water resources available to the City of Ontario be put to the maximum beneficial use to the extent to which they are capable. The waste or unreasonable use of water is to be prevented and conservation should be practiced so that reasonable and beneficial use is in the best interest of the people of the City.

The City's Water Conservation Plan originally went into effect in June 2009 and was amended in October 2015. Currently, the Water Conservation Plan includes five water shortage levels with corresponding response actions. The City recently submitted a 2020 Urban Water Management Plan (UWMP) as required by the California Urban Water Management Planning Act, Water Code Section 10610, et. seq. (the Act). The Act also mandates the preparation and adoption of a Water Shortage

Contingency Plan (WSCP) as part of the UWMP to provide a detailed approach to how the City intends to act, or respond, in the case of an actual declared water shortage. Both the 2020 UWMP and the WSCP were adopted by the City Council in June 2021. The Act requires the WSCP to have six shortage levels with corresponding response actions. The proposed changes to the Water Conservation Plan reflect the changes in the WSCP and enable the City to remain consistent with the adopted planning documents and State regulations.

The proposed ordinance to amend the Water Conservation Plan includes the highlighted changes listed below.

- Voluntary Conservation of the Water Conservation Plan includes the following changes:
 - Avoid watering lawn, landscape, or other turf areas between the hours of 6:00 a.m. and 6:00 p.m.
- Stage 2 of the Water Conservation Plan includes the following changes:
 - Stage 2 is updated for a water supply shortage up to twenty percent (20%).
 - Operators of hotels and motels must provide the option of choosing not to have towels and linens laundered daily.
 - Irrigation is prohibited during and within 48 hours of rainfall.
- Stage 3 of the Water Conservation Plan includes the following changes:
 - Stage 3 is updated for a water supply shortage up to thirty percent (30%).
 - Residents and businesses will be prohibited from irrigating any turf or landscape area more than four (4) days a week.
- Stage 4 of the Water Conservation Plan includes the following changes:
 - Stage 4 is updated for a water supply shortage up to forty percent (40%).
 - Residents and businesses will be prohibited from irrigating turf or other landscaping more than two (2) days a week.
 - All persons shall irrigate any turf or landscaped area no more than fifteen minutes (15) on watering days.
 - No vehicles shall be washed except at a carwash.
- Stage 5 of the Water Conservation Plan includes the following changes:
 - Stage 5 is updated for a water supply shortage up to fifty percent (50%).
 - Residents and businesses will be prohibited from irrigating turf or other landscaping more than one (1) day a week.
- Stage 6 of the Water Conservation Plan includes the following changes:
 - Stage 6 is updated for a water supply shortage more than fifty percent (50%).
 - Unless otherwise permitted by a resolution of the City Council, there shall be no use of potable water for irrigation of outdoor landscape or turf.
 - Commercial nurseries shall be prohibited from the use of potable water for irrigation of outdoor, landscape and turf except by use of a hand-held hose equipped with a positive shutoff nozzle.
 - The following nonessential uses of water shall be prohibited: the filling, cycling, filtering, or refilling of swimming pools, spas, fountains, or other like devices.

To assist residents and businesses with successful implementation of these water restrictions there are a number of water saving rebate programs available, free landscape workshops and free classroom education materials, which can be found on the City's website under the Municipal Utilities Company at www.OntarioWaterWise.org

Chapter 8C - Recycled Water Ordinance: The City owns and operates a recycled water distribution system comprised of over 50 miles of mains serving over 450 residential, commercial, and agricultural

customers. The City directly sells recycled water to customers for irrigation and industrial purposes. Recycled water sales to customers reduce the amount of potable water that the City is required to supply to meet overall water demand and conserves drinking water supplies during drought conditions. In fiscal year 2020/21, the City supplied approximately 8,550 acre-feet of recycled water to its customers, roughly 17% of the City's annual water demands.

The City's recycled water source is treated wastewater produced by the Inland Empire Utilities Agency (IEUA) at four regional tertiary wastewater treatment plants that are owned and operated by IEUA. The City is entitled to purchase recycled water in an amount up to its pro rata share of sewage contributed to the regional wastewater treatment system per the Regional Sewerage Service Contract between IEUA and the Contracting Agencies, which includes the City of Ontario. IEUA, and by extension, the City of Ontario, must comply with the provisions of State regulations via its operating permit. IEUA and the Contracting Agencies must periodically update the operating permit provisions within their respective municipal codes or district rules.

The City's Ordinance was first adopted in June 1999 and amended in December 2005. Since that time IEUA has updated its Ordinance, No. 69, and added requirements as mandated by the State Water Resources Control Board (State Board), which are specific to the construction and design of recycled water facilities and uses of recycled water. The City is required to update its Municipal Code via Ordinance to be consistent with IEUA's Ordinance requirements as well as State Board permitting requirements and state regulations that are applicable to recycled water.

Ordinance changes include:

- Incorporation of Articles for content organization purposes.
- Addition of definitions and removal of defined terms not otherwise used.
- Revision and addition of Sections for consistency with IEUA Ordinance No. 69, State Board permitting requirements, and state regulations.
- General grammatical and other non-substantive corrections.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 8A, OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATING TO THE CITY'S WATER CONSERVATION PLAN.

WHEREAS, California Constitution article X, section 2 and California Water Code section 100 provide that because of conditions prevailing in the state of California (the "State"), it is the declared policy of the State that the general welfare requires that the water resources of the State shall be put to beneficial use to the fullest extent of which they are capable, the waste or unreasonable use or unreasonable method of use of water shall be prevented, and the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and the public welfare; and

WHEREAS, pursuant to California Water Code section 106, it is the declared policy of the State that the use of water for domestic use is the highest use of water and that the next highest use is for irrigation; and

WHEREAS, pursuant to California Water Code section 375, the City of Ontario (the "City") is authorized to adopt and enforce a water conservation program to reduce the quantity of water used by persons within its jurisdiction for the purpose of conserving the water supplies of the City; and

WHEREAS, because of the declared policy of the State, the City hereby finds and determines that it is necessary and appropriate for the City to adopt, implement, and enforce a water conservation program to reduce the quantity of water used by consumers within the City to ensure that there is sufficient water for human consumption, sanitation, and fire protection; and

WHEREAS, pursuant to California Water Code section 350 the City Council is authorized to declare a water shortage emergency to prevail within its jurisdiction when it finds and determines that the City will not be able to or cannot satisfy the ordinary demands and requirements of water consumers without depleting the water supply of the City to the extent that there would be insufficient water for human consumption, sanitation, and fire protection, and as more fully set forth in this Ordinance; and

WHEREAS, in the event the City determines that it is necessary to declare that a water shortage exists, the City will be authorized pursuant to this Ordinance to implement certain water shortage response measures and a water conservation and regulatory program to regulate water consumption activities within the City and ensure that the water delivered in the City is put to beneficial use for the greatest public benefit, with particular regard to domestic use, including human consumption, sanitation, and fire protection, and that the waste or unreasonable use of water is prevented; and

WHEREAS, the City is authorized to prescribe and define by ordinance restrictions, prohibitions, and exclusions for the use of water during a threatened or existing water shortage and adopt and enforce a water conservation and regulatory program to: (i) prohibit the waste of City water or the use of City water during such period; (ii) prohibit use of water during such periods for specific uses which the City may from time to time find to be nonessential, an unreasonable use, and unreasonable method of use, or a waste of water; and (iii) reduce and restrict the quantity of water used by those persons within the City for the purpose of conserving the water supplies of the City; and

WHEREAS, it has been estimated that more than half of residential water use in many parts of California is used to irrigate lawns and outdoor landscaping; and

WHEREAS, the City has determined that during water shortages and water shortage emergencies, the use of outdoor water for irrigating lawns and outdoor landscaping is not essential to public health and safety, and may be an unreasonable use, an unreasonable method of use, or a waste of water; and

WHEREAS, during a water shortage and water shortage emergencies the greatest reductions in water usage may best be achieved by reducing the amount of discretionary, nonessential use of potable water to irrigate lawns and landscaping; and

WHEREAS, to secure compliance with the rules and regulations established during water shortage stages and emergencies, and assure important public policy objectives are achieved for the reduction of water usage during severe and critical water shortages and emergencies, the City is proposing to authorize the imposition of volumetric penalties for excessive water usage by customers when the City Council deems it appropriate under the circumstances or as a result of executive action, emergency legislation or other actions of the State; and

WHEREAS, pursuant to Water Code section 377, the City may, by resolution or ordinance, make the violation of a water conservation program enacted by its City Council subject to an administrative civil penalty and impose volumetric penalties; and

WHEREAS, the City Council hereby finds and determines that it is desirable to codify the rules and regulations governing its actions, and the actions of persons using and consuming water within the City to protect the general welfare and the City's water supplies, and to reduce water consumption in accordance with the declared policies and laws of the State; and

WHEREAS, the California Urban Water Management Planning Act (Water Code § 10610, et seq.), mandates that every urban supplier of water providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre feet of water annually, prepare and adopt, in accordance with prescribed requirements, a Water Shortage Contingency Plan (WSCP) as part of its Urban Water Management Plan; and

WHEREAS, the City, an urban water supplier, adopted its WSCP, a detailed plan for how the City intends to act or respond to water shortage conditions, in June 2021; and

WHEREAS, this Ordinance is one legal authority that enables the City to implement its WSCP; and

WHEREAS, it is necessary to amend the City's Water Conservation Plan, as set forth in Chapter 8A of Title 6 of the Municipal Code, to make it consistent with the City's WSCP.

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

SECTION 1. The City Council hereby finds and determines that the recitals discussed above are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

SECTION 2. Chapter 8A, of Title 6 of the Municipal Code is hereby amended to read as set forth in Exhibit A attached hereto (additions are shown in underline, deletions are shown in ~~strike through~~) and by this reference made an operative part of this Ordinance.

SECTION 3. If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 4. This Ordinance shall become effective immediately after its adoption by the City Council.

SECTION 5. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2021.

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 _____, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

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

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CHAPTER 8A: WATER CONSERVATION PLAN

- 6-8.20 Scope and title
- 6-8.21 Statement of policy and declaration of purpose
- 6-8.22 Authorization
- 6-8.23 General prohibitions
- 6-8.24 Exceptions
- 6-8.25 Voluntary conservation
- 6-8.26 Stage 1 water supply shortage—water supply reduced up to ten percent (10%)
- 6-8.27 Stage 2 water supply shortage—water supply reduced up to twenty percent (20%)
- 6-8.28 Stage 3 water supply shortage—water supply reduced up to thirty percent (30%)
- 6-8.29 Stage 4 water supply shortage—water supply reduced up to forty percent (40%)
- 6-8.30 Stage 5 water supply shortage—water supply reduced up to fifty percent (50%)
- 6-8.31 Stage 6 water supply shortage emergency—water supply reduced more than fifty percent (50%)
- 6-8.32 Relief from compliance
- 6-8.33 Failure to comply
- 6-8.34 Appeal and hearing regarding violations
- 6-8.35 Remedies not exclusive

Sec. 6-8.20. Scope and title.

This chapter shall be known as “The Water Conservation Plan of the City of Ontario.”
(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.21. Statement of policy and declaration of purpose.

(a) Because of the water supply conditions prevailing in the City and/or the area from which the City obtains a portion of its supply, the general welfare requires that the water resources available to the City of Ontario be put to the maximum beneficial use to the extent to which they are capable, and that the waste or unreasonable use, or unreasonable method of use of water be prevented and that the conservation of such water be practiced with a view to that reasonable and beneficial use thereof in the interest of the people of the City.

(b) The purpose of this chapter is to minimize the potential for a water shortage through the practice of water conservation, and to minimize the effect of a shortage of water supplies on the water customers of the City. It is furthermore the intent of this chapter to adopt provisions that will significantly reduce the inefficient consumption of water, thereby extending the available water resources necessary for domestic, sanitation, and fire protection of the community to the greatest extent possible.

(c) This chapter shall be applicable to all persons within the City. For the purposes of this chapter, “person” means any natural person, property owner, renter, or lessee, as well as any corporation, partnership, government entity or subdivision, trust, estate, cooperative association, homeowners’ association, joint venture, business entity,

or other similar entity, or the property management company, property manager, agent, employee or representative of any of the above.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.22. Authorization.

(a) The City Council may declare a water shortage based on a determination by the Metropolitan Water District of Southern California, the Inland Empire Utilities Agency, the declaration of an executive order of the Governor, or the adoption of voluntary or mandatory water use restrictions by any State agency governing the use of water, or based upon any interruption in water supply or delivery that the City Council determines in its sole discretion necessitates water conservation pursuant to this chapter.

(b) In the event of an immediate emergency that causes an unplanned interruption of water supply, the City Manager or his/her designee is authorized to restrict water use and apportion the available supply of water among its customers in the most equitable manner possible to continue service fairly and without discrimination, except that preference shall be given to such service as is essential to the public interest and to the preservation of life and health.

(c) A water shortage, including a water shortage emergency but excluding an immediate emergency, shall be declared by the adoption of a resolution of the City Council.

(1) A notice of a water shortage, other than a water shortage emergency, shall be published in a daily newspaper of general circulation within the City. Any restrictions on the use of water during a declared water shortage shall become effective immediately upon such publication.

(2) Notice of hearing to declare a water shortage emergency, other than an immediate emergency, shall be made in accordance with Water Code Section 351. Any restrictions on the use of water during a declared water shortage shall become effective immediately upon adoption unless otherwise be determined by the City Council.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.23. General prohibitions.

(a) The following are prohibited in any new water connections:

- (1) Non-recycling decorative fountains;
- (2) Single-pass cooling systems; and
- (3) Conveyor and in-bay vehicle wash and commercial laundry systems that do not reuse water.

(b) No water customer of the City shall make, cause, use, or permit the use of water from the City in a manner contrary to any provision of this chapter or in an amount in excess of the use permitted by any restriction provisions then in effect pursuant to the provisions of this chapter.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.24. Exceptions.

(a) The prohibited uses of water and water use restrictions provided within this chapter are not applicable for the use of recycled water or the use of potable water necessary for public health and safety or for essential government services such as police, fire, and other similar services.

(b) Nothing contained within this chapter shall be construed to require the City to curtail the supply of water necessary for the health, safety, and welfare of any person. (§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.25. Voluntary Conservation Stage.

(a) All persons are encouraged to voluntarily limit the amount of water used to the amount absolutely necessary for health and safety, business operations, and irrigation. Except as otherwise provided in this chapter where a declared water shortage stage or water shortage emergency requires mandatory or other more stringent requirements, the following elements of conservation apply at all times on a voluntary basis by all persons within the City:

(1) Avoid hose washing of sidewalks, walkways, driveways, parking areas or other paved surfaces, except as required for sanitary purposes. If a person uses a hand-held hose to wash any sidewalk, walkway, driveway, parking area or other paved surface, the hose shall be equipped with a positive shutoff nozzle.

(2) Wash motor vehicles, trailers, boats and other types of mobile equipment using a hand held bucket or a hose equipped with a positive shutoff nozzle for quick rinses, or at the immediate premises of a commercial car wash or with recycled wastewater for approved uses.

(3) Avoid using water to clean, fill or maintain levels in decorative fountains, ponds, lakes or other similar aesthetic structures unless such water is part of a recycling system.

(4) Encourage restaurants, hotels, cafés, cafeterias or other public places where food is sold, served or offered for sale, to serve drinking water only to those customers expressly requesting water.

(5) Promptly repair all leaks from indoor and outdoor plumbing fixtures.

(6) Avoid watering lawn, landscape or other turf areas between 6:00 a.m. and 6:00 p.m.

(7) Avoid causing or allowing the water to run off landscape areas into adjoining streets, sidewalks or other paved areas due to incorrectly directed or maintained sprinklers or excessive watering.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.26. Stage 1 water supply shortage-water supply reduced up to ten percent (10%).

(a) During Stage 1, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that the City's water conservation goals are not being met by voluntary water conservation measures, or that the City's water supplies are likely to be reduced by up to ten percent (10%) or it has

otherwise been requested or directed by executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount.

(1) Except as required for health and sanitary purposes, washing of sidewalks, walkways, driveways, parking areas or other paved surfaces is prohibited. Any held-hose used for such purposes shall be equipped with a positive shutoff nozzle.

(2) Washing of motor vehicles, trailers, boats and other types of mobile equipment shall be done only with a hand-held bucket or a hose equipped with a positive shutoff nozzle for quick rinses, except that washing may be done at the immediate premises of a commercial car wash or with reclaimed wastewater.

(3) No water shall be used to clean, fill or maintain levels in decorative fountains, ponds, lakes or other similar aesthetic structures unless such water is part of a recycling system.

(4) No restaurant, hotel, café, cafeteria or other public place where food is sold, served or offered for sale, shall serve drinking water to any customer unless expressly requested.

(5) All water customers of the City shall promptly repair all leaks from indoor and outdoor plumbing fixtures. Such leak shall be repaired in a timely manner after notification by the city, but in no case after notification in excess of seventy-two (72) hours for the first violation and then every seventy-two (72) hours thereafter for the second and third violations.

(6) No person shall sprinkle, water, or irrigate any shrubbery, trees, lawns, grass, groundcovers, plants, vines, gardens, vegetables, flowers, or any other landscaped or vegetated areas between the hours of 9:00 a.m. and 4:00 p.m. In any event, such watering shall not be in excess of needs nor be of a manner that allows water to flow onto streets or other paved areas. The above mentioned plants may be watered by a hand-held hose equipped with a positive shutoff nozzle at any time of the day. This provision shall not apply to commercial nurseries, golf courses and other water-dependent industries.

(7) No water customer of the City shall cause or allow the water to run off landscape areas into adjoining streets, sidewalks or other paved areas due to incorrectly directed or maintained sprinkler or excessive watering.

(8) The use of water from fire hydrants shall be limited to fire fighting and related activities necessary to maintain the public health, safety, and welfare. An exception may be made for construction use through a proper city-designated meter. The use of potable water for construction activities shall be restricted in areas where recycled water is available for such use.

(b) At any time during Stage 1, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the adoption and imposition of a volumetric penalty established therein.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.27. Stage 2 water supply shortage-water supply reduced up to twenty percent (20%).

(a) During Stage 2, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than ten percent (10%) and up to (20%) in its water supplies

or it has otherwise been requested or directed by an executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount.

(1) All prohibitions and restrictions in § 6-8.26 shall be in effect provided that more restrictive measures noted in this section shall take precedence.

(2) Filling or refilling of empty swimming pools shall not occur without the written permission of the City Manager or his/her designee.

(3) All customers are prohibited from irrigating turf or ornamental landscapes during and within 48 hours following measurable rainfall.

(4) Operators of hotels and motels must provide guests with the option of choosing not to have towels and linens laundered daily and prominently display notice of this option.

(5) All persons, including the City, are prohibited from irrigating with potable water any ornamental turf on public street medians.

(6) The use of potable water for irrigation outside of newly constructed homes and buildings shall be consistent with California Building Standards Commission and Department of Housing & Community Development.

(b) At any time during Stage 2, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the adoption and imposition of a volumetric penalty established therein.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.28. Stage 3 water supply shortage-water supply reduced up to thirty percent (30%).

(a) During Stage 3, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than twenty percent (20%) and up to thirty percent (30%) in its water supplies or it has otherwise been requested or directed by executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount.

(1) All the prohibitions and restrictions in § 6-8.27 shall be in effect provided that the more restrictive measures noted in this section shall take precedence.

(2) Residents and CII customers will be prohibited from irrigating any turf or landscape area more than four (4) days a week.

(3) The use of water from fire hydrants shall be limited to fire fighting and related activities and other uses of water for municipal purposes shall be limited to activities necessary to maintain the public health, safety and welfare. Unless written permission has been granted by the City Manager or his/her designee, the use of potable water for construction activities and grading shall be prohibited.

(b) At any time during Stage 3, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the adoption and imposition of a volumetric penalty established therein.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.29. Stage 4 water supply shortage-water supply reduced up to forty percent (40%).

(a) During Stage 4, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than thirty percent (30%) and up to forty percent (40%) in its water supplies or it has otherwise been requested or directed by executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount.

(1) All the prohibitions and restrictions in § 6-8.28 shall be in effect provided that the more restrictive measures noted in this section shall take precedence.

(2) Residents and CII customers will be prohibited from irrigating turf or other landscaping more than two (2) days a week.

(3) No person shall irrigate any turf or landscaped area more than fifteen minutes (15) on watering days.

(4) No vehicles shall be washed unless it is taken to a carwash.

(b) At any time during Stage 4, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the imposition of a volumetric penalty established therein.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.30. Stage 5 water supply shortage-water supply reduced up to fifty percent (50%).

(a) During Stage 5, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than forty percent (40%) and up to fifty percent (50%) in its water supplies or it has otherwise been requested or directed by executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount.

(1) All the prohibitions and restrictions in § 6-8.29 shall be in effect provided that the more restrictive measures noted in this section shall take precedence.

(2) Residents and CII customers will be prohibited from irrigating turf or other landscaping more than one (1) day a week.

(b) At any time during Stage 5, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the imposition of a volumetric penalty established therein.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.31. Stage 6 water supply shortage emergency-water supply reduced more than fifty percent (50%).

(a) During Stage 6, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than fifty percent (50%) in its water supplies or it has otherwise been requested or directed by executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount. A water

shortage emergency may be declared whenever the City Council finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the City to the extent that there would be insufficient water for human consumption, sanitation, and fire protection. A water shortage emergency may include an immediate emergency. An immediate emergency may occur as a result of a breakage or failure of a dam, pump, pipe line or conduit, a major earthquake, large-scale fire, or other so called "Act of God" which may have serious impacts on the City's available water supply.

(1) All the prohibitions and restrictions in § 6-8.30 shall be in effect provided that the more restrictive measures noted in this section shall take precedence.

(2) Unless otherwise permitted by a resolution of the City Council, there shall be no use of potable water for irrigation of outdoor landscape or turf.

(3) Commercial nurseries shall be prohibited from the use of potable water for irrigation of outdoor, landscape and turf except by use of a hand-held hose equipped with a positive shutoff nozzle.

(4) The following nonessential uses of water shall be prohibited: the filling, cycling, filtering, or refilling swimming pools, spas, Jacuzzis, fountains or other like devices.

(b) At any time during Stage 6, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the imposition of a volumetric penalty established therein.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.32. Relief from compliance.

(a) A water customer of the City may file a written application for relief in whole or in part, from the water use restriction provisions of this chapter. The City Manager or his/her designee shall review the request for a variance and take such steps as he or she deems reasonable to resolve the application for relief. The decision of the City Manager shall be final.

(b) Relief may be granted if the water customer shows that he or she has achieved the maximum practical reduction in water consumption other than in the specific areas in which relief is being sought. No relief shall be granted to any water customer who, when requested by the City Manager, fails to provide any information necessary for resolution of the customer's application for relief.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.33. Failure to comply.

(a) Each and every day that a violation of this chapter occurs or continues to occur shall be considered a new and separate offense. Except for any violation of water use limitations for which a volumetric penalty may be imposed, for each violation of this chapter the following civil penalties may be imposed by issuance of a citation and complaint:

(1) First violation. For a first violation, the City shall issue a written warning to the water customer.

(2) Second violation. For a second violation, the City shall impose a civil penalty in the amount of One Hundred Dollars (\$100.00).

(3) Third violation. For a third violation, the City shall impose a civil penalty in the amount of Two Hundred Dollars (\$200.00).

(4) Subsequent Violations. For the fourth and any subsequent violation within one year, the City shall impose a penalty in the amount of Five Hundred Dollars (\$500.00). In addition to the civil penalty, the City may also install a flow restricting device on the service of at the premises at which the violation occurred for a period of not less than forty-eight (48) hours. The City shall charge the responsible party the reasonable costs incurred for installing and removing the flow-restricting devices and for restoration of normal service. The charge shall be paid before normal service may be restored.

(b) Except for any violation of water use limitations for which a volumetric penalty may be imposed, the City shall give notice of a violation to the person committing the violation as follows:

(1) For a first violation, if the person committing the violation is a water customer of the City, then notice shall be given in writing by regular mail or personal delivery to the address at which the water customer is normally billed or at the address where the violation occurred. If the person committing the violation is not a water customer of the City, or if the event is not related to a specific property, the notice may be sent to the last known address of the responsible party or personally delivered.

(2) Notice of second or subsequent violations shall be given by the issuance of a citation and complaint in accordance with §§ 6-8.33(c) and (d).

(3) Unless an appeal and/or hearing is requested pursuant to the provisions of § 6-8.34, any civil penalty(ies) imposed by the City shall be due and payable within thirty (30) days of the issuance of the citation and complaint.

(c) Except for any violation of water use limitations for which a volumetric penalty may be imposed, any notice of violation of this chapter shall be issued as a citation and complaint and shall:

(1) Identify the provision(s) of this chapter and any State law, if applicable, alleged to have been violated; and

(2) State that continued noncompliance may result in civil, criminal, or administrative enforcement actions against the person who committed the violation, or the customer or the property owner and/or occupant of the property where the violation occurred; and

(3) State a compliance date that must be met by the person who committed the violation, or the customer, or the property owner and/or occupant of the property where the violation occurred; and

(4) Order remediation work, where applicable, that must be taken; and

(5) State that the recipient has a right to request a hearing and appeal the matter as set forth in § 6-8.34; and

(6) Include the address of the affected property and be addressed to the water customer or the property owner as shown on the most recently issued equalized assessment roll or as may otherwise appear in the current records of the City. If the notice of violation applies to a responsible party who is not the property owner or a water customer, or if the event is not related to a specific property, the notice may be sent to the last known address of the responsible party or personally delivered; and

(7) Be deemed served within ten (10) business days after posting on the property, if the property owner or occupant of the affected property cannot be located after the reasonable efforts of the City Manager or his/her authorized designee.

(d) Any citation and complaint may be sent by regular mail or personal delivery. Service by regular mail is effective on the date of mailing. Service by personal delivery is effective on the date delivered. The citation and complaint, may include, where deemed

applicable by the City Manager or his/her authorized designee, the following terms and conditions.

(1) Specific steps or actions and time schedules for compliance as reasonably necessary to prevent future violations of this chapter; and

(2) Any other terms, conditions, or requirements reasonably calculated to prevent continued or threatened future violations of this chapter, including, but not limited to, discontinuing or limiting water service with the installation of a flow restricting device.

(e) Any volumetric penalty imposed shall be:

(1) Applicable to all potable water used in excess of the water use limitations as established by separate resolution of the City Council;

(2) Collected on the customer's water bill;

(3) Due and payable as part of the customer's water bill;

(4) The responsibility of the customer of record for the property where the violation occurred; and

(5) Paid in addition to the water service fees the City imposes for the potable water delivered to the property where the violation occurred.

(f) The receipt of a water bill with any applicable volumetric penalty shall serve as notice of violation of the adopted water use limitations as established by resolution of the City Council.

(g) Any person who wishes to appeal the imposition of a volumetric penalty may do so pursuant to § 6-8.34. Notice of the right to a hearing and to appeal the imposition of a volumetric penalty shall be included in the customer's water bill.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.34. Appeal and hearing regarding violations.

(a) Any person receiving notice of a violation of this chapter and the imposition of a civil penalty or volumetric penalty, shall have a right to a hearing by the City Manager or his/her authorized designee to appeal the imposition of any civil penalty. Any request for a hearing must be submitted to the City within fifteen (15) days of mailing or other delivery of the citation and complaint or water bill, as applicable. Additional documentation may be requested at the discretion of the City Manager or his/her authorized designee.

(b) The timely written request for a hearing shall automatically stay installation of flow-restricting device on the premises where the violation occurred and imposition of the civil penalty or volumetric penalty until after the City Manager or his/her designee renders his or her decision. The hearing shall be held no sooner than thirty (30) days after the issuance of the citation and complaint or water bill, as applicable.

(c) The decision of the City Manager or his/her designee shall be final and shall be memorialized in a final order. If the appeal is denied, then within ten (10) days after issuance of the final order, the person shall pay any civil penalty(ies) imposed by the City.

(d) The provisions of Section 1094.5 of the Code of Civil Procedure of the State of California shall be applicable to judicial review of the final order.

(e) Non-payment of any civil penalty or volumetric imposed pursuant to this chapter shall be subject to the same remedies available to the City as for non-payment of basic water service fees.

(§ 2, Ord. 2907, eff. June 16, 2009, amended by § 2, Ord. 3027, eff. October 1, 2015)

Sec. 6-8.35. Remedies are not exclusive.

In addition to any other remedies provided in this chapter or available under applicable law, the City may alternatively seek injunctive relief in the Superior Court or take enforcement action, including discontinuing or appropriately limiting water service to any customer, or installing a flow restricting device. All remedies provided herein shall be cumulative and not exclusive.

(§ 2, Ord. 3027, eff. October 1, 2015)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO,
CALIFORNIA, AMENDING CHAPTER 8C OF TITLE 6 OF THE ONTARIO
MUNICIPAL CODE RELATING TO RECYCLED WATER USE.

WHEREAS, the City of Ontario (City) owns and operates a recycled water system comprised of over 50 miles of mains serving over 500 residential, commercial, and agricultural customers; and

WHEREAS, consistent with State policy, recycled water reduces the amount of potable water that the City is required to supply to meet overall water demand and conserves drinking water supplies during drought conditions; and

WHEREAS, the City's recycled water is treated wastewater produced by the Inland Empire Utilities Agency (IEUA) and governed by the State Water Resources Control Board (State Board) through a permit issued to IEUA and applicable state regulations; and

WHEREAS, Member Agencies of IEUA, such as the City, are required to periodically update their ordinances consistent with governing permits and state and local regulations; and

WHEREAS, IEUA updated its recycled water rules and regulations by adopting Ordinance No. 69 and adding requirements as mandated by the State Board; and

WHEREAS, the City first adopted Ordinance No. 2689 in 1999, establishing regulations for recycled water distribution and use, which was last amended by Ordinance No. 2816 in 2005, codified in Chapter 8C of the City's Municipal Code; and

WHEREAS, the City wishes to amend Chapter 8C of Title 6 of the Municipal Code to be consistent with governing laws.

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

SECTION 1. The Recitals set forth above are incorporated herein and made an operative part of this Ordinance.

SECTION 2. Chapter 8C of Title 6 of the Municipal Code is hereby amended as set forth in Exhibit A, attached hereto and by this reference made an operative part of this Ordinance.

SECTION 3. The City Manager, or the City Manager's authorized designee, is hereby authorized and directed to take all actions necessary to implement, impose, and otherwise enforce this ordinance. The City Manager, or the City Manager's authorized designee, is also hereby authorized to adopt administrative regulations which may be necessary in order to reflect or implement the actions taken by way of this Ordinance.

SECTION 4. If any section, subsection, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

SECTION 5. All ordinances, resolutions, administrative actions, amendments, revisions, or any other policies or procedures which conflict with this Ordinance and which were in effect prior to the effective date of this Ordinance shall be superseded by this Ordinance and shall be of no further force or effect.

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

SECTION 7. This Ordinance shall become effective thirty (30) days from its adoption.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2021.

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 _____, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

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

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CHAPTER 8C: RECYCLED WATER

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Article 1: General Provisions

Sec. 6-8.701. Authority.

Recycled water use is regulated by the California State Water Resources Control Board (State Board) and the Regional Water Quality Control Board, Santa Ana Region (RWQCB). In accordance with waste discharge requirements for water reclamation projects, the RWQCB requires control mechanisms to regulate facilities distributing recycled water. The California Legislature has established a State policy encouraging the use of recycled water (California Water Code, Section 13510). Permission to use recycled water is based on Inland Empire Utilities Agency's ability to treat domestic wastewater in accordance with the Uniform Statewide Recycling Criteria under Title 22, Division 4, Chapter 3 of the California Code of Regulations. These regulations were adopted to ensure proper health protection and specify the treatment degree to meet the needs of the intended applications.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.702. Purpose.

The purpose of this chapter is to establish procedures, specifications, and limitations for the safe use and operation of recycled water facilities and systems within the City's service area, and adopt rules and regulations controlling such use and operation.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.703. Goals.

The goals of this chapter are as follows:

(a) Achieve conservation of potable water supplies by using recycled water for current and future demands. Recycled water uses may include:

- (1) Agricultural irrigation.
- (2) Commercial uses (including flushing toilets and urinals).
- (3) Construction use.
- (4) Industrial processes.
- (5) Landscape irrigation.
- (6) Landscape and/or recreational impoundments.
- (7) Wildlife habitat.
- (8) Groundwater recharge, as approved by the State Board and

RWQCB.

(b) Maintain recycled water quality through a stringent pretreatment program for industrial wastewater.

(c) Prevent direct human consumption of recycled water through:

- (1) Adherence to all applicable rules and regulations.
- (2) Posting of warning signs by the user.
- (3) Cross-connection/backflow prevention program.

(d) Control runoff of recycled water through monitoring of the installation and operation of all recycled water facilities and use areas.

(e) Monitor recycled water quality.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.704. Policy.

(a) It is the policy of the City that recycled water be used for any and all purposes approved by State regulations for recycled water use. Recycled water shall be the primary source of supply for commercial and industrial uses, whenever available and/or feasible. Use of potable water for commercial and industrial uses shall be contrary to City policy, shall not be considered the most beneficial use of a natural resource, and shall be avoided to the maximum extent feasible. If the City determines that recycled water service is feasible under Sections 6-8.710 and 6-8.711, the applicant, owner, or user will be required to use recycled water service.

(1) The people of the State of California have a primary interest in the development of facilities to recycle water containing waste to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the State (California Water Code, Section 13510). Conservation of all available water resources requires the maximum reuse of recycled water for beneficial uses of water (California Water Code, Section 461). The State of California has declared that use of potable water for non-potable uses may be a waste or an unreasonable use where

recycled water is available (California Government Code, Section 65602(e); California Water Code, Section 13550).

(2) It is the policy of the City that recycled water shall be used within the jurisdiction of the City whenever and wherever: 1) there is not an alternative higher or better use for the recycled water; and 2) such use is consistent with legal requirements, preservation of public health, safety and welfare of the public, and protection of the environment.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.705. Priority.

Connection to the City's recycled water system shall be provided on a first-come, first-served basis, as long as infrastructure and recycled water are available.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.706. Administrator.

Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of this chapter. The City Manager may, at his or her discretion, delegate any or all of these powers and duties.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.707. Other applicable rules and codes.

Other guidelines, rules and regulations, ordinances, and specifications that may be applied by the Administrator to govern the use of recycled water within the City include:

(a) Regulations that deal with backflow prevention, billing, deposits, penalties, delinquencies, and metering for potable water as established in Sections 6-8.49 through 6-8.61 of the Ontario Municipal Code.

(b) Regional Recycled Water Distribution System Ordinance (Ordinance No. 69, Inland Empire Utilities Agency.)

(c) Water Reclamation (Title 22, Division 4 of the California Code of Regulations.)

(d) Regulations Relating to Cross-Connections (Title 17 of the California Code of Regulations.)

(e) Guidelines for Distribution of Non-potable Water (California-Nevada Section AWWA.)

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.708. Severability.

If any section, subsection, sentence, clause or phrase of this chapter establishing rules and regulations for the use of recycled water is for any reason found to be invalid or unconstitutional, such decision shall not affect the remaining portions of this chapter.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Article 2: Definitions

Sec. 6-8.709. Definitions.

The terms used in this chapter shall have the following meanings:

- a) "Agricultural Use" shall mean water used for the production of crops and/or livestock. Agricultural uses include, but are not limited to, the growing of field and nursery crops, row crops, trees and vines, and the feeding of fowl and livestock.
- b) "Air Gap Separation" shall mean a physical break between a supply pipe and a receiving vessel. The air gap shall be at least double the diameter of the supply pipe, measured vertically from the flood rim of the receiving vessel to the supply pipe; however, in no case shall this separation be less than one (1) inch.
- c) "Applicant" shall mean any person, group, firm, partnership, corporation, association, or agency that applies for recycled water service.
- d) "Approved Use" shall mean an application of recycled water in a manner, and for a purpose, designated in a Recycled Water Use Agreement, and in compliance with applicable State and local rules and regulations.
- e) "Approved Use Area" shall mean a site with well-defined boundaries designated in a Recycled Water Use Agreement in compliance with applicable State and local rules and regulations.
- f) "As-built Drawings" shall mean the record drawings that show the completed facilities as constructed or modified.
- g) "Auxiliary Water Supply" shall mean any water supply on or available to the premises other than the City's potable water.
- h) "AWWA" shall mean the American Water Works Association.
- i) "City Council" shall mean the City Council of the City of Ontario.
- j) "City Manager" shall mean the chief administrative officer of the City of Ontario or his or her authorized designee.
- k) "Commercial Use" shall mean the water used for non-body contact such as toilets, urinals, decorative fountains, decorative indoor and outdoor landscape, and other uses approved by the City.
- l) "Construction Water Service" shall mean temporary water service obtained from the City for construction purposes on any new facilities or structures.
- m) "Cross-Connection" shall mean any unapproved and/or unprotected, actual or potential, connection between any part of a potable water system and any equipment, source, or system containing water or other substances not approved as safe and potable for human consumption.
- n) "Direct Beneficial Use" shall mean the use of recycled water, which has been transported from the point of production to the point of use, without an intervening discharge to waters of the State.
- o) "Discharge" shall mean any release or distribution of recycled water to a use area or disposal site/mechanism. Such discharges are subject to approval by the City.
- p) "Divert" shall mean to change the intended course or path of recycled water into or out of the City's recycled water system without the authorization or

consent of the City. Any unpermitted withdrawal of recycled water from the City's facilities is a "diversion".

- q) "IEUA" shall mean the Inland Empire Utilities Agency.
- r) "Industrial Use" shall mean the water used for industrial process such as rinsing, washing, cooling, flushing, circulation, or construction; and other uses approved by the City.
- s) "Infiltration Rate" shall mean the rate at which water penetrates the soil surface and enters the soil profile.
- t) "Landscape Irrigation" shall mean recycled water used for the propagation and maintenance of trees, shrubs, ground cover and turf used for erosion control and aesthetic value, not for resale or profit purposes.
- u) "Letter of Approval" shall mean a written formal letter issued by the State Board approving the use of recycled water at a premise.
- v) "Non-potable Water" shall mean water that has not been treated for, or is not acceptable for human consumption, in conformance with Federal, State and local water standards. Non-potable water includes recycled water.
- w) "Offsite Facilities" shall mean all existing or proposed facilities under the control of the IEUA or the City, from the source of supply to the point of connection with the customer's onsite facilities, up to and including the City's recycled water meter and meter box. Such facilities shall include, without limitation, recycled water transmission mains, recycled water pipes and reservoirs, pumping stations, treatment plants and other appurtenances and property.
- x) "Onsite Facilities" shall mean all existing or proposed facilities within property under the control of the customer, normally downstream of the City's recycled water meter and meter box.
- y) "Onsite Recycled Water Supervisor" shall mean a qualified person designated by a recycled water user and approved by the City to be responsible for the safe and efficient operation of the user's recycled water system. This person shall be knowledgeable in the operation of the recycled water system and in the application of Federal, State and local guidelines, criteria, standards, and rules and regulations governing the use of recycled water.
- z) "POC" shall mean the point of connection at the recycled water service meter.
- aa) "Ponding" shall mean the retention of recycled water on the ground surface or human-made surface for a period of time following the cessation of an approved recycled water use activity, such that potential hazard to the public health may result, as determined by regulatory agencies.
- bb) "Potable Water" shall mean water which conforms to the latest Federal, State and local drinking water standards.
- cc) "Recycled Water" shall mean water, which as a result of treatment of wastewater, is suitable for direct beneficial use or a controlled use that otherwise would not occur. The treatment of wastewater is accomplished in accordance with the Uniform Statewide Recycling Criteria set forth in Title 22, Division 4 of the California Code of Regulations.
- dd) "Recycled Water System" means the publicly owned property involved in the distribution of recycled water within the City and any privately owned

- onsite facilities, including piping, pumps, reservoir, land, supply lines (main lines), fittings, and equipment related to such elements.
- ee) "Recycled Water Facilities" shall mean the systems and structures used in the treatment, storage, pumping, transmission and distribution of recycled water.
 - ff) "Recycled Water Use Agreement" shall mean an agreement between the user and the City to use recycled water in compliance with all applicable rules and regulations.
 - gg) "Regulatory Agency" shall mean any public entity legally constituted by Federal, State and local statutes to protect health and water quality.
 - hh) "Runoff" shall mean the flow of water along natural or human-made surfaces away from the designated use area.
 - ii) "RWQCB" shall mean the California Regional Water Quality Control Board, Santa Ana Region.
 - jj) "Service" shall mean the delivery of recycled water to a user.
 - kk) "Service Connection" shall mean City facilities between the City recycled water distribution system and the customer's meter, including, but not limited to, the meter, meter box, valves, and piping equipment.
 - ll) "Standard Specifications" shall mean the specifications approved by the City for construction of recycled water facilities.
 - mm) "State Board" shall mean the California State Water Resources Control Board.
 - nn) "Tampering" shall mean the unauthorized entering, breaking, damaging, destroying, uncovering, defacing, rearranging, injuring, altering, or interference with any temporary or permanent structure (including any pipeline), equipment (including any pumps or backflow devices), or appurtenance owned by the City or that is part of the City's recycled water. Any unpermitted connection the City's facilities is "tampering".
 - oo) "Unauthorized Discharge" shall mean any release of recycled water that violates any applicable Federal, State, or local statutes, regulations, chapters, contracts, or other requirements.
 - pp) "Uniform Statewide Recycling Criteria" shall mean the criteria for treatment of recycled water established for the protection of public health and codified under Title 22, Division 4, Chapter 3 of the California Code of Regulations.
 - qq) "Use Area" shall mean the specific area designated to be served with recycled water through onsite recycled water facilities.
 - rr) "User" shall mean any person, group, firm, partnership, corporation, association or agency accepting recycled water from the City's recycled water facilities for use in accordance with this chapter. "Applicant," "Owner," or "Customer" are terms that are to be considered as users.
 - ss) "Windblown Spray" shall mean any dispersed, airborne particles of recycled water capable of being transmitted through the air to a location other than that for which the direct application of recycled water is approved.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Article 3: Area Served

Sec. 6-8.710. Service area.

The rules and regulations contained in this chapter apply to recycled water service to lands and/or improvements lying within the legal boundaries of the City, and to properties contiguous to the City under the same ownership as abutting lands within the City or its designated service boundary. Recycled water service shall be provided to a specific service area when related distribution facilities are completed, and service becomes available.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Article 4: General Requirements

Sec. 6-8.711. Determination of recycled water use area.

(a) General

(1) The City Council may adopt and periodically review the City's Recycled Water Master Plan and recommend where water service should be made with recycled water in place of potable water. The Master Plan shall be in accordance with all of the requirements of the State Board and the RWQCB, and shall encourage recycled water use.

(2) If the City determines recycled water is available, or will be available within five (5) years, the City may request modifications to existing onsite water facilities and require construction of recycled water systems in new developments.

(3) The City Council may enter into agreements with other municipalities and public entities to identify recycled water use service areas within the City and the jurisdiction of each entity.

(4) The City may identify customers who are located within the City's service area, and within an area identified in the City's Recycled Water Master Plan as an area capable of receiving service from the City's recycled water system, and may determine the feasibility of providing recycled water service to identified users.

(5) If the City determines recycled water service is feasible, applicants for new recycled water service must install onsite facilities to accommodate both potable water and recycled water in accordance with this chapter.

(b) Existing potable water service.

(1) The City may make determinations of areas where existing potable water use should be replaced with recycled water use.

(2) The City shall provide notice of the determination to use recycled water to the current customer, explaining the reasons for recycled water use, procedures to facilitate recycled water use, and proposed conditions and schedule for the conversion. Partial or full conversion of existing customers to recycled water use may be mandated to the extent allowed or required by law.

(3) A customer seeking to convert to recycled water service must submit an application for a Letter of Approval to the City for review, along with any required application fee. The City shall review the application for completeness and contact the customer regarding the potential provision of recycled water service and the City's Recycled Water Use Agreement. If the customer does not agree to the terms of the

Recycled Water Use Agreement, or if the City determines that recycled water is not available for the proposed use, the City may, in its sole and absolute discretion, refuse to provide such service.

(c) New recycled water service.

(1) Upon submittal by applicant of a tentative map, land use permit, other proposed land development/land use, or request for recycled water service, the Administrator shall make preliminary determinations if recycled water service can be provided to the area in question. Based upon such determinations, use of recycled water and construction of recycled water distribution systems or other facilities, and the application for recycled water service, may be required as conditions of approval for any development application, in addition to any other conditions of the new industrial, commercial or residential development.

(2) Upon submittal by applicant of a proposed alteration or remodeling of multifamily, commercial, or industrial structures which substantially increase a facility's area, volume or size, or upon request for recycled water service, the Administrator shall make preliminary determinations if recycled water service can be provided to the area in question. Based upon such determinations, use of recycled water and construction of recycled water distribution systems or other facilities, and the application for such use, may be required as conditions of approval for any application, in addition to other conditions of approval for the alteration or remodel.

(3) The Administrator may require the use of recycled water for approved uses and refuse or otherwise restrict potable water service when recycled water is available and approved for use.

(4) Any recycled water supply assessments or verifications prepared by the City will not entitle the applicant's project to recycled water service, or to any right, priority, or allocation in any supply, capacity, or facility, or affect the City's obligation to provide service to its users or potential future users. In order to receive service, the applicant, owner, or user must meet all of the applicable requirements of this chapter.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § 28, Ord. 2816, eff. December 1, 2005, as amended by § , Ord. , eff.)

Sec. 6-8.712. Authorized uses.

(a) Uses of recycled water include only those uses approved by the State Board and consistent with the Uniform Statewide Recycling Criteria under Title 22 of the California Code of Regulations. Each proposed use will be considered for approval by the City on a case-by-case basis, and the City may determine in its discretion whether it is feasible to furnish recycled water for the proposed use. The City's determination of feasibility will be based on the following factors:

(1) Whether recycled water may be furnished for the intended use at a reasonable cost to the user and the City.

(2) Whether recycled water use is in accordance with the standards of treatment and water quality requirements set forth in Title 22, Division 4, Chapter 3, of the California Code of Regulations and all other applicable federal, state, and local laws and regulations.

(3) Whether the use of recycled water can be made in a manner not detrimental to public health.

(b) Prior to approving such uses, the City may, in its discretion, set forth specific requirements as conditions to providing such services and/or require specific approval from the appropriate regulatory agencies. Prior to approval, the user must comply with the requirements established by this chapter and any other requirements imposed by the Inland Empire Utilities Agency, State Board, or any other regulatory agencies that have jurisdiction over such uses.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.713. Conditions of service.

(a) Prior to obtaining recycled water service, the user must enter into a Recycled Water Use Agreement with the City. Recycled water use shall be subject to terms and conditions established in the Agreement, and in accordance with this chapter and other applicable codes, rules, and regulations. If any of the conditions of service are not satisfied at all times, the Recycled Water Use Agreement may be revoked by the Administrator, after which all recycled water service shall cease:

(b) The City shall not be liable for any damage by recycled water or resulting from:

- (1) Defective plumbing.
- (2) Broken or faulty services or recycled water mains.
- (3) Onsite facilities failures.
- (4) High or low pressure conditions.
- (5) Interruptions of service.
- (6) Any inappropriate or illegal use or management practices.

(c) All recycled water will be provided to the user in the conditions and quantity specified in the Recycled Water Use Agreement.

(d) Recycled water use will not be subject to the same restrictions as potable water during drought conditions and will be supplied as available.

(e) Recycled water service may be terminated whenever the quality of the recycled water does not comply with the requirements of the regulatory agencies, or at any time the provisions of this chapter, or the conditions specified in the Recycled Water Use Agreement, are violated.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.714. Recycled water service application.

(a) An application for a service connection must be made on a form furnished by the City. The applicant shall provide the City with the anticipated recycled water demand (maximum gallons per minute) and shall specify the size of the water meter that is desired; however, the City reserves the right to determine the ultimate size of the service connection and meter. The applicant shall also specify the property to be served. The information supplied by the applicant shall be considered as authoritative and final. If any error in such application shall cause installation of a service connection that is improper, either in size or location, the cost of all changes required shall be borne by the applicant. The steps for obtaining recycled water service are as follows:

(1) The applicant completes and submits a recycled water service application, including existing facility “as-built” drawings or proposed facility plans as appropriate, description of where and how recycled water use is proposed, and any other information pertinent to the use of recycled water as requested by the Administrator.

(2) An Engineering Report shall be prepared by a qualified engineer registered in California and experienced in the field of wastewater treatment, and submitted to the State Board for approval. The City or Inland Empire Utilities Agency may prepare the report on behalf of the user, provided that the user pays all costs associated with the preparation of the report. The Engineering Report shall be consistent with State Board guidelines. Pursuant to the Uniform Statewide Recycling Criteria under Title 22 of the California Code of Regulations, the Engineering Report shall include:

- (i) A description of the design of the proposed reclamation system.
- (ii) A means for compliance with Title 22 regulations and any other features specified by the State Board.
- (iii) A contingency plan which will assure that no untreated or inadequately treated wastewater will be delivered to the use area.

(3) The City shall forward the completed Engineering Report to the State Board for review and approval.

(4) The user and the City will address any concerns that the State Board may have regarding the Engineering Report and revise the report accordingly.

(5) Upon the State Board’s approval of the Engineering Report, the user may enter into a Recycled Water Use Agreement with the City. The user must enter into the Agreement to begin recycled water service and pay any applicable fees.

(6) The Administrator will schedule a start-up test of the onsite recycled water system to ensure that cross-connections do not exist.

(7) Upon the successful completion of the test, the Administrator may authorize recycled water service to begin.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.715. Recycled Water Use Agreement.

Every applicant agreeing to receive recycled water shall sign a Recycled Water Use Agreement (to be furnished by the City) and shall be subject to the following conditions:

(a) The applicant shall pay any specified connection fees, service line charges and other charges, and adhere to the requirements prescribed by this chapter and any additional requirements required by other agencies governing recycled water use.

(b) In order to maintain acceptable operating conditions throughout the recycled water system, the Administrator may schedule recycled water use for specific applications. Such scheduling may involve programming deliveries to different users and/or to various portions of a single user’s onsite system. Any scheduling shall consider the operating constraints of the affected users.

(c) The Administrator may temporarily terminate recycled water service at any time recycled water produced by the Inland Empire Utilities Agency does not meet the

requirements of the regulatory agencies. Recycled water service would, in such case, be restored when the recycled water meets the governing requirements.

(d) At a minimum, the Recycled Water Use Agreement shall include the following:

(1) Names and addresses of the owner of the property and user(s) of the recycled water.

(2) A statement that no changes in the proposed system will be undertaken without amending the Agreement.

(3) A statement that the applicant recognizes potential penalties for violation of this chapter and any regulatory agencies.

(4) A copy of the State Board approved Engineering Report.

(5) Specific quantity of recycled water to be used, including estimated average annual use in acre-feet, and the maximum gallons per minutes (GPM) needed at the point of connection (POC) as shown on the plans.

(6) Approved uses.

(7) A statement that the Agreement shall be canceled or amended if:

(i) A change of recycled water use occurs.

(ii) A change in the piping system has been implemented without prior approval.

(iii) A violation of these rules and regulations occurs and results in a system turn-off.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.716. Rates, fees, charges and deposits.

(a) All rates and fees regarding recycled water service and their administrative costs shall be established by the City Council and incorporated into Ontario Municipal Code Title 6, Chapter 8B. Any changes in fee and rate schedules shall be automatically adopted into this chapter.

(b) Applicants for recycled water service shall pay their fair share for the construction of facilities needed to deliver recycled water to the applicant's property. All fees and estimated construction costs shall be paid prior to construction; however, the City may reimburse the applicant for a portion of the cost of such facilities as described in subsection (c) of this section.

(c) Under certain circumstances, the City may contribute to the cost of designing and/or constructing the facilities needed to deliver recycled water to an applicant's property. Subject to the availability of funds, the City may:

(1) Reimburse an applicant for costs incurred to install oversized facilities in the public right-of-way.

(2) Elect to participate in or construct pipelines, reservoirs, pumping stations or other facilities, as the City determines necessary, and/or as funds are available.

(3) Elect to fund or construct recycled water facilities, necessary for converting existing customers from potable to recycled water, with customer reimbursement to the City in the form of an increased recycled water rate, not to exceed

the potable rate, until such time as reimbursement is complete under the terms of the Recycled Water Use Agreement.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § 29, Ord. 2816, eff. December 1, 2005, as amended by § , Ord. , eff.)

Sec. 6-8.717. Construction Water Service.

Persons desiring water for construction purposes shall request a temporary water meter for connection to a City recycled water fire hydrant, and shall be subject to the fees and deposits as set forth in this chapter. It shall be the responsibility of the customer to identify the approximate location of the recycled water fire hydrant. The customer shall be responsible for any damage and repair to the meter while in the customer's possession. In the event that a meter is stolen, it will be at the City's sole discretion whether the deposit shall be forfeited. If a replacement meter is requested, a new deposit and application may be required for the replacement meter. All recycled construction meters shall be installed by City staff and secured to the desired recycled water fire hydrant with a City-provided locking device. The meter shall remain at the City approved and designated location until such time as the customer requests it to be moved. The customer can request the meter to be relocated at a maximum number of four (4) times per billing period. Requests for removal or relocation will be accomplished the same working day, provided the request is made to the City prior to 1:00 P.M. of the day of the request. Any request made after 1:00 P.M. may be completed the following business day.

(§ , Ord. , eff.)

Sec. 6-8.718. Size, location, and installation of service line.

Recycled water service lines shall be extended by the property owner/developer to a curb line or property line of the customer's property, abutting on a public street, highway, road or City easement in which recycled water mains are installed. The size and location and/or type of recycled water service lines, service connections, meters, backflow protection devices, and any/all other appurtenances are subject to review and approval by the City.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.719. Service connection limitations.

Recycled water service shall be subject to the following conditions:

(a) The City reserves the right to limit the area of land under one ownership to be supplied by one recycled water service connection and recycled water meter.

(b) A recycled water service connection and its corresponding meter shall not be used to supply adjoining property of a different owner, or to supply property of the same owner across a road, street or other public right-of-way.

(c) When a property provided with a recycled water connection and corresponding recycled water meter is subdivided, such connection and meter shall be considered as serving the lot or parcel of land it directly or first enters. Additional recycled

water mains and/or recycled water service lines will be required for all subdivided areas in accordance with this chapter.

(d) Private irrigation systems for homeowner's associations and other developments where landscaping around homes and in common areas are served with one recycled water meter, shall not be allowed to cross public roads, easements, or other public rights-of-way without City approval.

(e) All recycled water used on any property where a meter is installed must pass through the meter. Customers shall be held responsible and charged for all recycled water passing through their meters.

(f) Every recycled water service line shall be equipped with an angle curb stop on the inlet side of the meter; such angle curb stop being intended exclusively for the use of the City in controlling the recycled water supply through the recycled water service line. If the curb stop is damaged by the user's use to an extent requiring replacement, such replacement shall be at the user's expense.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.720. Service pressure.

Whenever possible, the recycled water system will operate at a slightly lower pressure than the potable water system. This will cause potable water to flow in the recycled water system in the event of a cross-connection.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § 30, Ord. 2816, eff. December 1, 2005, as amended by § , Ord. , eff.)

Sec. 6-8.721. Relocation of recycled water service lines.

Should a recycled water service line installed pursuant to the request of the applicant, owner, or user be of the wrong size, or installed at a wrong location or depth, then the cost of all changes required shall be paid for by the applicant, owner, or user. All recycled water services provided prior to final street improvements will be considered temporary and the costs for all repairs or changes required to be performed by the City must be paid by the applicant, owner, or user.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Article 5: Protective Measures

Sec. 6-8.722. Cross-Connections.

The following provisions are intended to protect the City's potable water supplies against actual, undiscovered, unauthorized, or potential cross-connections to the user's recycled water system. These provisions are in addition to, not in lieu of, the controls and requirements of other regulatory agencies. These provisions are in accordance with State Board regulation and Title 17 (Public Health) of the California Code of Regulations.

(a) These provisions shall be in addition to and not in lieu of the controls and requirements of other regulatory agencies, such as local and State Health Departments. These regulations are intended to protect the City's potable water supply and are not intended to provide regulatory measures for protection of users from the hazards of cross-connections within their own premises. The City's responsibility for preventing cross-connections is limited to its duties under applicable State Board and Title 17 regulations.

(b) The City has developed an active cross-connection control program with Cross-Connection Control Specialists to administer the program. Any questions or notification regarding these provisions or the program should be directed to the City's Water Quality Programs Manager.

(c) Approved backflow prevention devices on the City's potable water services to the property as required in these provisions, shall be provided, installed, tested, and maintained according to Section 6-8.722. These devices shall be located on the property served immediately downstream of the potable water meter and shall not be on the City's portion of the system. All devices shall be readily accessible for testing and maintenance and no device shall be submerged at any time.

(d) When a request for recycled water service is initiated, the applicant must provide sufficient information, including plumbing and building plans, to enable the Administrator and other regulatory agencies to determine the level of backflow protection required. The proper backflow protection, as determined by the Administrator and other regulatory agencies, shall then be installed and tested according to Section 6-8.725 before recycled water service is provided.

(e) Each time there is a change of user (either owner or tenant) on any commercial or industrial premise, the new user shall notify the Administrator immediately. The Administrator will then reassess the level of protection required. In addition, any alterations to existing onsite facilities that may affect required protection levels must be reported immediately to the Administrator.

(f) At their discretion, representatives of any health agencies having jurisdiction, and the Administrator, may inspect any property provided recycled water service by the City. The inspection shall serve to determine if any actual or potential cross-connections exist, if there are any unapproved uses, and to assess compliance with applicable laws and regulations. The owner or user shall provide full cooperation in facilitating the inspection.

(§ , Ord. , eff.)

Sec. 6-8.723. Where Protection is Required.

An approved backflow protection device for the City's potable water supplies shall be provided as follows:

(a) Each City water service connection that supplies potable water to premises with an auxiliary water supply, such as recycled or non-potable water that is not accepted as a potable source by the Administrator, and/or is not approved for potable use by the State Board, shall be protected against backflow from the premises into the City's potable water system.

(b) Each City water service connection supplying potable or recycled water to premises on which any substance is handled in such a fashion that could permit entry into the City water systems (potable or recycled) from the premises shall be protected against backflow. This shall include, but is not limited to, the handling of fertilizers, process waters, waters originating from any of the City water systems that have been subject to deterioration in quality, and agricultural use.

(c) Appropriate backflow devices shall be installed where premises have intricate plumbing and piping arrangements or where not all portions of the premises are readily accessible for inspection.

(d) Appropriate backflow protection shall be required at premises where a history of cross-connections has been established or re-established.

(e) Appropriate backflow protection shall be provided to properties served by a temporary above ground water service connection.

(§ , Ord. , eff.)

Sec. 6-8.724. Types of protection.

The level of protection required shall be related to the degree of potential hazard that exists on the premises served and will be determined by the Administrator. The water user may choose a higher level of protection than required by the City. The minimum level of protection required, relative to various situations, shall comply with Title 17 of the California Code of Regulations, or to the extent not covered thereby, as determined by the City and/or the State Board.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.725. Testing and maintenance of backflow prevention devices.

The user is responsible for testing all backflow prevention devices and maintaining these devices in a satisfactory operating condition. Testing shall be completed at least once a year by a San Bernardino County certified backflow prevention tester. More frequent testing may be required if successive inspections indicate repeated failures. The backflow prevention devices shall be repaired, overhauled and/or replaced whenever they are found to be defective. Testing shall be completed immediately after the devices are installed, relocated or repaired. All inspections, tests and repairs shall be performed at the user's expense. The user shall maintain records of all such tests, repairs and overhauls. These records shall be submitted to the Administrator annually and made available to the State Board on request.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.726. Other measures.

(a) Water meters used for recycled water service shall be tagged or color-coded purple, color pantone 512 or 522, or otherwise distinguished as such per AWWA standards. These meters shall not be interchanged or used for potable water service after repairs and/or meter testing have been performed.

(b) Where premises contain dual or multiple water systems and piping, the exposed portions of pipelines shall be painted, banded, or marked pursuant to Section 6-8.726 at sufficient intervals to distinguish clearly water is safe for drinking purposes and water that is not safe. All outlets intended for drinking purposes shall be plainly marked to indicate that fact.

(c) For residences providing recycled water services, water outlets that serve non-potable water shall be marked with the words "Recycled Water – Do Not Drink".

(d) Periodic inspection by the City of the recycled water facilities will determine if all identifying items are clearly discernable. If not, they shall be immediately replaced, repaired or refurbished as needed, by the user. These items include:

- (1) Warning tags.
- (2) Painted surfaces.
- (3) Warning tape.
- (4) Identification tape.
- (5) Covers, caps, signs.
- (6) Other items that indicate recycled water is being used.

(e) To determine the existence of any cross-connections or backflow conditions into the potable water system, periodic testing by State Board approved methods will be performed by the Administrator and/or other regulatory agencies.

(f) In the event of contamination or pollution of the City's potable water system due to a cross-connection or other failure, the State Board, the Administrator, and the IEUA shall be promptly notified by telephone so that appropriate and immediate measures may be taken to mitigate the contamination or pollution.

(g) The State and County Health Departments, the Administrator, and the IEUA shall be kept informed by written document of the identity of the person responsible for the user's recycled water system on all premises concerned with these rules and regulations. At each authorized use area, an 'Onsite' Recycled Water Supervisor shall be designated. This supervisor shall be responsible for:

- (1) The installation and use of all components of the onsite recycled water system(s).
- (2) Prevention of cross-connections.
- (3) Change in use of recycled water.

(h) When the recycled water uses or conditions, as determined by the Administrator or other regulatory agencies, represent a clear and immediate hazard to the City's potable and/or recycled water supply that cannot be immediately removed or corrected, the Administrator shall terminate recycled water use. Conditions or uses that create a basis for termination include, but are not limited to, the following:

- (1) Refusal to install a required backflow prevention device.
- (2) Refusal to test a backflow prevention device.
- (3) Refusal to repair a faulty backflow prevention device.
- (4) Refusal to replace a faulty backflow prevention device.
- (5) Direct or indirect connection between the City's potable water system and an auxiliary water system.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § 31, Ord. 2816, eff. December 1, 2005, as amended by § , Ord. , eff.)

Sec. 6-8.727. Emergency connection of the recycled water system to the potable water system.

If the Administrator determines an emergency exists where all or parts of the recycled water system are unable to provide recycled water, the Administrator may approve an emergency temporary connection to the potable water system. Before such emergency temporary connection is made, the portion without recycled water shall be isolated by an air gap separation from the remainder of the recycled water system. This isolation shall occur at either individual services or on the offsite system, as determined by the Administrator. An approved backflow prevention device shall be installed on the potable water lines in accordance with this chapter and any and all applicable rules and regulations of the State and local health departments. The recycled water system shall be disinfected in accordance with Title 22 California Code of Regulations and AWWA C651 Standard prior to any use of potable water through the system. Before the emergency temporary connection or connections shall be removed, whether onsite or offsite, the user shall notify the City's Municipal Utilities' Water Quality Programs Division. The emergency temporary connection shall be removed before connection to the recycled water system is re-established. Re-establishment of recycled water service must be inspected and approved by the Administrator prior to resuming delivery of recycled water. (§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Article 6: Facilities Design and Construction

Sec. 6-8.728. Facilities design.

(a) The design of offsite and onsite recycled water facilities, including the preparation of plans and construction specifications, shall be under the responsibility of an engineer registered in the State of California. The design of customer (onsite) facilities that will use recycled water, and preparations of plans and construction specifications, shall be stamped and signed by a State of California registered Landscape Architect or Civil Engineer, unless otherwise approved by the Administrator.

(b) Before the Administrator grants final acceptance of any system using recycled water, as-built drawings of the system shall be provided. The installed system shall be tested in accordance with the City Standard Specifications to ensure that the system is in full compliance with applicable rules and regulations.

(c) All offsite and onsite recycled water facilities shall be designed and constructed according to the requirements, conditions, and standards as adopted in the City Standard Specifications to ensure that the system is in full compliance with this chapter. Recycled water systems, both onsite and offsite, shall be separate and independent of any potable water systems.

(d) Where the premises contain dual or multiple water systems, the exposed portions of pipelines shall be identified at sufficient intervals.

(e) Areas irrigated with recycled water must be kept completely separated from domestic water wells and reservoirs. Recycled water shall not be applied or allowed to migrate to within fifty (50) feet of any well used for domestic supply. No impoundment of

recycled water shall be located within one hundred (100) feet of any domestic water well, unless it can be demonstrated that special circumstances justify lesser distances to be acceptable.

(f) Adequate means of notification shall be provided to inform the public, employees and others that recycled water is being used. Conspicuous signs with appropriate wording that can be clearly read should be placed at adequate intervals around the authorized use area.

(1) Golf courses should print messages on score cards in a different color indicating recycled water is being used. Water hazards containing recycled water should be posted with appropriate signs.

(2) Languages in addition to English should be used on signs where appropriate.

(§ , Ord. , eff.)

Sec. 6-8.729. Offsite Recycled Water Facilities.

(a) Any offsite recycled water distribution facilities required to serve existing or new developments of the property within the City, as determined by the Administrator, shall be provided by the applicant, owner, or customer at their expense, unless the Administrator determines it is a City benefit to construct these capital facilities.

(b) Plans and specifications for all recycled water distribution facilities shall be submitted to and approved by the Administrator, and other regulatory agencies, in advance of construction.

(c) The City will assume responsibility for providing recycled water service to the point of connection of such development on transfer, to the City, of the title to all offsite recycled water systems and any necessary easements. All easements shall be in a form acceptable to the Administrator, and not subject to outstanding obligations to relocate such facilities or any deeds of trust, except in instances where such is determined by the Administrator to be in the best interest of the City.

(5) The City and the property owner or developer may enter into a reimbursement agreement for the portions of a recycled water system that are required to be oversized with capacity to supply more recycled water than the property owner or developer requires. The determination to enter into a reimbursement agreement, and the specific items that are the subject of reimbursement, will be made by the City.

(§ , Ord. , eff.)

Sec. 6-8.730. Onsite Recycled Water Facilities

(1) The user or the owner of the property shall be responsible for all costs associated with onsite recycled water facilities.

(2) When City Standards and Specifications require a higher quality material, equipment, design or construction method than that required by other governing codes, rules and regulations, the City Standards and Specifications shall take precedence.

- (i) In areas where recycled water is not immediately available when the use area is ready for construction, and if the City has determined that recycled water will be supplied in the future, onsite facilities shall be designed to use recycled water. Provisions shall be made to allow for connection to the City's offsite recycled water facilities, when available. In the interim, potable or other suitable water may be supplied to the onsite facilities through an "interim service connection."
 - (ii) Conditions of interim service are:
 - (1) The City anticipates recycled water will be available to the site within five (5) years of the time interim service is initiated.
 - (2) The user or the owner of the property must sign a Recycled Water Use Agreement.
 - (3) The user or the owner of the property must agree to perform or pay for all work necessary to remove the interim connection and make connections to the permanent recycled water system at the time the recycled water system is installed.
 - (4) An approved backflow prevention device is required on the interim service. The backflow prevention device shall be downstream of the meter and shall be a part of the onsite recycled water facilities.
 - (5) Future recycled water users will pay for the following:
 - (i) ` Cost of constructing and abandoning the interim service and cost of constructing the recycled water service.
 - (ii) ` Applicable recycled water fees at the time service becomes available.
 - (iii) ` Applicable interim water rates for the type of water delivered through the interim service.
 - (6) When recycled water is available to the site, an inspection of the onsite facilities will be conducted by the Administrator to verify that the facilities are still in compliance with the Recycled Water Use Agreement. Recycled water service shall be provided on verification of compliance. If the facilities are not in compliance, the Administrator shall notify the user to make any necessary corrections.
- (§ 1, Ord. 2689, eff. June 17, 1999, as amended by § 32, Ord. 2816, eff. December 1, 2005, as amended by § , Ord. , eff.)

Sec. 6-8.731. Construction.

- (a) Construction of all new recycled water facilities will follow City Standards and Specifications and the American Water Works Association Construction Guidelines for Recycled Water Facilities.
- (b) Where it is planned that an existing non-recycled water system shall be converted to a recycled water facility, the facilities to be converted to recycled water shall be investigated in detail at the user's expense, to determine the measures required to bring the system into full compliance with this chapter. No existing potable water facilities shall be connected to or incorporated into the recycled water system without City and State Board approvals.

(c) If, due to onsite failure of the recycled water system, the Administrator determines that it is necessary to convert onsite facilities from a recycled water supply to a potable water supply, a comprehensive investigation shall be performed by or for the City.

(1) The facilities to be converted to recycled water use shall be investigated in detail, including review of any record drawings, preparation of required reports, and determinations by the City of measures necessary to bring the system into full compliance with this chapter for recycled water service.

(2) No potable water facilities shall be connected to or incorporated in the recycled water system that have not been approved for recycled water service by the City.

(d) It shall be the responsibility of the user to pay all costs for such conversion. Conversion costs may include, but not be limited to, the following:

(1) Isolation of the recycled water supply. Service shall be removed and plugged at the City main or abandoned in a manner approved by the Administrator.

(2) Installation of approved backflow prevention devices, as determined by the Administrator, on all potable and/or other water meter connections.

(3) Removal of any/all special recycled water quick couplers. The user shall be responsible for replacement with quick couplers approved for potable water systems.

(4) Notification to all onsite personnel involved.

(5) Removal of all warning labels/signs.

(6) Installation of any/all potable water facilities and payment of any associated capacity fees, as established in Title 6, Chapter 8B, of the Ontario Municipal Code.

(7) System flushing, disinfecting, decontamination, and water quality analyses, as required by the City and/or other regulatory agencies.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Article 7: Facilities Operation

Sec. 6-8.732. Offsite facilities.

The City and/or the Inland Empire Utilities Agency shall be responsible for the operation, maintenance and surveillance of all offsite recycled water systems. This includes but is not limited to recycled water pipelines, valves, connections, storage facilities, and other related equipment and property up to and including the meter. Only the City and/or the Inland Empire Utilities Agency personnel and their representatives shall operate, adjust, change, alter, move or relocate any portion of their respective offsite recycled water facilities.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.733. Onsite facilities.

(a) General.

(1) The operation, surveillance, repair, and maintenance of all customer recycled water facilities are the responsibility of the user and his or her designated Onsite Recycled Water Supervisor.

- (i) The Onsite Recycled Water Supervisor shall be responsible for the installation, operation, and maintenance of the onsite recycled water system, enforcing applicable requirements of the City's Recycled Water Use Agreement, preventing potential hazards related to such system, maintenance of the system plans in "as-built" form, and distribution of recycled water in accordance with applicable laws and permits held by the City.

(2) The Administrator shall have the right to enter the user's premises to monitor and inspect all onsite recycled water facilities. Where necessary, keys and/or lock combinations shall be issued to the Administrator to provide such access during hours of recycled water system operation.

(b) The Onsite Recycled Water Supervisor shall have the following responsibilities pertaining to operation of onsite facilities:

(1) Ensure that all operations personnel are trained and familiarized with the use of recycled water.

(2) Furnish all operations personnel with maintenance instructions, irrigation schedules, controller charts, and as-built drawings to ensure proper operation in accordance with the onsite facilities design and applicable rules and regulations.

(3) Prepare and submit to the Administrator one (1) reproducible set of as-built drawings.

(4) Notify the Administrator of all updates or proposed changes, modifications, or additions to the onsite facilities and operations for review and approval prior to construction or implementation. All updates and proposed changes shall comply with this chapter, the Recycled Water Use Agreement and any other applicable rules and regulations.

(5) Ensure that the operation and maintenance of all recycled water facilities remain in accordance with this chapter, the Recycled Water Use Agreement and any other applicable rules and regulations.

(6) Operate and control the system in order to prevent direct human consumption of recycled water and to control and limit runoff. The user or the owner of the property shall be responsible for any and all subsequent uses of the recycled water. Operation and control measures to be utilized in this regard shall include where appropriate, but not limited to:

- (i) Minimizing discharge onto areas not under control of the user so as to minimize public contact. Full circle sprinklers shall not be used adjacent to sidewalks, roadways, and property lines in order to confine the discharge to the use area.
- (ii) Operating the onsite recycled water facilities during periods of minimal human use of the service area, and allowing a maximum dry-out time before the irrigated area will be used by the public.

- (iii) Providing adequate first aid kits on the premises, and promptly treating all cuts and abrasions to prevent infection. If infection is likely, a physician should be consulted.
- (iv) Taking any other precautionary measures to minimize direct contact with recycled water. User's employees, residents, and the public should not be subjected to recycled water sprays.
- (v) Applying recycled water at a rate that does not exceed the infiltration rate of the soil. Where varying soil types are present, the design and operation of the recycled water facilities shall be compatible with the lowest infiltration rate of the soils present.
- (vi) Reporting to the Administrator any/all failures in the recycled water system that cause an unauthorized discharge of recycled water.
- (vii) Protecting all drinking fountains located within the approved use area, by location and/or a structure from contact with recycled water to the maximum extent possible. Windblown spray, direct application through irrigation or other approved uses are considered sources of recycled water. Protection shall be by design, construction practice, or system operation.
- (viii) Protecting facilities that may be used by the public, including but not limited to, eating surfaces and playground equipment located within the approved use areas, by locating seating and/or structures from contact with recycled water to the maximum extent possible. Windblown spray, direct contact by irrigation application, or other approved uses are considered sources of recycled water. Protection shall be by design, construction practice, or system operation.

(c) The user shall enforce the following prohibitions:

(1) Cross-connections, as defined by Title 17 of the California Code of Regulations, resulting from the use of recycled water or from the physical presence of a recycled water service, whether by design, construction practice, or system operation, are prohibited.

(2) Discharge of recycled water for any purposes, in areas other than those specifically approved in the Recycled Water Use Agreement, and without the prior approval of the Administrator, is prohibited.

(3) Use or installation of permanent hose bibs on any customer water system that presently operates or is designed to operate with recycled water is prohibited.

(4) Conditions that directly or indirectly cause recycled water to pond either within or outside of the approved use area, whether by design, construction practice, or system operation are prohibited, unless designed specifically for ponding and approved by Administrator.

(5) Conditions that directly or indirectly cause runoff of recycled water onto areas outside of approved use areas, whether by design, construction practice, or system operation, are prohibited.

(6) Use of recycled water for any purposes other than those specifically approved in the Recycled Water Use Agreement, and without the prior approval of the Administrator, is prohibited.

(7) Conditions that directly or indirectly permit windblown spray to pass outside of the approved use area, whether by design, construction practice, or system operation, are prohibited.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.734. Monitoring and inspection.

(a) The Administrator will periodically monitor and inspect the entire recycled distribution facility, including both offsite and onsite facilities. The Administrator will conduct monitoring programs, maintain records as deemed necessary, inspect onsite facilities for compliance with applicable rules and regulations, and provide reports as requested by the State Board. For these purposes, the Administrator will have the right to enter the user's premises during hours of recycled water system operation to inspect onsite recycled water facilities and approved areas of recycled water use, to ensure compliance with this chapter, including the requirement that runoff be controlled and limited (Section 6-8.733(b)(6)) and the prohibition of cross-connections between potable water facilities and recycled water facilities (Section 6-8.733(c)(1)).

(b) The approved user shall be responsible for providing access to and cooperation with the City's Cross-Connection Control Specialist or designee so that the City's Cross-Connection Control Specialist or designee can perform periodic cross-connection tests, site inspections and backflow prevention device tests. Site inspections shall include pressure testing of the system(s) as well as a visual check of the entire system to verify that no cross-connections or unapproved connections exist. The approved user shall be responsible for correcting any work which violates the City's regulations, at the user's sole expense, including any costs associated with repair and re-testing the backflow prevention device should the backflow prevention device fails to pass the required test.

(c) If the user or owner changes, the City's Cross-Connection Control Specialist or designee will perform an inspection and test to verify compliance with this chapter.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.735. Maintenance responsibility.

(a) The user or owner is responsible for maintaining all onsite facilities that are under the ownership of parties other than the City.

(b) No person shall place, dispose, deposit or permit the placement, disposal, or deposit of oil, toxic, hazardous or contaminated liquid or waste, trash, soil, building materials, or any other substances, objects, or obstructions in, on, or around meter boxes or other City facilities. No person shall allow or permit meter boxes or other City facilities from becoming obstructed or obscured by trees, shrubs, plants or in any other manner so as to impede their use or access or make their location difficult to determine.

(c) If such substances, objects, or obstructions are not cleaned and removed, or are permitted to obscure or impede use or access to such facilities, the City may

accomplish the cleaning and removal at the user's expense. The Administrator will provide reasonable notice to the user before assessing the charge.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § , Ord. , eff.)

Sec. 6-8.736. Meter Testing.

If a recycled water meter fails to register during any period or is known to register inaccurately, the owner or user shall be charged using a reasonable average daily consumption based on prior consumption or based on other reasonable calculations in the absence of historical consumption data. The City will examine and test the meter through which recycled water is being furnished or determine whether it is correctly registering the amount of recycled water being delivered.

(§ , Ord. , eff.)

Article 8: Enforcement

Sec. 6-8737. Illegal Connections, Diversions, or Tampering

(a) Diversion and tampering are prohibited.

(b) Diversion and tampering are crimes under the California Penal Code and are violations of the Water Code and the Civil Code. Diversion and tampering may be subject to charges and penalties, as well as referral to the District Attorney for criminal prosecution. All charges and penalties shall be applicable and collected in accordance applicable laws and regulations.

(§ , Ord. , eff.)

Sec. 6-8.738. Violations and Enforcement.

Nothing in this chapter limits or restricts the City's general authority to enforce noncompliance of applicable rules and regulations. The City retains the right to enforce violations of this chapter in accordance with Chapter 1-5 or in accordance with any other legally authorized process, including but not limited to discontinuing service to any customer that commits a violation, infraction, or otherwise fails to comply with the municipal code, any amendments or additions thereto, and any adopted rules or regulations. Prior to the service disconnection, the City shall provide notice to the customer where a violation, infraction, or otherwise noncompliance results, or is likely to result, in a dangerous or unsanitary condition on the customer's premises, or within the City's water system, and where disconnection of service is necessary to protect the City from fraud, imposition, loss or abuse.

(§ , Ord. , eff.)

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

Department: Financial Services
Prepared By: Doreen Nunes
Staff Member Presenting:
Armen Harkalyan, Executive Director of Finance
Reviewed By: Armen Harkalyan, Darlene M
Sanchez
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 16

SUBJECT: APPROVAL OF THE ISSUANCE AND SALE OF BONDS TO REFINANCE CERTAIN PUBLIC CAPITAL IMPROVEMENTS FOR PUBLIC PURPOSES

RECOMMENDATION: That the City Council and the Ontario Public Financing Authority adopt a Resolution authorizing proceedings and agreements relating to the refinancing of public capital improvements for public purposes.

- A. City Council adopt a Resolution approving issuance and sale of bonds by the Ontario Public Financing Authority;
- B. Approving an Official Statement and authorizing official actions;
- C. Ontario Public Financing Authority adopt a Resolution of the Ontario Public Financing Authority authorizing the issuance of its Refunding Revenue Bonds in the aggregate principal amount of not to exceed \$37,000,000 in connection with the refinancing of public capital improvements;
- D. Authorizing and directing execution of an indenture of trust and an amended and restated lease agreement, escrow deposit and trust agreement;
- E. Authorizing the sale of the bonds and an Official Statement and authorizing official actions and execution of related documents; and
- F. Authorize the City Manager to negotiate and execute contracts for the services of Bond Counsel, Municipal Advisor, Underwriter, and Trustee.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Operate in a Businesslike Manner

FISCAL IMPACT: The City through the Ontario Public Financing Authority issued its 2013 Lease Revenue Bonds (the "2013 Bonds") in the original principal amount of \$33,390,000, and are currently outstanding in the amount of \$31,655,000. Interest rates are now at historic lows and it is financially advantageous to refinance the outstanding 2013 Bonds for interest cost savings. The average rate on the 2013 Bonds is 5.22%. At market interest rates as of October 2021, the true interest costs on the 2021 Bonds is estimated at 3.24%. By refinancing on a taxable basis, assuming market interest rates as of October 2021, the City's general fund can achieve a net present value savings of approximately \$3.6 million or 10% of the refunded bond amount. Average annual savings through 2043 are approximately \$230,000 per year. The City may seek bond insurance for the 2021 Bonds if it is determined that the insurance cost is less than the interest cost savings attributable to the purchase thereto. This will be determined at the time the bonds are sold. The projected par amount of the 2021 Bonds is approximately

\$35,130,000. The projected par amount is higher than the refunded par amount as the 2021 Bonds will fund the 2013 Bonds interest cost through the redemption date. The projected savings are inclusive of this cost. The actual par amount and actual savings will be determined when the 2021 Bonds are priced in November/December.

Appropriations for the 2013 Bonds annual debt service payment is already included in the Fiscal Year 2021-22 Adopted Budget. This appropriation will be adjusted accordingly in the next quarterly budget update once the 2021 Bonds are sold and issued. Future appropriations for the 2021 Bonds annual debt service payment will be included in future annual budgets presented to City Council for approval.

BACKGROUND & ANALYSIS: The Ontario Public Financing Authority (the "Authority") is a joint powers authority which was formed to finance the acquisition and construction of public capital improvements for the City. The Authority has previously issued its 2013 Lease Revenue Bonds (the "2013 Bonds") for the purpose of financing numerous capital improvements for the City (the "2013 Project"). The 2013 Bonds are payable from lease payments to be paid to the Authority by the City pursuant to a Lease Agreement between the City and the Authority dated September 1, 2013 (the "2013 Lease Agreement"). The current interest rate environment is favorable to refinance the 2013 Bonds.

Financing Plan

It is recommended that the Authority proposes to issue the Bonds in an aggregate original principal amount not to exceed \$37,000,000 under the provisions of Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), which are proposed to be payable from lease payments to be paid to the Authority by the City pursuant to an Amended and Restate Lease Agreement (the "Lease Agreement") as may be determined by the Authority. A portion of the proceeds of the Bonds will be deposited in an escrow established under an Escrow Deposit and Trust Agreement (the "Escrow Agreement") and used to prepay the lease payments to be made under the 2013 Lease Agreement, and to defease and redeem the 2013 Bonds. The financing will be secured by a lien on the City's police facility located at 2500 Archibald Avenue, Ontario, California.

To provide services necessary for the issuance of the bonds, staff seeks City Council authority for the City Manager to negotiate and execute agreements with: Best Best & Krieger LLP to act as bond counsel, Stradling Yocca Carlson & Rauth, a professional corporation, to act as disclosure counsel; CSB Advisors, Inc., to act as municipal advisor; Cabrera Capital Markets, LLC and Ramirez & Co., Inc. as joint underwriters; and Zions Bancorporation, N.A., to act as trustee. The costs for such services will be paid for and from the bond proceeds.

The following are attachments related to the approval of the financing:

1. A Resolution of the City Council of the City of Ontario, California, authorizing proceedings and agreements related to the refinancing of public capital improvements for public purposes, approving issuance and sale of bonds by the Ontario Public Financing Authority, approving forms of documents including an Official Statement and authorizing official actions;
2. A Resolution of the Ontario Public Financing Authority authorizing the issuance of its Refunding Revenue Bonds in the aggregate principal amount of not to exceed \$37,000,000 in connection with the refinancing of public capital improvements, authorizing and directing execution of an indenture of Trust and an Amended and Restated Lease Agreement, Escrow Deposit and Trust Agreement authorizing the sale of the Bonds and an Official Statement and authorizing official actions and execution of related

documents;

3. Amended and Restated Lease Agreement;
4. Indenture of Trust;
5. Escrow Deposit and Trust Agreement;
6. Preliminary Official Statement;
7. Release of Lien and Termination Agreement; and
8. Bond Purchase Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING PROCEEDINGS AND AGREEMENTS RELATING TO THE REFINANCING OF PUBLIC CAPITAL IMPROVEMENTS FOR PUBLIC PURPOSES, APPROVING ISSUANCE AND SALE OF BONDS BY THE ONTARIO PUBLIC FINANCING AUTHORITY, APPROVING AN OFFICIAL STATEMENT AND AUTHORIZING OFFICIAL ACTIONS.

WHEREAS, the Ontario Public Financing Authority (the "Authority") has been formed pursuant to the laws of the State of California to finance the acquisition and construction of public capital improvements for the City; and

WHEREAS, the City has requested that the Authority issue its lease revenue bonds (the "Bonds") for the purpose of providing funds to enable the City to refinance the cost of the public capital improvements (the "2013 Project"); and

WHEREAS, the Authority has previously issued its 2013 Lease Revenue Bonds (Capital Projects) (the "2013 Bonds") for the purpose of financing the 2013 Project, which 2013 Bonds are payable from lease payments to be paid to the Authority by the City pursuant to a Lease Agreement between the City and the Authority dated September 1, 2013 (the "2013 Lease Agreement"); and

WHEREAS, the current interest rate environment is favorable to refinance the 2013 Bonds and the Authority proposes to issue the Bonds in an aggregate original principal amount not to exceed \$37,000,000 under the provisions of Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), which are proposed to be payable from lease payments to be paid to the Authority by the City pursuant to an Amended and Restated Lease Agreement (the "Lease Agreement") as may be determined by the Authority; and

WHEREAS, a portion of the proceeds of the Bonds will be deposited in an escrow established under an Escrow Deposit and Trust Agreement (the "Escrow Agreement") and used to prepay the lease payments to be made under the 2013 Lease Agreement, and to defease and redeem the 2013 Bonds; and

WHEREAS, the Authority has been presented with a form of Bond Purchase Agreement (the "Bond Purchase Agreement"), among the Authority, the City and Cabrera Capital Markets, LLC and Samuel A. Ramirez & Co., Inc., as underwriters for the Bonds (together, the "Underwriter"), which establishes the terms and conditions for the Underwriter to purchase all of the Bonds of the Authority; and

WHEREAS, there has been presented to the City Council a form of Preliminary Official Statement (the "Preliminary Official Statement") relating to the Bonds, the terms thereof and the security for the Bonds; and

WHEREAS, there has also been presented to the City Council a form of Continuing Disclosure Certificate to be executed and delivered by the City (the "Continuing Disclosure Certificate"), for the benefit of the owners of the Bonds and in order to assist the Underwriter in complying with Rule 15c2-12(b)(5) of the Securities and Exchange Commission, as amended (the "Rule"); and

WHEREAS, Section 5852.1 of the Government Code of the State of California ("Section 5852.1") provides that the City Council obtain from an underwriter, financial advisor or private lender and disclose, in a meeting open to the public, prior to authorization of the issuance of the Bonds, good faith estimates of: (a) the true interest cost of the Bonds, (b) the finance charge of the Bonds, meaning the sum of all fees and charges paid to third parties, (c) the amount of proceeds of the Bonds received less the finance charge described above and any reserves or capitalized interest paid or funded with proceeds of the Bonds and (d) the sum total of all debt service payments on the Bonds calculated to the final maturity of the Bonds plus the fees and charges paid to third parties not paid with the proceeds of the Bonds; and

WHEREAS, in accordance with Section 5852.1, the City Council has obtained such good faith estimates from CSG Advisors Incorporated, the City's municipal advisor (the "Municipal Advisor"), and such estimates are disclosed in Exhibit A attached hereto; and

WHEREAS, the City Council wishes at this time to authorize all proceedings relating to the issuance and sale of the Bonds and all other agreements and documents relating thereto.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE CITY OF ONTARIO AS FOLLOWS:

SECTION 1. Findings and Determinations. (a) The City Council finds and determines that it is in the prudent management of the fiscal affairs of the City that the proceeds of the Bonds be used to cause the defeasance and prepayment of the 2013 Bonds.

(b) Pursuant to the Act, the City Council hereby finds that the issuance of the Bonds by the Authority will result in savings in effective interest rates, underwriting costs and bond issuance costs and thereby result in significant public benefits pursuant to Section 6586 of the Act.

(c) The fair rental value of the leased premises, under the Lease Agreement (the "Leased Premises"), exceeds the present value of Lease Payments to be made under the Lease Agreement.

SECTION 2. Approval of Bonds. The City Council hereby approves of the issuance of the Bonds for the purpose of refinancing the 2013 Project by the Authority under and pursuant to the Act provided that the maximum aggregate principal amount of the Bonds shall not exceed \$37,000,000.

SECTION 3. Approval of Financing Documents. The City Council hereby approves each of the following documents in substantially the respective forms on file with the City Clerk, together with such additions thereto and changes therein as the Bond Counsel shall deem necessary, desirable or appropriate, the execution of which by the Mayor, the Deputy Mayor, the City Manager or the Executive Director of Finance shall be conclusive evidence of the approval of any such additions and changes.

(a) The Amended and Restated Lease Agreement relating to the lease of the Leased Premises to refinance the 2013 Project by the City from the Authority;

(b) the Escrow Agreement; and

(c) the Release of Lien and Termination Agreement, relating to the recorded documents for the 2013 Bonds, among the City the Authority and the trustee for the 2013 Bonds.

The Mayor, the Deputy Mayor, the City Manager or the Executive Director of Finance is hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest and affix the seal of the City to, the final forms of each of the above-mentioned documents for and in the name and on behalf of the City.

SECTION 4. Purchase Contract. Subject to the provisions of Section 5 hereof, the City Manager, the Executive Director of Finance, or his designee is hereby authorized and directed to negotiate and evidence the City's acceptance of the offer made by a Bond Purchase Agreement by executing and delivering such Bond Purchase Agreement in a form as the officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 5. Final Terms of Negotiated Sale of Bonds. The City Manager or the Executive Director of Finance, or his designee based on such advice of City staff and the City's Municipal Advisor as said officer may deem necessary, is hereby authorized and directed to act on behalf of the City to establish and determine (i) the final principal amount of the various maturities of the Bonds, which amount shall not exceed \$37,000,000 in the aggregate; (ii) the final interest rates on various maturities of the Bonds shall result in net present value savings of debt service on the 2013 Bonds of at least 5.00%; (iii) the true interest cost on the Bonds shall not exceed 5.00%; and (iv) the Underwriter's discount (not including any original issue discount) shall not exceed 1.00% of the principal amount of the Bonds.

SECTION 6. Official Statement; Continuing Disclosure. The City Council approves the preparation of, and hereby authorizes the City Manager or the Executive Director of Finance to deem final within the meaning of Rule 15c2-12 of the Securities and Exchange Commission except for permitted omissions, the Preliminary Official Statement describing the Bonds, the form of which is on file with the City Clerk together with such changes as may be approved by the officer executing the same. The City Manager or the Executive Director of Finance is hereby authorized to execute the final Official Statement in the name and on behalf of the City, including any modifications resulting from additions thereto and changes therein as the City Attorney shall deem

necessary, desirable or appropriate, with the execution of the final Official Statement by the City Manager or the Executive Director of Finance to be conclusive evidence of the approval of any such additions and changes.

SECTION 7. Approval of Continuing Disclosure Certificate. The Continuing Disclosure Certificate is approved in the form submitted to the City Council at the meeting at which this Resolution is adopted, and the City Manager or the Executive Director of Finance is authorized to execute and deliver said certificate on behalf of the City.

SECTION 8. Official Actions. The Mayor, the Deputy Mayor, the City Manager, the Executive Director of Finance, the City Clerk and any and all other officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions, including obtaining a rating on the Bonds and/or a municipal bond insurance policy and a debt reserve fund surety bond, and including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the transactions as described herein in connection with the issuance and sale of the Bonds.

SECTION 9. Effective Date. This Resolution shall take effect upon adoption.

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

PASSED, APPROVED, AND ADOPTED this 16th day of November 2021.

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. 2021-____ was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 16, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021-____ duly passed and adopted by the Ontario City Council at their regular meeting held November 16, 2021.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A**GOOD FAITH ESTIMATES**

The good faith estimates set forth herein are provided with respect to the Bonds in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the City by the Municipal Advisor in consultation with the Underwriter.

Principal Amount. The Municipal Advisor has informed the City that, based on the financing plan and current market conditions, its good faith estimate of the aggregate principal amount of the Bonds to be sold is **\$35,130,000** (the “Estimated Principal Amount”).

True Interest Cost of the Bonds. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the true interest cost of the Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Bonds, is **3.24%**.

Finance Charge of the Bonds. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate and no cost attributable to the purchase of a bond insurance or reserve surety policy (which the City would purchase only if the cost of such insurance premiums were less than the interest cost savings attributable thereto), its good faith estimate of the finance charge for the Bonds, which means the sum of all fees and charges paid to third parties (or costs associated with the Bonds), is **\$533,000**.

Amount of Proceeds to be Received. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received by the City for the sale of the Bonds, less the finance charge of the Bonds, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the Bonds, is **\$34,597,000**.

Total Payment Amount. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the total payment amount, which means the sum total of all payments the City will make to pay debt service on the Bonds, plus the finance charge for the Bonds, as described above, not paid with the proceeds of the Bonds, calculated to the final maturity of the Bonds, is **\$49,173,000** (excluding any offsets from reserves or capitalized interest).

The foregoing estimates constitute good faith estimates only. The actual principal amount of the Bonds issued and sold, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with

respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Bonds being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Bonds sold being different from the Estimated Principal Amount, (c) the actual amortization of the Bonds being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the Bonds being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the financing plan or finance charges, or a combination of such factors. Market interest rates are affected by economic and other factors beyond the control of the City.

RESOLUTION NO. OPFA-_____

A RESOLUTION OF THE ONTARIO PUBLIC FINANCING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE ISSUANCE OF ITS REFUNDING REVENUE BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$37,000,000 IN CONNECTION WITH THE REFINANCING OF PUBLIC CAPITAL IMPROVEMENTS, AUTHORIZING AND DIRECTING EXECUTION OF AN INDENTURE OF TRUST AND AN AMENDED AND RESTATED LEASE AGREEMENT, ESCROW DEPOSIT AND TRUST AGREEMENT AUTHORIZING THE SALE OF THE BONDS AND AN OFFICIAL STATEMENT AND AUTHORIZING OFFICIAL ACTIONS AND EXECUTION OF RELATED DOCUMENTS.

WHEREAS, the Ontario Public Financing Authority (the "Authority") has been formed pursuant to the laws of the State of California to finance the acquisition and construction of public capital improvements for the City of Ontario (the "City"); and

WHEREAS, the City has requested the Authority to issue its bonds for the purpose of providing funds to enable the City to refinance the costs of public capital improvements (the "2013 Project"); and

WHEREAS, the Authority has previously issued its 2013 Lease Revenue Bonds (Capital Projects) (the "2013 Bonds") in an original principal amount of \$33,390,000; and

WHEREAS, the 2013 Bonds were issued for the purpose of financing the cost of constructing and acquiring the 2013 Project, which 2013 Bonds are payable from lease payments to be paid to the Authority by the City pursuant to a Lease Agreement between the City and the Authority dated September 1, 2013 (the "2013 Lease Agreement"); and

WHEREAS, to defease and redeem the 2013 Bonds, if financially feasible, the Authority proposes to issue its lease revenue bonds (the "Bonds") in an aggregate principal amount of not to exceed \$37,000,000 under the provisions of Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), which are proposed to be payable from the revenues to be derived by the Authority from lease payments to be made by the City for the lease of certain facilities (the "Lease Premises") pursuant to an Amended and Restated Lease Agreement relating to refinancing of the 2013 Project (the "Lease Agreement"); and

WHEREAS, if financially feasible to do so, a portion of the proceeds of the Bonds will be deposited in an escrow established under an Escrow Deposit and Trust Agreement, and used to prepay the lease payments to be made under the 2013 Lease Agreement and defease and redeem the 2013 Bonds; and

WHEREAS, the Authority has been presented with a form of Bond Purchase Agreement (the "Bond Purchase Agreement"), among the Authority, the City and Cabrera Capital Markets, LLC and Samuel A. Ramirez & Co., Inc., as underwriters for the Bonds

(together, the "Underwriter"), which establishes the terms and conditions for the Underwriter to purchase all of the Bonds of the Authority; and

WHEREAS, there has been presented to the Board a form of Preliminary Official Statement (the "Preliminary Official Statement") relating to the Bonds, the terms thereof and the security for the Bonds; and

WHEREAS, the Board of the Authority (the "Board") has duly considered such transactions and has determined that it approves said transactions in the public interests of the City and the Authority.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE ONTARIO PUBLIC FINANCING AUTHORITY DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. Findings and Determinations. (a) Pursuant to the Act, the Board hereby finds and determines that the issuance of the Bonds will result in savings in effective interest rates, bond underwriting costs and bond issuance costs and thereby result in significant public benefits within the contemplation of Section 6586 of the Act.

(b) The Board finds and determines that the above recitals are true and correct and that the fair rental value of the leased premises (the "Leased Premises"), exceeds the present value of Lease Payments to be made under the Lease Agreement.

SECTION 2. Issuance of Bonds. The Board hereby authorizes the issuance of the Bonds for the purpose of refinancing the 2013 Bonds under and pursuant to the Act, in the maximum aggregate principal amount not to exceed \$37,000,000.

SECTION 3. Approval of Financing Documents. The Board hereby approves each of the following documents in substantially the respective forms on file with the Secretary, together with such additions thereto and changes therein as Bond Counsel shall deem necessary, desirable or appropriate, the execution of which by the Chairperson, the Vice Chairperson, the Executive Director, or the Treasurer shall be conclusive evidence of the approval of any such additions and changes:

(1) the Indenture of Trust relating to the issuance of the Bonds and to the 2013 Project, by and between ZB National Association, dba Zions Bank (the "Trustee") and the Authority;

(2) the Amended and Restated Lease Agreement relating to the lease of the Leased Premises by the City from the Authority for the purpose of refinancing the existing 2013 Lease Agreement;

(3) the Escrow Deposit and Trust Agreement, by and among the City, the Authority and The Bank of New York Mellon Trust Company, N.A; and

(4) the Release of Lien and Termination Agreement, relating to the recorded documents for the 2013 Bonds, among the City the Authority and the trustee for the 2013 Bonds.

The Chairperson, the Vice Chairperson, the Executive Director or the Treasurer are hereby authorized and directed to execute, and the Secretary is hereby authorized and directed to attest and affix the seal of the Authority to, the final form of each of the foregoing documents and agreements for and in the name and on behalf of the Authority. The Board hereby authorizes the delivery and performance of each of the foregoing documents and agreements.

SECTION 4. Purchase Contract. Subject to the provisions of Section 5 hereof, the Executive Director, the Treasurer or their designee is hereby authorized and directed to negotiate and evidence the Authority's acceptance of the offer made by the Bond Purchase Agreement by executing and delivering such Bond Purchase Agreement in a form as the officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 5. Final Terms of Negotiated Sale of Bonds. The Executive Director or the Treasurer, or their designee based on such advice of Authority staff and the Authority's financial consultant as said officer may deem necessary, is hereby authorized and directed to act on behalf of the Authority to establish and determine (i) the final principal amount of the various maturities of the Bonds, which amount shall not exceed \$37,000,000 in the aggregate; (ii) the final interest rates on various maturities of the Bonds shall result in net present value savings of debt service from the 2013 Bonds of at least 5.00%; (iii) the true interest cost on the Bonds shall not exceed 5.00%; and (iv) the Underwriter's discount (not including any original issue discount) shall not exceed 1.00% of the principal amount of the Bonds.

SECTION 6. Official Statement; Continuing Disclosure. The Board hereby approves the preparation of, and hereby authorizes the Executive Director to deem final within the meaning of Rule 15c2-12 of the Securities and Exchange Commission except for permitted omissions, a preliminary form of Official Statement of the Bonds. The Executive Director or the Treasurer are hereby authorized to execute the final Official Statement in the name and on behalf of the Authority, including any modifications resulting from additions thereto and changes therein as Bond Counsel shall deem necessary, desirable or appropriate, with the execution of the final Official Statement by the Chairperson to be conclusive evidence of the approval of any such additions and changes. The Executive Director or the Treasurer are further authorized to sign on behalf of the Authority a continuing disclosure certificate with respect to the financing, in such form as may be approved by Bond Counsel.

SECTION 7. Official Actions. The Chairperson, the Vice Chairperson, the Executive Director, the Treasurer, the Secretary and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including obtaining a rating on the Bonds and/or a municipal bond insurance policy and a debt service reserve fund surety bond, and including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in connection with the issuance and sale of the Bonds.

SECTION 8. Effective Date. This Resolution shall take effect upon adoption.

The Secretary of the Ontario Public Financing Authority shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of November 2021.

PAUL S. LEON, CHAIRMAN

ATTEST:

SHEILA MAUTZ, AUTHORITY SECRETARY

APPROVED AS TO FORM:

AUTHORITY COUNSEL

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

I, SHEILA MAUTZ, Secretary of the Ontario Public Financing Authority, DO HEREBY CERTIFY that the foregoing Resolution No. OPFA-____ was duly passed and adopted by the Board Members of the Ontario Public Financing Authority at their regular meeting held November 16, 2021, by the following roll call vote, to wit:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

SHEILA MAUTZ, AUTHORITY SECRETARY

(SEAL)

The foregoing is the original of Resolution No. OPFA-____ duly passed and adopted by the Ontario Public Financing Authority at their regular meeting held November 16, 2021.

SHEILA MAUTZ, AUTHORITY SECRETARY

(SEAL)

CITY OF ONTARIO

Agenda Report
November 16, 2021

SECTION: ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

Department: Financial Services

Prepared By: Doreen Nunes

Staff Member Presenting:

Armen Harkalyan, Executive Director of Finance

Reviewed By: Armen Harkalyan, Darlene M

Sanchez

Approved By:



Submitted To: Council/OHA

Approved: _____

Continued To: _____

Denied: _____

Item No: 17

SUBJECT: APPROVAL OF THE TAXABLE REFUNDING OF OUTSTANDING WATER REVENUE BONDS

RECOMMENDATION: That the City Council and the Ontario Public Financing Authority adopt a Resolution authorizing the issuance and sale of water revenue refunding bonds, series 2021 (the "2021 Bonds"), to refinance 2013 water revenue bonds, authorizing execution of Indenture of Trust, and authorizing execution of and approving related agreements and official actions. Authorize the City Manager to negotiate and execute contracts for the services of Bond Counsel, Municipal Advisor, Underwriter, and Trustee.

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

FISCAL IMPACT: The City, through the Ontario Public Finance Authority, issued its 2013 Water Revenue Bonds (the "2013 Bonds") in the original principal amount of \$74,545,000 and are currently outstanding in the amount of \$62,875,000. Interest rates are now at historic lows and it is financially advantageous to refinance the outstanding 2013 Bonds for interest cost savings. The average rate on the 2013 Bonds is 5.04%. At market interest rates, as of October 2021, the true interest cost on the 2021 Bonds is estimated at 3.06%. By refinancing on a taxable basis, assuming market rates as of October, the City's ratepayers can achieve a net present value savings of approximately \$8.1 million or 12.9% of the refunded bond amount. Average annual savings through 2043 are approximately \$500,000 per year to the City's water system. The projected par amount is approximately \$67,685,000. The actual par amount and actual savings will be determined when the 2021 Bonds are priced in November/December 2021.

Appropriations for the 2013 Bonds annual debt service payment is already included in the Fiscal Year 2021-22 Adopted Budget. This appropriation will be adjusted accordingly in the next quarterly budget update once the 2021 Bonds are sold and issued. Future appropriations for the 2021 Bonds annual debt service payment will be included in future annual budgets presented to City Council for approval.

BACKGROUND & ANALYSIS: The Ontario Public Financing Authority (the "Authority"), on behalf of the City, issued the 2013 Bonds for the purpose of financing additional improvements to the City's water system, and to refinance existing bonds of the Authority and the City. The 2013 Bonds were secured by installment payments to be made under an Installment Purchase Agreement. The

installment payments were payable from water revenues generated from the City's water enterprise fund. The City's municipal advisor, CSG Advisors Incorporated, together with Hilltop Securities, the underwriter for the Bonds, have proposed that refunding bonds to be issued to create an interest cost savings on the 2013 Bonds.

Financing Plan

Presented to the City Council, is a resolution which approves the issuance of the 2021 Bonds to be issued by the City under the provisions of the Refunding Revenue Bond Law (Government Code Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5, commencing with Section 53570 of said Code). The 2021 Bonds will be issued under an Indenture of Trust, between the City and a corporate trustee, Zion's Bancorporation. The 2021 Bonds will be payable under the Indenture of Trust from water revenues in the same manner as the payments made under the Installment Purchase Agreement relating to the 2013 Bonds. The proceeds of the 2021 Bonds will be deposited in an escrow and used to pay and redeem the 2013 Bonds on each interest payment date until the date of redemption. The escrow is held pursuant to an Escrow Agreement among the City, the Authority, and the 2013 Trustee. The final term of the 2013 Bonds will not be extended as a result of the issuance of the 2021 Bonds.

To provide services necessary for the issuance of the bonds, staff seeks City Council authority for the City Manager to negotiate and execute agreements with: Best Best & Krieger LLP to act as bond counsel, Stradling Yocca Carlson & Rauth, a professional corporation, to act as disclosure counsel; CSG Advisors, Inc., to act as municipal advisor; Hilltop Securities, Inc., to act as underwriter, and Zions Bancorporation, N.A., to act as trustee. The costs for such services will be paid for and from the bond proceeds.

The following are attachments related to the approval of the financing:

1. A Resolution of the City Council of the City of Ontario authorizing the issuance and sale of Water Revenue Refunding Bonds, Series 2021 to refinance 2013 Water Revenue Bonds, authorizing execution of Indenture of Trust, and authorizing execution of and approving related agreements and official actions;
2. Indenture of Trust;
3. Escrow Agreement; and
4. Official Statement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE ISSUANCE AND SALE OF WATER REVENUE REFUNDING BONDS, SERIES 2021 TO REFINANCE 2013 WATER REVENUE BONDS, AUTHORIZING EXECUTION OF INDENTURE OF TRUST, AND AUTHORIZING EXECUTION OF AND APPROVING RELATED AGREEMENTS AND OFFICIAL ACTIONS.

WHEREAS, the Ontario Public Financing Authority (the “Authority”) issued its 2013 Water Revenue Bonds in the original principal amount of \$74,545,000 (the “2013 Bonds”), for the purpose of financing the acquisition and construction of certain improvements to the water system of the City of Ontario (the “City”) and refinancing an installment payment obligation of the City and the related City of Ontario Certificate of Participation (2004 Water System Improvement Project), under that certain Indenture of Trust, dated as of September 1, 2013, between the Authority and The Bank of New York Mellon Trust Company, N.A., a national banking association (the “2013 Indenture”); and

WHEREAS, the 2013 Bonds are payable from Authority revenues, which consist primarily of certain installment payments by the City to the Authority under an Installment Purchase Agreement dated as of September 1, 2013 (the “2013 Installment Purchase Agreement”); and

WHEREAS, interest rates have declined since the 2013 Bonds were issued, and the City will receive economic benefit by refunding the 2013 Bonds; and

WHEREAS, the City is authorized pursuant to the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the “Bond Law”), to issue its revenue bonds for the purpose of refunding any outstanding indebtedness of the City, and the City Council of the City (“City Council”) has determined that it is in the interests of the City at this time to provide for the issuance of its Water Revenue Refunding Bonds, Series 2021 (the “Bonds”) under the Bond Law to refund the 2013 Bonds; and

WHEREAS, the City Council has been presented with a form of Bond Purchase Agreement (the “Bond Purchase Agreement”), among the City and Hilltop Securities Inc., as underwriter (the “Underwriter”), which establishes the terms and conditions for the Underwriter to purchase all of the Bonds of the City; and

WHEREAS, there has been presented to the City Council a form of Preliminary Official Statement (the “Preliminary Official Statement”) relating to the Bonds, the terms thereof and the security for the Bonds; and

WHEREAS, there has also been presented to the City Council a form of Continuing Disclosure Certificate to be executed and delivered by the City (the “Continuing Disclosure Certificate”), for the benefit of the owners of the Bonds and in order to assist the Underwriter in complying with Rule 15c2-12(b)(5) of the Securities and Exchange Commission, as amended (the “Rule”); and

WHEREAS, there has also been presented to the City Council a form of Escrow Agreement among The Bank of New York Mellon Trust Company, N.A., the Authority and the City (the "Escrow Agreement"), relating to the Bonds; and

WHEREAS, Section 5852.1 of the Government Code of the State of California ("Section 5852.1") provides that the City Council obtain from an underwriter, financial advisor or private lender and disclose, in a meeting open to the public, prior to authorization of the issuance of the Bonds, good faith estimates of: (a) the true interest cost of the Bonds, (b) the finance charge of the Bonds, meaning the sum of all fees and charges paid to third parties, (c) the amount of proceeds of the Bonds received less the finance charge described above and any reserves or capitalized interest paid or funded with proceeds of the Bonds and (d) the sum total of all debt service payments on the Bonds calculated to the final maturity of the Bonds plus the fees and charges paid to third parties not paid with the proceeds of the Bonds; and

WHEREAS, in accordance with Section 5852.1, the City Council has obtained such good faith estimates from CSG Advisors Incorporated, the City's municipal advisor (the "Municipal Advisor"), and such estimates are disclosed in Exhibit A attached hereto; and

WHEREAS, the City Council wishes at this time to authorize all proceedings relating to the issuance and sale of the Bonds and all other agreements and documents relating thereto.

NOW, THEREFORE, the City Council of the City of Ontario hereby finds, determines and resolves as follows:

SECTION 1. Issuance of Bonds. The City Council hereby authorizes the issuance of the Bonds under and pursuant to the Bond Law and an Indenture of Trust (the "Indenture") by and between the City and Zions Bancorporation, National Association, as trustee, so long as the net present value savings to be achieved by the issuance of the Bonds shall be at least 5.0% of the principal amount of the 2013 Bonds remaining outstanding. The City Council hereby approves the Indenture in substantially the form on file with the clerk of the City (the "City Clerk"), together with any changes therein or additions thereto deemed advisable by the Mayor, City Manager, Executive Director of Finance and/or the City Clerk (together the "Authorized Officers"), whose execution thereof shall be conclusive evidence of such approval. The Authorized Officers are hereby authorized and directed for and in the name and on behalf of the City to execute, and the City Clerk is hereby authorized and directed to attest, the final form of the Indenture.

SECTION 2. Escrow Agreement. The City Council hereby authorizes the refunding of the 2013 Bonds from the proceeds of the Bonds, and authorizes the execution and delivery of the Escrow Agreement in substantially the form presented to this meeting, together with any changes therein or additions thereto deemed advisable by the Authorized Officers, whose execution thereof shall be conclusive evidence of such approval. The Authorized Officers are hereby authorized and directed for and in the name and on behalf of the City to execute, and the City Council is hereby authorized and directed to attest, the final form of the Escrow Agreement.

SECTION 3. Bond Purchase Agreement. The form of Bond Purchase Agreement presented at this meeting is hereby approved and the Authorized Officers are each individually hereby authorized to accept, for and in the name of the City, such Bond Purchase Agreement in substantially the form hereby approved with such changes therein as the officer executing the same may approve, such approval to be conclusively evidenced by the execution and delivery thereof, provided that the principal amount of Bonds to be sold pursuant to the Bond Purchase Agreement shall not exceed \$72,000,000 and the Underwriters' discount or fee (not including any original issue discount or premium on the bonds) shall not exceed 0.60% of the principal amount of Bonds sold, and provided that, with respect to the 2013 Bonds, the net present value savings are at least 5.0%.

SECTION 4. Official Statement; Continuing Disclosure. The City Council hereby authorizes the Authorized Officers to approve and to deem nearly final, within the meaning of Rule, a form of Preliminary Official Statement describing the Bonds. Distribution of such Preliminary Official Statement by the Underwriter is hereby approved. The Authorized Officers are hereby authorized and directed to approve any changes in or additions to such Preliminary Official Statement for the purpose of finalizing such document, and the execution thereof by the Authorized Officers shall be conclusive evidence of approval of any such changes and additions. The City Council hereby authorizes the distribution of the Final Official Statement by the Underwriter. The Final Official Statement shall be executed in the name and on behalf of the City by the Authorized Officers. The Authorized Officers are further authorized to sign on behalf of the City a Continuing Disclosure Certificate with respect to the financing, in such form as may be approved by Best Best & Krieger, as Bond Counsel.

SECTION 5. Agreements with Consultants. The firm of Best Best & Krieger LLP is hereby designated as Bond Counsel, Stradling Yocca Carlson & Rauth is hereby designated as Disclosure Counsel and the firm of CSG Advisors Incorporated is hereby designated as municipal advisor. The Authorized Officers are hereby authorized and directed to execute and deliver agreements with such firms for their services related to the Bonds, each such agreement to be in the respective form on file with the City Clerk.

SECTION 6. Official Actions. The Authorized Officers are each authorized and directed in the name and on behalf of the City to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate the issuance and sale of the Bonds and any of the other transactions contemplated by the agreements and documents approved pursuant to this Resolution, including the acquisition of municipal bond insurance or other guarantee of payment on the Bonds. Whenever in this resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable. All actions heretofore taken by the Authorized Officers and employees of the City with respect to the issuance of the Bonds, or in connection with or related to any

of the agreements or documents referred to herein, are hereby in all respects approved, confirmed and ratified.

SECTION 7. Effective Date. This Resolution and the action thereby shall be effective upon adoption.

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

PASSED, APPROVED, AND ADOPTED this 16th day of November 2021.

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. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 16, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held November 16, 2021.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

GOOD FAITH ESTIMATES

The good faith estimates set forth herein are provided with respect to the Bonds in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the City by the Municipal Advisor in consultation with the Underwriter.

Principal Amount. The Municipal Advisor has informed the City that, based on the financing plan and current market conditions, its good faith estimate of the aggregate principal amount of the Bonds to be sold is \$68,685,000 (the "Estimated Principal Amount").

True Interest Cost of the Bonds. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the true interest cost of the Bonds, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Bonds, is 3.06%.

Finance Charge of the Bonds. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the finance charge for the Bonds, which means the sum of all fees and charges paid to third parties (or costs associated with the Bonds), is \$511,000.

Amount of Proceeds to be Received. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received by the City for the sale of the Bonds, less the finance charge of the Bonds, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the Bonds, is \$67,174,000.

Total Payment Amount. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the Bonds is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the total payment amount, which means the sum total of all payments the City will make to pay debt service on the Bonds, plus the finance charge for the Bonds, as described above, not paid with the proceeds of the Bonds, calculated to the final maturity of the Bonds, is \$92,893,000 (excluding any offsets from reserves or capitalized interest).

The foregoing estimates constitute good faith estimates only. The actual principal amount of the Bonds issued and sold, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Bonds being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Bonds sold being different from the Estimated Principal

Amount, (c) the actual amortization of the Bonds being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the Bonds being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the financing plan or finance charges, or a combination of such factors. The actual date of sale of the Bonds and the actual principal amount of Bonds sold will be determined by the City based on the timing of the need for proceeds of the Bonds and other factors. The actual interest rates borne by the Bonds will depend on market interest rates at the time of sale thereof. The actual amortization of the Bonds will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic and other factors beyond the control of the City.

RESOLUTION NO. _____

A RESOLUTION OF THE ONTARIO PUBLIC FINANCING AUTHORITY OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION OF AN ESCROW AGREEMENT IN RELATION TO THE ISSUANCE AND SALE OF WATER REVENUE REFUNDING BONDS, SERIES 2021 TO REFINANCE 2013 WATER REVENUE BONDS.

WHEREAS, the Ontario Public Financing Authority (the "Authority") issued its 2013 Water Revenue Bonds in the original principal amount of \$74,545,000 (the "2013 Bonds"), for the purpose of financing the acquisition and construction of certain improvements to the water system of the City of Ontario (the "City") and refinancing an installment payment obligation of the City and the related City of Ontario Certificate of Participation (2004 Water System Improvement Project), under that certain Indenture of Trust, dated as of September 1, 2013, between the Authority and The Bank of New York Mellon Trust Company, N.A., a national banking association; and

WHEREAS, the 2013 Bonds are payable from Authority revenues, which consist primarily of certain installment payments by the City to the Authority under an Installment Purchase Agreement dated as of September 1, 2013; and

WHEREAS, the City is authorized pursuant to the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"), to issue its revenue bonds for the purpose of refunding any outstanding indebtedness of the City, and the City Council of the City has determined that it is in the interests of the City at this time to provide for the issuance of its Water Revenue Refunding Bonds, Series 2021 (the "Bonds") under the Bond Law to refund the 2013 Bonds; and

WHEREAS, there has been presented to the Board of Directors (the "Board") of the Authority a form of Escrow Agreement by and among the Authority, The Bank of New York Mellon Trust Company, N.A. and the City (the "Escrow Agreement"), relating to the refunding of the 2013 Bonds; and

WHEREAS, the Board wishes at this time to authorize the Escrow Agreement.

NOW, THEREFORE, the Board of Directors of the Ontario Public Finance Authority hereby finds, determines and resolves as follows:

SECTION 1. Escrow Agreement. The Board hereby authorizes the execution and delivery of the Escrow Agreement in substantially the form presented to this meeting, together with any changes therein or additions thereto deemed advisable by the Chairman and the Executive Director of the Authority (the "Authorized Officers"), whose execution thereof shall be conclusive evidence of such approval. The Authorized Officers are hereby authorized and directed for and in the name and on behalf of the Authority to execute, and the Secretary of the Authority is hereby authorized and directed to attest, the final form of the Escrow Agreement.

SECTION 2. Certification. The Board shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

SECTION 3. Effective Date. This Resolution and the action thereby shall be effective upon adoption.

The Secretary of the Ontario Public Financing Authority shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 16th day of November 2021.

PAUL S. LEON, CHAIRMAN

ATTEST:

SHEILA MAUTZ, AUTHORITY SECRETARY

APPROVED AS TO FORM:

AUTHORITY COUNSEL

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

I, SHEILA MAUTZ, Secretary of the Ontario Public Financing Authority, DO HEREBY CERTIFY that the foregoing Resolution No. OPFA- was duly passed and adopted by the Board Members of the Ontario Public Financing Authority at their regular meeting held November 16, 2021, by the following roll call vote, to wit:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

SHEILA MAUTZ, AUTHORITY SECRETARY

(SEAL)

The foregoing is the original of Resolution No. OPFA duly passed and adopted by the Ontario Public Financing Authority at their regular meeting held November 16, 2021.

SHEILA MAUTZ, AUTHORITY SECRETARY

(SEAL)