



CITY OF ONTARIO

Regular City Council/Housing Authority Meeting APRIL 5, 2022

City Hall

303 East B Street, Ontario, CA 91764

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

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

WELCOME TO A MEETING OF THE ONTARIO CITY COUNCIL

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

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

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

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

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

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 Public Comment at 6:30 p.m. immediately followed by the Regular Meeting and Public Hearings. No agenda item will be introduced for consideration after 10:00 p.m. except by majority vote of the City Council.

CALL TO ORDER (OPEN SESSION)

ROLL CALL

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

PLEDGE OF ALLEGIANCE

Council Member Dorst-Porada

INVOCATION

Pastor Mike Urciuoli, Calvary Chapel Ontario

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 March 1, 2022, and approve same as on file in the Records Management Department.

ATTACHMENT: [20220301 Minutes \(Not official until approved\)](#)

2. **BILLS & PAYROLL**

Bills February 25, 2022 through March 17, 2022, and Payroll February 25, 2022 through March 12, 2022 when audited by the Finance Committee.

3. **RIGHTS-OF-WAY JOINT USE AGREEMENTS WITH SOUTHERN CALIFORNIA EDISON FOR RIGHTS-OF-WAY ON ONTARIO RANCH ROAD AND OLD EDISON AVENUE AT MILL CREEK AVENUE**

That the City Council approve and authorize the City Manager to execute Joint Use Agreements with Southern California Edison (SCE) for the rights-of-way on Ontario Ranch Road and Old Edison Avenue at Mill Creek Avenue within the Rich Haven Specific Plan area.

ATTACHMENT: [20220405 Rights-of-Way Joint Use Agreement^01 EXH A](#)

4. **A RESOLUTION AUTHORIZING SUBMITTAL OF A CLAIM TO THE SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY FOR TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 FUNDS FOR THE BUS STOP PAD INSTALLATION PROJECT**

That the City Council adopt a Resolution approving the submittal of a claim for \$67,050 from the San Bernardino County Transportation Authority (SBCTA) for Transportation Development Act (TDA) Article 3 Funds for the Bus Stop Pad Installation Project and authorize the City Manager, or his designee, to execute all necessary documents to submit a reimbursement claim.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA,
AUTHORIZING SUBMITTAL OF A CLAIM TO THE SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY FOR TRANSPORTATION DEVELOPMENT ACT
ARTICLE 3 FUNDS FOR THE BUS STOP PAD INSTALLATION PROJECT.

5. [A DEVELOPMENT IMPACT FEE CREDIT AGREEMENT \(FILE NO. PDIF21-002\) BETWEEN THE CITY OF ONTARIO AND SHEA HOMES LIMITED PARTNERSHIP, FOR FACILITY CONSTRUCTION ASSOCIATED WITH TRACT MAP 20265 \(FILE NO. PMTT19-006\), LOCATED ON THE EAST SIDE OF MILL CREEK AVENUE, APPROXIMATELY 670 FEET SOUTH OF ONTARIO RANCH ROAD, WITHIN THE STANDALONE RESIDENTIAL LAND USE DISTRICT OF THE RICH HAVEN SPECIFIC PLAN](#)

That the City Council approve the Development Impact Fee Credit Agreement (File No. PDIF21-002) between the City of Ontario and Shea Homes Limited Partnership, for facility construction associated with Tract Map 20265 (File No. PMTT19-006), located on the east side of Mill Creek Avenue, approximately 670 feet south of Ontario Ranch Road, within the Standalone Residential land use district of the Rich-Haven Specific Plan, and have the City Manager execute the Agreement.

6. [AN ORDINANCE FOR THE ARTS DISTRICT WEST PLANNED UNIT DEVELOPMENT \(FILE NO. PUD22-001\), ESTABLISHING DEVELOPMENT STANDARDS, DESIGN GUIDELINES AND INFRASTRUCTURE REQUIREMENTS TO FACILITATE A COMMERCIAL DEVELOPMENT ON 0.86-ACRE OF LAND LOCATED AT 125 WEST EMPORIA STREET, WITHIN THE MU-1/LUA-2N \(DOWNTOWN MIXED-USE/ARTS DISTRICT - NORTH\) AND EA \(EUCLID AVENUE OVERLAY\) ZONING DISTRICTS \(APN: 1049-059-14\)](#)

That the City Council consider and adopt an Ordinance approving the Arts District West Planned Unit Development, File No. PUD22-001, establishing development standards, design guidelines, and infrastructure requirements to facilitate a commercial development at 125 West Emporia Street.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APROOVING FILE NO. PUD22-001, THE ARTS DISTRICT WEST PLANNED UNIT DEVELOPMENT, ESTABLISHING DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE REQUIREMENTS FOR 0.86-ACRE OF LAND LOCATED AT 125 WEST EMPORIA STREET, WITHIN MU-1/LUA-2N (DOWNTOWN MIXED-USE/ARTS DISTRICT – NORTH) AND EA (EUCLID AVENUE OVERLAY) ZONING DISTRICTS, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 1049-059-14.

ATTACHMENT: [20220405 File No. PUD22-001 CC^01 PC Backup](#)

ATTACHMENT: [20220405 File No. PUD22-001 CC^02 ORD^RM](#)

ATTACHMENT: [20220405 File No. PUD22-001 CC^03 PUD ATTACHMENT \(PUD Doc\)](#)

7. [SEWER CONNECTION FEE REIMBURSEMENT PILOT PROGRAM](#)

That the City Council consider and approve the adoption of the Sewer Connection Fee Reimbursement Pilot Program and authorize City Manager, or his designee, to make any necessary program adjustments and execute all necessary documents to implement the Sewer Connection Fee Reimbursement Pilot Program.

8. **AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH UC RIVERSIDE CENTER FOR ECONOMIC FORECASTING AND DEVELOPMENT AT THE SCHOOL OF BUSINESS ADMINISTRATION, FOR THE PURPOSE OF EXTENDING THE SCOPE, TIME OF PERFORMANCE, AND THE NOT TO EXCEED AMOUNT**

That the City Council approve an amendment to the Professional Services Agreement (on file with the Records Management Department) between UC Riverside ("UCR") Center for Economic Forecasting and Development at the School of Business Administration and the City of Ontario for the purpose of extending the time of performance an additional year, updating the Scope of Work, and increasing the not to exceed amount to \$109,500.

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.

9. **INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 33 TO TITLE 5 OF VOLUME I TO THE ONTARIO MUNICIPAL CODE, ESTABLISHING A PUBLIC ART PROGRAM, ESTABLISHING A PUBLIC ART ADVISORY COMMITTEE, AND INCLUDING A DEVELOPMENT FEE TO SUPPORT PUBLIC ART, AND FINDING THE ACTION EXEMPT FROM CEQA**

That the City Council consider and take action to add Chapter 33 to Title 5 of Volume I to the Ontario Municipal Code relating to establishing a Public Art Program, establishing a Public Art Advisory committee, and a development fee to support public art.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 33 TO TITLE 5 OF VOLUME I TO THE ONTARIO MUNICIPAL CODE, ESTABLISHING A PUBLIC ART PROGRAM, ESTABLISHING A PUBLIC ART ADVISORY COMMITTEE, AND INCLUDING A DEVELOPMENT FEE TO SUPPORT PUBLIC ART, AND FINDING THE ACTION EXEMPT FROM CEQA.

ATTACHMENT: [20220405 Public Art Fee^01 ORD^RM](#)

10. **A PUBLIC HEARING REGARDING AN ECONOMIC DEVELOPMENT SUBSIDY REPORT AND OPERATING COVENANT AGREEMENT BETWEEN THE CITY OF ONTARIO AND SID TOOL, INC. A SUBSIDIARY OF MSC INDUSTRIAL DIRECT CO., INC. PURSUANT TO GOVERNMENT CODE SECTION 53083.1; AND CONSIDERATION OF A RESOLUTION ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT, APPROVING THE OPERATING COVENANT AGREEMENT**

That the City Council take the following actions:

A. Hold the public hearing;

- B. Adopt a resolution accepting the Economic Development Subsidy Report prepared pursuant to Government Code Section 53083.1 regarding an Operating Covenant Agreement (on file with the Records Management Department) by and between the City of Ontario and Sid Tool, Inc. a subsidiary of MSC Industrial Direct Co., Inc. hereafter referred to as "Sid Tool"
- C. Adopt a resolution approving the Operating Covenant Agreement and authorizing the City Manager to execute the Agreement, and making related findings; and
- D. Direct City staff to file a Notice of Exemption based upon the City Council's finding that the impacts for this agreement is not a project and subject to environmental review and that there is no possibility that the activity in question may have a significant effect on the environment.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT PREPARED PURSUANT TO GOVERNMENT CODE SECTION 53083.1 REGARDING THE DEVELOPMENT AND RETENTION OF A SALES OFFICE LOCATION FOR SID TOOL, INC. A SUBSIDIARY OF MSC INDUSTRIAL DIRECT CO., INC. IN THE CITY OF ONTARIO AND APPROVING AN OPERATING COVENANT AGREEMENT BETWEEN THE PARTIES.

ATTACHMENT: [20220405 MSC Sid Tool OCA and Economic Subsidy^01 RESO^RM](#)

ATTACHMENT: [20220405 Ontario Econ Subsidy Report^02 EXH A](#)

ATTACHMENT: [20220405 MSC Industrial Covenant Agreement^03 EXH B](#)

11. [PUBLIC HEARING #1 TO RECEIVE PUBLIC COMMENTS ON TRANSITIONING TO DISTRICT-BASED ELECTIONS UNDER THE CALIFORNIA VOTING RIGHTS ACT](#)

That the City Council open the Public Hearing, receive input regarding the formation of districts and close the public hearing.

STAFF MATTERS

City Manager Ochoa

COUNCIL MATTERS

Mayor Leon
Mayor Pro tem Wapner
Council Member Bowman
Council Member Dorst-Porada
Council Member Valencia

ADJOURNMENT

**ONTARIO CITY COUNCIL/
ONTARIO HOUSING AUTHORITY
MINUTES
MARCH 1, 2022**

(Not official until approved)

JOINT MEETINGS

The regular meetings of the Ontario City Council and Housing Authority were held on Tuesday, March 1, 2022 at Ontario City Hall 303 E. B Street Ontario, California.

CALL TO ORDER

Mayor Leon called the Joint City Council and Ontario Housing Authority meetings to order at 6:02 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 present who wished to speak to the Closed Session item. 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 54956.8, CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: APN: 1048-562-01; 215 West C Street; City/Authority negotiator: Scott Ochoa or his designee; Negotiating parties: United Christian Church of Hacienda Heights; Under negotiation: Price and terms of payment.

CALL TO ORDER – OPEN SESSION

Mayor Leon called the City Council and Ontario Housing Authority meetings to order at 6:37 p.m.

PLEDGE OF ALLEGIANCE

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

INVOCATION

The Invocation was led by Pastor Taylor Kern, Ontario United Reformed Church.

REPORT ON CLOSED SESSION

City Attorney Duran stated there was no reportable action.

PUBLIC COMMENTS

One emailed comment from Veronice Gutierrez in opposition of new development at 125 W. Emporia.

Mayor Leon called upon the first speaker:

Randy Bekendam, spoke on sustainable farming.

Maria Romualdo, requested support in solving the Jesus Sanchez case.

Cassandra Sanchez, requested support in solving the Jesus Sanchez case.

Damariz Lopez, requested support in solving the Jesus Sanchez case.

Margarita Leon, requested support in solving the Jesus Sanchez case.

Karen Haughey, Representative of San Bernardino County Board Supervisor Hagman's Office, announced upcoming events on behalf of Board Supervisor Hagman.

Mayor Leon asked City Manager Ochoa to provide an update on the Jesus Sanchez case.

City Manager Ochoa announced a letter was sent to Governor Newsom's office and staff was currently pending a response to the request for additional reward money.

AGENDA REVIEW/ANNOUNCEMENTS

City Manager Ochoa made no announcements.

CONSENT CALENDAR

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

1. APPROVAL OF MINUTES

The City Council approved minutes for the regular meetings of the City Council and Housing Authority of February 1, 2022, approving the same as on file in the Records Management Department.

2. BILLS & PAYROLL

Approved Bills from January 28, 2022 through February 10, 2022 in the amount of \$10,952,224.76 and Payroll January 16, 2022 through February 10, 2022 in the amount of \$6,929,805.15, when audited by the Finance Committee.

3. APPLICATION FOR CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) FY22/23 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT

The City Council authorized the City Manager or his designee to execute all documents necessary to apply for and accept a 12-month grant in the amount of \$822,400 from the California Office of Traffic Safety (OTS) for participation in the FY22/23 Selective Traffic Enforcement Program (STEP) Grant.

4. APPLICATION FOR THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) FY22/23 RIDE- TO-LIVE MOTORCYCLE TRAINING COURSE GRANT

The City Council authorized the City Manager or his designee to execute all documents necessary to apply for and accept a 12-month grant in the amount of \$29,000 from the California Office of Traffic Safety (OTS) for participation in the FY22/23 Ride-to-Live Motorcycle Safety Training Course Grant.

5. AUTHORIZE THE PURCHASE OF FLEET VEHICLES

The City Council authorized the cooperative purchase and delivery of three (3) Autocar Automated Sideload trucks in the amount of \$1,125,000 and two (2) Autocar Roll Off trucks in the amount of \$570,000 for the Integrated Waste Department, consistent with the terms and conditions of the Sourcewell Cooperative Contract No. 060920-ATC.

6. PURCHASE OF CALSENSE IRRIGATION CONTROLLERS

The City Council authorized the City Manager, or his designee, to execute the Goods and Services Agreement with SiteOne Landscape Supply of Cleveland, Ohio for the procurement of new Calsense Irrigation Controllers for citywide parks and medians in an amount not to exceed \$296,817.

7. A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT AND IMPROVEMENT SECURITY FOR DEVELOPMENT PLAN NO. PDEV19-027 LOCATED AT THE SOUTHWEST CORNER OF SAN ANTONIO AVENUE AND STATE STREET

The City Council adopted a Resolution approving an Improvement Agreement and Improvement Security for Development Plan No. PDEV19-027 located at the southwest corner of San Antonio Avenue and State Street.

RESOLUTION NO. 2022-010 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT AND IMPROVEMENT SECURITY FOR DEVELOPMENT PLAN NO. PDEV19-027 LOCATED AT THE SOUTHWEST CORNER OF SAN ANTONIO AVENUE AND STATE STREET.

8. A RESOLUTION APPROVING ADDITIONAL FIRE DEPARTMENT CLASSIFICATIONS BE ADDED TO THE TERMS AND CONDITIONS FOR ONTARIO FIRE DEPARTMENT RESPONSES TO AND REIMBURSEMENTS FOR CALIFORNIA FIRE AND RESCUE MUTUAL AID SYSTEM REQUESTS

The City Council adopted a Resolution approving additional fire department classifications to the terms and conditions for Fire Department responses to California Fire and Rescue Mutual Aid System requests to assist State of California and Federal Fire Agencies.

RESOLUTION NO. 2022-011 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE TERMS AND CONDITIONS FOR FIRE DEPARTMENT RESPONSE AWAY FROM THEIR OFFICIAL DUTY STATION AND ASSIGNED TO AN EMERGENCY INCIDENT.

9. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF A NOTIFICATION OF INTENT TO COMPLY WITH SB 1383 REGULATIONS FOR CALRECYCLE APPROVAL

The City Council adopted a Resolution authorizing the City Manager, or designee, to execute the Department of Resources Recycling and Recovery (CalRecycle) Notification of Intent to Comply with SB 1383 Regulations related documents, in a form approved by the City Attorney.

RESOLUTION NO. 2022-012 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING A NOTIFICATION OF INTENT TO COMPLY WITH THE SB 1383 REGULATIONS.

10. STATE LEGISLATIVE UPDATE

The City Council received and filed the report on State Budget and proposed bills.

PUBLIC HEARINGS

- 11. A PUBLIC HEARING TO CONSIDER: (1) A GENERAL PLAN AMENDMENT (FILE NO. PGPA21-FOR THE HOUSING ELEMENT UPDATE TO THE POLICY PLAN (GENERAL PLAN) COMPONENT OF THE ONTARIO PLAN, ADDRESSING STATE MANDATES AND THE SIXTH CYCLE REGIONAL HOUSING NEEDS ALLOCATION (RHNA) AND TO MODIFY THE POLICY PLAN LAND USE PLAN (EXHIBIT LU-01) TO ESTABLISH AN AFFORDABLE HOUSING OVERLAY; (2) A ZONE CHANGE (FILE NO. PZC21-002) MODIFYING THE OFFICIAL ZONING MAP TO ESTABLISH AN "AH" (AFFORDABLE HOUSING) OVERLAY ZONING DISTRICT; AND, (3) A DEVELOPMENT CODE AMENDMENT (FILE NO. PDCA21-001) REVISING SECTION 6.01.035 FOR THE PURPOSE OF ADDING PROVISIONS TO ESTABLISH AN "AH" (AFFORDABLE HOUSING) OVERLAY DISTRICT.**

The City Council took the following action:

- A. Adopted a Resolution approving the use of an Addendum to The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140);
- B. Adopted a Resolution approving the General Plan Amendment, File No. PGPA21-004, for the Housing Element Update to the Policy Plan component of The Ontario Plan, addressing State mandates and the Sixth Cycle Regional Housing Needs Allocation (RHNA) and to modify the Policy Plan Land Use Plan (Exhibit LU-01), establishing the Affordable Housing Overlay;
- C. Introduced and waived further reading of an Ordinance approving the Zone Change, File No. PZC21-002, revising the Zoning Map to establish the "AH" (Affordable Housing) Overlay zoning district; and
- D. Introduction and waived of further reading of an Ordinance approving the Development Code Amendment, File No. PDCA21-001, adding provision to establish the "AH" (Affordable Housing) Overlay zoning district.

RESOLUTION NO. 2022-013 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE USE OF AN ADDENDUM TO THE ONTARIO PLAN ENVIRONMENTAL IMPACT REPORT FOR FILE NOS. PGPA21-004, PZC21-002, AND PDCA21-001, FOR WHICH AN INITIAL STUDY WAS PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND MAKING FINDINGS IN SUPPORT THEREOF.

RESOLUTION NO. 2022-014 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA21-004, A GENERAL PLAN AMENDMENT UPDATING THE HOUSING ELEMENT OF THE

POLICY PLAN AND AN AMENDMENT TO THE LAND USE ELEMENT OF THE POLICY PLAN, REVISING EXHIBIT LU-01, LAND USE PLAN, ESTABLISHING AN AFFORDABLE HOUSING OVERLAY, AND MAKING FINDINGS IN SUPPORT THEREOF (PART OF CYCLE 1 FOR THE 2022 CALENDAR YEAR).

ORDINANCE NO. 3204 (FIRST READING) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC21-002, A ZONE CHANGE TO MODIFY THE ZONING MAP TO ESTABLISH THE AH (AFFORDABLE HOUSING) ZONING OVERLAY DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF.

ORDINANCE NO. 3205 (FIRST READING) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA21-001, A DEVELOPMENT CODE AMENDMENT REVISING SECTION 6.01.035, ADDING PROVISIONS TO ESTABLISH THE AH (AFFORDABLE HOUSING) OVERLAY DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF.

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

There were no written communications.

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

City Manager Ochoa introduced Executive Director of Community Development Scott Murphy who provided a presentation.

Jeffrey Scott, member of the Southwest Regional Members Council of Carpenters, spoke on the importance of hiring locally.

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

MOTION: Moved by Mayor pro Tem Wapner, seconded by Council Member Valencia and carried by unanimous vote to adopt Resolution Nos. 2022-013, 2022-014 and introduced and waived second reading of Ordinance Nos. 3204 and 3205.

- 12. A PUBLIC HEARING TO CONSIDER 1) CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2021010318), INCLUDING THE ADOPTION OF A MITIGATION MONITORING AND REPORTING PROGRAM AND A STATEMENT OF OVERRIDING CONSIDERATIONS; 2) A GENERAL PLAN AMENDMENT (FILE NO. PGPA19-004) TO MODIFY THE LAND USE PLAN (EXHIBIT LU-01) OF THE POLICY PLAN (GENERAL PLAN) OF THE ONTARIO PLAN TO CHANGE THE LAND USE**

DESIGNATIONS FOR 219.39 ACRES OF LAND FROM LOW-MEDIUM DENSITY RESIDENTIAL (5.1-11 DWELLING UNITS PER ACRE) AND BUSINESS PARK (0.6 FAR) TO BUSINESS PARK (0.6 FAR) AND INDUSTRIAL (0.55 FAR), AND MODIFY THE FUTURE BUILDOUT TABLE (EXHIBIT LU-03) TO BE CONSISTENT WITH THE LAND USE DESIGNATION CHANGES; AND 3) A SPECIFIC PLAN (FILE NO. PSP19-001 - SOUTH ONTARIO LOGISTICS CENTER SPECIFIC PLAN) TO ESTABLISH THE LAND USE DISTRICTS, DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE IMPROVEMENTS FOR THE POTENTIAL DEVELOPMENT OF UP TO 5,333,518 SQUARE FEET OF INDUSTRIAL AND BUSINESS PARK LAND USES. THE PROJECT SITE IS BORDERED BY EUCALYPTUS AVENUE ON THE NORTH, MERRILL AVENUE ON THE SOUTH, EXISTING RIGHT-OF-WAY FOR THE FUTURE CAMPUS AVENUE EXTENSION ON THE WEST, AND GROVE AVENUE ON THE EAST (APNS: 1054-071-01, 1054-071-02, 1054-081-03, 1054-091-01, 1054-091-02, 1054-101-01, 1054-101-02, 1054-231-01, 1054-231-02, 1054-241-01, 1054-241-02, 1054-321-01, 1054-321-02, 1054-311-01, 1054-311-02, 1054-051-01, 1054-051-02, 1054-061-01, 1054-061-02, 1054-251-01, 1054-251-02, 1054-301-01, AND 1054-301-02.

The City Council took the following actions:

- A. Considered and adopted the Resolution certifying the Environmental Impact Report (State Clearinghouse No. 2021010318) prepared for the South Ontario Logistics Center Specific Plan, File No. PSP19-001, which includes the adoption of a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Plan;
- B. Considered and adopted the Resolution approving a General Plan Amendment (File No. PGPA19-004) modifying the Land Use Element of the Policy Plan component of The Ontario Plan (General Plan), changing the land use designations shown on the Land Use Plan Map (Exhibit LU-1) for 39 acres of land, from Low-Medium Density Residential (5.1-11 dwelling units per acre) and Business Park (0.6 FAR) to Business Park (0.6 FAR) and Industrial (0.55 FAR), and modify the Future Buildout Table (Exhibit LU-03) to be consistent with the land use designation changes; and
- C. Introduced and waived further reading of the Ordinance adopting the South Ontario Logistics Center Specific Plan (File No. PSP19-001).

RESOLUTION NO. 2022-015 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND CERTIFYING THE SOUTH ONTARIO LOGISTICS CENTER SPECIFIC PLAN FINAL ENVIRONMENTAL IMPACT REPORT (STATE CLEARINGHOUSE NO. 2021010318), ADOPTING FINDINGS OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR FILE NO. PGPA19-004, A GENERAL PLAN AMENDMENT, AND FILE NO. PSP19-001, THE SOUTH ONTARIO LOGISTICS CENTER SPECIFIC PLAN, LOCATED WITHIN

ONTARIO RANCH AND GENERALLY BORDERED BY EUCALYPTUS AVENUE TO THE NORTH, GROVE AVENUE TO THE EAST, MERRILL AVENUE TO THE SOUTH, AND CAMPUS AVENUE TO THE WEST, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: 1054-071-01, 1054-071-02, 1054-081-03, 1054-091-01, 1054-091-02, 1054-101-01, 1054-101-02, 1054-231-01, 1054-231-02, 1054-241-01, 1054-241-02, 1054-321-01, 1054-321-02, 1054-311-01, 1054-311-02, 1054-051-01, 1054-051-02, 1054-061-01, 1054-061-02, 1054-251-01, 1054-251-02, 1054-301-01, AND 1054-301-02.

RESOLUTION NO. 2022-016 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PGPA19-004, AN AMENDMENT TO THE LAND USE ELEMENT OF THE POLICY PLAN (GENERAL PLAN), REVISING EXHIBIT LU-01 (OFFICIAL LAND USE PLAN) AND EXHIBIT LU-03 (FUTURE BUILDOUT), AFFECTING PROPERTY BORDERED BY EUCALYPTUS AVENUE TO THE NORTH, MERRILL AVENUE TO THE SOUTH, CAMPUS AVENUE TO THE WEST, AND GROVE AVENUE TO THE EAST, FROM APPROXIMATELY 157.1 ACRES OF LOW-MEDIUM DENSITY RESIDENTIAL (5.1-11 DWELLING UNITS PER ACRE) AND APPROXIMATELY 62.4 ACRES OF BUSINESS PARK (0.6 FAR) TO APPROXIMATELY 184.2 ACRES OF INDUSTRIAL (0.55 FAR) AND APPROXIMATELY 35.2 ACRES OF BUSINESS PARK (0.6 FAR), AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 1054-071-01, 1054-071-02, 1054-081-03, 1054-091-01, 1054-091-02, 1054-101-01, 1054-101-02, 1054-231-01, 1054-231-02, 1054-241-01, 1054-241-02, 1054-321-01, 1054-321-02, 1054-311-01, 1054-311-02, 1054-051-01, 1054-051-02, 1054-061-01, 1054-061-02, 1054-251-01, 1054-251-02, 1054-301-01, AND 1054-301-02. (SEE ATTACHMENTS 1 AND 2) (PART OF THE GENERAL PLAN AMENDMENT CYCLE ONE FOR THE 2022 CALENDAR YEAR.

ORDINANCE NO. 3206 (FIRST READING) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PSP19-001, THE SOUTH ONTARIO LOGISTICS CENTER SPECIFIC PLAN, TO ESTABLISH LAND USE DISTRICTS, DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE IMPROVEMENTS FOR THE POTENTIAL DEVELOPMENT OF UP TO 5,333,518 SQUARE FEET OF INDUSTRIAL AND BUSINESS PARK LAND USES ON 219.39 ACRES OF LAND GENERALLY BORDERED BY EUCALYPTUS AVENUE ON THE NORTH, MERRILL AVENUE ON THE SOUTH, GROVE AVENUE ON THE EAST, AND CAMPUS AVENUE ON THE WEST, AND MAKING FINDINGS IN SUPPORT THEREOF—APNS: 1054-071-01, 1054-071-02, 1054-081-03, 1054-091-01, 1054-091-02, 1054-101-01, 1054-101-02, 1054-231-01, 1054-231-02, 1054-241-01, 1054-241-02, 1054-321-01, 1054-321-02, 1054-311-01, 1054-311-02, 1054-051-01, 1054-051-02, 1054-061-01, 1054-061-02, 1054-251-01, 1054-251-02, 1054-301-01, AND 1054-301-02.

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

The following written communications were submitted in opposition via email:

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Sarai Zapata
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Dessa DAquila Bentson
Gilbert S Rodriguez
Kaitlyn Wittenbrock
Kirsty Crizer
Ashley Sok
Janis Gill
Chloe Coulter
Morgan Savatgy
Tommy Sheno
Erika Armstrong
Elizabeth Sena
Rosario Lara
Elizabeth Sena
Emma Leyva
Anna Bischoff
Melissa Chay
Kristal Barret
Ann A Kaneko
Beverly B Speak
Jennifer legg
Natasha Walton
Katrina Valenzuela
Elizabeth Sena
Katrina R. Mason

Kimie Hernandez
Marti Perhach
Elizabeth Salazar
MariaElena Huizar Varela
Allison Ferguson
Wesley Mason
Tami Richey
Esperanza Amaya Varela
Andrea Borges
Kimberly Croix
Joshua Hernandez
Nick Panza
Cirenia Cuevas
Leanne Dickerson
Abigail Smith (Law Office)
Martha Rodriguez
Michelle Bell
Micah Forbes
Nicole Christman
Katie Beason
Bobbie Lota
Mary Ann Ruiz
Tessa Hicks Peterson
Richard O'Donnell
Anita Schakel
Raina Ramirez Coutin
Arthur Levine
Amanda Yacoub
Michele Robb
Daniela Kent
Frangia Gomez
Ivy Jones
Alina Zapata
John Yacoub
Tracey Walters
Judith Mussatto
Fatima Corbett
Talya Drazen
Edward Zapata
Trung Lai
Tatiana Goldberg

Jennifer Yang
Natisha Palmer
Dylan Watters
Nathan Lu
Gustavo Gonzalez
Loree Masonis
Art Sutton
Marven Norman
Susanna Kirchner
Alberto Arauz
Anthony Mario Juarez
Chad Castro
Christa Svoboda
Elizabeth Jones
Helen Musharbash
Jordan Kelly
Kimberly Caro
Laura Geant
Lina Galaviz
Mayra Gonzalez
Roberta Hunabach
Syrissa Jones
Shanie Kalikow

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

City Manager Ochoa introduced Executive Director of Community Development Scott Murphy who provided a presentation.

City Attorney Duran, spoke to a correspondence received from the Law Offices of Abigail Smith regarding various environmental issues and noted for the record a full discussion of the agricultural issues could be found on pages 4.1-12 through 4.1-16 of the Environmental Impact Report.

Randy Bekendam, spoke in opposition.

Oscar Aguilar, spoke in support.

Jimmy Elrod, spoke in support.

Susan Phillips, spoke in opposition.

Tracey Walters, spoke in opposition.

Laila Soakai Zovich, spoke in opposition.

Samuel Marron, spoke in opposition.

Angela Miramontes, spoke in opposition.

Arthur Levine, spoke in opposition.

Jeff Johnston, spoke in support.
Wyatt Styles, spoke in support.
Louie Lopez, spoke in support.
Frankie Jimenez, spoke in support.
Henry Ordinas, spoke in support.
Pastor Zach, spoke in support.
Moises Cisneros, spoke in opposition.
Calli O'Neal, spoke in opposition.
Andrea Galvan, spoke in opposition.
Stephanie, spoke in opposition.
Jayson Baiz, spoke in support.
Bill Quisenberry, spoke in support.
Richard Licerio, spoke in support.
Ralph Velador, spoke in support.
Elizabeth Sena, spoke in opposition.
Ana Gonzalez, spoke in opposition.
Juaquin Castellano, spoke in opposition.
Gina Williams, spoke in opposition.

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

MOTION: Moved by Council Member Dorst-Porada seconded by Council Member Bowman and carried by unanimous vote to adopt Resolution Nos. 2022-015, 2022-016 and introduced and waived second reading of Ordinance No. 3206.

Mayor Leon called a recess at 9:04 p.m.

ADJOURNMENT

Mayor Leon adjourned the meetings of the Joint Agencies at 9:11 p.m. due to a lack of quorum.

Respectfully submitted,

SHEILA MAUTZ, CITY CLERK/SECRETARY

APPROVED:

PAUL S. LEON, MAYOR/CHAIRMAN

CITY OF ONTARIO

Agenda Report
April 5, 2022

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: 3

SUBJECT: RIGHTS-OF-WAY JOINT USE AGREEMENTS WITH SOUTHERN CALIFORNIA EDISON FOR RIGHTS-OF-WAY ON ONTARIO RANCH ROAD AND OLD EDISON AVENUE AT MILL CREEK AVENUE

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute Joint Use Agreements with Southern California Edison (SCE) for the rights-of-way on Ontario Ranch Road and Old Edison Avenue at Mill Creek Avenue within the Rich Haven Specific Plan area.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Operate in a Businesslike Manner

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

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

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

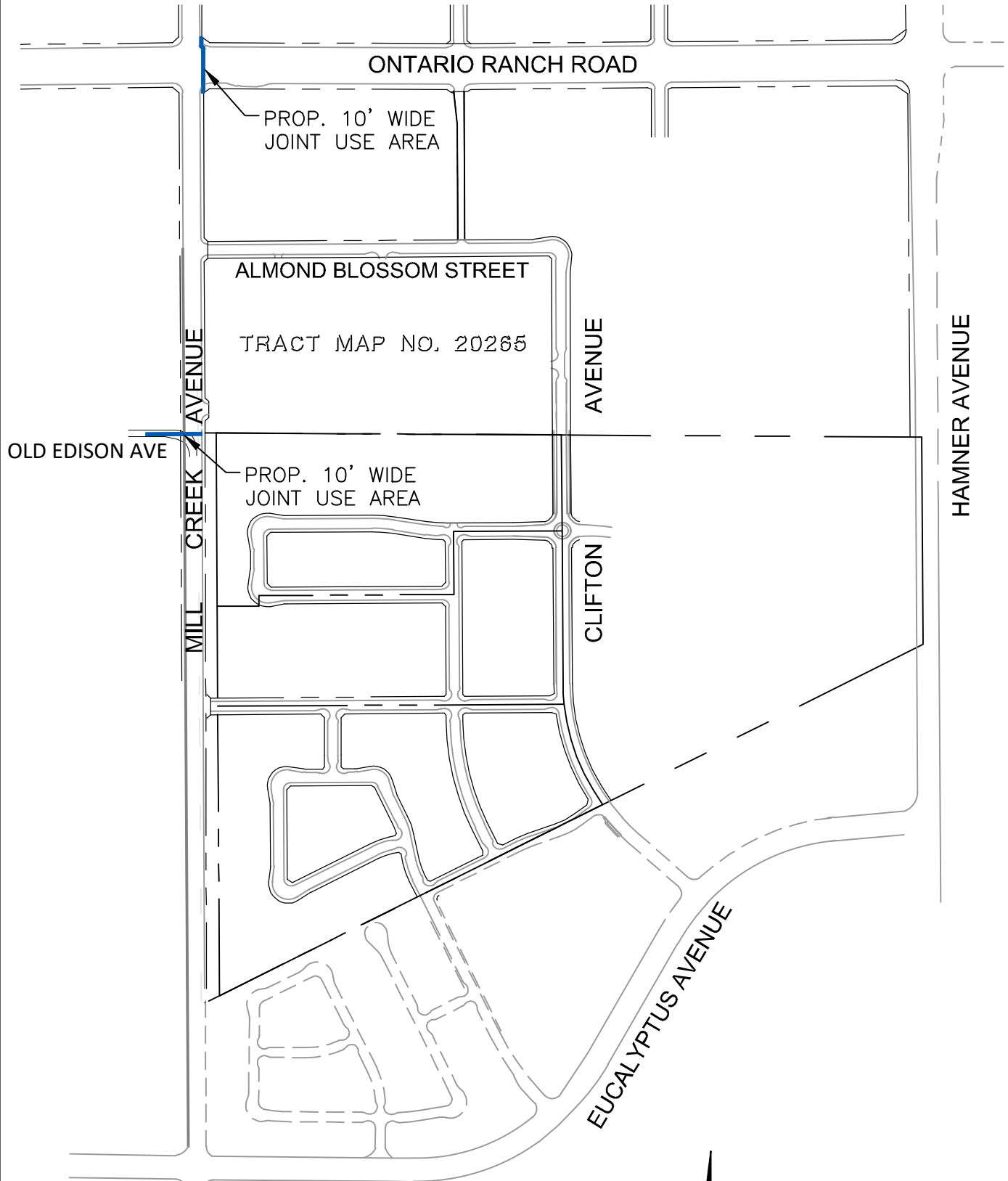
FISCAL IMPACT: There is no direct fiscal impact associated with this proposed action. The developer has paid the applicable processing fees to defray the City's cost to process this request.

BACKGROUND & ANALYSIS: As a condition of development of Tract Map 20265, the City has required the Developer, Shea Homes, to construct street improvements and to underground existing overhead SCE utilities along the project frontages on Ontario Ranch Road and Mill Creek Avenue. In order to preserve their prior rights, SCE is requiring the execution of these Joint Use Agreements prior to the relocation and undergrounding of their utilities. Exhibit A shows the project location and the Joint Use Agreement areas.

The Agreements have been reviewed and approved as to form by the City Attorney.

EXHIBIT A

PROJECT LOCATION & JOINT USE AGREEMENT AREAS



PREPARED BY:

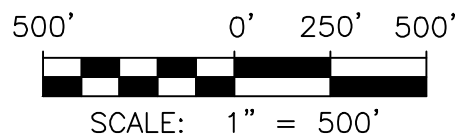
FUSCOE

ENGINEERING
full circle thinking

LEGEND



JOINT USE
AGREEMENT AREAS
(2000 SQ. FT.
OR 0.046 AC.)



CITY OF ONTARIO

Agenda Report
April 5, 2022

SECTION:
CONSENT CALENDAR

Department: Engineering
Prepared By: Jay Bautista
Staff Member Presenting:
Scott Murphy, Executive Director Community
Development
Approved By: 

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

SUBJECT: A RESOLUTION AUTHORIZING SUBMITTAL OF A CLAIM TO THE SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY FOR TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 FUNDS FOR THE BUS STOP PAD INSTALLATION PROJECT

RECOMMENDATION: That the City Council adopt a Resolution approving the submittal of a claim for \$67,050 from the San Bernardino County Transportation Authority (SBCTA) for Transportation Development Act (TDA) Article 3 Funds for the Bus Stop Pad Installation Project and authorize the City Manager, or his designee, to execute all necessary documents to submit a reimbursement claim.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

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

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

FISCAL IMPACT: The City is eligible to receive a reimbursement in the amount of \$67,050 through the SBCTA from the TDA Article 3 Funds for the Bus Stop Pad Installation Project. The project will be included in the upcoming Fiscal Year 2022-23 Budget. There is no fiscal impact to the General Fund.

BACKGROUND & ANALYSIS: The City and Omnitrans, a regional public transit agency, elected to partner on a potential project for the TDA Article 3 Call for Projects. Based on coordination with Omnitrans, the City submitted an application to install bus stop pads at: Haven Avenue and Francis Avenue; Archibald Avenue and Riverside Drive; and Campus Avenue and D Street. City staff was informed of the award on November 3, 2021. SBCTA requires that within 6 months of funding award notification, that a submittal of a claim form and an authorizing Resolution be completed. Upon approval, Staff will submit the claim form and Resolution.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING SUBMITTAL OF A CLAIM TO THE SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY FOR TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 FUNDS FOR THE BUS STOP PAD INSTALLATION PROJECT.

WHEREAS, Mills-Alquist-Deddeh Act (SB 325) was enacted by the California Legislature to improve existing public transportation services and encourage regional transportation coordination. Known as the Transportation Development Act (TDA) of 1971, this law provides funding to be allocated to transit and non-transit related purposes that comply with regional transportation plans; and

WHEREAS, TDA provides two funding sources, the Local Transportation Fund (LTF) and State Transit Assistance fund (STA); and

WHEREAS, LTF is derived from a $\frac{1}{4}$ cent of the general sales tax collected statewide and apportioned by population to areas within the county; and

WHEREAS, STA is derived from the statewide sales tax on diesel fuel, plus an additional vehicle registration fee authorized under Senate Bill 1, referred to as the State of Good Repair, and both are apportioned by the State Controller's Office 50% by population and 50% by transit operator revenues; and

WHEREAS, the San Bernardino County Transportation Authority (SBCTA) authorizes funding for a wide variety of transportation programs in San Bernardino County, including planning and program activities, pedestrian and bicycle facilities, community transit services, public transportation, and bus and rail projects to local transportation agencies through annual apportionment and allocation processes, and approves payments periodically throughout the year; and

WHEREAS, SBCTA awarded the City of Ontario TDA Article 3 grant funds in the amount of \$67,050 for development of the Bus Stop Pad Installation Project within the City of Ontario jurisdiction through a competitive "Call for Projects"; and

WHEREAS, TDA Article 3 grant funds are provided on a reimbursement basis; and

WHEREAS, SBCTA requires the City of Ontario to submit a claim and request(s) for reimbursement; and

WHEREAS, submittal of the claim for TDA Article 3 funds must be first authorized by the City Manager; and

WHEREAS, the Bus Stop Installation Project award is over \$200,000, and is eligible for progress reimbursement, or under, and eligible for reimbursement at project completion; and

WHEREAS, SBCTA requires the designation of individuals authorized to certify Project completion; and

WHEREAS, the City Manager, or their designee, is authorized to certify project completion, and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Ontario authorizes submittal of a claim and request for reimbursement(s) for TDA Article 3 funds for the Bus Stop Installation Project in the amount of \$67,050 and that the City Manager is authorized to certify project completion.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized and empowered to execute in the name of the City of Ontario all documents, including but not limited to applications, agreements, annual reports including expenditure reports and amendments necessary to secure said reimbursement claim payments to support our TDA Article 3 Funds for the Bus Stop Pad Installation Project.

BE IT FURTHER RESOLVED that this authorization is effective until rescinded by the signature authority or this Governing Body.

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

PASSED, APPROVED, AND ADOPTED this 5th day of April 2022.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

BEST, BEST & KREIGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held April 5, 2022 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held April 5, 2022.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
April 5, 2022

SECTION: CONSENT CALENDAR

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: 5

SUBJECT: A DEVELOPMENT IMPACT FEE CREDIT AGREEMENT (FILE NO. PDIF21-002) BETWEEN THE CITY OF ONTARIO AND SHEA HOMES LIMITED PARTNERSHIP, FOR FACILITY CONSTRUCTION ASSOCIATED WITH TRACT MAP 20265 (FILE NO. PMTT19-006), LOCATED ON THE EAST SIDE OF MILL CREEK AVENUE, APPROXIMATELY 670 FEET SOUTH OF ONTARIO RANCH ROAD, WITHIN THE STANDALONE RESIDENTIAL LAND USE DISTRICT OF THE RICH HAVEN SPECIFIC PLAN

RECOMMENDATION: That the City Council approve the Development Impact Fee Credit Agreement (File No. PDIF21-002) between the City of Ontario and Shea Homes Limited Partnership, for facility construction associated with Tract Map 20265 (File No. PMTT19-006), located on the east side of Mill Creek Avenue, approximately 670 feet south of Ontario Ranch Road, within the Standalone Residential land use district of the Rich-Haven Specific Plan, and have the City Manager execute the Agreement.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

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

Operate in a Businesslike Manner

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

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

FISCAL IMPACT: Approval of the proposed Development Impact Fee ("DIF") Credit Agreement (File No. PDIF21-002) will result in no fiscal impact to the City's General Fund. The project's Development Agreement (File No. PDA16-003) and related Conditions of Approval (COA) for Tract Map 20265 (File No. PMTT19-006) require Shea Homes Limited Partnership ("Developer") to construct DIF Program infrastructure with an estimated cost of \$5,454,569. The proposed DIF Credit Agreement defines the amount of DIF Credit that the Developer may be eligible to receive for construction of these improvements. The DIF Credit that the Developer will receive upon completion of the improvements may be exchanged for a refund of DIF that was paid by the Developer (up to the Developer's maximum DIF obligation) in the respective DIF category.

BACKGROUND & ANALYSIS: On March 23, 2021, the Planning Commission adopted Resolution No. PC21-012, approving Tract Map 20265 to subdivide 21.10 gross acres of land into 111 numbered lots and 36 lettered lots. On May 4, 2021, the City Council adopted Ordinance No. 3182, approving an amendment to the existing Development Agreement to establish the terms and conditions for the development of Tract Map 20265.

Per the Development Agreement and COA, the Developer is required to construct DIF Program infrastructure to serve Tract Map 20265, which includes the installation of water, recycled water, sewer, storm drain, street improvements, traffic signals, and fiber optic facilities generally located along Mill Creek Avenue and Ontario Ranch Road, within the Rich Haven Specific Plan development area.

Pursuant to the City's adopted DIF Credit policies, construction of DIF Program facilities requires the Developer and the City to enter into a DIF Credit Agreement ("Agreement"). The terms of the proposed Agreement specify the defined portion of the infrastructure to be constructed by the Developer in the Local Adjacent or Regional DIF categories and includes an estimate of the maximum DIF Credit (not reimbursement) that may be applied in the respective Local Adjacent or Regional DIF category. This infrastructure is within Ontario Ranch Local Adjacent Water, Sewer, Storm Drain, Streets, and Fiber Optic System categories. Since the maximum eligible costs in the Agreement for the required infrastructure exceeds the Developer's DIF obligation, the Developer is eligible to receive DIF Credit under the proposed Agreement.

The proposed Agreement complies with the City's DIF policies and is in conformance with the approved Development Agreement and related conditions. Under the provisions of the City's DIF Program, the City Manager is authorized to execute such agreements upon approval by the City Council.

CITY OF ONTARIO

Agenda Report
April 5, 2022

SECTION: CONSENT CALENDAR

Department: Planning
Prepared By: Jeanie Irene T Aguilo
Staff Member Presenting:
Scott Murphy, Executive Director Community
Development
Approved By: 

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

SUBJECT: AN ORDINANCE FOR THE ARTS DISTRICT WEST PLANNED UNIT DEVELOPMENT (FILE NO. PUD22-001), ESTABLISHING DEVELOPMENT STANDARDS, DESIGN GUIDELINES AND INFRASTRUCTURE REQUIREMENTS TO FACILITATE A COMMERCIAL DEVELOPMENT ON 0.86-ACRE OF LAND LOCATED AT 125 WEST EMPORIA STREET, WITHIN THE MU-1/LUA-2N (DOWNTOWN MIXED-USE/ARTS DISTRICT - NORTH) AND EA (EUCLID AVENUE OVERLAY) ZONING DISTRICTS (APN: 1049-059-14)

RECOMMENDATION: That the City Council consider and adopt an Ordinance approving the Arts District West Planned Unit Development, File No. PUD22-001, establishing development standards, design guidelines, and infrastructure requirements to facilitate a commercial development at 125 West Emporia Street.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

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

Operate in a Businesslike Manner

Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: The proposed Planned Unit Development will facilitate the development of two commercial buildings totaling 33,787 square feet, resulting in increased on-going property tax revenues for the City, and the one-time payment to the City of plan check, building and development impact fees.

BACKGROUND & ANALYSIS: On March 15, 2022, the City Council introduced and waived further reading of an ordinance approving the Arts District West planned Unit Development (File No. PUD22-001). The Project site is a 0.86-acre parcel of land located at 125 West Emporia Street, within the MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and EA (Euclid Avenue Overlay) zoning districts. The Project Site is developed with a paved public parking lot located at the easterly terminus of Emporia Street, where Euclid Avenue is approximately 20 feet below grade. Surrounding the Project Site are several historic buildings that are occupied by mix of land uses including light industrial, office, commercial, residential, and civic buildings constructed in varying architectural styles.

The Policy Plan specifies that the Downtown Mixed-Use Area is to be implemented through the approval of an Area Plan or Planned Unit Development prior to the development of properties within the Area. In compliance with this requirement, the Applicant has submitted the Arts District West Planned Unit Development (included as Attachment A to the Ordinance), which is consistent with this vision, and the goals and policies of the Policy Plan.

The purpose of the Planned Unit Development is to secure a fuller realization of the Policy Plan than would otherwise result from the strict application of present zoning district regulations and to: [a] promote high standards in urban design; [b] encourage the development of exceptionally high quality, mixed-use, medium to high intensity projects, while establishing regulations and standards for uses with unique regulatory and design needs; and [c] ensure harmonious relationships with surrounding land uses. In addition, the Planned Unit Development is intended to function as a set of planning and design principles, development regulations, and performance standards to guide and govern the development of the 0.86-acre site. The Arts District West Planned Unit Development will facilitate the development of retail and commercial services that will help achieve the City's goals to economically revitalize and aesthetically enhance the historic downtown area.

A Planned Unit Development is comparable to a Specific Plan in that it sets development regulations that are unique to a specific area. However, it is also unlike a Specific Plan in that a Planned Unit Development is typically intended to apply to a single development project or several interrelated development projects that function together as a single, comprehensive project.

Key components of the Arts District West Planned Unit Development include the following:

- Land Use and Development Regulations — Consistent with the requirements of the MU-1 (Downtown Mixed-Use) zoning district, the proposed Arts District West Planned Unit Development allows for uses intended as a dynamic destination for locals and tourists, while creating a fulfilling urban experience energized by artistic, educational, and commercial participants. The focus of the Area is to increase the number of collaborated events and programs within the Area, with the intent to attract visitors, promote economic vitality, and boost revenue. Street fairs, artist festivals, restaurants, galleries, work/live lofts, breweries, and artisan co-ops will contribute to the physical and cultural diversity of the Arts District. The development regulations set forth in the Arts District West Planned Unit Development will govern the placement, height, and bulk of permitted buildings and structures and establish locational criteria for vehicular access to site, parking and loading requirements, landscape, sign standards; and identify historic preservation features to be incorporated and/or considered for development plans. Buildings may be developed to a maximum height of 35 feet. Building setbacks are limited to 0 to 5 feet from the Euclid Avenue right-of-way and 0 to 3.5 feet from the Emporia Street right-of-way, 0 feet from the interior and rear (adjacent to the rail) property lines.
- Landscaping and Drainage — Landscaping elements provide significant contributions to the aesthetic quality and character of the Arts District West Planned Unit Development, with respect to public and private spaces. Water conservation shall be provided through low water using plant materials, hydro zones, water efficient irrigation and weather-based controllers

consistent with Assembly Bill 1881 and other applicable State laws.

- Design Guidelines — Section 6.8 (Architectural Character\Details) of the Arts District West Planned Unit Development complies with the Ontario Downtown Design Guidelines of the historic downtown area. The Downtown Ontario Design Guidelines were adopted in 1998 to guide the physical revitalization of Ontario's historic downtown. The Guidelines provide architectural and design principals, as well as design concepts for downtown districts. The project area is located within the Education Center, a mixed-use area with a focus on commercial, retail, public, and educational uses. The design principles and desired architectural features for the mixed-use blocks are derived from the architectural style and elements set forth in Section 3.5.3 of the Downtown Design Guidelines, with respect to storefront modulation, entrances, roof design, mechanical equipment, building elements (cornices, storefront frame, mid-floor panel, transom windows, bulkheads), awnings, materials, and colors.

On February 22, 2022, the Planning/Historic Preservation Commission conducted a public hearing to consider the above described Arts District West Planned Unit Development. After considering all public testimony on the application, the Planning Commission unanimously voted (7-0) to approve a resolution recommending that the City Council approve the Planned Unit Development. In conjunction with the proposed Planned Unit Development, the Planning/Historic Preservation Commission approved a Tentative Parcel Map No. 20394 (File No. PMTT21-009), which will subdivide the 0.86-acre Project site into a single lot to establish 22 commercial airspace condominium units, a Development Plan (File No. PDEV21-017) to construct two commercial buildings totaling 33,787 square feet, and a Certificate of Appropriateness (File No. PHP21-021) to allow for the construction of the proposed Project within the Euclid Avenue Overlay Zoning District.

HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the Project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

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 Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15332 (Class 32, Infill Development Projects) of the CEQA Guidelines, and meets all of the following conditions: (A) the proposed Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (B) the proposed development occurs within city limits and the area being developed is 0.86-acre, less than the maximum 5-acre threshold, and is substantially surrounded by urban land uses; (C) the Project site has no value as habitat for endangered, rare, or threatened species; (D) approval of the Project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (E) the site is adequately served by all required utilities and public services.

FILE NOS: PUD22-001, PMTT21-009(TPM 20394), PDEV21-017, and PHP21-021

SUBJECT: A request for the following entitlements: [1] a Planned Unit Development (File No. PUD22-001) to establish development standards, design guidelines, and infrastructure requirements for the Project site; [2] a Tentative Parcel Map (File No. PMTT21-009 (TPM 20394)) to subdivide a 0.86-acre property into a single lot to establish 22 commercial airspace condominium units; [3] a Development Plan (File No. PDEV21-017) to construct two commercial buildings totaling 33,787 square feet; and [4] a Certificate of Appropriateness (File No. PHP21-021) to allow for the construction of the proposed Project within the Euclid Avenue Overlay Zoning District. The Project Site is located at 125 West Emporia Street, within the MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and EA (Euclid Avenue Overlay) zoning districts. (APN: 1049-059-14) **submitted by RWSS Development LLC. City Council action is required.**

PROPERTY OWNER: City of Ontario

RECOMMENDED ACTION: That the Planning/Historic Preservation Commission consider and adopt the following:

(1) A resolution recommending the City Council approve File No. PUD22-001; and

(2) Resolutions approving File Nos. PMTT21-009 (TPM 20394), PDEV21-017, and PHP21-021, pursuant to the facts and reasons contained in the staff report and attached resolutions, and subject to the conditions of approval contained in the departmental reports included as "Attachment A" to each respective resolution.

PROJECT SETTING: The Project site is comprised of 0.86-acre of land located at the easterly terminus of Emporia Street, north of the Union Pacific Railroad right-of-



Figure 1: Project Location

Case Planner:	Jeanie Irene Aguilo
Planning Director Approval:	<i>PZL</i>
Submittal Date:	04/21/2021

Hearing Body	Date	Decision	Action
DAB	02/07/2022	Approval	Recommend
PC	02/22/2022	Approve	Final
CC	03/15/2022		PUD-Final

way, at 125 West Emporia Street, as depicted in Figure 1: Project Location Map. Emporia Street terminates at the Project site where Euclid Avenue is approximately 20 feet below grade. Located within the proposed Downtown Historic District, the site is currently developed with a paved public parking lot. The Emporia Street frontage is improved with a 5-foot-wide scored sidewalk, rock curb in poor condition, and a 7-foot-wide parkway with mature *Washingtonia filifera* (California palm) and heritage *Grevillea robusta* (silk oak) street trees. Surrounding the Project site are several historic buildings, including the Pacific Electric Bus Depot (Local Landmark No. 37) located at the northeast corner of Laurel Avenue and Emporia Street, the Old Post Office (Local Landmark No. 38) located at the southeast corner of Laurel Avenue and Transit Street, the Charles Frankish Building (Local Landmark No. 12 and listed on the National Register) located at the southwest corner of Transit Street and Euclid Avenue, the Salvation Army building (Eligible Historic Resource) located at the northwest corner of Emporia Street and Euclid Avenue, the Ontario Museum of History and Art located at the southeast corner of Euclid Avenue and Transit Street, and the Euclid Avenue median and parkway (Local Landmark No. 67 and listed on the National Register). Other development in the area includes a mix of light industrial, office, commercial, residential, and civic buildings constructed in varying architectural styles and construction dates. The existing surrounding land uses, zoning, and general plan are summarized in the "Surrounding Zoning & Land Uses" table located in the Technical Appendix of this report.

PROJECT ANALYSIS:

(1) Background — During Ontario's early settlement period, several grand Victorian style homes were constructed for prominent city pioneers along Emporia Street, facing the railroad tracks, in a marketing strategy to attract town settlers, which was referred to as "Developer's Row." The Project site was part of Developer's Row but was developed as a parking lot in the 1950s, which is presently underutilized. In the 1980s, the Euclid Avenue Grade Separation project was constructed, providing an underpass for trucks and passenger vehicles, and a bridge for railway lines (Southern and Union Pacific Railroads) that altered street intersections/connections on Euclid Avenue, within the surrounding area. Due to the grade separation, Emporia Street's direct access to Euclid Avenue was eliminated and cul-de-sacs were constructed on the east and west side of Euclid Avenue, limiting access to the parking lot. The Euclid Avenue public right-of-way, from Philadelphia Street to Interstate 10, was designated as Local Landmark No. 67 on January 16, 2001. On August 10, 2005, the Euclid Avenue right-of-way, from Philadelphia Street in Ontario to 24th Street in Upland, was listed on the National Register of Historic Places as a significant cultural landscape.

The Ontario Plan describes the Downtown Mixed-Use Area as an intensive vertical and horizontal mixture of retail, office, and residential uses in a pedestrian friendly atmosphere, where the historic character is prominent. The most intensive uses are envisioned along Euclid Avenue and Holt Boulevard. The Downtown Mixed-Use Area is the historic core of Ontario, which has a unique blend of historic, social and cultural

uses set in a compact street grid. The Downtown Mixed-Use Area includes the Civic Center, City library and surrounding diverse residential neighborhoods that provide increased demand for retail opportunities along Euclid Avenue, Holt Boulevard and B Street.

The Policy Plan specifies that the Downtown Mixed-Use Area is to be implemented through the approval of an Area Plan or Planned Unit Development ("PUD") prior to the development of properties within the Area. In compliance with this requirement, the Applicant has submitted the Art District West Planned Unit Development (included as Attachment A to the attached PUD Resolution), which is consistent with this vision, and the goals and policies of the Policy Plan.

The purpose of the PUD is to secure a fuller realization of the Policy Plan than would result from the strict application of present zoning district regulations and to: [a] promote high standards in urban design; [b] encourage the development of exceptionally high quality, mixed-use, medium to high intensity projects, while establishing regulations and standards for uses with unique regulatory and design needs; and [c] ensure harmonious relationships with surrounding land uses. In addition, the Art District West Planned Unit Development ("ADWPUD") is intended to function as a set of planning and design principles, development regulations, and performance standards to guide and govern the development of the 0.86-acre site. The ADWPUD will facilitate the development of retail and commercial services that will help achieve the City's goals to economically revitalize and aesthetically enhance the historic downtown area.

A PUD is comparable to a Specific Plan in that it sets development regulations that are unique to a specific area; however, it is also unlike a Specific Plan in that a PUD is typically intended to apply to a single development project or several interrelated development projects that function together as a single, comprehensive project.

On April 21, 2021, the Applicant submitted four applications to facilitate the development of the Project site, as follows:

- A Planned Unit Development (File No. PUD22-001: Art District West Planned Unit Development) to establish development standards, design guidelines, and infrastructure requirements for the Project site;
- A Certificate of Appropriateness (File No. PHP21-021) to allow for the construction of the proposed Project within the Euclid Avenue Overlay Zoning District and ensure that the development does not cause an adverse effect on the character-defining features of Euclid Avenue;
- A Tentative Parcel Map (File No. PMTT21-009 (TPM 20394)) to subdivide 0.86-acre of land into single lot for condominium purposes; and

- A Development Plan (File No. PDEV21-017) to construct two commercial buildings totaling 33,787 square feet.

On February 7, 2022, the Development Advisory Board ("DAB") conducted a hearing to consider the Tentative Parcel Map (File No. PMTT21-009 (TPM 20394)) and Development Plan (File No. PDEV21-017), and concluded the hearing, voting to recommend that the Planning Commission approve the Applications subject to conditions of approval, which are included as attachments to the Planning Commission resolutions.

On February 10, 2022, the Historic Preservation Subcommittee considered the Certificate of Appropriateness (File No. PHP21-021) application and recommended Historic Preservation Planning Commission approval.

(2) Planned Unit Development (File No. PUD22-001: Art District West PUD)

- a. Land Use and Development Regulation — Consistent with the requirements of the MU-1 (Downtown Mixed-Use) zoning district, the proposed PUD allows for uses intended as a dynamic destination for locals and tourists, while creating a fulfilling urban experience energized by artistic, educational, and commercial participants. The focus of the Area is to increase the number of collaborated events and programs within the Area, with the intent to attract visitors, promote economic vitality, and boost revenue. Street fairs, artist festivals, restaurants, galleries, work/live lofts, breweries, and artisan co-ops will contribute to the physical and cultural diversity of the Arts District. The development regulations set forth in the ADWPUD will govern the placement, height, and bulk of permitted buildings and structures; to establish locational criteria for vehicular access to site, parking and loading requirements, landscape, sign standards; and identify historic preservation features to be incorporated and/or considered for development plans. Buildings may be developed to a maximum height of 35 feet. Building setbacks are limited to 0 to 5 feet from the Euclid Avenue right-of-way and 0 to 3.5 feet from the Emporia Street right-of-way, 0 feet from the interior and rear (adjacent to the rail) property lines.
- b. Landscaping and Drainage — Landscaping elements provide significant contributions to the aesthetic quality and character of the ADWPUD, with respect to public and private spaces. Water conservation shall be provided through low water using plant materials, hydro zones, water efficient irrigation and weather-based controllers consistent with Assembly Bill 1881 and other applicable State laws.
- c. Off-Street Parking — Parking requirements within the ADWPUD will be governed by the established parking requirements of the City of Ontario Development Code. The ADWPUD allows one parking space within each

Car Condo Unit to be counted towards the required parking for the vehicle storage (Car Condo) use. In addition, the Ontario Development Code allows parking to be analyzed using the Downtown Ontario Parking Model.

- d. Design Guidelines — Section 6.8 (*Architectural Character\Details*) of the ADWPUD complies with the Ontario Downtown Design Guidelines of the historic downtown area. The Downtown Ontario Design Guidelines were adopted in 1998 to guide the physical revitalization of Ontario's historic downtown. The Guidelines provide architectural and design principals, as well as design concepts for downtown districts. The project area is located within the Education Center, a mixed-use area with a focus on commercial, retail, public, and educational uses. The design principles and desired architectural features for the mixed-use blocks are derived from the architectural style and elements set forth in Section 3.5.3 of the Downtown Design Guidelines, with respect to storefront modulation, entrances, roof design, mechanical equipment, building elements (cornices, storefront frame, mid-floor panel, transom windows, bulkheads), awnings, materials, and colors.
- (3) Tentative Parcel Map (File No. PMTT21-009 / TPM 20394) — The proposed Tentative Parcel Map (TPM 20394) will subdivide the 0.86-acre Project site into a single numbered lot for condominium purposes (see Exhibit B—Tentative Parcel Map) and one lettered lot consisting of private drive aisles, parking areas, and common open space. The condominium plan will establish 22 commercial condominium units that will be recorded with the Department of Real Estate, delineating the airspace for each unit, off-street parking, and common areas. The Development Code does not include provisions for a minimum lot size or project size within the MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) zoning district; however, it does require the approval of a PUD, which was filed concurrently with the Tentative Parcel Map and Development Plan. Final approval of the Tentative Parcel Map and Development Plan is contingent upon the City Council adopting the PUD for the Project site. Additionally, the proposed map will be required to provide Covenants, Conditions, and Restrictions ("CC&R's"), which will establish the rules, regulations, rights, and responsibilities of the property owner's association and condominium owners.
 - (4) Development Plan (File No. PDEV21-017)
 - a. Site Design/Building Layout — Proposed, is the construction of two commercial buildings totaling 33,787 square feet (see Exhibit C—Site Plan, attached). Building A (front building) is 9,669 square feet in size and is centrally located along the northern portion of the site, oriented in an east-west configuration, with the primary entrance facing north, towards Emporia Street. The building contains a 3,455-square-foot flex-space (for

retail uses and public/private art activities) six “Car Condo” suites and mezzanine areas totaling 6,214 square feet designed for the storage of personal vehicles (such as cars and recreational vehicles), and a trash enclosure and restrooms totaling 576 square feet. Two off-street parking lots are located to the east and west of Building A.

Building B (rear building), located along the east, south and west property lines, is 24,012 square feet in size and is configured in a U-shape. The building contains a 2,470-square-foot retail space with mezzanine designed to accommodate a tap room with both ground and second floor outdoor patio areas located at the northeast corner of the site. The remainder of the building is 21,542 square feet in size and is divided into fourteen Car Condo suites.

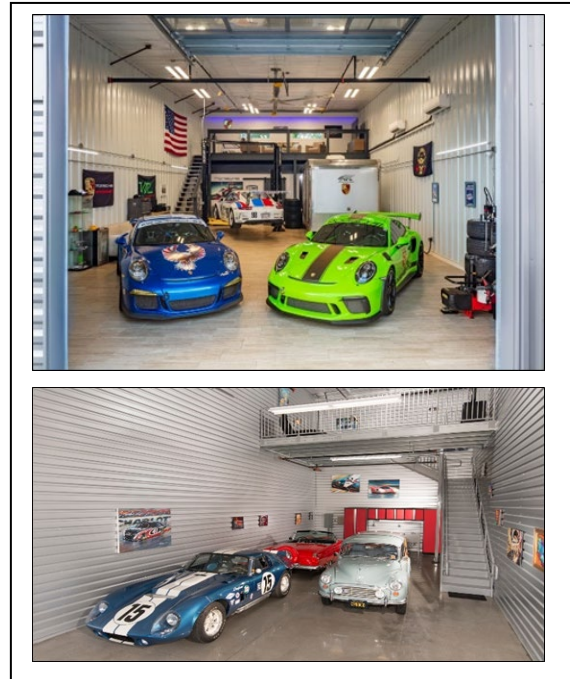


Figure 2: Car Condo Examples

There is a total of 20 car condo suites proposed within portions of Buildings A and B. The ADWPUD defines car condos as space you own and customize to house your vehicles. The car condos offer car aficionados a safe, secure, and private space to store and display their vehicles (sports, classic, racing, exotics, hot rods, and/or other collectible cars), motorized toys, and/or personal treasures. Each unit includes a mezzanine area that can be customized to include a loft area, office, TV viewing area and/or refreshment kitchenette area (See Figure 2: Car Condo Examples, below). The unit's footprint range in size from 420 to 1,836 square feet, which range from 30 to 68 feet in depth and 14 to 68 feet in width. Residential occupancy of the Car Condo units will be prohibited by the CC&Rs.

- b. Site Access/Circulation — The Project site will be accessed from two points along Emporia Street (see Exhibit C—Site Plan, attached). The driveways are located at the northwest and northeast corners of the Project site, immediately to the east and west of Building A. A 20-foot to 35-foot-wide U-shaped drive-aisle is proposed between Buildings A and B, connecting the two points of access and providing on-site circulation and access to each Car Condo unit.
- c. Parking — The ADWPUD requires the Project to provide off-street parking at the rates required by the Development Code and allows one parking

space within each Car Condo Unit to be counted towards the required parking for the vehicle storage (Car Condo) use. The Project has provided off-street parking pursuant to the "Drinking Places" and "General Business Offices" parking standards specified in the Development Code. The Project requires a total of 59 passenger vehicle parking spaces and 29 parking spaces have been provided, resulting in a deficit of 30 parking spaces. Table 1, below, provides the off-street parking calculations for the proposed Project.

Table 1: On-Site Parking Summary Table				
Type of Use	Building Area	Parking Ratio	Spaces Required	Spaces Provided
Motor Vehicle Storage (Car Condos):	27,756 SF	1 space per Car Condo Unit	20	20
Restaurant/ Drinking Place (Tap Room):	2,470 SF	10 spaces per 1,000 SF (0.01/SF) of GFA	25	9
Office (Flex Space):	3,455 SF	General Business Office – 4 spaces per 1,000 SF (0.004/SF) of GFA	14	
TOTAL			59	29
Parking Deficit				(-30)

Although, the Project does not provide sufficient off-street parking, the Project site is located within the Downtown Mixed Use District, which pursuant to the Ontario Development Code, allows parking to be analyzed using the City's Downtown Ontario Parking Model (see Exhibit G—Downtown Parking Model Blocks Map, attached). The Downtown Parking Model specifically evaluates each block within the Downtown Area and calculates the parking demand on an hourly basis, from 6:00 A.M. to 12:00 A.M. Additionally, it allows a project's parking demands to be met by utilizing the available parking on the project site block, in combination with the surrounding blocks. The Project site is located on Block 72 (see Exhibit H—Parking Model Blocks Map: Blocks 67, 68, 71, and 72, attached) and can accommodate a total of 14 parking spaces (5 on-street and 9 on-site). The surrounding blocks utilized to analyze the parking demand for the proposed Project include:

- Block 67 (City of Ontario Community Improvement Office), located north of the Project site, which provides 92 parking spaces (32 on-street and 60 off-street);
- Block 68 (multiple-family units, retail, office and service uses), located northwest of the Project site, which provides 65 parking spaces (20 on-street and 45 off-street); and
- Block 71 (live/work units), located directly west of the Project site, which provides 38 parking spaces (11 on-street and 27 off-street).

The Tables 2 and 3, below, illustrate the available parking for Blocks 67, 68, 71 and 72, with the proposed uses. Within Table 4 (see Technical Appendix), the Parking Model found a deficit of 1 to 14 parking spaces on Blocks 71 and 72, between the hours of 10:00 A.M. to 8:00 P.M.; however, there is a surplus of 56 to 100 parking spaces within the combined four Blocks, addressing any single block deficiencies. Therefore, staff has determined that based upon the Downtown Ontario Parking Model, sufficient parking exists on the Project site and its' surrounding blocks, to support the proposed Project.

Table 2: Available Public Parking with Proposed Use: Daytime Hours (8:00 A.M.–3:00 P.M.)									
Blocks	8 A.M.	9 A.M.	10 A.M.	11 A.M.	12 P.M.	1 P.M.	2 P.M.	3 P.M.	
67, 68, 71 & 72	103	98	92	81	67	61	56	72	

Table 3: Available Public Parking with Proposed Use: Evening Hours (4:00 P.M.–12:00 A.M.)									
Blocks	4 P.M.	5 P.M.	6 P.M.	7 P.M.	8 P.M.	9 P.M.	10 P.M.	11 P.M.	12 A.M.
67, 68, 71 & 72	67	78	80	99	100	128	132	133	131

- d. Architecture — A contemporary industrial inspired architectural design is proposed to complement the surrounding historic buildings and context of the historic downtown area (see Exhibit D—Conceptual Elevations and Exhibit E—Project Rendering, attached). Building's A and B are single-story buildings with a two-story massing (27 feet to 30 feet) consistent with the existing surrounding buildings located to the north and west of the Project site. Both buildings will incorporate a combination of vertical corrugated metal panels, horizontal flat metal siding, brick veneer, metal canopies, storefront glazing, and a contrasting color palette that includes black, grey, brown, and red tones.

The eastern elevation of Building B will be prominently seen from Euclid Avenue. The tap room was strategically located on the northeast corner of the site as part of Building B, to provide a prominent architectural element facing Euclid Avenue. The tap room portion of the building incorporates a brick veneer, a 20-foot-long blade sign and a round tower element designed to have the appearance of a beer vat. The upper portion of the tower is treated with horizontal corrugated metal siding and a metal roof, and the ground floor incorporates deep recessed clear storefront glazing that allow views of the beer vat design from Euclid Avenue. To the west of the tower, the Project is also incorporating a ground floor and second story outdoor patio that will face Emporia Street and be visible from Euclid Avenue, which has been integrated into the overall design of the building and features similar building materials.

The Project illustrates similar architectural features, building placement, scale and massing to the surrounding historic buildings and within the context of the historic

downtown area. The Project is appropriate in scale and massing and through use of materials and design and will not detract or adversely affect the historic character of neither Euclid Avenue nor the proposed Downtown Historic District. This is exemplified through the use of:

- Articulation in storefront modulation through color and material changes, bulkhead/base, glass roll up doors, storefront glazing, and enhanced accent banding; and
- Articulation in the building parapet, roof lines, and a corner tower element which serves to accentuate the building's entries and openings, and breaks up large expanses of building wall; and
- A mix of exterior colors, materials, finishes and fixtures; and
- Incorporation of base and top treatments defined by changes in color, materials, and recessed wall areas. Designed to ensure that it's massing and proportion, along with its colors and architectural detailing, are consistent on all building walls, giving a four-sided (360-degree) appearance; and
- Utilizing strong and identifiable building forms using the corner tower element to demarcate street intersections.

Furthermore, the Project demonstrates the type of development and architecture promoted by the proposed ADWPUD. The Project incorporates the design principles and the desired architectural features of the proposed ADWPUD using:

- Simple, yet varied massing, with wall openings that create shadow line and provide visual relief; and
 - Incorporation of human-scaled details such as canopies, transparent windows, and windows displays. These are required at public entrances and along heavily trafficked outdoor areas; and
 - Providing highly visible public entrances, oriented to streets and outdoor spaces; with shop entrances clearly expressed with recesses, overhangs, special materials, and detailing; and
 - Creating visual interest by using at least three different building materials on building facades including brick, flat metal siding, and corrugated metal panels.
- e. Landscaping — Landscaping elements provide significant contributions to the aesthetic quality and character of Euclid Avenue and the historic downtown area, with respect to public and private spaces. The proposed landscape design highlights building and driveway entries and softens the appearance of the building along Emporia Street. Due to the

configuration of the proposed buildings, landscaping is primarily featured along the Emporia Street frontage and the northwestern parking lot. The proposed landscape plant pallet includes Ginkgo Biloba, Tabebuia Impetiginosa, Prunus Cerasifera 24-inch and 36-inch box size trees, 8 shrub varieties (Hemerocallis hybrid, Ruellia brittoniana, Rosea Floribunda, Rosmarinus Officinalis, Loropetalum chinensis, atropurpurea, Lanvendula agustina, Tulbaghia violacea and Pittosporum) and one groundcover variety (Phyla nodifolia). The existing parkway and sidewalk will be altered to accommodate the two proposed driveways which will require the removal of two heritage Grevillea robusta (Silk Oak) trees and the onsite relocation one Washingtonia filifera (California Palm) within the parkway. The Project has been conditioned to replace the two Grevillea robusta trees with trees that are equal in trunk diameter onsite and/or pay appropriate mitigation fees to City of Ontario Historic Preservation Fund. Moreover, the proposed landscaping, hardscape and lighting has been designed to complement the architecture of the proposed building and enhance vehicular entries, pedestrian walkways, and other key locations throughout the Project site.

- f. Utilities (drainage, sewer) — Public utilities (water and sewer) are available to serve the Project. Furthermore, the Applicant has submitted a Preliminary Water Quality Management Plan ("PWQMP"), which establishes the Project's compliance with storm water discharge/water quality requirements. The PWQMP includes site design measures that capture runoff and pollutant transport by minimizing impervious surfaces and maximizes low impact development ("LID") best management practices ("BMPs"), such as retention and infiltration, biotreatment, and evapotranspiration. The onsite drainage will be conveyed to an underground chamber located on the northwest portion of the Project site underneath the parking lot and any overflow drainage will be conveyed to the curb and gutter along Emporia Street.

(5) Certificate of Appropriateness (File No. PHP21-021) — Section 6.01.035, Overlay Zoning Districts of the Ontario Development Code, requires Certificate of Appropriateness approval for any development project within the Euclid Avenue Overlay zoning district. The Euclid Avenue Overlay zoning district is intended to recognize, protect, and enhance the visual character and quality of Euclid Avenue as a major scenic and historic resource of the City, and to identify and safeguard Euclid Avenue's position on the National Register of Historic Places. The intent of the Overlay zoning district is not to create a false sense of history with any new development along the Euclid Avenue Corridor, but rather to ensure that new development does not adversely impact the visual character-defining features of Euclid Avenue, such as the 60-foot-wide landscaped median, rock curbs, and King's Standard lampposts. Additionally, all new construction should be compatible with the surrounding developments in site design, massing and scale.

The Secretary of the Interior Standards for the Treatment of Historic Properties, also referred to as "the Standards," provide a critical part of the framework of the national preservation program and are widely used at the federal, state and local levels to guide work on historic resources and have been incorporated into the ADWPUD. The Standards state that alterations will not destroy historic features and spatial relationships that characterize the historic resource, and that new work will be differentiated from the old and will be compatible with historic materials, features, size, scale, and proportion, and massing to protect the integrity of the resource.

The west side of Euclid Avenue, from Holt Boulevard to the project site, can be characterized as early twentieth century commercial development which includes the First National Bank constructed in the Art Deco style of architecture in 1928, the McCann Building constructed in the Commercial style of architecture in 1917, the Envoy Hotel also constructed in the Commercial style of architecture in 1920, the Frankish Building constructed in a simplified Italianate architectural style in 1916, and the Salvation Army Building constructed in Art Deco style of architecture in 1930. These buildings are constructed of brick and concrete, are 2 and 3 stories in height with first floor commercial and have a zero setback from the Euclid Avenue property line. Prominent character-defining features include classic storefronts with large display windows, bulkheads (base), transom windows, mid-panel banding, a mix of materials and colors, and vertical columns in the Art Deco style buildings.

Across Emporia Street from the project site is the historic Pacific Electric Bus Depot. The building was constructed in a brick Commercial style of architecture in 1928. The single-story brick building is square in floorplan, has a parapet roof, and a storefront. Adjacent to the project site is the Emporia Street Lofts (work/live units). The buildings were originally constructed for an industrial manufacturing purpose in 1968 but were adaptively reused in 2003 to allow commercial and residential mixed-uses within a flexible space. The buildings are designed with two-stories, brick and stucco finishes and have a parapet roof.

The Project is a two-story construction featuring elements from Emporia Street Lofts (work/live units) to the west and the Salvation Army Building to the north. The corner tower element faces Euclid Avenue and Emporia Street providing emphasis to the entrance which is similar to the corner entrances of the Frankish Building and Salvation Army Building. In addition, Euclid Avenue is situated approximately 20-feet below grade of the Project site ultimately minimizing the visual impacts to Euclid Avenue.

On February 10, 2022, the Historic Preservation Subcommittee ("HPSC") reviewed the project and recommended approval to the Planning/Historic Preservation Commission, subject to conditions of approval and are attached to this report.

The Planning Commission, serving as the Historic Preservation Commission, must consider and clearly establish certain findings of facts for all Certificate of Appropriateness applications. The proposed project is appropriate because:

(1) ***The proposed project will not detrimentally change, destroy or adversely affect any significant architectural feature of the resource.*** While there are no identified historic resources within the Project site, the site has frontage along historic Euclid Avenue and is within the Proposed Downtown Historic District. Through appropriate scale, massing and use of materials, the new construction is compatible with the surrounding buildings and therefore, will not detrimentally change, destroy or adversely affect any significant architectural feature of the resource.

(2) ***The proposed project will not detrimentally change, destroy or adversely affect the historic character or value of the resource.*** While there are no identified historic resources within the Project site, the Project has frontage along historic Euclid Avenue and is within the Proposed Downtown Historic District. The Project proposes appropriate building massing and scale, site design, building layout, and architecture that is in keeping with the area.

(3) ***The proposed project will be compatible with the exterior character-defining features of the historic resource.*** Although the Project site is not considered historic, the Project site has frontage along historic Euclid Avenue and is within the proposed Downtown Historic District. Through enhanced architectural elements, including the tower feature, the proposed project does not detract from the visual character of Euclid Avenue and is compatible with the Proposed Downtown Historic District.

(4) ***The proposed project will not adversely affect or detract from the character of the historic district.*** Through compatible architectural elements the proposed project does not detract from the visual character of Euclid Avenue and is compatible with the Proposed Downtown Historic District.

COMPLIANCE WITH THE ONTARIO PLAN: The proposed Project is consistent with the principles, goals and policies contained within the Vision, Governance, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan (TOP). More specifically, the goals and policies of TOP that are furthered by the proposed project are as follows:

(1) City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Maintain the Current High Level of Public Safety
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

(2) Vision.

Distinctive Development:

- Commercial and Residential Development

- Development quality that is broadly recognized as distinctive and not exclusively tied to the general suburban character typical of much of Southern California.

(3) Governance.

Decision Making:

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.

- G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision.

(4) Policy Plan (General Plan)

Land Use Element:

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.

- LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.

- LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).

- Goal LU2: Compatibility between a wide range of uses.

- LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

Community Economics Element:

- Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

➤ CE2-1 Development Projects. We require new development and redevelopment to create unique, high-quality places that add value to the community.

➤ CE2-2 Development Review. We require those proposing new development and redevelopment to demonstrate how their projects will create appropriately unique, functional and sustainable places that will compete well with their competition within the region.

➤ CE2-4 Protection of Investment. We require that new development and redevelopment protect existing investment by providing architecture and urban design of equal or greater quality.

➤ CE2-5 Private Maintenance. We require adequate maintenance, upkeep, and investment in private property because proper maintenance on private property protects property values.

Safety Element:

▪ Goal S1: Minimized risk of injury, loss of life, property damage and economic and social disruption caused by earthquake-induced and other geologic hazards.

➤ S1-1 Implementation of Regulations and Standards. We require that all new habitable structures be designed in accordance with the most recent California Building Code adopted by the City, including provisions regarding lateral forces and grading.

Community Design Element:

▪ Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

➤ CD1-1 City Identity. We take actions that are consistent with the City being a leading urban center in Southern California while recognizing the diverse character of our existing viable neighborhoods.

➤ CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.

➤ CD1-3 Neighborhood Improvement. We require viable existing residential and non-residential neighborhoods to be preserved, protected, and enhanced in accordance with our land use policies.

▪ Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

➤ CD2-1 Quality Architecture. We encourage all development projects to convey visual interest and character through:

- Building volume, massing, and height to provide appropriate scale and proportion;
- A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
- Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

➤ CD2-7 Sustainability. We collaborate with the development community to design and build neighborhoods, streetscapes, sites, outdoor spaces, landscaping and buildings to reduce energy demand through solar orientation, maximum use of natural daylight, passive solar and natural ventilation, building form, mechanical and structural systems, building materials and construction techniques.

➤ CD2-8 Safe Design. We incorporate defensible space design into new and existing developments to ensure the maximum safe travel and visibility on pathways, corridors, and open space and at building entrances and parking areas by avoiding physically and visually isolated spaces, maintenance of visibility and accessibility, and use of lighting.

➤ CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.

➤ CD2-10 Surface Parking Areas. We require parking areas visible to or used by the public to be landscaped in an aesthetically pleasing, safe and environmentally sensitive manner. Examples include shade trees, pervious surfaces, urban run-off capture and infiltration, and pedestrian paths to guide users through the parking field.

➤ CD2-11 Entry Statements. We encourage the inclusion of amenities, signage and landscaping at the entry to neighborhoods, commercial centers, mixed use areas, industrial developments, and public places that reinforce them as uniquely identifiable places.

➤ CD2-12 Site and Building Signage. We encourage the use of sign programs that utilize complementary materials, colors, and themes. Project signage should be designed to effectively communicate and direct users to various aspects of the development and complement the character of the structures.

➤ CD2-13 Entitlement Process. We work collaboratively with all stakeholders to ensure a high degree of certainty in the efficient review and timely processing of all development plans and permits.

- Goal CD3: Vibrant urban environments that are organized around intense buildings, pedestrian and transit areas, public plazas, and linkages between and within developments that are conveniently located, visually appealing and safe during all hours.

- CD3-1 Design. We require that pedestrian, vehicular, bicycle and equestrian circulation on both public and private property be coordinated and designed to maximize safety, comfort, and aesthetics.

- CD3-3 Building Entrances. We require all building entrances to be accessible and visible from adjacent streets, sidewalks or public open spaces.

- CD3-5 Paving. We require sidewalks and road surfaces to be of a type and quality that contributes to the appearance and utility of streets and public spaces.

- CD3-6 Landscaping. We utilize landscaping to enhance the aesthetics, functionality and sustainability of streetscapes, outdoor spaces and buildings.

- Goal CD5: A sustained level of maintenance and improvement of properties, buildings and infrastructure that protects the property values and encourages additional public and private investments.

- CD5-1 Maintenance of Buildings and Property. We require all public and privately-owned buildings and property (including trails and easements) to be properly and consistently maintained.

- CD5-2 Maintenance of Infrastructure. We require the continual maintenance of infrastructure.

HOUSING ELEMENT COMPLIANCE: The Project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the Project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

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 Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15332 (Class 32, Infill Development Projects) of the CEQA Guidelines and meets all of the following conditions: (a) the proposed Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) the proposed development occurs within city limits and the area being developed is 0.86-acre, less than the maximum 5-acre threshold, and is substantially surrounded by urban land uses; (c) the Project site has no value as habitat for endangered, rare, or threatened species; (d) approval of the Project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) the site is adequately served by all required utilities and public services.

CONDITIONS OF APPROVAL: See attached department reports.

TECHNICAL APPENDIX:

Surrounding Zoning and Land Use:

	Existing Land Use	General Plan Designation	Zoning Designation
Site	Parking Lot	Downtown Mixed-Use District	MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and EA (Euclid Avenue Overlay)
North	Office/Personal Services (Rojas Enterprises)	Downtown Mixed-Use District	MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and EA (Euclid Avenue Overlay)
South	Rail (Southern Pacific Transportation Company)	Rail	RC (Rail Corridor)
East	Ontario Museum of History and Art	Downtown Mixed-Use District	CIV (Civic)
West	Work/Live Lofts (Emporia Street Lofts)	Downtown Mixed-Use District	MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North)

General Site & Building Statistics

Item	Proposed	Min./Max. Standard	Meets Y/N
Project Area:	0.86-acre	N/A	Y
Lot/Parcel Size:	0.86-acre	N/A	Y
Building Area:	33,787 SF	N/A	Y
Floor Area Ratio:	0.79	1.0 (Max.)	Y
Building Height:	30 FT	35 FT (Max.)	Y

Off-Street On-Site Parking:

Type of Use	Building Area	Parking Ratio	Spaces Required	Spaces Provided
Motor Vehicle Storage (Car Condos):	27,756 SF	1 space per Car Condo Unit	20	20
Restaurant/ Drinking Place (Tap Room):	2,470 SF	10 spaces per 1,000 SF (0.01/SF) of GFA	25	9
Office (Flex Space):	3,455 SF	General Business Office – 4 spaces per 1,000 SF (0.004/SF) of GFA	14	
TOTAL			59	29
Parking Deficit				(-30)

Downtown Parking Model Block Demand Analysis:

Table 4: Available Public Parking with Proposed Use [Spaces – Demand = Surplus or (Deficit)]												
Block	Off-Street Parking	On-Street Parking	6AM	7AM	8AM	9AM	10AM	11AM	12NN	1PM	2PM	
67	60	32	90	87	82	74	75	74	74	74	74	
68	45	20	12	13	2	15	15	16	15	11	9	
71	27	11	12	13	12	4	(3)	(9)	(12)	(14)	(13)	
72	9	5	14	12	7	5	5	(1)	(11)	(10)	(14)	
Total Surplus/ (Deficit)	141	68	129	125	103	98	92	81	67	61	56	
Block	Off-Street Parking	On-Street Parking	3PM	4PM	5PM	6PM	7PM	8PM	9PM	10PM	11PM	12MN
67	60	32	76	82	86	89	90	90	90	90	92	92
68	45	20	12	2	2	5	13	12	18	22	21	19
71	27	11	(12)	(9)	(8)	(10)	6	6	6	6	6	6
72	9	5	(3)	(7)	(2)	(4)	(11)	(8)	14	14	14	14
Total Surplus/ (Deficit)	141	68	72	67	78	80	99	100	128	132	133	131

Exhibit A—Project Location Map

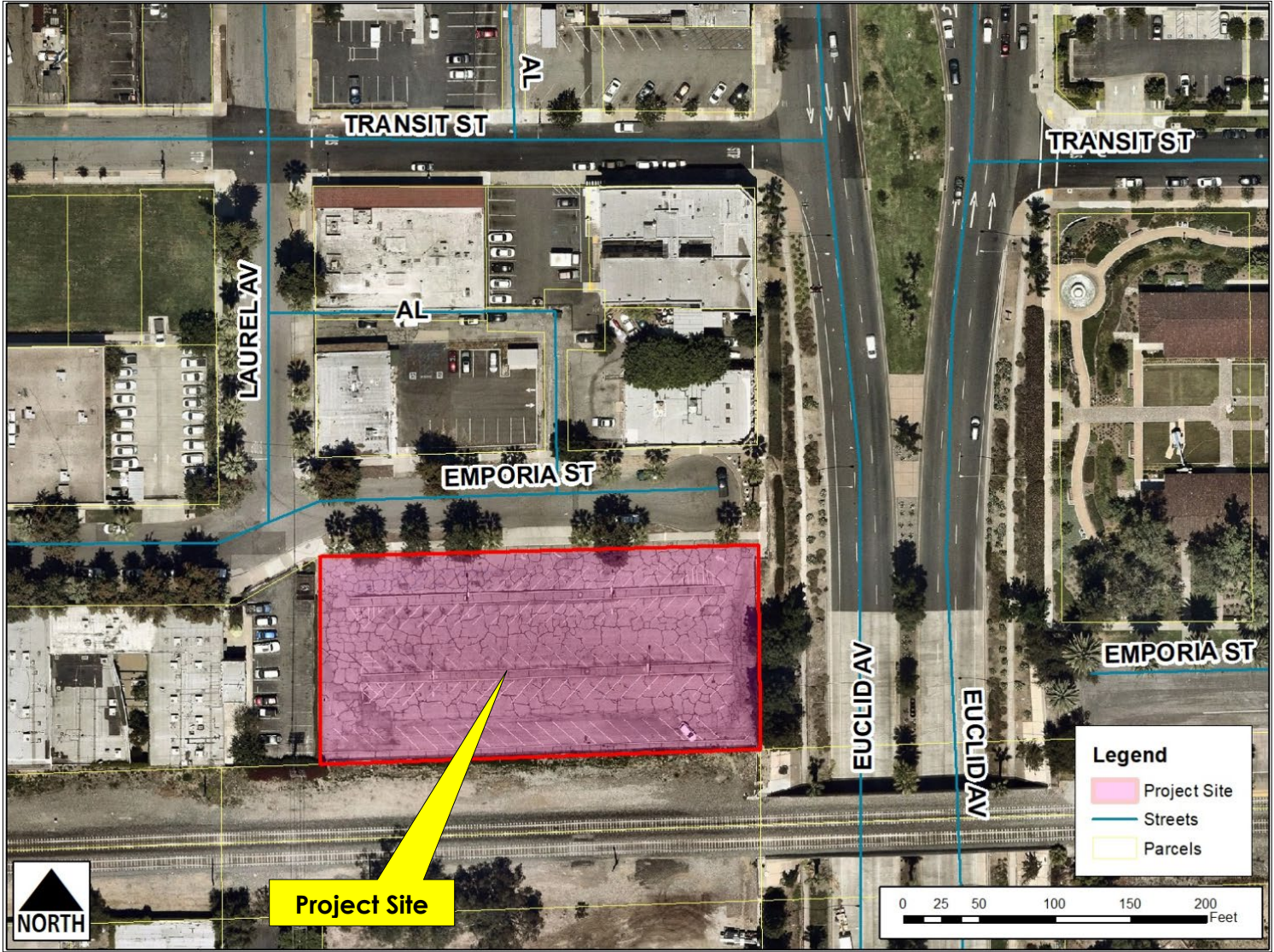


Exhibit B—Tentative Parcel Map

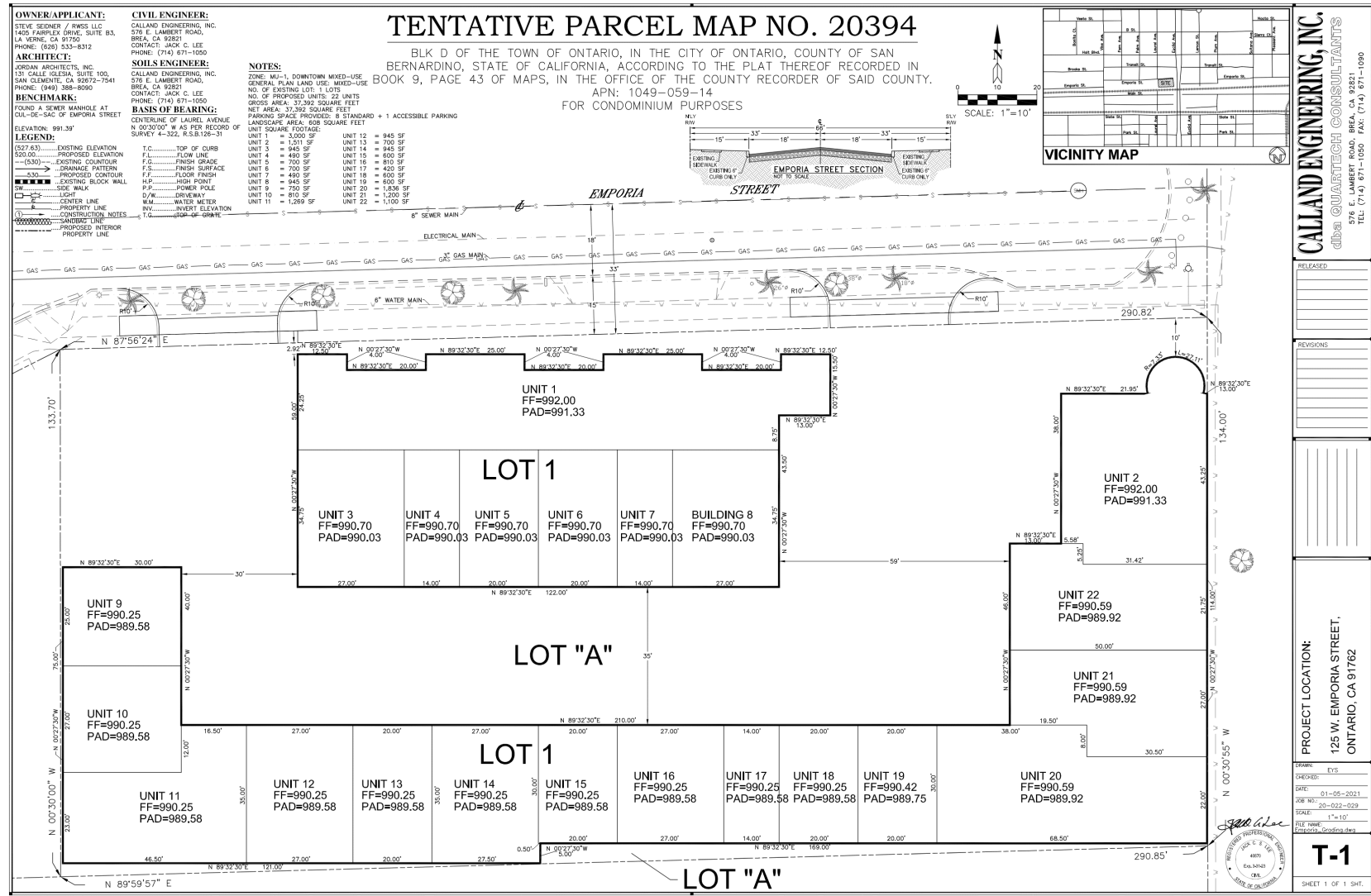


Exhibit C—Site Plan

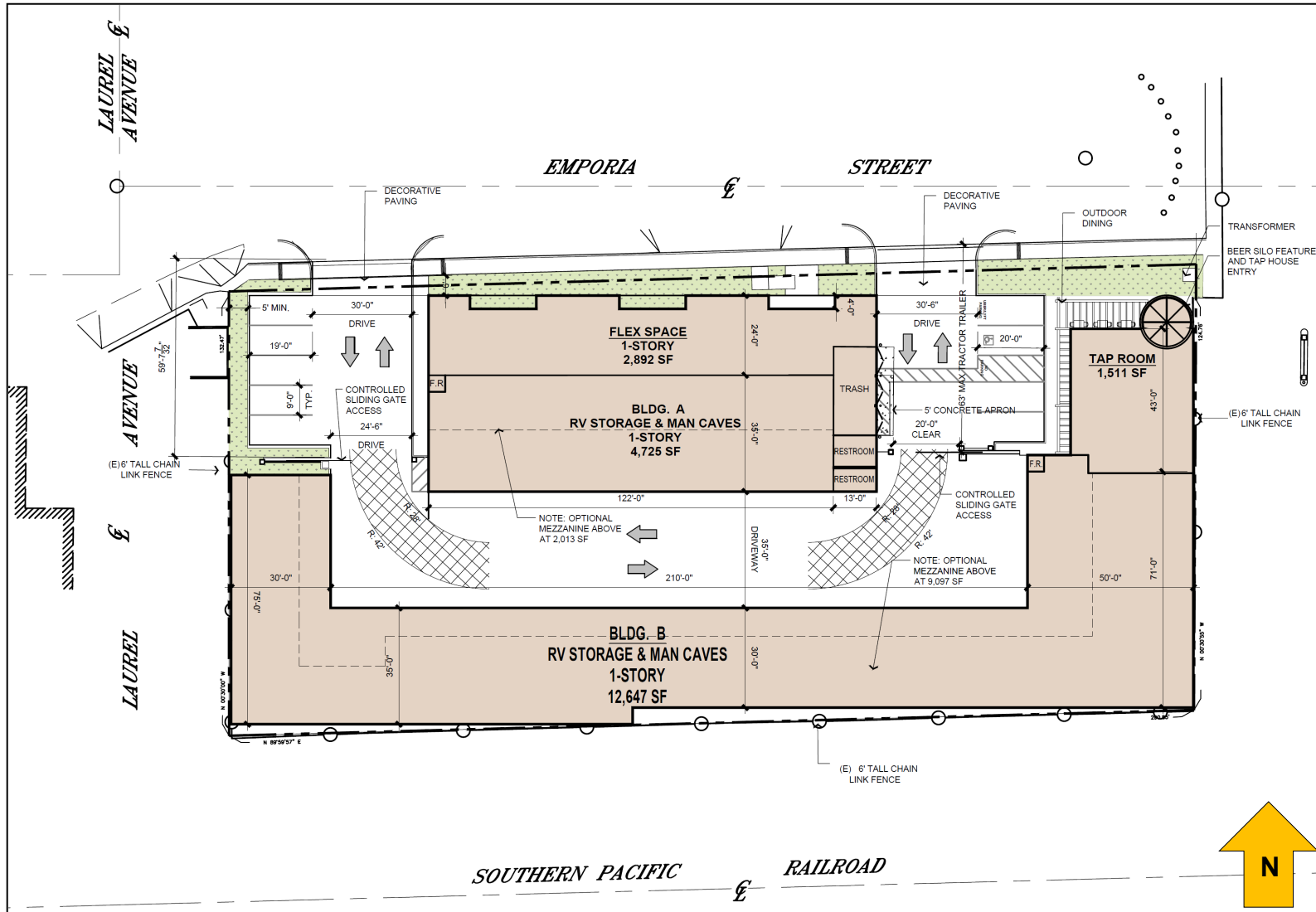


Exhibit D—Conceptual Elevations

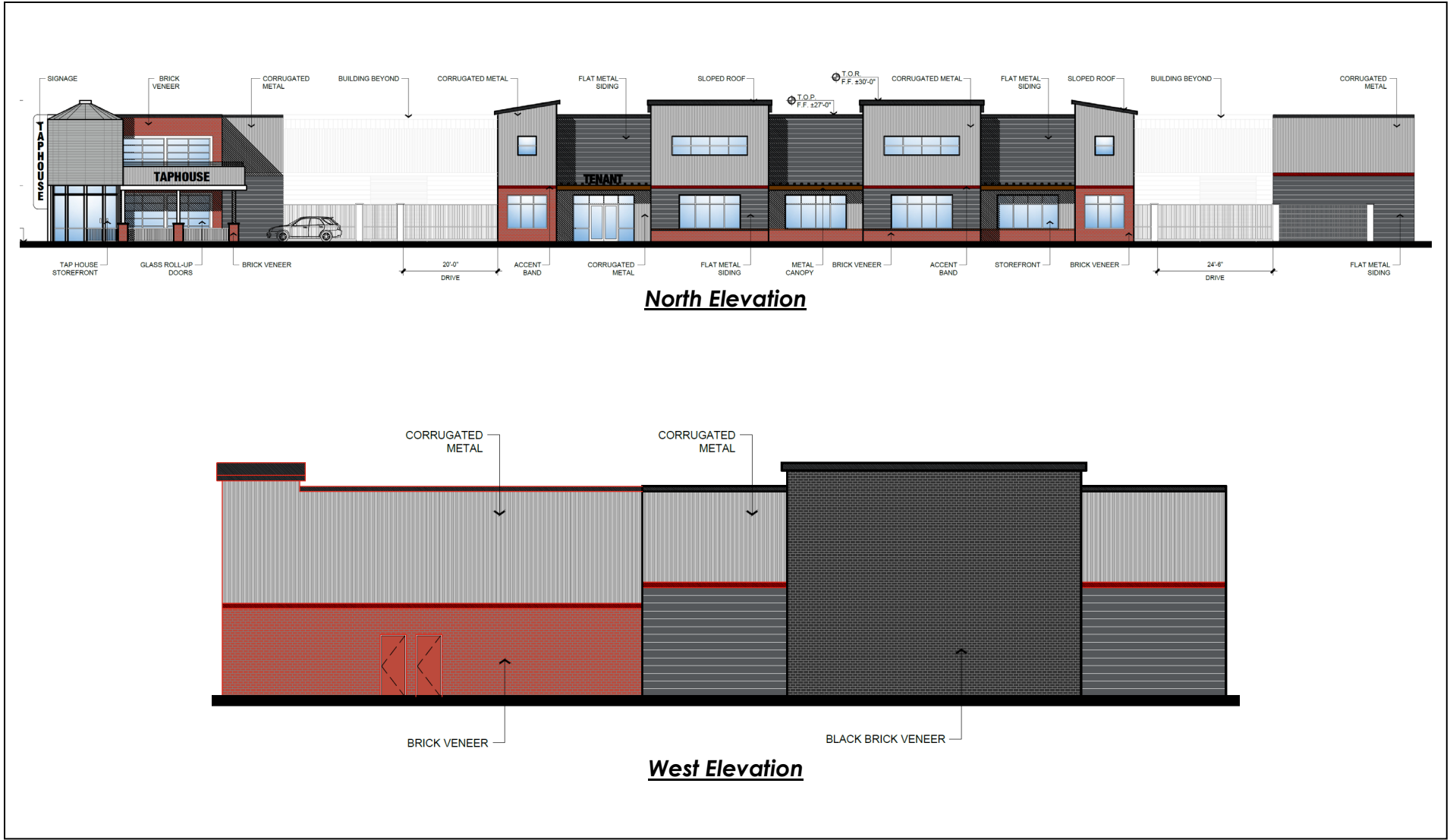


Exhibit D—Conceptual Elevations (continued)

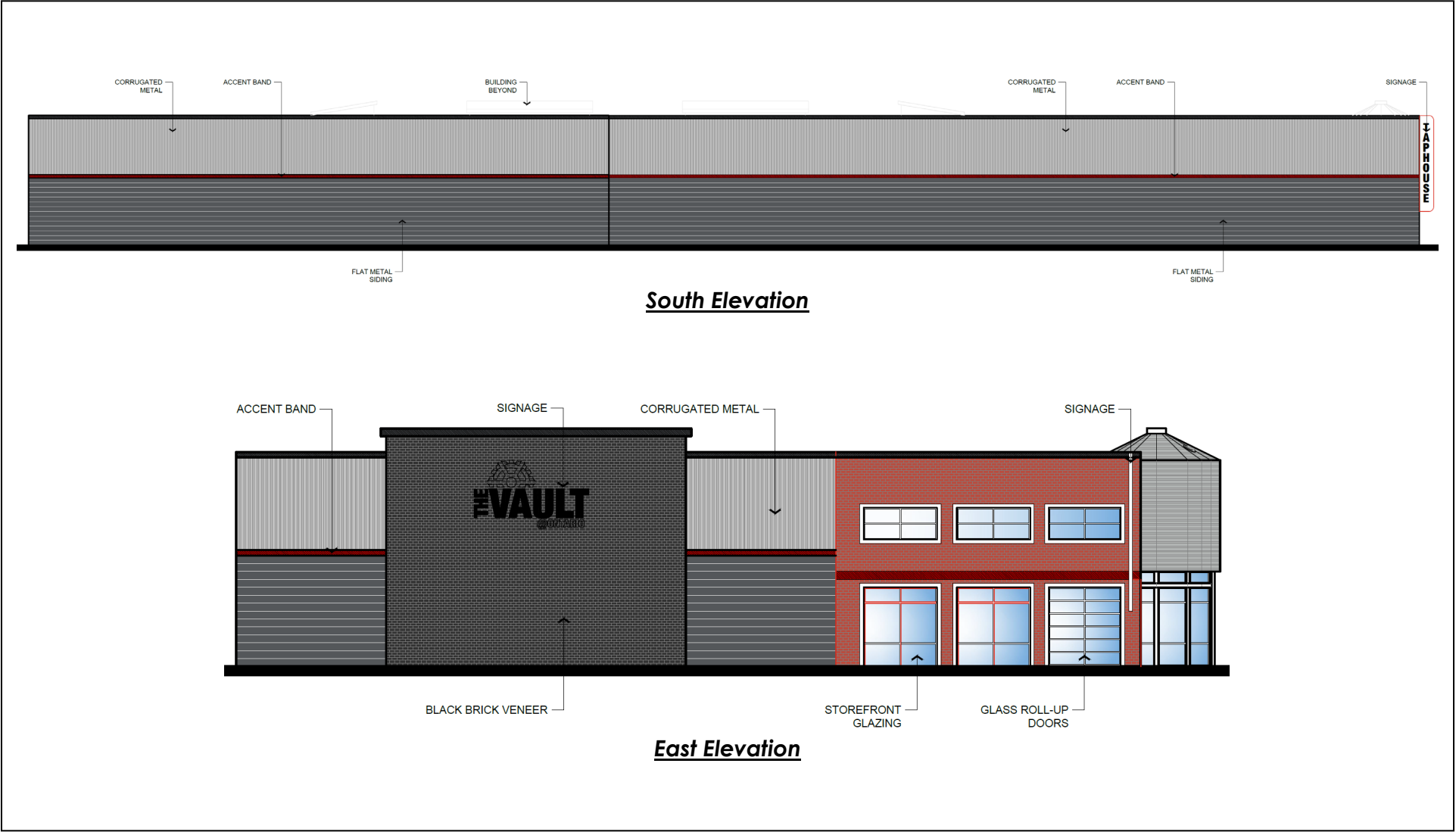


Exhibit E—Project Renderings



Northeast Corner of the Project Site on Emporia Street



Northeast Corner of the Project Site on Emporia Street



East Elevation on Euclid Avenue

Exhibit F—Landscape Plan

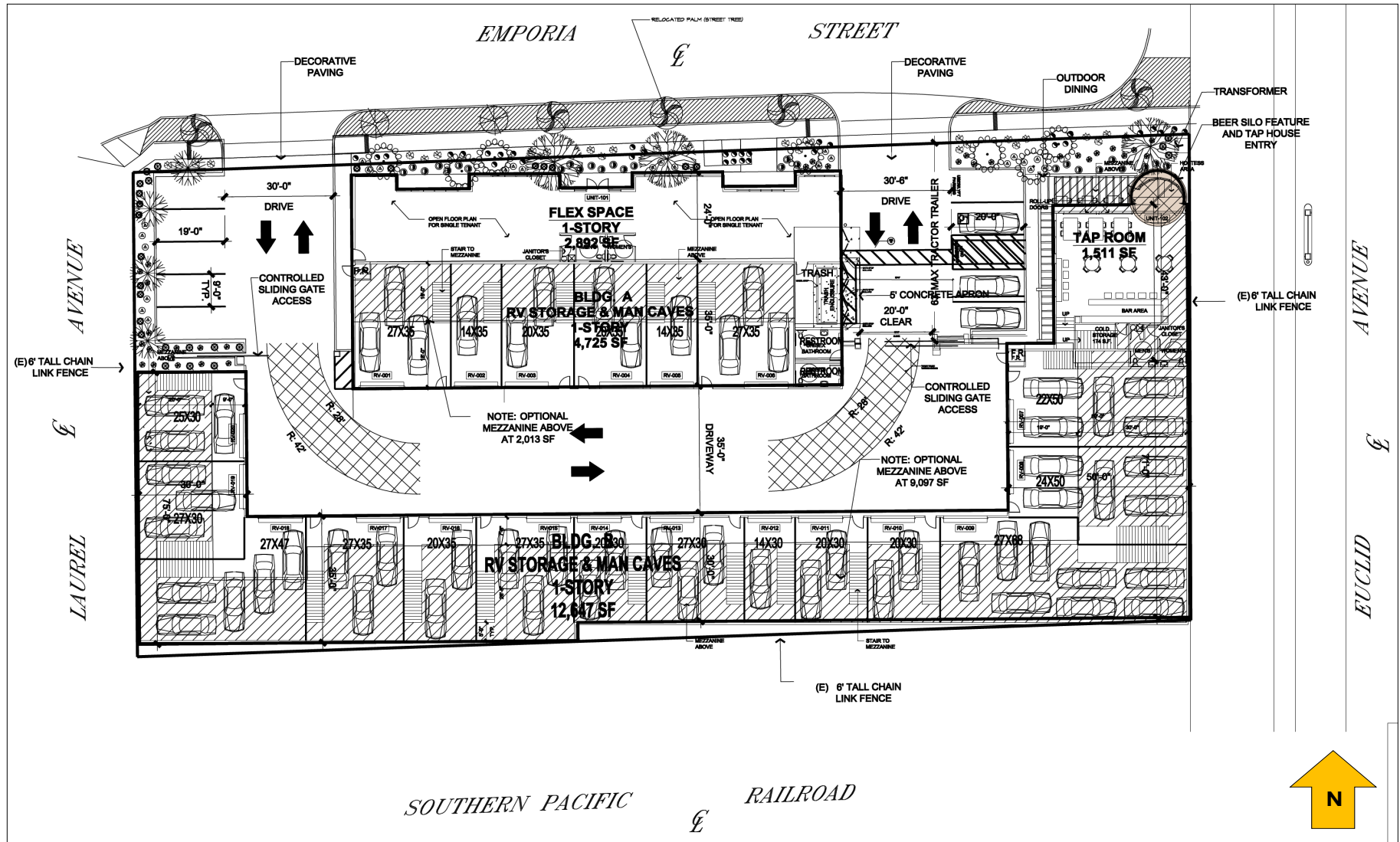


Exhibit G— Downtown Parking Model Blocks Map

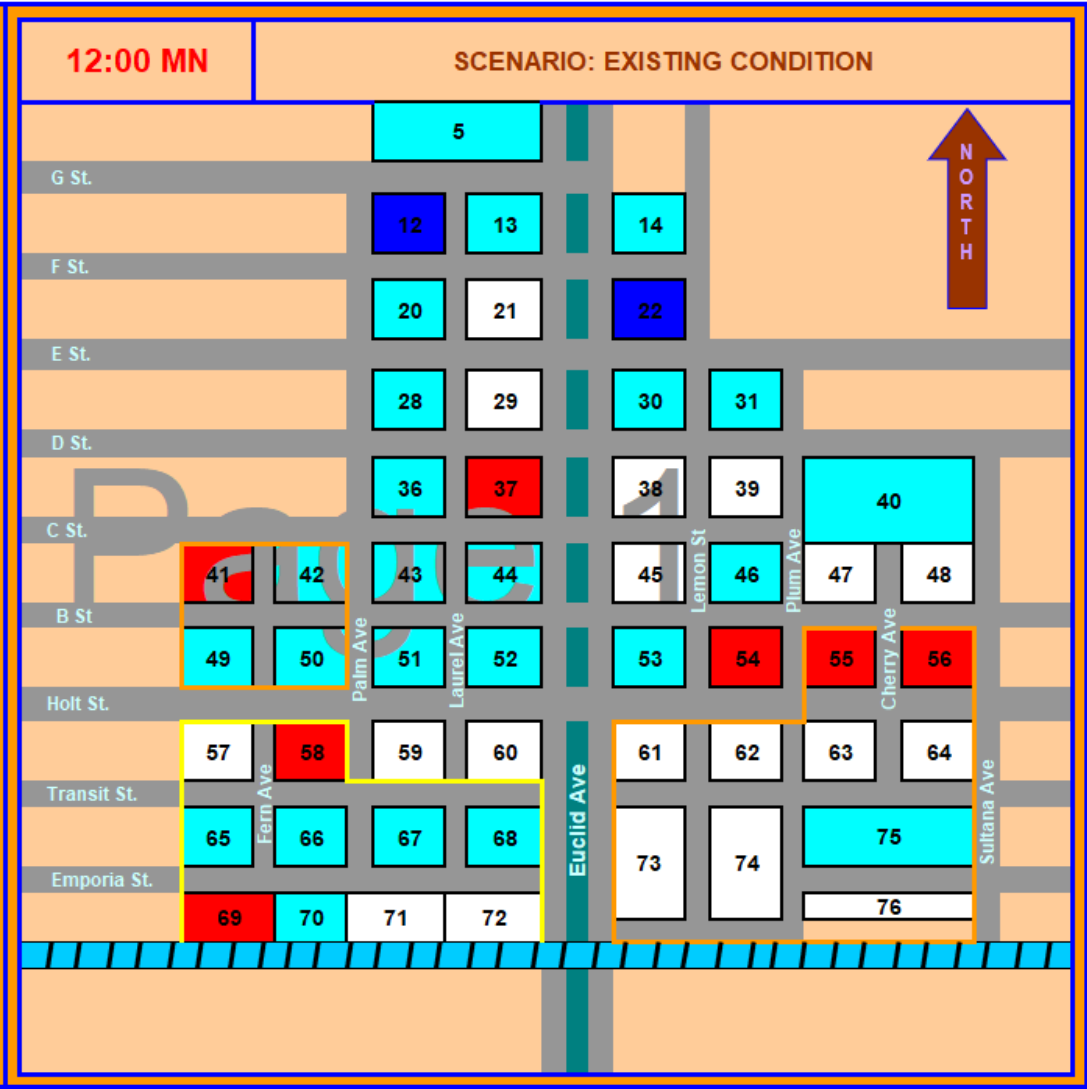
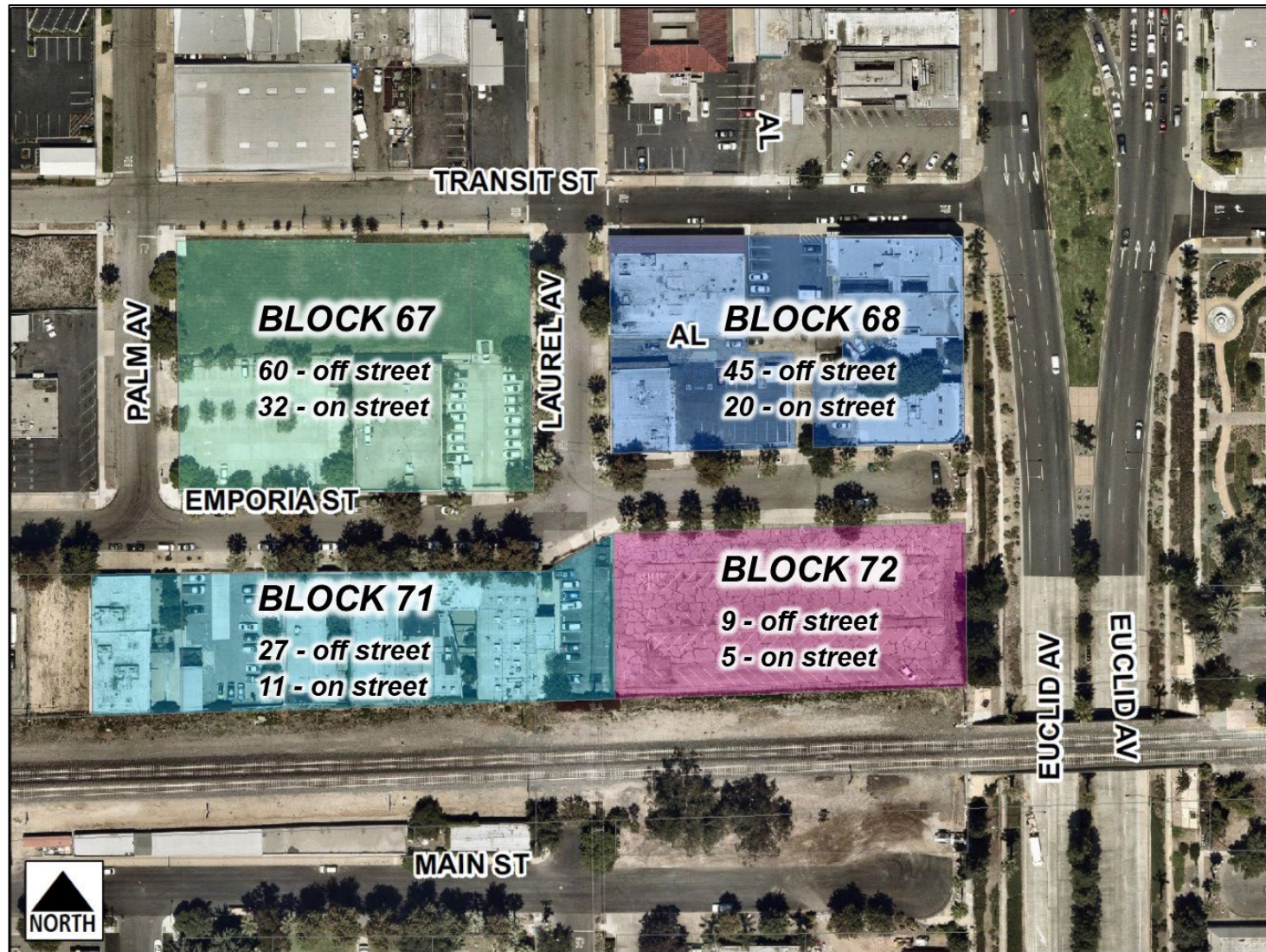


Exhibit H— Downtown Parking Model Blocks Map: Blocks 67, 68, 71, and 72



RESOLUTION NO. PC22-007

A RESOLUTION OF THE PLANNING/HISTORIC PRESERVATION COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE FILE NO. PUD22-001, A PLANNED UNIT DEVELOPMENT (ART DISTRICT WEST PLANNED UNIT DEVELOPMENT) TO ESTABLISH DEVELOPMENT STANDARDS, DESIGN GUIDELINES AND INFRASTRUCTURE REQUIREMENTS ON 0.86-ACRE PROPERTY LOCATED AT 125 WEST EMPORIA STREET, WITHIN THE MU-1/LUA-2N (DOWNTOWN MIXED-USE/ARTS DISTRICT – NORTH) AND EA (EUCLID AVENUE OVERLAY) ZONING DISTRICTS, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 1049-059-14.

WHEREAS, RWSS DEVELOPMENT LLC. ("Applicant") has filed an Application for the approval of a Planned Unit Development, File No. PUD22-001, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 0.86-acre of land located at the eastern terminus of Emporia Street, north of the Southern Pacific Railroad right-of-way, at 125 West Emporia Street within the within the MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and EA (Euclid Avenue Overlay) zoning districts, and is currently developed with a paved public parking lot; and

WHEREAS, the property to the north of the Project site is within the MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and EA (Euclid Avenue Overlay) zoning district and is developed with Office/Personal Services (Rojas Enterprises). The property to the east is within the CIV (Civic) zoning district and is developed with Ontario Museum of History and Art. The property to the south is within the RC (Rail Corridor) zoning district and is developed with a railroad for the Union Pacific Railroad. The property to the west is within the MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) zoning district and is developed with Work/Live Lofts (Emporia Street Lofts); and

WHEREAS, Ontario Plan describes the Downtown Mixed-Use Area as an intensive vertical and horizontal mixture of retail, office, and residential uses in a pedestrian friendly atmosphere, where the historic character is prominent. The most intensive uses are envisioned along Euclid Avenue and Holt Boulevard. The Downtown Mixed-Use Area is the historic core of Ontario, which has a unique blend of historic, social, and cultural uses set in a compact street grid. The Downtown Mixed-Use Area includes the Civic Center, City library and surrounding diverse residential neighborhoods that provide increased demand for retail opportunities along Euclid Avenue, Holt Boulevard and B Street; and

WHEREAS, the Policy Plan specifies that the Downtown Mixed-Use Area is to be implemented through the approval of an Area Plan or Planned Unit Development ("PUD")

prior to the development of properties within the Area. In compliance with this requirement, the Applicant has submitted the Art District West Planned Unit Development (included as Attachment A), which is consistent with this vision, and the goals and policies of the Policy Plan; and

WHEREAS, the purpose of the PUD is to secure a fuller realization of the Policy Plan than would result from the strict application of present zoning district regulations and to: [a] promote high standards in urban design; [b] encourage the development of exceptionally high quality, mixed-use, medium to high intensity projects, while establishing regulations and standards for uses with unique regulatory and design needs; and [c] ensure harmonious relationships with surrounding land uses; and

WHEREAS, the Art District West Planned Unit Development ("ADWPUD") is intended to function as a set of planning and design principles, development regulations, and performance standards to guide and govern the development of the 0.86-acre site. The ADWPUD will facilitate the development of retail and commercial services that will help achieve the City's goals to economically revitalize and aesthetically enhance the historic downtown area; and

WHEREAS, a PUD is comparable to a Specific Plan in that it sets development regulations that are unique to a specific area; however, it is also unlike a Specific Plan in that a PUD is typically intended to apply to a single development project or several interrelated development projects that function together as a single, comprehensive project; and

WHEREAS, the Project was submitted in conjunction with a Tentative Parcel Map (File No. PMTT21-009 (TPM 20394)) to subdivide 0.86-acre of land into a single lot to establish 22 commercial airspace condominium units, a Development Plan (File No. PDEV21-017) to construct two commercial buildings totaling 33,787 square feet, and a Certificate of Appropriateness (File No. PHP21-021) to allow for the construction of the proposed Project within the Euclid Avenue Overlay Zoning District; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act, commencing with Public Resources Code Section 21000 (hereinafter referred to as "CEQA"); and

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

WHEREAS, Ontario Development Code Table 2.02-1 (Review Matrix) grants the Planning/Historic Preservation Commission the responsibility and authority to review and make recommendation to City Council on the subject Application; and

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

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the Ontario International Airport Land Use Compatibility Plan ("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 February 22, 2022, the Planning/Historic Preservation Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED by the Planning/Historic Preservation Commission of the City of Ontario, as follows:

SECTION 1: Environmental Determination and Findings. As the recommending authority for the Project, the Planning/Historic Preservation Commission has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning/Historic Preservation Commission, the Planning/Historic Preservation Commission finds as follows:

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

(2) The Project is categorically exempt from environmental review pursuant to Section 15332 (Class 32, Infill Development Projects) of the CEQA Guidelines and meets all of the following conditions: (a) the proposed Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) the proposed development occurs within city limits and the area being developed is 0.86-acre, less than the maximum 5-acre threshold, and is substantially surrounded by urban land uses; (c) the Project site has no value as habitat for endangered, rare, or threatened species; (d) approval of the Project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) the site is adequately served by all required utilities and public services; and

(3) The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

(4) The determination of CEQA exemption reflects the independent judgment of the Planning/Historic Preservation Commission.

SECTION 2: *Housing Element Compliance.* Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending authority for the Project, the Planning/Historic Preservation Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the Project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the Project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

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 ALUCP, establishing the Airport Influence Area for Ontario International Airport (hereinafter referred to as "ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the recommending authority for the Project, the Planning/Historic Preservation Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3]

Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the Planning/Historic Preservation Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

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

(1) ***The proposed PUD, or amendment thereto, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.*** The proposed Project is located within the Downtown Mixed Use land use district of the Policy Plan Land Use Map, and the LUA-2N (Arts District - North) of the MU-1 (Downtown Mixed-Use) and EA (Euclid Avenue Overlay) zoning districts. The development standards and conditions under which the proposed Project will be constructed and maintained, 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 PUD, or amendment thereto, would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.*** The City has required certain safeguards, and has required certain changes, which have been established to ensure that: [i] the purposes of the Planned Unit Development are maintained; [ii] the Project will not endanger the public health, safety or general welfare; [iii] the Project will not result in any significant environmental impacts; [iv] the Project will be in harmony with the area in which it is located; and [v] the Project will be in full conformity with the Vision, City Council Priorities and Policy Plan components of The Ontario Plan.

(3) ***In the case of an application affecting specific property, the proposed PUD, or amendment thereto, will not adversely affect the harmonious relationship with adjacent properties and land uses.*** A thorough review and analysis of the proposed Project and its potential to adversely impact properties surrounding the subject site was completed by City staff. As a result of this review, certain design considerations were incorporated into the Project to mitigate identified impacts to an acceptable level, including the use of upgraded materials, the inclusion of certain architectural design elements on building exteriors, intensified landscape elements, and decorative hardscape elements.

(4) ***In the case of an application affecting specific property, the subject site is physically suitable, including, but not limited to, parcel size, shape, access,***

and availability of utilities, for the request and anticipated development. In preparing the proposed PUD, a thorough review and analysis of the proposed project and the Project site's physical suitability for the proposed Project was completed, including analysis of the Project size, shape, intensity of development, building height, building setbacks, site access, site landscaping and drainage, fences and walls, vehicle circulation, pedestrian connections, availability of mass transit, necessary street dedication and easements, public right-of-way improvements, availability of utilities and other infrastructure needs, off-street parking and circulation, building orientation and streetscapes, architectural character, building materials and color, and site signage.

(5) ***The proposed PUD is superior to that which could be obtained through the application of the Development Code or a specific plan.*** The proposed PUD addresses aspects of the project that are specifically related to the Development Plan proposed in conjunction with the PUD application, including necessary building setbacks, site access points, off-street parking and site circulation, and architectural character.

SECTION 5: Planning/Historic Preservation Commission Action. Based upon the findings and conclusions set forth in Sections 1 through 4, above, the Planning/Historic Preservation Commission hereby RECOMMENDS THE CITY COUNCIL APPROVES the herein described Application, subject to each and every condition set forth in the Department reports attached hereto as "Attachment A," and incorporated herein by this reference.

SECTION 6: Indemnification. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7: Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 8: Certification to Adoption. The Secretary shall certify to the adoption of the Resolution.

The Secretary Pro Tempore for the Planning/Historic Preservation Commission of the City of Ontario shall certify as to the adoption of this Resolution.

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning/Historic Preservation Commission of the City of Ontario at a regular meeting thereof held on the 22nd day of February 2022, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



Rick Gage
Planning/Historic Preservation
Commission Chairman

ATTEST:



Rudy Zeledon
Planning Director and
Secretary to the Planning/Historic
Preservation Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning/Historic Preservation Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC22-007, was duly passed and adopted by the Planning/Historic Preservation Commission of the City of Ontario at their regular meeting held on February 22, 2022, by the following roll call vote, to wit:

AYES: Anderson, Dean, DeDiemar, Gage, Lampkin, Ricci, Willoughby

NOES: None

ABSENT: None

ABSTAIN: None



Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

**File No. PUD22-001
Art District West Planned Unit Development
Departmental Conditions of Approval**

(Departmental conditions of approval to follow this page)



Art District West - The Vault Planned Unit Development

**Prepared By:
RWSS Development
1405 Fairplex Drive, Suite B3
La Verne, CA 91750
And
City of Ontario Planning Department**

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1. INTRODUCTION

This document is intended to function as a set of planning and design principles, development regulations and performance standards to guide and govern the development of a 0.86-acre parcel of land located on the southeast corner of Laurel Avenue and Emporia Street (see Exhibit 1-1, PUD Location Map).

The project site is located within the Ontario Plan Downtown Mixed-Use District, which requires the establishment of a Planned Unit Development (PUD) prior to development. The PUD fulfills the requirements of MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) zoning district, as set forth in Ontario Development Code Section 4.01.030 (Planned Unit Developments (PUD) and Amendments). The Art District West Planned Unit Development (PUD) will replace the existing zone district designations and zoning standards that apply to the affected property. Unless otherwise defined herein, definitions and interpretations contained in the Development Code shall apply. City staff and private developers will rely on this PUD to determine whether precise plans for development ("Development Plans") will adequately meet the City's land use and design objectives.

Exhibit 1-1: PUD Location Map

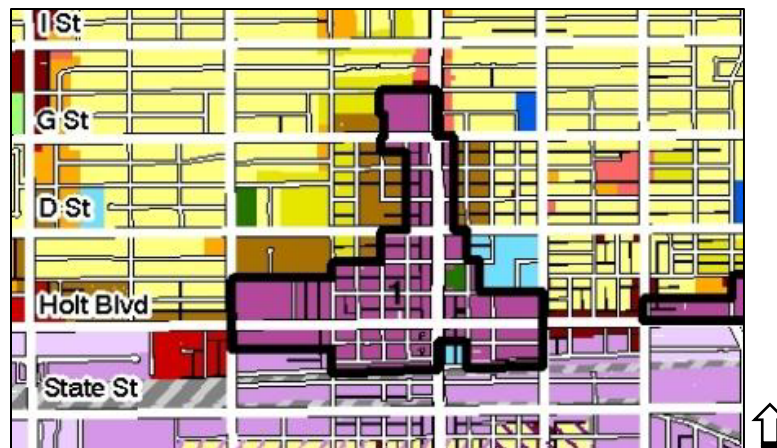


2. PUD OBJECTIVES

2.1 THE ONTARIO PLAN (TOP) CONSISTENCY

The Ontario Plan (TOP) Policy Plan (General Plan) designates the project area and surrounding properties as MU-1 (Downtown Mixed-Use). The Ontario Plan describes the Downtown Mixed-Use Area as an intensive vertical and horizontal mixture of retail, office, and residential uses in a pedestrian friendly atmosphere where the historic character is prominent. The most intensive uses are envisioned along Euclid Avenue and Holt Boulevard. The Downtown Mixed-Use Area is the historic heart of Ontario, which has a unique blend of historic, social and cultural uses set in a compact street grid. The Downtown Mixed-Use Area includes the Civic Center, City library and surrounding diverse residential neighborhoods that provide increased demand for retail opportunities along Euclid Avenue, Holt Boulevard and B Street. The densities and intensities of the mixed-use designation represented within The Ontario Plan (TOP) are the intended level of anticipated development; however, individual projects may vary depending upon an approved master plan, such as an area plan, specific plan, or planned unit development.

Exhibit 1-2: TOP Policy Plan Downtown Mixed-Use Area



The West Art District PUD is consistent with the principles, goals, and policies contained within the components that make up The Ontario Plan (TOP), including: (1) Vision, (2) Policy Plan (General Plan), and (3) City Council Priorities. The policies furthered by this PUD are as follows:

1. Vision

On February 13, 2007, the Ontario City Council adopted The Ontario Vision. The central theme that motivates the Vision is – *“A sustained, community-wide prosperity which continuously adds value and yields benefits.”* Everything the City does and every action the City takes is done with the simple yet comprehensive theme in mind, from the design quality of the built environment, to the intent of designing socio-economic programs, to the way in which its leaders govern as a community. In discussing a Vision that would endure for the lifetime of The Ontario Plan (30 years or more), the City

Council recognized that there are four components that serve as the basic building blocks that set the foundation for a unified and prosperous community. These foundational blocks must be expressed and widely accepted throughout the Plan's lifetime. They are:

1. A **Dynamic Balance** that enables our community to confront the continued dynamic growth of the region and technological change with confidence and a sense of opportunity.
2. A **Prosperous Economy** that sustains the perception and reality of prosperity across our entire community that positively impacts all the people of Ontario and is broadly – though not uniformly – shared.
3. **Distinctive Development** that integrates our varied and diverse focal points, districts, villages, and neighborhoods to provide a feeling of coherence without sacrificing uniqueness.
4. **Recognized Leadership** in local governance that stimulates excellence and serves to unify the people of Ontario in support of best practices in conducting public endeavors.

The Art District West PUD will implement the Ontario Vision in several ways that will further the City's desire to be a sustainable and prosperous community.

DISTINCTIVE DEVELOPMENT

Commercial and Residential Development

- The PUD will support, the City's Civic Center area, new multifamily developments and surrounding existing residential neighborhoods by providing the increased demand for retail uses and artistic uses in a more pedestrian friendly atmosphere.
- The PUD will seek to ensure additional mix of retail uses in the downtown that will provide additional services to the surrounding community and Civic Center area.

Design Quality

- The PUD will require a well-designed project(s) that convey's visual interest and character through:
 - Appropriate scale and massing
 - Architectural style and design that are complementary and appropriate for its setting.
 - The use of high-quality materials that will create visual interest, high quality, durable and appropriate for the architectural style.
 - Appropriate Site Planning to ensure building orientation visibility from the street, adequate number of driveways, sidewalks, building setbacks, parking lot orientation, adequate refuse storage areas and well-designed street frontages.

Public Safety

- The PUD will ensure that proper exterior lighting standards be located and designed to minimize direct glare beyond parking lots and future residential development/ or mixed-use projects in the downtown area. In addition, the Ontario Police Department requires that all lighting standards comply with a one-foot candle illumination to provide a level of security and public safety within the retail center.

2. Policy Plan

LAND USE ELEMENT

LU1 Balance

Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.

The PUD, through the development of retail, commercial uses and artistic uses, will help provide jobs to support the existing and new development within the surrounding downtown area.

Policies

- *LU1-3 Adequate Capacity. We require adequate infrastructure and services for all development.*

The PUD, along with the future development entitlements for the site, will require the necessary infrastructure to serve the site and provide the necessary right-of-way dedication for street widening.

- *LU1-4 Mobility. We require development and urban design, where appropriate, that reduces reliance on the automobile and capitalizes on multi-modal transportation opportunities.*

TOP Mobility Element System (Figure M-1) identifies Holt Boulevard as a future Bus Rapid Transit (BRT) Corridor. The PUD will seek to capitalize pedestrian traffic, vehicle and future BRT ensuring a mix of retail, commercial and artistic uses that will provide a variety of goods and services to the surrounding community and the future Buss Rapid Transit (BRT) users.

LU2 Compatibility

Goal LU2: Compatibility between a wide range of uses.

The PUD, through land use regulations for permitted uses, have ensured that those permitted uses allowed within the PUD are compatible with the MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and surrounding area and not allow those uses that may have potential to create adverse impacts to the surrounding area.

Policies:

- *LU2-1: Land Use Decisions: We minimize adverse impacts on adjacent properties when considering land use and zoning requests.*

The project area is zoned MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and requires that a PUD be implemented for the project area to establish the development standards, land use regulations and design guidelines. The permitted uses within PUD have been established to provide retail, commercial and artistic uses to serve the downtown, Civic Center and surrounding residential area. Careful consideration has been given to ensure that permitted uses that may have potential to create adverse impacts to the surrounding area are not allowed.

- *LU2-2 Buffers. We require new uses to provide mitigation or buffers between existing uses where potential adverse impacts could occur.*

The PUD, through the site planning, requires the that future building(s) developed on the site shall be placed along the frontage of Emporia Street to keep a buffer between the Southern Pacific Railroad to the south of the project and the future and existing developments to the north.

- *LU2-4 Regulation of Nuisances. We regulate the location, concentration and operations of potential nuisances.*

The project area is zoned MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and requires that a PUD be implemented for the project area to establish the development standards, land use regulations and design guidelines. The permitted uses within PUD have been established to provide retail, commercial and artistic uses to serve the downtown, Civic Center and surrounding residential area. Careful consideration has been given to ensure that permitted uses that may have potential to create adverse impacts to the surrounding area are not allowed. Those uses with operations that may have potential to create nuisances, will require discretionary approval through the Conditional Use Permit process.

- *LU2-5 Regulation of Uses. We regulate the location, concentration and operations of uses that have impacts on surrounding land uses.* The project area is zoned MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and requires that a PUD be implemented for the project area to establish the development standards, land use regulations and design guidelines. The permitted uses within PUD have been established to provide retail, commercial and artistic uses to serve the downtown, Civic Center and surrounding residential area. Careful consideration has been given

to ensure that permitted uses that may have potential to create adverse impacts to the surrounding area are not allowed.

LU3 Flexibility

Goal LU3: Staff, regulations and processes that support and allow flexible response to conditions and circumstances in order to achieve the Vision.

- *LU3-1 Development Standards. We maintain clear development standards which allow flexibility to achieve our Vision.*

To provide flexibility the densities and intensities of the mixed-use designation represented within TOP are the intended level of anticipated development; however, individual projects may vary depending upon an approved master plan, such as an area plan, specific plan, or planned unit development. The project area is zoned MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and requires that a PUD be implemented for the project area to establish the development standards, land use regulations and design guidelines. The development standards within the PUD are intended to ensure quality and appropriate development to achieve TOP Vision for well-designed projects that convey visual interest.

COMMUNITY ECONOMICS ELEMENT

CE1 Complete Community

Goal CE1: A complete community that provides for all incomes and stages of life.

The permitted uses within PUD have been established to provide retail, commercial and artistic uses to enhance the economic growth of downtown and serve the surrounding residential areas.

Policies:

- *CE1-7 Retail Goods and Services. We seek to ensure a mix of retail businesses that provide the full continuum of goods and services for the community.*

The permitted uses within PUD have been established to provide retail, commercial and artistic uses to serve the downtown and surrounding residential areas. These retail, commercial and artistic uses that will help to revitalize the downtown area and enhance its economic growth by much needed commercial and retail opportunities.

CE2 Place-Making

Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

The PUD will seek to ensure a mix a retail, commercial and artistic uses that will provide a variety of goods and services for the downtown and surrounding area. The PUD will seek to help revitalize the downtown area and enhance its economic growth by creating retail, commercial and artistic uses that provide opportunities within a historic downtown setting. The PUD area will be distinctive through the requirement of well-designed project(s) that respect and complement the historic context of downtown consist with the Downtown Ontario Design Guidelines (Adopted in 1998) through:

- Appropriate scale and massing
- Architectural style and design that are complementary and appropriate to for its setting.
- The use of high-quality materials that will create visual interest, high quality, durable and appropriate for the architectural style.
- Appropriate site planning to ensure building orientation visibility from the street, adequate number of driveways and sidewalks. Building setbacks, parking lot orientation, adequate refuse storage areas and well-designed street frontages.

MOBILITY ELEMENT

M3 Public Transit

Goal M3: A public transit system that is a viable alternative to automobile travel and meets basic transportation needs of the transit dependent.

TOP Mobility Element System (Figure M-1) identifies Euclid Avenue as a future Bus Rapid Transit (BRT) Corridor. The PUD will seek to capitalize pedestrian traffic, vehicle and future BRT ensuring a mix of retail and commercial uses and business that will provide a variety of goods and service to the surrounding community and the future Buss Rapid Transit (BRT) users. The PUD, along with the future development entitlements for the site, will require the necessary infrastructure to serve the site and provide the necessary rights-of-way dedication for street widening.

Policies:

- *M3-4 Bus Rapid Transit (BRT) Corridors. We work with regional transit agencies to implement BRT service to target destinations and along corridors, as shown in the Transit Plan.*

TOP Mobility Element System (Figure M-1) identifies Euclid Avenue as future Bus Rapid Transit (BRT) Corridor. The PUD will seek to capitalize pedestrian traffic,

vehicle and future BRT ensuring a mix of retail, commercial and artistic uses and business that will provide a variety of goods and service to the surrounding community and the future Buss Rapid Transit (BRT) users. The PUD, along with the future development entitlements for the site, will require the necessary infrastructure to serve the site and provide the necessary rights-of-way dedication for street widening.

COMMUNITY DESIGN

CD1 Image & Identity

Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

- To provide flexibility the densities and intensities of the mixed-use designation represented within TOP are the intended level of anticipated development; however, individual projects may vary depending upon an approved master plan, such as an area plan, specific plan, or planned unit development. The project area is zoned MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and requires that a PUD be implemented for the project area to establish the development standards, land use regulations and design guidelines. The development standards within the PUD are intended to ensure quality and appropriate development to achieve TOP Vision for well-designed projects that convey visual that respect and complement the historic context of downtown.

Policies:

- *CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.*

The PUD will seek to ensure a mix a retail, commercial and artistic uses that will provide a variety of goods and services for the downtown and surrounding area. The PUD will seek to help revitalize the downtown area and enhance its economic growth by creating retail, commercial and artistic uses that will provide opportunities within a historic downtown setting. The PUD area will be distinctive through the requirement of well-designed project(s) that respect and complement the historic context of downtown consist with the Downtown Ontario Design Guidelines (Adopted in 1998) through:

- Appropriate scale and massing
- Architectural style and design that are complementary and appropriate to for its setting.
- The use of high-quality materials that will create visual interest, high quality, durable and appropriate for the architectural style.

- Appropriate site planning to ensure building orientation visibility from the street, adequate number of driveways and sidewalks. Building setbacks, parking lot orientation, adequate refuse storage areas and well-designed street frontages.
- *CD1-4 Transportation Corridors. We will enhance our major transportation corridors within the City through landscape, hardscape, signage and lighting.*

TOP Mobility Element System (Figure M-1) identifies Holt Boulevard as future Bus Rapid Transit (BRT) Corridor. The PUD will seek to capitalize pedestrian traffic, vehicle and future BRT ensuring a mix of retail, commercial and artistic business that will provide a variety of goods and service to the surrounding community and the future Buss Rapid Transit (BRT) users.

CD2 Design Quality

Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

Policies:

- *CD2-1 Quality Architecture.* We encourage all development projects to convey visual interest and character through:
 - Building volume, massing, and height to provide appropriate scale and proportion;
 - A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
 - Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

The PUD will seek to help revitalize the downtown area and enhance its economic growth by creating retail, commercial and artistic opportunities within a historic downtown setting. The PUD area will be distinctive through the requirement of well-designed project(s) that respect and complement the historic context of downtown consist with the Downtown Ontario Design Guidelines (Adopted in 1998) through:

- Appropriate scale and massing
- Architectural style and design that are complementary and appropriate to for its setting.
- The use of high-quality materials that will create visual interest, high quality, durable and appropriate for the architectural style.
- Appropriate site planning to ensure building orientation visibility from the street, adequate number of driveways and sidewalks. Building setbacks,

parking lot orientation, adequate refuse storage areas and well-designed street frontages.

- *CD2-3 Commercial Centers. We desire commercial centers to be distinctive, pedestrian friendly, functional and vibrant with a range of businesses, places to gather, and connectivity to the neighborhoods they serve.*

The permitted uses within PUD have been established to provide retail, commercial and artistic uses to serve the downtown, Civic Center, Arts District and surrounding residential area. The PUD will seek to capitalize on the downtown location by ensuring a mix a retail, commercial and artistic uses that will easily accessed by pedestrians through downtowns unique grid street pattern design.

- *CD2-5 Streetscapes. We design new and, when necessary, retrofit existing streets to improve walkability, bicycling and transit integration, strengthen connectivity, and enhance community identity through improvements to the public right of way such as sidewalks, street trees, parkways, curbs, street lighting and street furniture.*

The PUD, along with the future development entitlements for the site, will require the necessary infrastructure to serve the site and provide the necessary right-of-way dedication and/or improvements.

- *CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.*

The PUD development standards will ensure landscape design and materials will be used to enhance the aesthetics of structure(s), create and define public and private spaces, and provide shade and environmental benefits.

- *CD2-10 Surface Parking Areas. We require parking areas visible to or used by the public to be landscaped in an aesthetically pleasing, safe and environmentally sensitive manner. Examples include shade trees, pervious surfaces, urban run-off capture and infiltration, and pedestrian paths to guide users through the parking field.*

The PUD development standards will ensure water conservation be provided through low water using plant materials, hydro zones, water efficient irrigation and weather-based controllers. Landscaped areas may be used for storm water infiltration through vegetated swales, retention basins, or dry wells as needed with the use of appropriate planting materials. Broad canopy shade trees will be used to reduce heat gain on buildings, paving and parking areas

City Council Priorities

- Invest in the Growth and Evolution of the City's Economy
- Maintain the Current High Level of Public Safety
- Operate in a Businesslike Manner
- Pursue City's Goals and Objectives by Working with Other Governmental Agencies
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
- Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

2.2 CENTER CITY REDEVELOPMENT PLAN OBJECTIVES

The Center City Project Area encompasses the historic Euclid Avenue District, as well as East Holt Boulevard. Ontario's City Hall and surrounding Civic Center, Senior Center, Ovitt Family Community Library, the Museum of History and Art, Ontario Town Square, and the Law School of the University of La Verne are all within the Center City Project Area. Development is designed to create an immediate and positive identity transforming the area into a comfortable place to stroll and be seen.

The current goals of the Center City Project include:

- Encourage development of a high intensity, multi-use central business district and surrounding neighborhoods that maximize the economic productivity of the commercial areas and maximize the housing opportunities of the residential areas.
- Apply innovative mixed-use urban design that maintains a flexible approach to allow for changing opportunities over a long-term, phased revitalization effort.
- Create a healthy and exciting urban environment, with the ability to work, live, shop and play within a small area, combine daytime and nighttime use and conserve energy and resources through mixed use development.
- Cluster activity centers within walking distance of each other, supported by a pedestrian network that provides an enjoyable pedestrian flow.

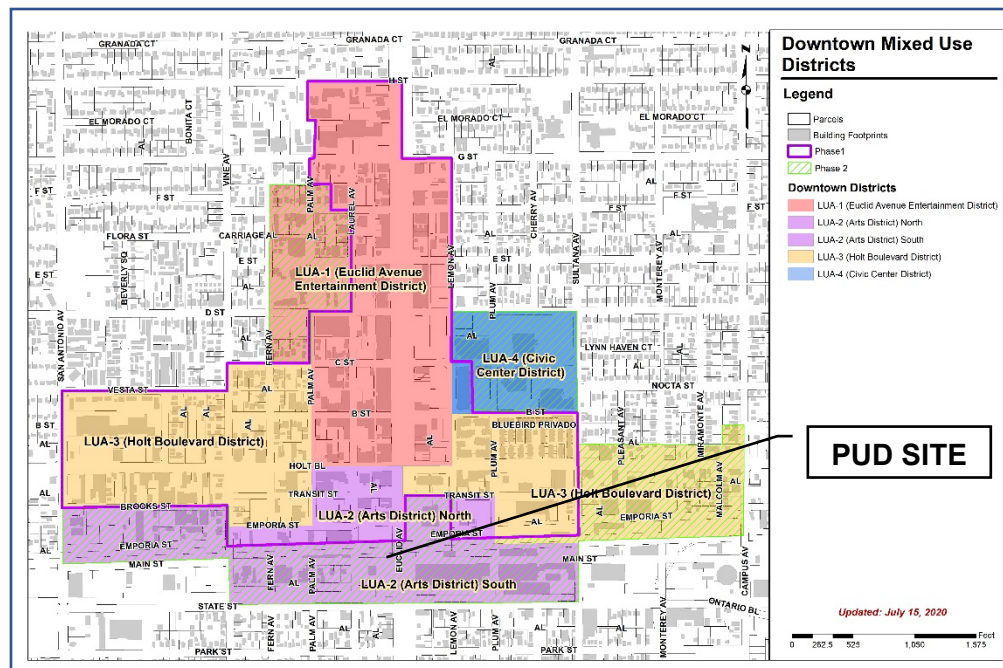
2.3 MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North)

The project is located within MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) zoning district (see Exhibit 1-3, MU-1 (Downtown Mixed Use) Districts Map). The Arts District is intended as a dynamic destination for locals and tourists, while creating a fulfilling urban experience energized by artistic, educational, and commercial participants. The focus of the Area

is to increase the number of collaborated events and programs within the Area, with the intent to attract visitors, promote economic vitality, and boost revenue. Street fairs, artist festivals, restaurants, galleries, work/live lofts, breweries, and artisan co-ops will contribute to the physical and cultural diversity of the Arts District.

The Arts District North is intended to accommodate a mix of work/live lofts, artisan co-ops, restaurants, galleries, breweries, and other commercial uses intended to strengthen the economic base of the area.

Exhibit 1-3: MU-1 (Downtown Mixed Use) Districts Map



2.3 PUD DISTRICT PURPOSE AND OBJECTIVES

The Art District West Planned Unit Development (PUD) is intended to function as a set of planning and design principles, development regulations, and performance standards to guide and govern the development of the 0.86-acre site. This PUD will facilitate the development of retail, commercial and artistic services that will help achieve the City's goals to economically revitalize and aesthetically enhance the historic downtown area.

The objectives of the PUD District are to:

- Promote development projects that are consistent with the land use/downtown revitalization objectives of the Center City Redevelopment Project area.
- Promote the revitalization the downtown area and enhance its economic growth by creating retail uses within a historic downtown setting.

- Promote community retail, commercial and artistic uses to meet the needs of the downtown residents, Civic Center visitors and surrounding residential neighborhoods.
- Promote the development of outdoor patio as part of the commercial development providing for social and pedestrian interaction.
- Orient commercial buildings along the frontage of Emporia Street and Euclid Avenue to create an accessible urban edge and sense of arrival and appropriate relationships among new and existing adjacent land uses.
- Provide for a circulation network which promotes pedestrian walkways and bicycle activity as alternative modes of travel while also providing for safe and efficient movement of automobile travel through the project site.
- Incorporate a landscape to enhance and compliment the urban environment along Emporia Street and the Euclid Avenue slope along the eastern boundary of the site.

3. LAND USE PLAN

3.1 LAND USE DESIGNATION

This PUD establishes the MU-1 Commercial district and the land use designations, as shown on Exhibit 1-4, Permitted Use Table, for the project limits. Retail, commercial and artistic uses are strongly encouraged to accommodate a mix of artisan co-ops, restaurants, galleries, breweries, and other commercial uses intended to strengthen the economic base of the downtown area.

Exhibit 1-4: PUD Land Use Plan



3.2 PERMITTED USES

Table 3-1 (Permitted Uses) shows the allowable land use, activity or facility permitted within the Mixed Use 1 (MU-1) Commercial District of the Art District West PUD. A land use not listed in Table 3-1 shall be considered a prohibited land use. For a land uses like those listed in Table 3-1, but not expressly stated in the PUD, the Planning Director or her/his designee has the authority to make a determination of applicability of the similar land uses.

Table 3-2: Permitted Uses

“P” (Permitted) shall mean the land use, activity, or facility within the specified zoning district is permitted by right of being in the proper zoning district.

“C” (Conditionally Permitted) shall mean the land use, activity, or facility within the specified zoning district is subject to the granting of a Conditional Use Permit pursuant to Section 4.02.015 (Conditional Use Permits) of the Ontario Development Code.

“A” (Administratively Permitted) shall mean the land use, activity, or facility within the specified zoning district is subject to the granting of an Administrative Use Permit pursuant to Section 4.03.015 (Administrative Use Permits) of the Ontario Development Code.

“NP” (Not Permitted) shall mean the land use, activity, or facility within the specified zoning district is not permitted by right of being in the proper zoning district.

All other uses not listed as Permitted or Conditional are prohibited unless a finding can be made by the Planning Director that the use is similar to, and no more objectionable than, a permitted or conditional use.

Land Use	MU-1 Commercial	Notes
MEDICAL		
Animal Hospital/Veterinarian	NP	
Medical Office	NP	
MEDICAL OFFICE/FAMILY CLINIC		
Pharmacies and Drug Stores	NP	
Pharmacies and Drug Stores with Drive-thru Facilities	NP	
Industrial Clinic	NP	
PUBLIC FACILITIES		
Police / Fire Station	P	
Police Storefront / Substation	P	
RELIGIOUS		
Religious Assembly	C	
NON-PROFIT/SERVICE ORGANIZATIONS 501 (C) (3) (PER DEVELOPMENT CODE SECTION 9-101305 N)		
Campaign Offices	P	
Charitable, Philanthropic, Service and Other Non-Profit Organization Offices	P	
Charitable Distribution Services (i.e. Food Banks, etc.)	NP	
ALCOHOL		
Alcoholic Beverage Sales for Off-Premise Consumption	C	
Alcoholic Beverage Sales for On-Premise Consumption GFA than 10,000 SF	A/C	1
Alcoholic Beverage Sales for On-Premise Consumption GFA more than 10,000 SF	C	1
Liquor Store	NP	
AUTOMOBILE RELATED SERVICES		
Automotive Parts and Accessories Stores (Retail Sales Only)	P	
Indoor Vehicle (Car Condos) storage and display	P	3
Automotive Services (i.e. Tune-Up, Emission Tests, Batteries, etc. No use of impact wrenches or other equipment that could create noise impacts.)	NP	
Minor Repair (i.e. Brakes, tires, radiators, electrical, etc.)	NP	
Gas Stations	NP	
Tire Stores	NP	
Car Wash – Full	NP	
TELECOMMUNICATIONS FACILITIES		
Wireless Telecommunications Facility (Refer to the Development Code)		

Table 3-2: Permitted Uses

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“**NP**” (Not Permitted) shall mean the land use, activity, or facility within the specified zoning district is not permitted by right of being in the proper zoning district.

All other uses not listed as Permitted or Conditional are prohibited unless a finding can be made by the Planning Director that the use is similar to, and no more objectionable than, a permitted or conditional use.

Land Use	MU-1 Commercial	Notes
DAY CARE FACILITIES		
Commercial Daycare	NP	
EATING DRINKING PLACES AND FOOD SERVICES		
Restaurants (Sit Down / Full Service)	P	
Banquet Facilities in conjunction with a restaurant	P	
Bar/Cocktail Lounge	C	
Tap Room, Pub, Wine Bar (Including Tastings)	A	
Fast Food	P	
Fast Food with Drive-thru Facilities	NP	
Caterers	P	
ENTERTAINMENT AND RECREATION		
Live Entertainment (in conjunction with restaurant use only) – GFA than 10,000 SF	A/P	
Live Entertainment (in conjunction with restaurant use only) – GFA 10,000 or more SF	C	
OFFICES		
Administrative, Professional, and Other Offices	P	
RETAIL		
Antique Stores	P	
Art Galleries and Art Supply Store	P	
Art Dealers	P	
Beauty Supply Store	P	
Book Stores	P	
Hardware Store	P	
Camera and Photographic Supply Store	P	
Cigar and other Tobacco Products Store	NP	
Clothing and Accessory Stores	P	
Computer and Home Electronic Stores	P	
Convenience Store	P	
Florist	P	
Furniture Stores	P	
General Merchandise Stores	P	
Department Store	P	
Discount Variety Store	NP	
Guns and Ammunition Stores	NP	
Hobby, Toy and Game Store	P	

Table 3-2: Permitted Uses

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“NP” (Not Permitted) shall mean the land use, activity, or facility within the specified zoning district is not permitted by right of being in the proper zoning district.

All other uses not listed as Permitted or Conditional are prohibited unless a finding can be made by the Planning Director that the use is similar to, and no more objectionable than, a permitted or conditional use.

Land Use	MU-1 Commercial	Notes
Home Appliance Store	P	
Jewelry Store	P	
Luggage and Leather Goods	P	
Music and Video Stores	P	
Office Supply, Stationery & Gift Stores	P	
Pawnshop / Pawnbroker	NP	
Pet and Pet Supply Store	P	
Shoe Store	P	
FOOD AND BEVERAGE STORES		
Bakery	P	
Delicatessen	P	
Convenience Market	P	
Grocery Store	P	
Specialty Food Stores	P	
SERVICES		
Advertising Agency	P	
Data Processing Services	P	
Photography Studio	P	
Photocopying and Duplicating Services	P	
FINANCIAL SERVICES		
Banks, Credit Unions and other Depository Institutions	P	
Banks, Credit Unions and other Depository Institutions with Drive-thru Facilities	NP	
Check Cashing	NP	
Check / Payday Advance	NP	
Money Transmitting	NP	
Other Financial Services	NP	
PERSONAL SERVICES		
Barber Shop and Beauty / Nail Salon	P	
Dry Cleaners	P	
Laundry - Commercial	NP	
Pet Grooming	P	
Tailor	P	
Travel Agency	P	
REPAIR SERVICES		

Table 3-2: Permitted Uses

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All other uses not listed as Permitted or Conditional are prohibited unless a finding can be made by the Planning Director that the use is similar to, and no more objectionable than, a permitted or conditional use.

Land Use	MU-1 Commercial	Notes
Computer, Home Electronics, and Small Home Appliances (when ancillary to another use)	NP	
Electrical Equipment	NP	
Jewelry and Watches / Clocks	P	
Locksmith / Key Shop	P	
MANUFACTURING		
Boutique/Artisan Small-Scale and Micro Manufacturing Facilities	P	2
INFORMATION		
Sound (Audio) Recording Studio	P	
RESIDENTIAL		
Multiple Family Dwellings	NP	
Second Dwelling Units	NP	
Senior Housing Developments	NP	
Single-Family Dwellings	NP	
Single Room Occupancy Facilities	NP	
Supportive Housing	NP	
Work/Live Units	C	
EDUCATIONAL SERVICES, SCHOOLS AND INSTRUCTION		
Public/Private Fine Arts Schools (nonacademic instruction, including music, dance, performing arts, drama, photography, ceramics, painting and sculpture)	P	
Arts, Entertainment and Recreation		
Promoters of Performing Arts, Sports and Similar (offices only)	P	
Independent Artist, Writers, and Performers (office only)	P	

Notes

1. In the MU-1 zoning district, live entertainment is administratively permitted only in conjunction with a bona fide restaurant or alcoholic beverage manufacturer's tasting room, tap room, pub or wine room.
2. See Ontario Development Code Section 5.03.037 (Artisan Small-Scale and Micro Manufacturing Facilities)
3. See Section 4.4 Car Condo (Vehicle) Store Regulations

4. DEVELOPMENT REGULATIONS

This section sets forth the standards to govern the placement, height, and bulk of permitted buildings and structures; to establish locational criteria for vehicular access to site, parking and loading requirements, landscape, sign standards; and identify historic preservation features to be incorporated and/or considered for development plans. Unless otherwise stated herein, all development within the project area shall meet the applicable standards and requirements of the Ontario Development Code.

4.1 INTENSITY

Commercial retail uses within the mixed-use district are allowed a Floor Area Ratio (FAR) of up to 1.0. Floor Area Ratio is calculated by dividing the building square footage by the net lot area (after right-of-way dedications).

4.2 BUILDING HEIGHT

The buildings within the MU-1 PUD Commercial district area shall be a maximum of 35 feet or consistent with scale and height of the adjacent buildings along Emporia Street. Architectural projections, such as parapet articulations, cornices, towers, etc. may be constructed at a height of 25% above the prescribed height of the zoning district.

4.3 BUILDING\ PARKING SETBACKS

All setbacks shall be measured from the ultimate property lines after all dedications to develop streets to the ultimate right-of-way width (Table 4-1, Building Setback(s)). Placement of buildings, structures, fences, walls, utility facilities, yards, etc. will be based on the street right-of-way and property line dimensions.

Table 4-1: Building(s) Setbacks		
MU-1 Commercial District Development Standards		
Requirements	MU-1 Commercial District	Additional Requirements
Building Development Standards		
1. Emporia Street Setback	0 Feet Minimum 3.5 Feet Maximum	Building Architectural features/awnings may encroach into the right-of-way, subject to the California Building Code requirements.
2. Euclid Avenue Street Setback	0 Feet Minimum 5 Feet Maximum	Building Architectural features/awnings may encroach into the right-of-way, subject to the California Building Code requirements. Edge of slope (right-of -way), along the Euclid Avenue Street side frontage, shall be landscaped.
3. Interior Side Property Setbacks 4. Rear Property Setbacks	0 Feet Minimum 0 Feet Minimum	Setback areas shall be landscaped
Site Development Standards		
1. Minimum Landscape Coverage	N/A	All setback areas, building entry areas shall be landscaped.
2. Minimum Parking Space or Drive Aisle Setbacks to face of curb	5 feet	Setback areas shall be landscaped.
3. Minimum Parking Space or Drive Aisle Setbacks to Interior Side Property Lines	5 Feet	Setback areas shall be landscaped.
4. Minimum Parking Space or Drive Aisle to buildings, walls or fences	5 Feet	Setback areas shall be landscaped.

4.4 LANDSCAPING

Landscaping elements provide significant contributions to the aesthetic quality and character of the Art District West PUD, with respect to public and private spaces. Detailed landscape/irrigation plans shall be included in the Development Plan submittals for the PUD. The plan shall specify all landscape and hardscape elements for the development plan site and indicate how the improvements will coordinate with the other sites within the PUD. The landscape plans shall show the location of all ground mounted utility structures such as transformers, back flow prevention devices, trash enclosures, and HVAC equipment and indicate the methods for screening these items. All utility structures and equipment shall be screened from view of the public streets and adjacent development.

Water conservation shall be provided through low water using plant materials, hydro zones, water efficient irrigation and weather-based controllers. Landscaped areas may be used for storm water infiltration through vegetated swales, retention basins, or dry wells as needed with the use of appropriate planting materials. Broad canopy shade trees shall be used to reduce heat gain on buildings, paving and parking areas. The plan shall identify all existing trees on site and preserve them where possible. The landscape design shall meet the requirements of the Landscape Development Standards outlined in the Ontario Development Code and shall create well-functioning spaces within a sustainable design.

Landscaping shall be used on the site to show transition from adjacent uses, define a circulation pattern on the lot, screen the parking lot from the street, highlight entries, provide shade for parking as well as outdoor seating areas, and to soften the appearance of the building.

Developments shall comply with the following:

- All setback areas, building entry areas shall be landscaped.
- At a minimum, landscaping shall include 15-gallon trees planted no more than 20 FT on center, within minimum 5-FT wide planters.
- A suitable plant material (grasses, ivy, etc.) should be used as ground cover in planters.

Street trees shall comply with the variety, size, and spacing as directed by the City of Ontario Master Street Tree Plan.

4.5 EQUIPMENT AND MECHANICAL SCREENING

All roof mounted and ground mounted equipment shall be fully screened from view of the public street and adjacent developments. The location of items shall be designed to allow screening with landscape materials, walls, architectural features, parapet walls, etc. Screening shall be designed to be integrated into the design of the project.

Ladders for roof access shall be mounted on the inside of the building or shall be completely concealed from public view.

4.6 FENCES AND WALLS

Fences and walls within the project area shall be made of decorative materials which are compatible with the overall architectural character of the development within the PUD area. All fences and walls shall be in scale with the development to fulfill such needs as screening and security.

Fences, walls and hedges within the project area shall comply with Engineering Corner Sight Distance Standards and other applicable standards. All decorative walls, monuments and/or other similar features shall not encroach into the public street right-of-way.

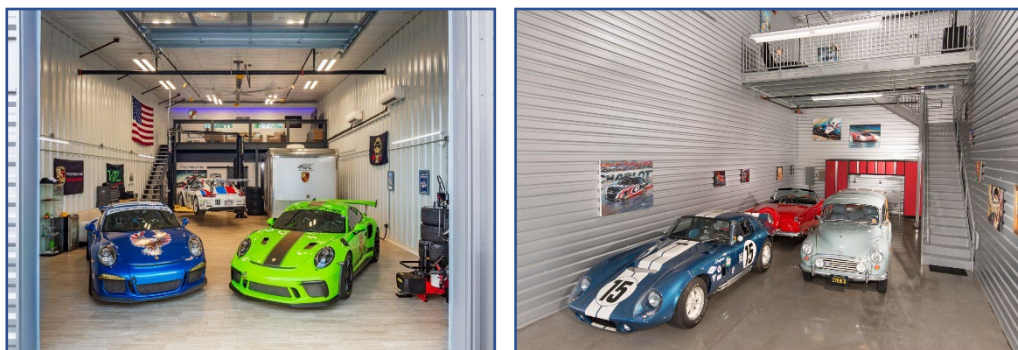
Walls shall be limited to a maximum of four (4) feet in height within any street frontage areas. Interior or rear walls shall be a maximum of six (6) feet in height.

Walls shall be an integral design of the building architecture and feature similar finished material, reveal lines, trim, etc.

4.5 CAR CONDO (VEHICLE) STORAGE REGULATIONS

Car Condominiums are space you own and customize – much more than just a place to house your car; they're a lifestyle (Artform) that is being embraced by car aficionados of all sports, classic, racing, exotics, hot rods and collectible cars. Car Condos works similar to a regular condominium. The developer handles the permits and construction, and then the buyer builds out the inside of the unit the way they want.

Car Condos offer car enthusiasts a safe, secure and private space to store and display their vehicles, other motorized toys and treasures. The condo units can be customized to include a loft area for an office, TV viewing area and refreshment kitchenette area.



The following standards shall govern the establishment and operation of Car Condos (Vehicle Storage) are intended to result in facilities that are well designed, maintained and enhance the Arts Districts area in which they are located in.

Car Condo (Vehicle Storage) facilities shall comply with the following:

1. Covenants, Conditions, and Restrictions (CC&Rs) will be required to be recorded for the condominium car units and subject to City review and approval. CC&Rs shall include the following:

(a) CC&Rs shall be prepared for the Project and shall be recorded prior to the issuance of a building permit.

(b) The CC&Rs shall be in a form and contain provisions satisfactory to the City. The articles of incorporation for the property owner's association and the CC&Rs shall be reviewed and approved by the City.

CC&Rs shall ensure reciprocal parking and access between parcels, and common maintenance of:

- (i)** Landscaping and irrigation systems within common areas;
- (ii)** Landscaping and irrigation systems within parkways adjacent to the project site, including that portion of any public highway right-of-way between the property line

or right-of-way boundary line and the curb line and also the area enclosed within the curb lines of a median divider (Ontario Municipal Code Section 7-3.03), pursuant to Ontario Municipal Code Section 5-22-02;

- (iii) Shared parking facilities and access drives; and
- (iv) Utility and drainage easements.

(c) CC&Rs shall include authorization for the City's local law enforcement officers to enforce City and State traffic and penal codes within the project area.

(d) The CC&Rs shall grant the City of Ontario the right of enforcement of the CC&R provisions.

(e) A specific methodology/procedure shall be established within the CC&Rs for enforcement of its provisions by the City of Ontario, if adequate maintenance of the development does not occur, such as, but not limited to, provisions that would grant the City the right of access to correct maintenance issues and assess the property owners association for all costs incurred.

2. All motor vehicle storage shall include the keeping of automobiles, trucks, vans, recreational vehicles and watercraft, motorcycles, trailers, forklifts, and any inoperative vehicle, regardless of vehicle type.
3. The indoor storage of motor vehicles shall comply with all applicable requirements of the fire and building codes.
4. Any use that creates excessive noise, dust, hazardous materials or pollutants, or result in obvious fire hazards or negatively impact the reasonable use and enjoyment of other units are not permitted.
5. Minor vehicle maintenance (oil change, detailing, tune-ups, etc.) is allowed provided that the work does not reasonable interfere or negatively impact other units. Painting, bodywork or welding is not permitted.
6. Car washing is allowed, subject to National Pollutant Discharge Elimination System (NPDES) and City regulations.
7. The units may not be used for residential living. Loft office areas, kitchenette (sink, refrigerator, microwave) TV lounge areas, bathrooms and showers are permitted.
8. All vehicles, trailers and/or accessories must be stored within the enclosed unit. No outside storage is allowed.
9. Retail sales or commercial office uses from units is prohibited.
10. Retail or wholesale sales of vehicles from units is prohibited.
11. No exterior sign, placard, picture, advertisement, name or notice may be installed or displayed on any part of the outside exterior of a unit.

5. CIRCULATION, PARKING, & INFRASTRUCTURE

Access to the site will be limited to Emporia Street only.

5.1 PEDESTRIAN CONNECTIONS

Pedestrian connections shall be provided to each building from the public street within the PUD site. The Mixed-Use Commercial land use district shall also provide pedestrian pathways/sidewalks, along Emporia Street, to connect to the residential, work/live lofts and commercial developments surrounding the PUD area.

5.2 PUBLIC RIGHT-OF-WAY IMPROVEMENTS

The public right-of-way shall be improved with each proposed development. The public right-of-way improvements required are to include but are not limited to the following: street pavement, curb and gutter, parkway landscaping, parkway irrigation, public sidewalk, traffic signing and striping, streetlights, bus stop, bus shelter and amenities. The extent of the required improvements shall be determined for each development plan. At a minimum, the improvements shall incorporate all items along the street frontages of the properties to be developed with proper transitioning if the entire block frontage is not being installed with a development.

5.3 INFRASTRUCTURE

There is an existing 6-inch water line within Emporia Street that shall serve the PUD site, which connects to a 4-inch STL in Laurel Avenue (undersized). The water main will be required to be upsized, possibly to a 12-inch - required size and limits to be determined by the fire flow test. However, it is likely that the upsize will take place from the intersection of Holt Boulevard and Laurel Avenue, south to the intersection of Emporia Street and Laurel Avenue, due east to the end of the cul-de-sac to provide adequate fire service.

Wastewater flows for the PUD site will be designed to use an existing 8-inch sewer line located within Emporia Street.

On-site stormwater drainage facilities shall be provided to capture and infiltrate a 2-yr, 24-hour storm event, consistent with the San Bernardino County Stormwater Program's Water Quality Management Plan (WQMP) requirements for new development projects. Stormwater capture and infiltration facilities may include the utilization of vegetated swales, depressed landscaped basins, pervious concrete pavement or underground stormwater retention/infiltration vaults. All building roof and paved area runoff shall be directed into depressed landscaped swales, trenches or basins, within the development, in order to comply with the requirement to capture and infiltrate the 2-yr, 24-hour storm event runoff.

The Applicant/Developer will be responsible to design and construct street improvements, along property frontage of Emporia Street, in accordance with conditions issued by City's Engineering Land Development Division. These, and all other street improvements required herein, shall include, but not limited to, concrete curb and gutter, sidewalk, LED streetlights, signing and striping, and parkway landscaping.

Existing Street light fixtures, along Emporia Street will be required to be replaced with City-approved LED equivalent fixtures. Refer to the Traffic and Transportation Design Guidelines for LED fixture requirements. The type of street lighting will be determined at the time of development.

5.4 PARKING

Parking shall be provided on-site at the rates required by the City of Ontario Development Code. One parking space within each Car Condo Unit may be counted towards required parking for vehicle storage use. In addition, the Downtown Parking Model may be used to obtain required parking for uses within the PUD.

The Downtown Ontario Parking Model was created in 2002 to provide a means of assessing parking demand and capacity in the downtown area. As in most downtowns, on-site parking is not typically attainable due to as-built conditions, including small lots, historic buildings with no setbacks, alley loaded streets, and excessive lot coverage. The Excel-based parking model specifically evaluates demand based on land use and capacity at maximum build out on an hour-by-hour and block-by-block basis. The model provides an estimate of parking availability (on-site and street parking combined) with shared parking within the downtown district as the premise.

6. DESIGN GUIDELINES

The following design guidelines are intended as a reference to assist the designer in understanding the City's goals and objectives for high quality commercial development. The guidelines compliment the mandatory development standards contained in Subsection 4 (Development Regulation) above.

Design principles and examples of desired styling elements to guide the development within the downtown are set forth in the Downtown Ontario Design Guidelines ("Guidelines"), adopted by the Ontario City Council on August 18, 1998. The design guidelines in this PUD are general in nature and may be interpreted with some flexibility in their application to specific projects. The guidelines will be utilized during the City's development review process to encourage the highest level of design quality, while at the same time providing the flexibility necessary to encourage creativity on the part of the project designer(s). As such, some variations from the Guidelines are permitted, provided that the integrity of the urban design and historic preservation principles is not compromised. To safeguard the integrity of the historic district, a Certificate of Appropriateness is required for development.

6.1 SITE DESIGN

The site design shall minimize pedestrian/vehicle conflicts by creating opportunities for building entry plazas, outdoor dining, and landscaped pathways that promote safe and convenient pedestrian movement.

6.2 BUILDING ORIENTATION

Buildings should be oriented towards Emporia Street. Frontages should be enhanced with entry elements, interesting architecture, enhanced materials, and pedestrian scale to provide connection between the development and the street. Windows and entries should face the street avoiding blank walls dominating public views. Stores with entries not visible from the street may be oriented towards pedestrian open space. The building entries may be located on the side of the building so long as strong pedestrian connection is maintained through wide walkways, enhanced pavers, plazas, appropriately scaled lighting and/or other similar features. Rear entrances, if needed, should be secondary in nature.

6.3 BUILDING STREET SIDE SETBACKS

The sides of buildings along street edges shall be landscaped within the setback to soften the building's appearance as well as designed with windows or design elements.

6.4 STREET FRONTAGE AND PARKING LOTS

Parking lots should generally be placed away from streets. Street frontages shall be broken up with buildings, landscaping, plazas, and other pedestrian features. Continuous parking lots along the street frontage should be avoided. Any parking along street edges shall be setback with a landscaped buffer to minimize the dominant feeling of the automobile along the street. Continuous

parking stalls may be interrupted by landscaped islands no more than 10 stalls apart. Parking lots are encouraged to be interconnected rather than separated for each building. Separated parking lots encourage customers to drive from store to store. Parking lots shall not be visible from the Euclid Avenue corridor.

6.5 SERVICE AND STORAGE AREAS

Loading areas and storage areas are to be located behind or to the side of buildings (West side) siting onto Emporia Street. These features must be screened with walls and landscaping as much as possible from public view of streets, residences, and pedestrian walkways. Loading areas and storage areas should not conflict with pedestrian walkways.

6.6 REFUSE CONTAINERS

Refuse containers and equipment shall be easily accessed by service vehicles. Service facilities such as trash enclosures, loading zones and yard areas shall be designed, located and oriented to have a minimal visual impact on the development within the PUD area. Trash enclosures shall be designed to coordinate with the architecture, colors and materials of the style of the development and shall be located to provide adequate access for trash pickup without encroaching on access drives or landscaped areas. Trash enclosures shall be designed and constructed with a solid roof cover which shall also be designed to match the architecture of the development. The enclosure may be designed to be incorporated into the building, subject to City review/approval, in order to screen the enclosure appropriately.

6.7 SIDEWALKS

Sidewalks shall be located along natural pedestrian travel paths. Sidewalks should be a minimum of 5' wide along pedestrian pathways.

6.8 ARCHITECTURAL CHARACTER\DETAILS

The project area is located within Ontario's historic downtown area and shall comply with the Downtown Ontario Design Guidelines. The Downtown Ontario Design Guidelines were adopted in 1998 to guide the physical revitalization of Ontario's historic downtown. The Guidelines provide architectural and design principals, as well as design concepts for downtown districts. The project area is located within the Education Center, a mixed-use area with a focus on commercial, retail, public, and educational uses.

The design principles and desired architectural features for the mixed-use blocks are derived from the architectural style and elements set forth in Section 3.5.3 of the Downtown Design Guidelines, with respect to storefront modulation, entrances, roof design, mechanical equipment, building elements (cornices, storefront frame, mid-floor panel, transom windows, bulkheads), awnings, materials and colors. Those guidelines, together with the following, shall be incorporated into the Development Plans and Certificates of Appropriateness for each block, subject to final interpretation by the Planning/Historic Preservation Commission and City Council.

Architectural Character

- Create an architectural character that compliments the various styles within the historic downtown by using similar proportions, building details and building material.
- New buildings should appear to fit in contextually with existing historic buildings by using similar proportions, articulation, building details and building material.
- The overall character should feel like a modern interpretation of a traditional American small town.
- Create compatibility between the mixed-use architecture and the residential architecture within the downtown area; the introduction of unifying elements such as similar materials and colors should be considered; however, “sameness” is discouraged.

Massing & Scale

- Employ simple, yet varied massing, with wall openings that create shadow line and provide visual relief. Monolithic buildings and extensive blank wall surfaces are not allowed.
- Emphasize massing and height of corner elements
- Building increments should be a maximum of 50 feet in width. Buildings that exceed fifty (50) feet of frontage should use various architectural devices to replicate the building increments and pattern of the existing downtown including horizontal breaks and offsets every 25 to 50 feet
- The upper portion of the buildings should reflect the same increment of articulation as the ground level (storefront level)
- The cornices and moldings at the top of facades should also reflect the vertical massing (increments) of the building
- Use strong and identifiable building forms to demarcate street intersections for instance, a taller building mass, tower element/clock tower, or cupola may be considered.
- Where adjacent buildings will be of varying heights, they should be sensitively designed to promote a compatible transition in massing and avoid abrupt changes in scale along the streetscape.

Articulation & Fenestration

- Design buildings with 3-dimensional quality; building facades should be based upon a pleasing set of proportions and a clear pattern of building openings.
- Differentiate between the base, middle and top levels of a building; for instance, street-oriented shops may feature a 1) a bulkhead; 2) display windows; and 3) transom and detailed cornice.
- Avoid monotonous or blank facades on a building; buildings shall be articulated on all sides. Use fenestration (windows and doors), as well as changes in wall plane, material, texture, color, etc. to create shadow lines and articulate building walls.
- Provide highly visible public entrances, preferably oriented to streets and outdoor spaces; shop entrances may be clearly expressed with recesses, overhangs, special materials, and/or detailing.

- Require a high degree of street level transparency, especially along sidewalks, important outdoor spaces and heavily trafficked areas; the use of reflective, opaque, and darkly tinted glass should be restricted.

Architectural Details

- Use architectural details to enhance a building's appearance. Careful detailing is especially appropriate at the base of buildings, along cornices, eaves, parapets or ridge tops, and around entries and windows.
- Incorporate human-scaled details such as canopies and awnings, transparent windows and windows displays. These are required at public entrances and along heavily trafficked outdoor areas.
- Design architectural features and details as an integral part of the building; architectural features, including canopies and awnings, should not appear "tacked-on."

Storefront Guidelines

- Storefronts should provide an individual look for each store or establishment while still blending in with the overall design.
- Storefronts shall incorporate high quality building materials. A durable base material (18 inches high min.) such as brick, tile, exterior cement plaster, or pre-cast architectural concrete shall be used. Storefront glazing and exterior plaster shall not terminate at the ground plane.
- Storefront glazing shall be clear glass to permit clear views into the interior space. The amount of such glass shall provide a balance between high visibility into the store interior and architectural character/quality.
- Entrance doors shall be of a traditional style and transparent as possible; however, an all glass door is prohibited.
- No part of any open doors shall extend into the public right-of-way.
- Storefront openings should not exceed 30 feet in width without the interruption of a vertical building element (column or wall).
- Storefront openings may extend up to 16 feet in height; the height should range from 8 to 16 feet.

Materials & Colors

- Use materials that exhibit permanence and quality, and that unify a building's appearance on all sides; materials and colors should accentuate the architectural details of the building and promote visual harmony. Brick, tile, pre-cast architectural concrete, wood, stone veneers or stucco are preferred.
- To create visual interest, use at least 3 different building materials on building facades. Materials may be used to highlight a building entrance or distinguish the building base.
- Any awnings shall be comprised of durable, heat, dust and mildew-resistant canvas materials that are designed to withstand the rigors of the Ontario climate. Vinyl or other shiny materials are prohibited. However, canopies are preferred over awnings.

Roofs/Rooftop Equipment

- Express roofs in a visually interesting manner that complements the composition of the building and surrounding area, (i.e., use sculpted roof forms or a strong and attractively detailed cornice).
- Locate and/or screen rooftop equipment, including ladders and antenna devices, so that it is not visible from streets and adjacent buildings; methods of rooftop screening should be integral to the building's form.
- All mechanical units shall be screened from public view and from adjacent existing buildings (preferably with roof forms).
- When roof decks and mechanical units are visible from adjacent developments, they should be as unobtrusive as possible and painted to match finish roof material.

6.9 OUTDOOR DINING AREAS

Outdoor dining areas adjacent to a street level eating or drinking establishment are encouraged along Emporia Street and Euclid Avenue. Any such areas shall be designed in accordance with the provisions set forth in Section 2A.7 of the Downtown Ontario Design Guidelines, plus any additional features that may be required as part of on-sale alcoholic beverages. Outdoor dining along Euclid Avenue, if proposed within the rights-of way, will require an agreement with the California Department of Transportation, since this street is within a State right-of-way.

All commercial signs shall be designed in accordance with the criteria set forth in Section 2C of the Downtown Ontario Design Guidelines.

6.11 LIGHTING

All lighting of facades, decorative fixtures, store window interiors, awnings, and signs shall be designed in accordance with the criteria set forth in Section 2D of the Downtown Ontario Design Guidelines.

On-site lighting must be directed away or shielded from adjacent streets, and adjacent properties. All exterior lighting shall be of an indirect nature, coming from under eaves and canopies, or at ground level, within landscaped areas.

Exterior lighting fixtures should be a decorative and reinforce the architectural style of the building.

Light standards less than 15 FT in height (including lighting bollards) should illuminate all street sidewalks and connecting walkways and are encouraged throughout the project.

7. HISTORIC PRESERVATION

7.1 HISTORIC CONTEXT AND BACKGROUND

The project area that comprises the PUD established by this document is located within the City's Historic Downtown District. Founded by the Chaffey Brothers in the 1880's, Ontario was a coined a "model irrigation colony" by an Act of Congress in 1904. The Chaffey Brothers bought 6,218 acres of the Cucamonga Ranch in 1882 after the Southern Pacific Railway extended its service to the west. Approximately 640 acres were set aside for the community of Ontario, with half of that endowed to the Chaffey Agricultural College. The rest of the acreage was utilized as agricultural land. The primary feature of the Chaffey city plan was the two-hundred-foot-wide Euclid Avenue. Several innovations included the provision for water rights for each landowner, electric lights, and an electric railway. The gravity Mule Car that ran along the length of Euclid from 1888 to 1895 provided interest to its visitors as did the historic fountain that displayed Ontario's water supply system. The median still exists today and has been a center of public activity since its inception. The present downtown took shape from the original irrigation system and land subdivision pattern established by the Chaffey Brothers in the 1880's as it grew evenly northwards away from the railroad lines. The area within the current Downtown almost exactly matches the original boundaries of the Model Colony.

As a part of the recognition of Ontario's rich heritage, the City Council in July 1991 adopted a Historic Preservation Ordinance. The purpose of the Ordinance was:

1. To safeguard the City's unique historical heritage as embodied and reflected in the City's architectural history and patterns of cultural development;
2. To foster civic and neighborhood pride and a sense of identity based on the recognition and use of Historical Resources; and
3. To preserve diverse architectural styles, patterns of development, and design preferences reflecting phases of the City's history and to encourage complementary contemporary design and construction and inspire a more livable urban environment.

The PUD area has side street frontage along Euclid Avenue. The public right-of-way of Euclid Avenue from Philadelphia Street to the I-10 was designated as Local Landmark No. 67 on January 16, 2001 by the Ontario City Council. On August 10, 2005, the public right-of-way of Euclid Avenue from Philadelphia Street in Ontario to 24th Street in Upland was listed on the National Register of Historic Places as a significant cultural landscape. The public right-of way includes north and south bound streets, sidewalks, light fixtures, parkways, median, trees, and stone and concrete curbs and gutters. Contributing character-defining features include the 60-foot wide median, historic rock curb, scored sidewalks, King standard light posts, double planting of California pepper trees (*Schinus molle*), silk oaks trees (*Grevillea robusta*), and other mature vegetation such as deodar trees (*Cedrus deodara*) and Canary Island palms (*Phoenix canariensis*). All proposed developments within the PUD area will require a Certificate of Appropriateness to

ensure alterations and building forms (design, scale/massing and site layout) are appropriate to the character of the historic Euclid Avenue frontage (Right-of-way).

7.2 EXISTING HISTORIC RESOURCES

The PUD area does not contain any potential or proposed historic resources. However, the area is located within the Proposed Downtown Historic District. As such, a Certificate of Appropriateness will be required with all proposed developments within the PUD area to ensure no adverse impacts to the proposed and designated historic resources occur as a result of development. Infill and new construction, including building forms (design, scale/massing and site layout) and architectural elements, shall be developed in a manner that adheres to the Secretary of Interior Standards for the Treatment of Historic Resources, the City of Ontario Development Code, and the Ontario Design Guidelines.

8. ADMINISTRATION

8.1 ITEMS NOT ADDRESSED IN PUD

Any terms, requirements, or regulations not addressed within the PUD document shall be governed by the City of Ontario Development Code, the regulations of the Mixed-Use zones and City Standards.

8.2 DEVELOPMENT APPLICATIONS

Development Plans for the development of each individual parcel within the PUD area, along with fees and other required items, shall be submitted for review and approval per the requirements contained in Chapter 2, *Administration and Procedures*, of the City of Ontario Development Code and the General Application.

8.3 ADMINISTRATIVE EXCEPTIONS

Deviation from the development standards set forth in this document may be granted up to a maximum of ten (10%) percent by the Zoning Administrator. Any deviation that is greater than (10%) percent shall require Variance approval.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APROVING FILE NO. PUD22-001, THE ARTS DISTRICT WEST PLANNED UNIT DEVELOPMENT, ESTABLISHING DEVELOPMENT STANDARDS, DESIGN GUIDELINES, AND INFRASTRUCTURE REQUIREMENTS FOR 0.86-ACRE OF LAND LOCATED AT 125 WEST EMPORIA STREET, WITHIN MU-1/LUA-2N (DOWNTOWN MIXED-USE/ARTS DISTRICT – NORTH) AND EA (EUCLID AVENUE OVERLAY) ZONING DISTRICTS, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: 1049-059-14.

WHEREAS, RWSS DEVELOPMENT LLC ("Applicant") has filed an Application requesting approval of the Arts District West Planned Unit Development, File No. PUD22-001, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 0.86-acre of land located at the eastern terminus of Emporia Street, north of the Union Pacific Railroad right-of-way, at 125 West Emporia Street, within the MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and EA (Euclid Avenue Overlay) zoning districts, and is currently developed with a paved public parking lot; and

WHEREAS, the Ontario Plan describes the Downtown Mixed-Use Area as an intensive vertical and horizontal mixture of retail, office, and residential uses in a pedestrian friendly atmosphere, where the historic character is prominent. The most intensive uses are envisioned along Euclid Avenue and Holt Boulevard. The Downtown Mixed-Use Area is the historic core of Ontario, which has a unique blend of historic, social, and cultural uses set in a compact street grid. The Downtown Mixed-Use Area includes the Civic Center, City library and surrounding diverse residential neighborhoods that provide increased demand for retail opportunities along Euclid Avenue, Holt Boulevard, and B Street; and

WHEREAS, the Policy Plan specifies that the Downtown Mixed-Use Area is to be implemented through the adoption of an Area Plan or Planned Unit Development ("PUD") prior to the development of properties within the Area. In compliance with this requirement, the Applicant has submitted the Art District West Planned Unit Development (included as Attachment A), which is consistent with this vision, and the goals and policies of the Policy Plan; and

WHEREAS, the purpose of the PUD is to secure a fuller realization of the Policy Plan than would result from the strict application of present zoning district regulations and to: [a] promote high standards in urban design; [b] encourage the development of exceptionally high quality, mixed-use, medium to high intensity projects, while establishing regulations and standards for uses with unique regulatory and design needs; and [c] ensure harmonious relationships with surrounding land uses. In addition, the Art District West Planned Unit Development ("ADWPUD") is intended to function as a set of

planning and design principles, development regulations, and performance standards to guide and govern the development of the 0.86-acre site. The ADWPUD will facilitate the development of retail and commercial services that will help achieve the City's goals to economically revitalize and aesthetically enhance the historic downtown area; and

WHEREAS, a PUD is comparable to a Specific Plan in that it sets development regulations that are unique to a specific area; however, it is also unlike a Specific Plan in that a PUD is typically intended to apply to a single development project or several interrelated development projects that function together as a single, comprehensive project; and

WHEREAS, in conjunction with the proposed ADWPUD, the Planning/Historic Preservation Commission approved a Tentative Parcel Map (File No. PMTT21-009 (TPM 20394)) to subdivide 0.86-acre of land into a single lot to establish 22 commercial airspace condominium units, a Development Plan (File No. PDEV21-017) to construct two commercial buildings totaling 33,787 square feet, and a Certificate of Appropriateness (File No. PHP21-021) to allow for the construction of the proposed Project within the Euclid Avenue Overlay Zoning District; and

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

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

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

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, 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 February 22, 2022, the Planning/Historic Preservation 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. PC22-007, recommending the City Council approve the Application; and

WHEREAS, on March 15, 2022, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. ***Environmental Determination and Findings.*** As the decision-making 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 categorically exempt from environmental review pursuant to Section 15332 (Class 32, Infill Development Projects) of the CEQA Guidelines and meets all of the following conditions: (a) the proposed Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (b) the proposed development occurs within city limits and the area being developed is 0.86-acre, less than the maximum 5-acre threshold, and is substantially surrounded by urban land uses; (c) the Project site has no value as habitat for endangered, rare, or threatened species; (d) approval of the Project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and (e) the site is adequately served by all required utilities and public services; and

(3) The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

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

SECTION 2. ***Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the decision-making body for the Project, the City Council finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

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 PUD, or amendment thereto, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.*** The proposed Project is located within the Downtown Mixed Use land use district of the Policy Plan Land Use Map, and the LUA-2N (Arts District - North) of the MU-1 (Downtown Mixed-Use) and EA (Euclid Avenue Overlay) zoning districts. The development standards and conditions under which the proposed Project will be constructed and maintained, 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 PUD, or amendment thereto, would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.*** The City has required certain safeguards, and has required certain changes, which have been established to ensure that: [i] the purposes of the Planned Unit Development are maintained; [ii] the Project will not endanger the public health, safety or general welfare; [iii] the Project will not result in any significant environmental impacts; [iv] the Project will be in harmony with the area in which it is located; and [v] the Project will be in full conformity with the Vision, City Council Priorities and Policy Plan components of The Ontario Plan.

(3) ***In the case of an application affecting specific property, the proposed PUD, or amendment thereto, will not adversely affect the harmonious relationship with adjacent properties and land uses.*** A thorough review and analysis of the proposed Project and its potential to adversely impact properties surrounding the subject site was completed by City staff. As a result of this review, certain design considerations were incorporated into the Project to mitigate identified impacts to an acceptable level, including the use of upgraded materials, the inclusion of certain architectural design elements on building exteriors, intensified landscape elements, and decorative hardscape elements.

(4) ***In the case of an application affecting specific property, the subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development.*** In preparing the proposed PUD, a thorough review and analysis of the proposed project and the Project site's physical suitability for the proposed Project was completed, including analysis of the Project size, shape, intensity of development, building height, building setbacks, site access, site landscaping and drainage, fences and walls, vehicle circulation, pedestrian connections, availability of mass transit, necessary street dedication and easements, public right-of-way improvements, availability of utilities and other infrastructure needs, off-street parking and circulation, building orientation and streetscapes, architectural character, building materials and color, and site signage.

(5) ***The proposed PUD is superior to that which could be obtained through the application of the Development Code or a specific plan.*** The proposed PUD addresses aspects of the project that are specifically related to the Development Plan proposed in conjunction with the PUD application, including necessary building setbacks, site access points, off-street parking and site circulation, and architectural character.

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 PUD, attached hereto as "Attachment A," and incorporated herein by this reference.

SECTION 6. Indemnification. The Applicant shall agree to defend, indemnify, and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void, or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action, or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 7. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

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

SECTION 10. **Publication and Posting.** The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within 15 days following the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2022.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held March 15, 2022 and adopted at the regular meeting held _____, 2022 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

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

SHEILA MAUTZ, CITY CLERK

(SEAL)

ATTACHMENT A:

File No. PUD22-001

Art District West Planned Unit Development

(Document follows this page)



Art District West - The Vault Planned Unit Development

Prepared By:
RWSS Development
1405 Fairplex Drive, Suite B3
La Verne, CA 91750
And
City of Ontario Planning Department

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1. INTRODUCTION

This document is intended to function as a set of planning and design principles, development regulations and performance standards to guide and govern the development of a 0.86-acre parcel of land located on the southeast corner of Laurel Avenue and Emporia Street (see Exhibit 1-1, PUD Location Map).

The project site is located within the Ontario Plan Downtown Mixed-Use District, which requires the establishment of a Planned Unit Development (PUD) prior to development. The PUD fulfills the requirements of MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) zoning district, as set forth in Ontario Development Code Section 4.01.030 (Planned Unit Developments (PUD) and Amendments). The Art District West Planned Unit Development (PUD) will replace the existing zone district designations and zoning standards that apply to the affected property. Unless otherwise defined herein, definitions and interpretations contained in the Development Code shall apply. City staff and private developers will rely on this PUD to determine whether precise plans for development ("Development Plans") will adequately meet the City's land use and design objectives.

Exhibit 1-1: PUD Location Map



2. PUD OBJECTIVES

2.1 THE ONTARIO PLAN (TOP) CONSISTENCY

The Ontario Plan (TOP) Policy Plan (General Plan) designates the project area and surrounding properties as MU-1 (Downtown Mixed-Use). The Ontario Plan describes the Downtown Mixed-Use Area as an intensive vertical and horizontal mixture of retail, office, and residential uses in a pedestrian friendly atmosphere where the historic character is prominent. The most intensive uses are envisioned along Euclid Avenue and Holt Boulevard. The Downtown Mixed-Use Area is the historic heart of Ontario, which has a unique blend of historic, social and cultural uses set in a compact street grid. The Downtown Mixed-Use Area includes the Civic Center, City library and surrounding diverse residential neighborhoods that provide increased demand for retail opportunities along Euclid Avenue, Holt Boulevard and B Street. The densities and intensities of the mixed-use designation represented within The Ontario Plan (TOP) are the intended level of anticipated development; however, individual projects may vary depending upon an approved master plan, such as an area plan, specific plan, or planned unit development.

Exhibit 1-2: TOP Policy Plan Downtown Mixed-Use Area



The West Art District PUD is consistent with the principles, goals, and policies contained within the components that make up The Ontario Plan (TOP), including: (1) Vision, (2) Policy Plan (General Plan), and (3) City Council Priorities. The policies furthered by this PUD are as follows:

1. Vision

On February 13, 2007, the Ontario City Council adopted The Ontario Vision. The central theme that motivates the Vision is – “A sustained, community-wide prosperity which continuously adds value and yields benefits.” Everything the City does and every action the City takes is done with the simple yet comprehensive theme in mind, from the design quality of the built environment, to the intent of designing socio-economic programs, to the way in which its leaders govern as a community. In discussing a Vision that would endure for the lifetime of The Ontario Plan (30 years or more), the City

Council recognized that there are four components that serve as the basic building blocks that set the foundation for a unified and prosperous community. These foundational blocks must be expressed and widely accepted throughout the Plan's lifetime. They are:

1. A **Dynamic Balance** that enables our community to confront the continued dynamic growth of the region and technological change with confidence and a sense of opportunity.
2. A **Prosperous Economy** that sustains the perception and reality of prosperity across our entire community that positively impacts all the people of Ontario and is broadly – though not uniformly – shared.
3. **Distinctive Development** that integrates our varied and diverse focal points, districts, villages, and neighborhoods to provide a feeling of coherence without sacrificing uniqueness.
4. **Recognized Leadership** in local governance that stimulates excellence and serves to unify the people of Ontario in support of best practices in conducting public endeavors.

The Art District West PUD will implement the Ontario Vision in several ways that will further the City's desire to be a sustainable and prosperous community.

DISTINCTIVE DEVELOPMENT

Commercial and Residential Development

- The PUD will support, the City's Civic Center area, new multifamily developments and surrounding existing residential neighborhoods by providing the increased demand for retail uses and artistic uses in a more pedestrian friendly atmosphere.
- The PUD will seek to ensure additional mix of retail uses in the downtown that will provide additional services to the surrounding community and Civic Center area.

Design Quality

- The PUD will require a well-designed project(s) that convey's visual interest and character through:
 - Appropriate scale and massing
 - Architectural style and design that are complementary and appropriate for its setting.
 - The use of high-quality materials that will create visual interest, high quality, durable and appropriate for the architectural style.
 - Appropriate Site Planning to ensure building orientation visibility from the street, adequate number of driveways, sidewalks, building setbacks, parking lot orientation, adequate refuse storage areas and well-designed street frontages.

Public Safety

- The PUD will ensure that proper exterior lighting standards be located and designed to minimize direct glare beyond parking lots and future residential development/ or mixed-use projects in the downtown area. In addition, the Ontario Police Department requires that all lighting standards comply with a one-foot candle illumination to provide a level of security and public safety within the retail center.

2. Policy Plan

LAND USE ELEMENT

LU1 Balance

Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.

The PUD, through the development of retail, commercial uses and artistic uses, will help provide jobs to support the existing and new development within the surrounding downtown area.

Policies

- *LU1-3 Adequate Capacity. We require adequate infrastructure and services for all development.*

The PUD, along with the future development entitlements for the site, will require the necessary infrastructure to serve the site and provide the necessary right-of-way dedication for street widening.

- *LU1-4 Mobility. We require development and urban design, where appropriate, that reduces reliance on the automobile and capitalizes on multi-modal transportation opportunities.*

TOP Mobility Element System (Figure M-1) identifies Holt Boulevard as a future Bus Rapid Transit (BRT) Corridor. The PUD will seek to capitalize pedestrian traffic, vehicle and future BRT ensuring a mix of retail, commercial and artistic uses that will provide a variety of goods and services to the surrounding community and the future Buss Rapid Transit (BRT) users.

LU2 Compatibility

Goal LU2: Compatibility between a wide range of uses.

The PUD, through land use regulations for permitted uses, have ensured that those permitted uses allowed within the PUD are compatible with the MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and surrounding area and not allow those uses that may have potential to create adverse impacts to the surrounding area.

Policies:

- *LU2-1: Land Use Decisions: We minimize adverse impacts on adjacent properties when considering land use and zoning requests.*

The project area is zoned MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and requires that a PUD be implemented for the project area to establish the development standards, land use regulations and design guidelines. The permitted uses within PUD have been established to provide retail, commercial and artistic uses to serve the downtown, Civic Center and surrounding residential area. Careful consideration has been given to ensure that permitted uses that may have potential to create adverse impacts to the surrounding area are not allowed.

- *LU2-2 Buffers. We require new uses to provide mitigation or buffers between existing uses where potential adverse impacts could occur.*

The PUD, through the site planning, requires the that future building(s) developed on the site shall be placed along the frontage of Emporia Street to keep a buffer between the Southern Pacific Railroad to the south of the project and the future and existing developments to the north.

- *LU2-4 Regulation of Nuisances. We regulate the location, concentration and operations of potential nuisances.*

The project area is zoned MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and requires that a PUD be implemented for the project area to establish the development standards, land use regulations and design guidelines. The permitted uses within PUD have been established to provide retail, commercial and artistic uses to serve the downtown, Civic Center and surrounding residential area. Careful consideration has been given to ensure that permitted uses that may have potential to create adverse impacts to the surrounding area are not allowed. Those uses with operations that may have potential to create nuisances, will require discretionary approval through the Conditional Use Permit process.

- *LU2-5 Regulation of Uses. We regulate the location, concentration and operations of uses that have impacts on surrounding land uses.* The project area is zoned MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and requires that a PUD be implemented for the project area to establish the development standards, land use regulations and design guidelines. The permitted uses within PUD have been established to provide retail, commercial and artistic uses to serve the downtown, Civic Center and surrounding residential area. Careful consideration has been given

to ensure that permitted uses that may have potential to create adverse impacts to the surrounding area are not allowed.

LU3 Flexibility

Goal LU3: Staff, regulations and processes that support and allow flexible response to conditions and circumstances in order to achieve the Vision.

- *LU3-1 Development Standards. We maintain clear development standards which allow flexibility to achieve our Vision.*

To provide flexibility the densities and intensities of the mixed-use designation represented within TOP are the intended level of anticipated development; however, individual projects may vary depending upon an approved master plan, such as an area plan, specific plan, or planned unit development. The project area is zoned MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and requires that a PUD be implemented for the project area to establish the development standards, land use regulations and design guidelines. The development standards within the PUD are intended to ensure quality and appropriate development to achieve TOP Vision for well-designed projects that convey visual interest.

COMMUNITY ECONOMICS ELEMENT

CE1 Complete Community

Goal CE1: A complete community that provides for all incomes and stages of life.

The permitted uses within PUD have been established to provide retail, commercial and artistic uses to enhance the economic growth of downtown and serve the surrounding residential areas.

Policies:

- *CE1-7 Retail Goods and Services. We seek to ensure a mix of retail businesses that provide the full continuum of goods and services for the community.*

The permitted uses within PUD have been established to provide retail, commercial and artistic uses to serve the downtown and surrounding residential areas. These retail, commercial and artistic uses that will help to revitalize the downtown area and enhance its economic growth by much needed commercial and retail opportunities.

CE2 Place-Making

Goal CE2: A City of distinctive neighborhoods, districts, and corridors, where people choose to be.

The PUD will seek to ensure a mix a retail, commercial and artistic uses that will provide a variety of goods and services for the downtown and surrounding area. The PUD will seek to help revitalize the downtown area and enhance its economic growth by creating retail, commercial and artistic uses that provide opportunities within a historic downtown setting. The PUD area will be distinctive through the requirement of well-designed project(s) that respect and complement the historic context of downtown consist with the Downtown Ontario Design Guidelines (Adopted in 1998) through:

- Appropriate scale and massing
- Architectural style and design that are complementary and appropriate to for its setting.
- The use of high-quality materials that will create visual interest, high quality, durable and appropriate for the architectural style.
- Appropriate site planning to ensure building orientation visibility from the street, adequate number of driveways and sidewalks. Building setbacks, parking lot orientation, adequate refuse storage areas and well-designed street frontages.

MOBILITY ELEMENT

M3 Public Transit

Goal M3: A public transit system that is a viable alternative to automobile travel and meets basic transportation needs of the transit dependent.

TOP Mobility Element System (Figure M-1) identifies Euclid Avenue as a future Bus Rapid Transit (BRT) Corridor. The PUD will seek to capitalize pedestrian traffic, vehicle and future BRT ensuring a mix of retail and commercial uses and business that will provide a variety of goods and service to the surrounding community and the future Buss Rapid Transit (BRT) users. The PUD, along with the future development entitlements for the site, will require the necessary infrastructure to serve the site and provide the necessary rights-of-way dedication for street widening.

Policies:

- *M3-4 Bus Rapid Transit (BRT) Corridors. We work with regional transit agencies to implement BRT service to target destinations and along corridors, as shown in the Transit Plan.*

TOP Mobility Element System (Figure M-1) identifies Euclid Avenue as future Bus Rapid Transit (BRT) Corridor. The PUD will seek to capitalize pedestrian traffic,

vehicle and future BRT ensuring a mix of retail, commercial and artistic uses and business that will provide a variety of goods and service to the surrounding community and the future Buss Rapid Transit (BRT) users. The PUD, along with the future development entitlements for the site, will require the necessary infrastructure to serve the site and provide the necessary rights-of-way dedication for street widening.

COMMUNITY DESIGN

CD1 Image & Identity

Goal CD1: A dynamic, progressive city containing distinct neighborhoods and commercial districts that foster a positive sense of identity and belonging among residents, visitors, and businesses.

- To provide flexibility the densities and intensities of the mixed-use designation represented within TOP are the intended level of anticipated development; however, individual projects may vary depending upon an approved master plan, such as an area plan, specific plan, or planned unit development. The project area is zoned MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) and requires that a PUD be implemented for the project area to establish the development standards, land use regulations and design guidelines. The development standards within the PUD are intended to ensure quality and appropriate development to achieve TOP Vision for well-designed projects that convey visual that respect and complement the historic context of downtown.

Policies:

- *CD1-2 Growth Areas. We require development in growth areas to be distinctive and unique places within which there are cohesive design themes.*

The PUD will seek to ensure a mix a retail, commercial and artistic uses that will provide a variety of goods and services for the downtown and surrounding area. The PUD will seek to help revitalize the downtown area and enhance its economic growth by creating retail, commercial and artistic uses that will provide opportunities within a historic downtown setting. The PUD area will be distinctive through the requirement of well-designed project(s) that respect and complement the historic context of downtown consist with the Downtown Ontario Design Guidelines (Adopted in 1998) through:

- Appropriate scale and massing
- Architectural style and design that are complementary and appropriate to for its setting.
- The use of high-quality materials that will create visual interest, high quality, durable and appropriate for the architectural style.

- Appropriate site planning to ensure building orientation visibility from the street, adequate number of driveways and sidewalks. Building setbacks, parking lot orientation, adequate refuse storage areas and well-designed street frontages.
- *CD1-4 Transportation Corridors. We will enhance our major transportation corridors within the City through landscape, hardscape, signage and lighting.*

TOP Mobility Element System (Figure M-1) identifies Holt Boulevard as future Bus Rapid Transit (BRT) Corridor. The PUD will seek to capitalize pedestrian traffic, vehicle and future BRT ensuring a mix of retail, commercial and artistic business that will provide a variety of goods and service to the surrounding community and the future Buss Rapid Transit (BRT) users.

CD2 Design Quality

Goal CD2: A high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct.

Policies:

- *CD2-1 Quality Architecture.* We encourage all development projects to convey visual interest and character through:
 - Building volume, massing, and height to provide appropriate scale and proportion;
 - A true architectural style which is carried out in plan, section and elevation through all aspects of the building and site design and appropriate for its setting; and
 - Exterior building materials that are visually interesting, high quality, durable, and appropriate for the architectural style.

The PUD will seek to help revitalize the downtown area and enhance its economic growth by creating retail, commercial and artistic opportunities within a historic downtown setting. The PUD area will be distinctive through the requirement of well-designed project(s) that respect and complement the historic context of downtown consist with the Downtown Ontario Design Guidelines (Adopted in 1998) through:

- Appropriate scale and massing
- Architectural style and design that are complementary and appropriate to for its setting.
- The use of high-quality materials that will create visual interest, high quality, durable and appropriate for the architectural style.
- Appropriate site planning to ensure building orientation visibility from the street, adequate number of driveways and sidewalks. Building setbacks,

parking lot orientation, adequate refuse storage areas and well-designed street frontages.

- *CD2-3 Commercial Centers. We desire commercial centers to be distinctive, pedestrian friendly, functional and vibrant with a range of businesses, places to gather, and connectivity to the neighborhoods they serve.*

The permitted uses within PUD have been established to provide retail, commercial and artistic uses to serve the downtown, Civic Center, Arts District and surrounding residential area. The PUD will seek to capitalize on the downtown location by ensuring a mix a retail, commercial and artistic uses that will easily accessed by pedestrians through downtowns unique grid street pattern design.

- *CD2-5 Streetscapes. We design new and, when necessary, retrofit existing streets to improve walkability, bicycling and transit integration, strengthen connectivity, and enhance community identity through improvements to the public right of way such as sidewalks, street trees, parkways, curbs, street lighting and street furniture.*

The PUD, along with the future development entitlements for the site, will require the necessary infrastructure to serve the site and provide the necessary right-of-way dedication and/or improvements.

- *CD2-9 Landscape Design. We encourage durable landscaping materials and designs that enhance the aesthetics of structures, create and define public and private spaces, and provide shade and environmental benefits.*

The PUD development standards will ensure landscape design and materials will be used to enhance the aesthetics of structure(s), create and define public and private spaces, and provide shade and environmental benefits.

- *CD2-10 Surface Parking Areas. We require parking areas visible to or used by the public to be landscaped in an aesthetically pleasing, safe and environmentally sensitive manner. Examples include shade trees, pervious surfaces, urban run-off capture and infiltration, and pedestrian paths to guide users through the parking field.*

The PUD development standards will ensure water conservation be provided through low water using plant materials, hydro zones, water efficient irrigation and weather-based controllers. Landscaped areas may be used for storm water infiltration through vegetated swales, retention basins, or dry wells as needed with the use of appropriate planting materials. Broad canopy shade trees will be used to reduce heat gain on buildings, paving and parking areas

City Council Priorities

- Invest in the Growth and Evolution of the City's Economy
- Maintain the Current High Level of Public Safety
- Operate in a Businesslike Manner
- Pursue City's Goals and Objectives by Working with Other Governmental Agencies
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)
- Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

2.2 CENTER CITY REDEVELOPMENT PLAN OBJECTIVES

The Center City Project Area encompasses the historic Euclid Avenue District, as well as East Holt Boulevard. Ontario's City Hall and surrounding Civic Center, Senior Center, Ovitt Family Community Library, the Museum of History and Art, Ontario Town Square, and the Law School of the University of La Verne are all within the Center City Project Area. Development is designed to create an immediate and positive identity transforming the area into a comfortable place to stroll and be seen.

The current goals of the Center City Project include:

- Encourage development of a high intensity, multi-use central business district and surrounding neighborhoods that maximize the economic productivity of the commercial areas and maximize the housing opportunities of the residential areas.
- Apply innovative mixed-use urban design that maintains a flexible approach to allow for changing opportunities over a long-term, phased revitalization effort.
- Create a healthy and exciting urban environment, with the ability to work, live, shop and play within a small area, combine daytime and nighttime use and conserve energy and resources through mixed use development.
- Cluster activity centers within walking distance of each other, supported by a pedestrian network that provides an enjoyable pedestrian flow.

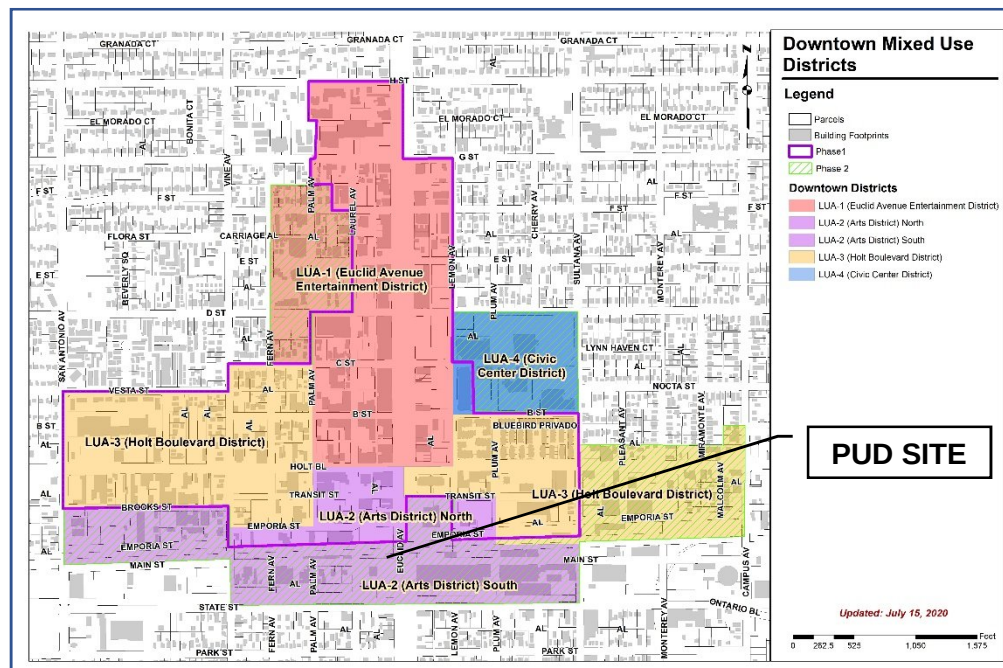
2.3 MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North)

The project is located within MU-1/LUA-2N (Downtown Mixed-Use/Arts District – North) zoning district (see Exhibit 1-3, MU-1 (Downtown Mixed Use) Districts Map). The Arts District is intended as a dynamic destination for locals and tourists, while creating a fulfilling urban experience energized by artistic, educational, and commercial participants. The focus of the Area

is to increase the number of collaborated events and programs within the Area, with the intent to attract visitors, promote economic vitality, and boost revenue. Street fairs, artist festivals, restaurants, galleries, work/live lofts, breweries, and artisan co-ops will contribute to the physical and cultural diversity of the Arts District.

The Arts District North is intended to accommodate a mix of work/live lofts, artisan co-ops, restaurants, galleries, breweries, and other commercial uses intended to strengthen the economic base of the area.

Exhibit 1-3: MU-1 (Downtown Mixed Use) Districts Map



2.3 PUD DISTRICT PURPOSE AND OBJECTIVES

The Art District West Planned Unit Development (PUD) is intended to function as a set of planning and design principles, development regulations, and performance standards to guide and govern the development of the 0.86-acre site. This PUD will facilitate the development of retail, commercial and artistic services that will help achieve the City's goals to economically revitalize and aesthetically enhance the historic downtown area.

The objectives of the PUD District are to:

- Promote development projects that are consistent with the land use/downtown revitalization objectives of the Center City Redevelopment Project area.
- Promote the revitalization the downtown area and enhance its economic growth by creating retail uses within a historic downtown setting.

- Promote community retail, commercial and artistic uses to meet the needs of the downtown residents, Civic Center visitors and surrounding residential neighborhoods.
- Promote the development of outdoor patio as part of the commercial development providing for social and pedestrian interaction.
- Orient commercial buildings along the frontage of Emporia Street and Euclid Avenue to create an accessible urban edge and sense of arrival and appropriate relationships among new and existing adjacent land uses.
- Provide for a circulation network which promotes pedestrian walkways and bicycle activity as alternative modes of travel while also providing for safe and efficient movement of automobile travel through the project site.
- Incorporate a landscape to enhance and compliment the urban environment along Emporia Street and the Euclid Avenue slope along the eastern boundary of the site.

3. LAND USE PLAN

3.1 LAND USE DESIGNATION

This PUD establishes the MU-1 Commercial district and the land use designations, as shown on Exhibit 1-4, Permitted Use Table, for the project limits. Retail, commercial and artistic uses are strongly encouraged to accommodate a mix of artisan co-ops, restaurants, galleries, breweries, and other commercial uses intended to strengthen the economic base of the downtown area.

Exhibit 1-4: PUD Land Use Plan



3.2 PERMITTED USES

Table 3-1 (Permitted Uses) shows the allowable land use, activity or facility permitted within the Mixed Use 1 (MU-1) Commercial District of the Art District West PUD. A land use not listed in Table 3-1 shall be considered a prohibited land use. For a land uses like those listed in Table 3-1, but not expressly stated in the PUD, the Planning Director or her/his designee has the authority to make a determination of applicability of the similar land uses.

Table 3-2: Permitted Uses

“**P**” (Permitted) shall mean the land use, activity, or facility within the specified zoning district is permitted by right of being in the proper zoning district.

“**C**” (Conditionally Permitted) shall mean the land use, activity, or facility within the specified zoning district is subject to the granting of a Conditional Use Permit pursuant to Section 4.02.015 (Conditional Use Permits) of the Ontario Development Code.

“**A**” (Administratively Permitted) shall mean the land use, activity, or facility within the specified zoning district is subject to the granting of an Administrative Use Permit pursuant to Section 4.03.015 (Administrative Use Permits) of the Ontario Development Code.

“**NP**” (Not Permitted) shall mean the land use, activity, or facility within the specified zoning district is not permitted by right of being in the proper zoning district.

All other uses not listed as Permitted or Conditional are prohibited unless a finding can be made by the Planning Director that the use is similar to, and no more objectionable than, a permitted or conditional use.

Land Use	MU-1 Commercial	Notes
MEDICAL		
Animal Hospital/Veterinarian	NP	
Medical Office	NP	
MEDICAL OFFICE/FAMILY CLINIC		
Pharmacies and Drug Stores	NP	
Pharmacies and Drug Stores with Drive-thru Facilities	NP	
Industrial Clinic	NP	
PUBLIC FACILITIES		
Police / Fire Station	P	
Police Storefront / Substation	P	
RELIGIOUS		
Religious Assembly	C	
NON-PROFIT/SERVICE ORGANIZATIONS 501 (C) (3) (PER DEVELOPMENT CODE SECTION 9-101305 N)		
Campaign Offices	P	
Charitable, Philanthropic, Service and Other Non-Profit Organization Offices	P	
Charitable Distribution Services (i.e. Food Banks, etc.)	NP	
ALCOHOL		
Alcoholic Beverage Sales for Off-Premise Consumption	C	
Alcoholic Beverage Sales for On-Premise Consumption GFA than 10,000 SF	A/C	1
Alcoholic Beverage Sales for On-Premise Consumption GFA more than 10,000 SF	C	1
Liquor Store	NP	
AUTOMOBILE RELATED SERVICES		
Automotive Parts and Accessories Stores (Retail Sales Only)	P	
Indoor Vehicle (Car Condos) storage and display	P	3
Automotive Services (i.e. Tune-Up, Emission Tests, Batteries, etc. No use of impact wrenches or other equipment that could create noise impacts.)	NP	
Minor Repair (i.e. Brakes, tires, radiators, electrical, etc.)	NP	
Gas Stations	NP	
Tire Stores	NP	
Car Wash – Full	NP	
TELECOMMUNICATIONS FACILITIES		
Wireless Telecommunications Facility (Refer to the Development Code)		

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Land Use	MU-1 Commercial	Notes
DAY CARE FACILITIES		
Commercial Daycare	NP	
EATING DRINKING PLACES AND FOOD SERVICES		
Restaurants (Sit Down / Full Service)	P	
Banquet Facilities in conjunction with a restaurant	P	
Bar/Cocktail Lounge	C	
Tap Room, Pub, Wine Bar (Including Tastings)	A	
Fast Food	P	
Fast Food with Drive-thru Facilities	NP	
Caterers	P	
ENTERTAINMENT AND RECREATION		
Live Entertainment (in conjunction with restaurant use only) – GFA than 10,000 SF	A/P	
Live Entertainment (in conjunction with restaurant use only) – GFA 10,000 or more SF	C	
OFFICES		
Administrative, Professional, and Other Offices	P	
RETAIL		
Antique Stores	P	
Art Galleries and Art Supply Store	P	
Art Dealers	P	
Beauty Supply Store	P	
Book Stores	P	
Hardware Store	P	
Camera and Photographic Supply Store	P	
Cigar and other Tobacco Products Store	NP	
Clothing and Accessory Stores	P	
Computer and Home Electronic Stores	P	
Convenience Store	P	
Florist	P	
Furniture Stores	P	
General Merchandise Stores	P	
Department Store	P	
Discount Variety Store	NP	
Guns and Ammunition Stores	NP	
Hobby, Toy and Game Store	P	

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Land Use	MU-1 Commercial	Notes
Home Appliance Store	P	
Jewelry Store	P	
Luggage and Leather Goods	P	
Music and Video Stores	P	
Office Supply, Stationery & Gift Stores	P	
Pawnshop / Pawnbroker	NP	
Pet and Pet Supply Store	P	
Shoe Store	P	
FOOD AND BEVERAGE STORES		
Bakery	P	
Delicatessen	P	
Convenience Market	P	
Grocery Store	P	
Specialty Food Stores	P	
SERVICES		
Advertising Agency	P	
Data Processing Services	P	
Photography Studio	P	
Photocopying and Duplicating Services	P	
FINANCIAL SERVICES		
Banks, Credit Unions and other Depository Institutions	P	
Banks, Credit Unions and other Depository Institutions with Drive-thru Facilities	NP	
Check Cashing	NP	
Check / Payday Advance	NP	
Money Transmitting	NP	
Other Financial Services	NP	
PERSONAL SERVICES		
Barber Shop and Beauty / Nail Salon	P	
Dry Cleaners	P	
Laundry - Commercial	NP	
Pet Grooming	P	
Tailor	P	
Travel Agency	P	
REPAIR SERVICES		

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Land Use	MU-1 Commercial	Notes
Computer, Home Electronics, and Small Home Appliances (when ancillary to another use)	NP	
Electrical Equipment	NP	
Jewelry and Watches / Clocks	P	
Locksmith / Key Shop	P	
MANUFACTURING		
Boutique/Artisan Small-Scale and Micro Manufacturing Facilities	P	2
INFORMATION		
Sound (Audio) Recording Studio	P	
RESIDENTIAL		
Multiple Family Dwellings	NP	
Second Dwelling Units	NP	
Senior Housing Developments	NP	
Single-Family Dwellings	NP	
Single Room Occupancy Facilities	NP	
Supportive Housing	NP	
Work/Live Units	C	
EDUCATIONAL SERVICES, SCHOOLS AND INSTRUCTION		
Public/Private Fine Arts Schools (nonacademic instruction, including music, dance, performing arts, drama, photography, ceramics, painting and sculpture)	P	
Arts, Entertainment and Recreation		
Promoters of Performing Arts, Sports and Similar (offices only)	P	
Independent Artist, Writers, and Performers (office only)	P	

Notes

1. In the MU-1 zoning district, live entertainment is administratively permitted only in conjunction with a bona fide restaurant or alcoholic beverage manufacturer's tasting room, tap room, pub or wine room.
2. See Ontario Development Code Section 5.03.037 (Artisan Small-Scale and Micro Manufacturing Facilities)
3. See Section 4.4 Car Condo (Vehicle) Store Regulations

4. DEVELOPMENT REGULATIONS

This section sets forth the standards to govern the placement, height, and bulk of permitted buildings and structures; to establish locational criteria for vehicular access to site, parking and loading requirements, landscape, sign standards; and identify historic preservation features to be incorporated and/or considered for development plans. Unless otherwise stated herein, all development within the project area shall meet the applicable standards and requirements of the Ontario Development Code.

4.1 INTENSITY

Commercial retail uses within the mixed-use district are allowed a Floor Area Ratio (FAR) of up to 1.0. Floor Area Ratio is calculated by dividing the building square footage by the net lot area (after right-of-way dedications).

4.2 BUILDING HEIGHT

The buildings within the MU-1 PUD Commercial district area shall be a maximum of 35 feet or consistent with scale and height of the adjacent buildings along Emporia Street. Architectural projections, such as parapet articulations, cornices, towers, etc. may be constructed at a height of 25% above the prescribed height of the zoning district.

4.3 BUILDING\ PARKING SETBACKS

All setbacks shall be measured from the ultimate property lines after all dedications to develop streets to the ultimate right-of-way width (Table 4-1, Building Setback(s)). Placement of buildings, structures, fences, walls, utility facilities, yards, etc. will be based on the street right-of-way and property line dimensions.

Table 4-1: Building(s) Setbacks		
MU-1 Commercial District Development Standards		
Requirements	MU-1 Commercial District	Additional Requirements
Building Development Standards		
1. Emporia Street Setback	0 Feet Minimum 3.5 Feet Maximum	Building Architectural features/awnings may encroach into the right-of-way, subject to the California Building Code requirements.
2. Euclid Avenue Street Setback	0 Feet Minimum 5 Feet Maximum	Building Architectural features/awnings may encroach into the right-of-way, subject to the California Building Code requirements. Edge of slope (right-of -way), along the Euclid Avenue Street side frontage, shall be landscaped.
3. Interior Side Property Setbacks 4. Rear Property Setbacks	0 Feet Minimum 0 Feet Minimum	Setback areas shall be landscaped
Site Development Standards		
1. Minimum Landscape Coverage	N/A	All setback areas, building entry areas shall be landscaped.
2. Minimum Parking Space or Drive Aisle Setbacks to face of curb	5 feet	Setback areas shall be landscaped.
3. Minimum Parking Space or Drive Aisle Setbacks to Interior Side Property Lines	5 Feet	Setback areas shall be landscaped.
4. Minimum Parking Space or Drive Aisle to buildings, walls or fences	5 Feet	Setback areas shall be landscaped.

4.4 LANDSCAPING

Landscaping elements provide significant contributions to the aesthetic quality and character of the Art District West PUD, with respect to public and private spaces. Detailed landscape/irrigation plans shall be included in the Development Plan submittals for the PUD. The plan shall specify all landscape and hardscape elements for the development plan site and indicate how the improvements will coordinate with the other sites within the PUD. The landscape plans shall show the location of all ground mounted utility structures such as transformers, back flow prevention devices, trash enclosures, and HVAC equipment and indicate the methods for screening these items. All utility structures and equipment shall be screened from view of the public streets and adjacent development.

Water conservation shall be provided through low water using plant materials, hydro zones, water efficient irrigation and weather-based controllers. Landscaped areas may be used for storm water infiltration through vegetated swales, retention basins, or dry wells as needed with the use of appropriate planting materials. Broad canopy shade trees shall be used to reduce heat gain on buildings, paving and parking areas. The plan shall identify all existing trees on site and preserve them where possible. The landscape design shall meet the requirements of the Landscape Development Standards outlined in the Ontario Development Code and shall create well-functioning spaces within a sustainable design.

Landscaping shall be used on the site to show transition from adjacent uses, define a circulation pattern on the lot, screen the parking lot from the street, highlight entries, provide shade for parking as well as outdoor seating areas, and to soften the appearance of the building.

Developments shall comply with the following:

- All setback areas, building entry areas shall be landscaped.
- At a minimum, landscaping shall include 15-gallon trees planted no more than 20 FT on center, within minimum 5-FT wide planters.
- A suitable plant material (grasses, ivy, etc.) should be used as ground cover in planters.

Street trees shall comply with the variety, size, and spacing as directed by the City of Ontario Master Street Tree Plan.

4.5 EQUIPMENT AND MECHANICAL SCREENING

All roof mounted and ground mounted equipment shall be fully screened from view of the public street and adjacent developments. The location of items shall be designed to allow screening with landscape materials, walls, architectural features, parapet walls, etc. Screening shall be designed to be integrated into the design of the project.

Ladders for roof access shall be mounted on the inside of the building or shall be completely concealed from public view.

4.6 FENCES AND WALLS

Fences and walls within the project area shall be made of decorative materials which are compatible with the overall architectural character of the development within the PUD area. All fences and walls shall be in scale with the development to fulfill such needs as screening and security.

Fences, walls and hedges within the project area shall comply with Engineering Corner Sight Distance Standards and other applicable standards. All decorative walls, monuments and/or other similar features shall not encroach into the public street right-of-way.

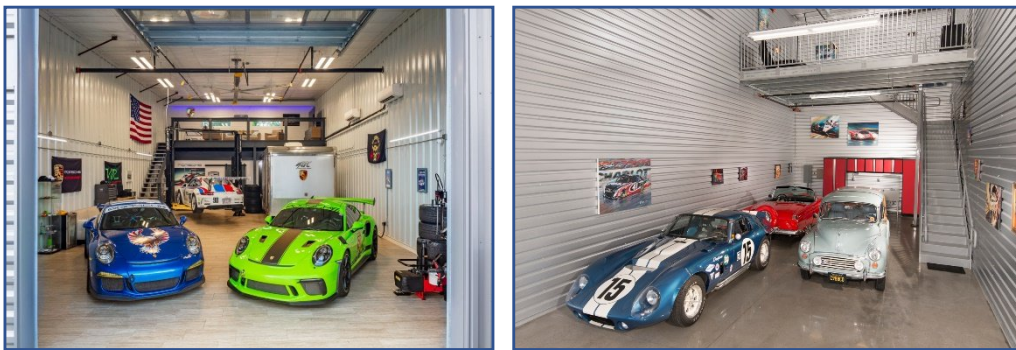
Walls shall be limited to a maximum of four (4) feet in height within any street frontage areas. Interior or rear walls shall be a maximum of six (6) feet in height.

Walls shall be an integral design of the building architecture and feature similar finished material, reveal lines, trim, etc.

4.5 CAR CONDO (VEHICLE) STORAGE REGULATIONS

Car Condominiums are space you own and customize – much more than just a place to house your car; they're a lifestyle (Artform) that is being embraced by car aficionados of all sports, classic, racing, exotics, hot rods and collectible cars. Car Condos works similar to a regular condominium. The developer handles the permits and construction, and then the buyer builds out the inside of the unit the way they want.

Car Condos offer car enthusiasts a safe, secure and private space to store and display their vehicles, other motorized toys and treasures. The condo units can be customized to include a loft area for an office, TV viewing area and refreshment kitchenette area.



The following standards shall govern the establishment and operation of Car Condos (Vehicle Storage) are intended to result in facilities that are well designed, maintained and enhance the Arts Districts area in which they are located in.

Car Condo (Vehicle Storage) facilities shall comply with the following:

1. Covenants, Conditions, and Restrictions (CC&Rs) will be required to be recorded for the condominium car units and subject to City review and approval. CC&Rs shall include the following:

(a) CC&Rs shall be prepared for the Project and shall be recorded prior to the issuance of a building permit.

(b) The CC&Rs shall be in a form and contain provisions satisfactory to the City. The articles of incorporation for the property owner's association and the CC&Rs shall be reviewed and approved by the City.

CC&Rs shall ensure reciprocal parking and access between parcels, and common maintenance of:

- (i)** Landscaping and irrigation systems within common areas;
- (ii)** Landscaping and irrigation systems within parkways adjacent to the project site, including that portion of any public highway right-of-way between the property line

or right-of-way boundary line and the curb line and also the area enclosed within the curb lines of a median divider (Ontario Municipal Code Section 7-3.03), pursuant to Ontario Municipal Code Section 5-22-02;

- (iii) Shared parking facilities and access drives; and
- (iv) Utility and drainage easements.

(c) CC&Rs shall include authorization for the City's local law enforcement officers to enforce City and State traffic and penal codes within the project area.

(d) The CC&Rs shall grant the City of Ontario the right of enforcement of the CC&R provisions.

(e) A specific methodology/procedure shall be established within the CC&Rs for enforcement of its provisions by the City of Ontario, if adequate maintenance of the development does not occur, such as, but not limited to, provisions that would grant the City the right of access to correct maintenance issues and assess the property owners association for all costs incurred.

2. All motor vehicle storage shall include the keeping of automobiles, trucks, vans, recreational vehicles and watercraft, motorcycles, trailers, forklifts, and any inoperative vehicle, regardless of vehicle type.
3. The indoor storage of motor vehicles shall comply with all applicable requirements of the fire and building codes.
4. Any use that creates excessive noise, dust, hazardous materials or pollutants, or result in obvious fire hazards or negatively impact the reasonable use and enjoyment of other units are not permitted.
5. Minor vehicle maintenance (oil change, detailing, tune-ups, etc.) is allowed provided that the work does not reasonable interfere or negatively impact other units. Painting, bodywork or welding is not permitted.
6. Car washing is allowed, subject to National Pollutant Discharge Elimination System (NPDES) and City regulations.
7. The units may not be used for residential living. Loft office areas, kitchenette (sink, refrigerator, microwave) TV lounge areas, bathrooms and showers are permitted.
8. All vehicles, trailers and/or accessories must be stored within the enclosed unit. No outside storage is allowed.
9. Retail sales or commercial office uses from units is prohibited.
10. Retail or wholesale sales of vehicles from units is prohibited.
11. No exterior sign, placard, picture, advertisement, name or notice may be installed or displayed on any part of the outside exterior of a unit.

5. CIRCULATION, PARKING, & INFRASTRUCTURE

Access to the site will be limited to Emporia Street only.

5.1 PEDESTRIAN CONNECTIONS

Pedestrian connections shall be provided to each building from the public street within the PUD site. The Mixed-Use Commercial land use district shall also provide pedestrian pathways/sidewalks, along Emporia Street, to connect to the residential, work/live lofts and commercial developments surrounding the PUD area.

5.2 PUBLIC RIGHT-OF-WAY IMPROVEMENTS

The public right-of-way shall be improved with each proposed development. The public right-of-way improvements required are to include but are not limited to the following: street pavement, curb and gutter, parkway landscaping, parkway irrigation, public sidewalk, traffic signing and striping, streetlights, bus stop, bus shelter and amenities. The extent of the required improvements shall be determined for each development plan. At a minimum, the improvements shall incorporate all items along the street frontages of the properties to be developed with proper transitioning if the entire block frontage is not being installed with a development.

5.3 INFRASTRUCTURE

There is an existing 6-inch water line within Emporia Street that shall serve the PUD site, which connects to a 4-inch STL in Laurel Avenue (undersized). The water main will be required to be upsized, possibly to a 12-inch - required size and limits to be determined by the fire flow test. However, it is likely that the upsize will take place from the intersection of Holt Boulevard and Laurel Avenue, south to the intersection of Emporia Street and Laurel Avenue, due east to the end of the cul-de-sac to provide adequate fire service.

Wastewater flows for the PUD site will be designed to use an existing 8-inch sewer line located within Emporia Street.

On-site stormwater drainage facilities shall be provided to capture and infiltrate a 2-yr, 24-hour storm event, consistent with the San Bernardino County Stormwater Program's Water Quality Management Plan (WQMP) requirements for new development projects. Stormwater capture and infiltration facilities may include the utilization of vegetated swales, depressed landscaped basins, pervious concrete pavement or underground stormwater retention/infiltration vaults. All building roof and paved area runoff shall be directed into depressed landscaped swales, trenches or basins, within the development, in order to comply with the requirement to capture and infiltrate the 2-yr, 24-hour storm event runoff.

The Applicant/Developer will be responsible to design and construct street improvements, along property frontage of Emporia Street, in accordance with conditions issued by City's Engineering Land Development Division. These, and all other street improvements required herein, shall include, but not limited to, concrete curb and gutter, sidewalk, LED streetlights, signing and striping, and parkway landscaping.

Existing Street light fixtures, along Emporia Street will be required to be replaced with City-approved LED equivalent fixtures. Refer to the Traffic and Transportation Design Guidelines for LED fixture requirements. The type of street lighting will be determined at the time of development.

5.4 PARKING

Parking shall be provided on-site at the rates required by the City of Ontario Development Code. One parking space within each Car Condo Unit may be counted towards required parking for vehicle storage use. In addition, the Downtown Parking Model may be used to obtain required parking for uses within the PUD.

The Downtown Ontario Parking Model was created in 2002 to provide a means of assessing parking demand and capacity in the downtown area. As in most downtowns, on-site parking is not typically attainable due to as-built conditions, including small lots, historic buildings with no setbacks, alley loaded streets, and excessive lot coverage. The Excel-based parking model specifically evaluates demand based on land use and capacity at maximum build out on an hour-by-hour and block-by-block basis. The model provides an estimate of parking availability (on-site and street parking combined) with shared parking within the downtown district as the premise.

6. DESIGN GUIDELINES

The following design guidelines are intended as a reference to assist the designer in understanding the City's goals and objectives for high quality commercial development. The guidelines compliment the mandatory development standards contained in Subsection 4 (Development Regulation) above.

Design principles and examples of desired styling elements to guide the development within the downtown are set forth in the Downtown Ontario Design Guidelines ("Guidelines"), adopted by the Ontario City Council on August 18, 1998. The design guidelines in this PUD are general in nature and may be interpreted with some flexibility in their application to specific projects. The guidelines will be utilized during the City's development review process to encourage the highest level of design quality, while at the same time providing the flexibility necessary to encourage creativity on the part of the project designer(s). As such, some variations from the Guidelines are permitted, provided that the integrity of the urban design and historic preservation principles is not compromised. To safeguard the integrity of the historic district, a Certificate of Appropriateness is required for development.

6.1 SITE DESIGN

The site design shall minimize pedestrian/vehicle conflicts by creating opportunities for building entry plazas, outdoor dining, and landscaped pathways that promote safe and convenient pedestrian movement.

6.2 BUILDING ORIENTATION

Buildings should be oriented towards Emporia Street. Frontages should be enhanced with entry elements, interesting architecture, enhanced materials, and pedestrian scale to provide connection between the development and the street. Windows and entries should face the street avoiding blank walls dominating public views. Stores with entries not visible from the street may be oriented towards pedestrian open space. The building entries may be located on the side of the building so long as strong pedestrian connection is maintained through wide walkways, enhanced pavers, plazas, appropriately scaled lighting and/or other similar features. Rear entrances, if needed, should be secondary in nature.

6.3 BUILDING STREET SIDE SETBACKS

The sides of buildings along street edges shall be landscaped within the setback to soften the building's appearance as well as designed with windows or design elements.

6.4 STREET FRONTAGE AND PARKING LOTS

Parking lots should generally be placed away from streets. Street frontages shall be broken up with buildings, landscaping, plazas, and other pedestrian features. Continuous parking lots along the street frontage should be avoided. Any parking along street edges shall be setback with a landscaped buffer to minimize the dominant feeling of the automobile along the street. Continuous

parking stalls may be interrupted by landscaped islands no more than 10 stalls apart. Parking lots are encouraged to be interconnected rather than separated for each building. Separated parking lots encourage customers to drive from store to store. Parking lots shall not be visible from the Euclid Avenue corridor.

6.5 SERVICE AND STORAGE AREAS

Loading areas and storage areas are to be located behind or to the side of buildings (West side) siting onto Emporia Street. These features must be screened with walls and landscaping as much as possible from public view of streets, residences, and pedestrian walkways. Loading areas and storage areas should not conflict with pedestrian walkways.

6.6 REFUSE CONTAINERS

Refuse containers and equipment shall be easily accessed by service vehicles. Service facilities such as trash enclosures, loading zones and yard areas shall be designed, located and oriented to have a minimal visual impact on the development within the PUD area. Trash enclosures shall be designed to coordinate with the architecture, colors and materials of the style of the development and shall be located to provide adequate access for trash pickup without encroaching on access drives or landscaped areas. Trash enclosures shall be designed and constructed with a solid roof cover which shall also be designed to match the architecture of the development. The enclosure may be designed to be incorporated into the building, subject to City review/approval, in order to screen the enclosure appropriately.

6.7 SIDEWALKS

Sidewalks shall be located along natural pedestrian travel paths. Sidewalks should be a minimum of 5' wide along pedestrian pathways.

6.8 ARCHITECTURAL CHARACTER\DETAILS

The project area is located within Ontario's historic downtown area and shall comply with the Downtown Ontario Design Guidelines. The Downtown Ontario Design Guidelines were adopted in 1998 to guide the physical revitalization of Ontario's historic downtown. The Guidelines provide architectural and design principals, as well as design concepts for downtown districts. The project area is located within the Education Center, a mixed-use area with a focus on commercial, retail, public, and educational uses.

The design principles and desired architectural features for the mixed-use blocks are derived from the architectural style and elements set forth in Section 3.5.3 of the Downtown Design Guidelines, with respect to storefront modulation, entrances, roof design, mechanical equipment, building elements (cornices, storefront frame, mid-floor panel, transom windows, bulkheads), awnings, materials and colors. Those guidelines, together with the following, shall be incorporated into the Development Plans and Certificates of Appropriateness for each block, subject to final interpretation by the Planning/Historic Preservation Commission and City Council.

Architectural Character

- Create an architectural character that compliments the various styles within the historic downtown by using similar proportions, building details and building material.
- New buildings should appear to fit in contextually with existing historic buildings by using similar proportions, articulation, building details and building material.
- The overall character should feel like a modern interpretation of a traditional American small town.
- Create compatibility between the mixed-use architecture and the residential architecture within the downtown area; the introduction of unifying elements such as similar materials and colors should be considered; however, “sameness” is discouraged.

Massing & Scale

- Employ simple, yet varied massing, with wall openings that create shadow line and provide visual relief. Monolithic buildings and extensive blank wall surfaces are not allowed.
- Emphasize massing and height of corner elements
- Building increments should be a maximum of 50 feet in width. Buildings that exceed fifty (50) feet of frontage should use various architectural devices to replicate the building increments and pattern of the existing downtown including horizontal breaks and offsets every 25 to 50 feet
- The upper portion of the buildings should reflect the same increment of articulation as the ground level (storefront level)
- The cornices and moldings at the top of facades should also reflect the vertical massing (increments) of the building
- Use strong and identifiable building forms to demarcate street intersections for instance, a taller building mass, tower element/clock tower, or cupola may be considered.
- Where adjacent buildings will be of varying heights, they should be sensitively designed to promote a compatible transition in massing and avoid abrupt changes in scale along the streetscape.

Articulation & Fenestration

- Design buildings with 3-dimensional quality; building facades should be based upon a pleasing set of proportions and a clear pattern of building openings.
- Differentiate between the base, middle and top levels of a building; for instance, street-oriented shops may feature a 1) a bulkhead; 2) display windows; and 3) transom and detailed cornice.
- Avoid monotonous or blank facades on a building; buildings shall be articulated on all sides. Use fenestration (windows and doors), as well as changes in wall plane, material, texture, color, etc. to create shadow lines and articulate building walls.
- Provide highly visible public entrances, preferably oriented to streets and outdoor spaces; shop entrances may be clearly expressed with recesses, overhangs, special materials, and/or detailing.

- Require a high degree of street level transparency, especially along sidewalks, important outdoor spaces and heavily trafficked areas; the use of reflective, opaque, and darkly tinted glass should be restricted.

Architectural Details

- Use architectural details to enhance a building's appearance. Careful detailing is especially appropriate at the base of buildings, along cornices, eaves, parapets or ridge tops, and around entries and windows.
- Incorporate human-scaled details such as canopies and awnings, transparent windows and windows displays. These are required at public entrances and along heavily trafficked outdoor areas.
- Design architectural features and details as an integral part of the building; architectural features, including canopies and awnings, should not appear "tacked-on."

Storefront Guidelines

- Storefronts should provide an individual look for each store or establishment while still blending in with the overall design.
- Storefronts shall incorporate high quality building materials. A durable base material (18 inches high min.) such as brick, tile, exterior cement plaster, or pre-cast architectural concrete shall be used. Storefront glazing and exterior plaster shall not terminate at the ground plane.
- Storefront glazing shall be clear glass to permit clear views into the interior space. The amount of such glass shall provide a balance between high visibility into the store interior and architectural character/quality.
- Entrance doors shall be of a traditional style and transparent as possible; however, an all glass door is prohibited.
- No part of any open doors shall extend into the public right-of-way.
- Storefront openings should not exceed 30 feet in width without the interruption of a vertical building element (column or wall).
- Storefront openings may extend up to 16 feet in height; the height should range from 8 to 16 feet.

Materials & Colors

- Use materials that exhibit permanence and quality, and that unify a building's appearance on all sides; materials and colors should accentuate the architectural details of the building and promote visual harmony. Brick, tile, pre-cast architectural concrete, wood, stone veneers or stucco are preferred.
- To create visual interest, use at least 3 different building materials on building facades. Materials may be used to highlight a building entrance or distinguish the building base.
- Any awnings shall be comprised of durable, heat, dust and mildew-resistant canvas materials that are designed to withstand the rigors of the Ontario climate. Vinyl or other shiny materials are prohibited. However, canopies are preferred over awnings.

Roofs/Rooftop Equipment

- Express roofs in a visually interesting manner that complements the composition of the building and surrounding area, (i.e., use sculpted roof forms or a strong and attractively detailed cornice).
- Locate and/or screen rooftop equipment, including ladders and antenna devices, so that it is not visible from streets and adjacent buildings; methods of rooftop screening should be integral to the building's form.
- All mechanical units shall be screened from public view and from adjacent existing buildings (preferably with roof forms).
- When roof decks and mechanical units are visible from adjacent developments, they should be as unobtrusive as possible and painted to match finish roof material.

6.9 OUTDOOR DINING AREAS

Outdoor dining areas adjacent to a street level eating or drinking establishment are encouraged along Emporia Street and Euclid Avenue. Any such areas shall be designed in accordance with the provisions set forth in Section 2A.7 of the Downtown Ontario Design Guidelines, plus any additional features that may be required as part of on-sale alcoholic beverages. Outdoor dining along Euclid Avenue, if proposed within the rights-of way, will require an agreement with the California Department of Transportation, since this street is within a State right-of-way.

All commercial signs shall be designed in accordance with the criteria set forth in Section 2C of the Downtown Ontario Design Guidelines.

6.11 LIGHTING

All lighting of facades, decorative fixtures, store window interiors, awnings, and signs shall be designed in accordance with the criteria set forth in Section 2D of the Downtown Ontario Design Guidelines.

On-site lighting must be directed away or shielded from adjacent streets, and adjacent properties. All exterior lighting shall be of an indirect nature, coming from under eaves and canopies, or at ground level, within landscaped areas.

Exterior lighting fixtures should be a decorative and reinforce the architectural style of the building.

Light standards less than 15 FT in height (including lighting bollards) should illuminate all street sidewalks and connecting walkways and are encouraged throughout the project.

7. HISTORIC PRESERVATION

7.1 HISTORIC CONTEXT AND BACKGROUND

The project area that comprises the PUD established by this document is located within the City's Historic Downtown District. Founded by the Chaffey Brothers in the 1880's, Ontario was a coined a "model irrigation colony" by an Act of Congress in 1904. The Chaffey Brothers bought 6,218 acres of the Cucamonga Ranch in 1882 after the Southern Pacific Railway extended its service to the west. Approximately 640 acres were set aside for the community of Ontario, with half of that endowed to the Chaffey Agricultural College. The rest of the acreage was utilized as agricultural land. The primary feature of the Chaffey city plan was the two-hundred-foot-wide Euclid Avenue. Several innovations included the provision for water rights for each landowner, electric lights, and an electric railway. The gravity Mule Car that ran along the length of Euclid from 1888 to 1895 provided interest to its visitors as did the historic fountain that displayed Ontario's water supply system. The median still exists today and has been a center of public activity since its inception. The present downtown took shape from the original irrigation system and land subdivision pattern established by the Chaffey Brothers in the 1880's as it grew evenly northwards away from the railroad lines. The area within the current Downtown almost exactly matches the original boundaries of the Model Colony.

As a part of the recognition of Ontario's rich heritage, the City Council in July 1991 adopted a Historic Preservation Ordinance. The purpose of the Ordinance was:

1. To safeguard the City's unique historical heritage as embodied and reflected in the City's architectural history and patterns of cultural development;
2. To foster civic and neighborhood pride and a sense of identity based on the recognition and use of Historical Resources; and
3. To preserve diverse architectural styles, patterns of development, and design preferences reflecting phases of the City's history and to encourage complementary contemporary design and construction and inspire a more livable urban environment.

The PUD area has side street frontage along Euclid Avenue. The public right-of-way of Euclid Avenue from Philadelphia Street to the I-10 was designated as Local Landmark No. 67 on January 16, 2001 by the Ontario City Council. On August 10, 2005, the public right-of-way of Euclid Avenue from Philadelphia Street in Ontario to 24th Street in Upland was listed on the National Register of Historic Places as a significant cultural landscape. The public right-of way includes north and south bound streets, sidewalks, light fixtures, parkways, median, trees, and stone and concrete curbs and gutters. Contributing character-defining features include the 60-foot wide median, historic rock curb, scored sidewalks, King standard light posts, double planting of California pepper trees (*Schinus molle*), silk oaks trees (*Grevillea robusta*), and other mature vegetation such as deodar trees (*Cedrus deodara*) and Canary Island palms (*Phoenix canariensis*). All proposed developments within the PUD area will require a Certificate of Appropriateness to

ensure alterations and building forms (design, scale/massing and site layout) are appropriate to the character of the historic Euclid Avenue frontage (Right-of-way).

7.2 EXISTING HISTORIC RESOURCES

The PUD area does not contain any potential or proposed historic resources. However, the area is located within the Proposed Downtown Historic District. As such, a Certificate of Appropriateness will be required with all proposed developments within the PUD area to ensure no adverse impacts to the proposed and designated historic resources occur as a result of development. Infill and new construction, including building forms (design, scale/massing and site layout) and architectural elements, shall be developed in a manner that adheres to the Secretary of Interior Standards for the Treatment of Historic Resources, the City of Ontario Development Code, and the Ontario Design Guidelines.

8. ADMINISTRATION

8.1 ITEMS NOT ADDRESSED IN PUD

Any terms, requirements, or regulations not addressed within the PUD document shall be governed by the City of Ontario Development Code, the regulations of the Mixed-Use zones and City Standards.

8.2 DEVELOPMENT APPLICATIONS

Development Plans for the development of each individual parcel within the PUD area, along with fees and other required items, shall be submitted for review and approval per the requirements contained in Chapter 2, *Administration and Procedures*, of the City of Ontario Development Code and the General Application.

8.3 ADMINISTRATIVE EXCEPTIONS

Deviation from the development standards set forth in this document may be granted up to a maximum of ten (10%) percent by the Zoning Administrator. Any deviation that is greater than (10%) percent shall require Variance approval.

CITY OF ONTARIO

Agenda Report
April 5, 2022

SECTION: CONSENT CALENDAR

Department: Economic Development
Prepared By: Karen Khukoyan
Staff Member Presenting:
Jennifer McLain Hiramoto, Economic
Development Director
Approved By: 

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

SUBJECT: SEWER CONNECTION FEE REIMBURSEMENT PILOT PROGRAM

RECOMMENDATION: That the City Council consider and approve the adoption of the Sewer Connection Fee Reimbursement Pilot Program and authorize City Manager, or his designee, to make any necessary program adjustments and execute all necessary documents to implement the Sewer Connection Fee Reimbursement Pilot Program.

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

FISCAL IMPACT: The Sewer Connection Fee Reimbursement program as proposed would provide loans, up to \$50,000, to eligible business owners (restaurants) who are subject to paying Inland Empire Utilities Agency (IEUA) fees. The program will be limited to restaurants as a pilot program, but may be altered for other uses in the future. The total funding for the program will be \$100,000. Funding for the initial application period will come from the General Fund current Fiscal Year 2021-22 operating budget. Program funding for future years and application periods will be contingent upon City Council approved budgets for the respective fiscal years.

BACKGROUND & ANALYSIS: To further encourage the ongoing development in Ontario, the City is pursuing the implementation of a program to assist businesses and developers by reimbursing IEUA-imposed sewer connection fees. The program will cater to restaurants that have IEUA fees that exceed \$100,000, and are located in high-pedestrian areas, including but not limited to Downtown and Piemonte. IEUA fees are collected by the City on behalf of the Inland Empire Utilities Agency to cover the cost of capital improvements to their regional sewage treatment plants. The sewer connection fee is a one-time fee paid indirectly to IEUA for any new or upsized connection to a sewer collection system within the IEUA service area.

The payment is made while building permits are being obtained, and depending on circumstances can be a financial burden for a new businesses, particularly restaurants. As an example, a new restaurant might have 92 fixture units at a pre-calculated sewage factor of 0.1780. This will result in an Equivalent Dwelling Unit (EDU) of 16.376. The current IEUA one-time connection fee is \$7,379 per EDU, which would cost the new restaurateur approximately \$120,838. This expense can be

burdensome to restaurants, becoming a deterrent for potential sought after businesses looking to invest in Ontario.

The City is exploring a pilot forgivable loan program in an effort to provide financial assistance to qualifying restaurants. The City may, in its sole and complete discretion, enter into a "Sewer Connection Fee Reimbursement Program Loan Agreement" (Attachment A) for loans of up to \$50,000 to business owners who provide evidence of a building permit for a current restaurant project. The balance of the loan will be reduced by 20% each year that the borrower remains in business at the qualifying location. If the business remains at the qualifying location for five (5) consecutive years, the loan shall be cancelled, and the promissory note returned to the Borrower as paid in full. Should a recipient vacate the qualifying location or suspend business operations prior to the full 5 years, the loan amount remaining will be owed to the City of Ontario.

Economic Development Department staff will review all applications to ensure the applicant meets the qualifications.

In order to proceed with the implementation of the program, program guidelines need to be adopted. The program guidelines contain details of eligibility requirements, the amount and type of financial assistance offered, application procedures, and the procurement and award processes. As this is a pilot program, at the conclusion of the first year, Staff will evaluate the program on its effectiveness, including, but not limited to, number of jobs created, sales tax revenue generated, and whether the program should be continued and or/expanded. Staff recommends that the City Council adopt the proposed Pilot Program to further encourage development in high-pedestrian areas of the City.

CITY OF ONTARIO

Agenda Report
April 5, 2022

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: 8

SUBJECT: AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH UC RIVERSIDE CENTER FOR ECONOMIC FORECASTING AND DEVELOPMENT AT THE SCHOOL OF BUSINESS ADMINISTRATION, FOR THE PURPOSE OF EXTENDING THE SCOPE, TIME OF PERFORMANCE, AND THE NOT TO EXCEED AMOUNT

RECOMMENDATION: That the City Council approve an amendment to the Professional Services Agreement (on file with the Records Management Department) between UC Riverside ("UCR") Center for Economic Forecasting and Development at the School of Business Administration and the City of Ontario for the purpose of extending the time of performance an additional year, updating the Scope of Work, and increasing the not to exceed amount to \$109,500.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

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

Operate in a Businesslike Manner

Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: The total cost of the contract with UCR will be \$109,500. Of that, \$83,500 will be allocated toward the Distribution and Logistics Sector Economic and Fiscal Impact Study, and \$26,000 will be allocated toward the quarterly Regional Intelligence Reports and EDD Confidential Data. The expenditures will be divided in the General Fund between FY 2021-22 and FY 2022-23 budget appropriations.

BACKGROUND & ANALYSIS: The UCR School of Business Center for Economic Forecasting and Development is the first world-class university forecasting center in the Inland Empire. The City is currently contracted with the UCR Center for Economic Forecasting and Development for quarterly reports designed to provide an updated understanding on the City's local and regional economy. These publications are public record, and made available online following adoption.

In addition to these quarterly reports, the City is proposing an expanded Scope of Work with UCR for the completion of an Economic and Fiscal Analysis of the City of Ontario's important and extensive logistics and distribution sectors. The analysis will include an in-depth quantitative assessment of:

- **Economic Impact:** An analysis of the economic impact of the Logistics and Distribution sectors on the City of Ontario and County of San Bernardino, including examining jobs supported, labor income generated, and total output contributed. It will also compare Ontario's strength as a logistics hub against national logistics centers across the United States, and will make recommendations on how to continue to capitalize on this competitive advantage.

- **Fiscal Impact:** UCR will then examine the fiscal benefits to local government that are derived from the construction and operations of distribution, logistics and e-commerce projects.

In addition, the report will include a white paper that will, among other items, include findings from structured interviews with leadership within the local distribution and logistics ecosystem, such as airport executives, developers, and tenants of e-commerce facilities. This may lead to the creation of a business consortium of the region's most influential logistics and distribution representatives.

The ultimate goal of this study is to clearly articulate the economic impact of the distribution and logistics sectors, which are critical to Ontario's future, and make predictions for trends in these industries. Data from this study will also help inform future business attraction, retention and marketing decisions, as well as provide information that can be used when applying for future grant opportunities.

CITY OF ONTARIO

Agenda Report
April 5, 2022

SECTION: PUBLIC HEARINGS

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

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 9

SUBJECT: INTRODUCTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 33 TO TITLE 5 OF VOLUME I TO THE ONTARIO MUNICIPAL CODE, ESTABLISHING A PUBLIC ART PROGRAM, ESTABLISHING A PUBLIC ART ADVISORY COMMITTEE, AND INCLUDING A DEVELOPMENT FEE TO SUPPORT PUBLIC ART, AND FINDING THE ACTION EXEMPT FROM CEQA

RECOMMENDATION: That the City Council consider and take action to add Chapter 33 to Title 5 of Volume I to the Ontario Municipal Code relating to establishing a Public Art Program, establishing a Public Art Advisory committee, and a development fee to support public art.

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

Operate in a Businesslike Manner

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

FISCAL IMPACT: Development fees are based on building activity and vary each year. Based on historical data, fees collected for public art from new development and tenant improvements from prior years would have generated \$290,000 in fiscal year 2019-20, \$215,000 in fiscal year 2020-21, and \$130,000 for current available development in fiscal year 2021-22.

BACKGROUND & ANALYSIS: On December 6, 2016, the City Council introduced a Reference I, Public Art Program, to the City of Ontario Development Code to promote public art. As the City continues to mature, the finer arts have taken on a greater significance in the community with the introduction of art into several City projects; most notably in Ontario Town Square, at the Anthony Munoz Community Center, and the increased visitation to our local museums (Ontario Museum of Art & History and the Chaffey Community Museum of Art), as well as other art-related events such as the Ontario Festival of the Arts, and the Culture Fest. As a result, the Public Art Program was created to properly outline guidance on the installation of public displays. Since its inception in 2016, staff has continued to refine the criteria of the Program to address provisions for placement

and/or donations of artwork to the City for display on public property in the Ontario Development Code.

The Community Life & Culture Agency and the Planning Department recommend that the Public Art Program is best suited to be placed in the Municipal Code instead of the Development Code, in order that the Public Art Advisory Committee, not the Planning Commission, is the primary body that considers City-commissioned public art projects. The Historic Preservation Commission would still have a role to evaluate proposed public art projects that are proposed in historic districts or upon historic resources.

This Ordinance builds upon the Public Art Program existing in the Development Code but places the Public Art Program in the Municipal Code. New additions include the following:

- A. Expand the definition of Artwork to include additional projects, including earthworks, performing arts, literary arts, special events, festivals, other arts and culture programming, and other visual arts. Art is defined as both temporary and permanent installations and does not include objects that are mass-produced.
- B. Expand the Public Art Program Advisory Committee from three members to five and state that City Council appointees can include local art educators, local artists, local performers, arts professionals, college-level art students, and architects.
- C. Create a new Public Art in Development program to collect a minimal fee from all new commercial and industrial development, as well as tenant improvements on commercial and industrial developments valued at \$500,000 or more, or allow the development or tenant improvement to install art as part of the project. The fee structure is as follows:

Eligibility	On-Site Fee Option	City Fee Option	Maximum City Fee
New commercial/industrial development \$500,000 or more.	Developer installs On-Site public art display valued at 1% of the total final project valuation as determined by the building official or designee.	Developer provides the City 0.5% worth of the valuation of the total final project valuation as determined by the building official or designee for City to deposit into the Public Art Fund to be used for the installation of a new public art display or maintain, upgrade, or expand an existing display.	\$5,000 per project.

Tenant Improvement on commercial/industrial development \$500,000 or more.	Developer installs On-Site public art display valuated at 1% of the total final project improvement valuation as determined by the building official or designee.	Developer provides the City 0.5% worth of the valuation of the total final project improvement valuation as determined by the building official or designee for City to deposit into the Public Art Fund to be used for the installation of a new public art display or maintain, upgrade, or expand an existing display.	\$2,500 per project
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D. Establish some basic regulations for the installation of murals. City-commissioned murals on City property will need to be approved by the Public Art Program Advisory Committee, and the Ordinance outlines some basic standards for the Committee to consider when reviewing a mural proposal. Non-City-commissioned murals will be subject to an objective design checklist established, and amended from time to time, by Resolution, and subject to ministerial City review. The Ordinance establishes an application of \$100 per non-City-commissioned mural application, which may be amended from time to time by Resolution.

ENVIRONMENTAL REVIEW: The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty 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.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 33 TO TITLE 5 OF VOLUME I TO THE ONTARIO MUNICIPAL CODE, ESTABLISHING A PUBLIC ART PROGRAM, ESTABLISHING A PUBLIC ART ADVISORY COMMITTEE, AND INCLUDING A DEVELOPMENT FEE TO SUPPORT PUBLIC ART, AND FINDING THE ACTION EXEMPT FROM CEQA.

WHEREAS, the City of Ontario ("City") desires to introduce art and artworks into the community; and

WHEREAS, public art enriches the lives of City residents and visitors by exposure to art in various forms; and

WHEREAS, the City encourages public dialogue and interaction through a public art program; and

WHEREAS, the City desires embracing a broad range of artworks, which are reflective of the overall diversity of the City's residents and visitors; and

WHEREAS, the City desires to establish a public art program that would allow and regulate a variety of artworks, including murals, that are either developed on City-owned public property or on private property as part of a development project; and

WHEREAS, the City desires to impose a requirement on certain commercial and/or industrial developments to install public art as part of the project or to pay a fee to the City which would support the City's efforts in installing public art throughout the City.

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 33 is hereby added to Title 5 of Volume I of the Ontario Municipal Code to state, in full, as follows:

"Chapter 33: Public Art Program

5-33.01 Purpose

5-33.02 Public Artworks: Definitions

5-33.03 Public Art Program Advisory Committee

5-33.04 Policy for the Gift or Long Term Loan of Public Art

5-33.05 Public Art in Commercial and Industrial Development Projects

5-33.06 Murals

Sec. 5-33.01. Purpose

This Chapter may be known and cited as the “Ontario Public Art Program.” It is the goal of the City’s Public Art Program to promote public art and art in public places, as a cultural resource for the community, and act as a mechanism to enhance the City’s commercial vitality and economic stability. Furthermore, it is intended that the Ontario Public Art Program will serve to enrich the community aesthetic and built urban environment, by making available to the public a diverse collection of artworks throughout the City. The aforementioned goals will be realized through bringing contemporary art into the environment and life of Ontario, enriching the lives of City residents and visitors by the exposure to art in various forms, encouraging both emerging and established artists living in Ontario and the Ontario region by supporting and purchasing their work, acquiring a distinguished collection of art representing varying genres, styles, scales, mediums, forms, and intent, and reflective of trends and disciplines in art on a local, regional, national, and international level, integrating artists into the City’s design process, encouraging public dialogue and interaction through a public art program; embracing a broad range of artworks, which are reflective of the overall diversity of current works in the field of visual arts, enriching the quality of life and economic vitality of Ontario, and further defining distinct characteristics of neighborhoods.

Sec. 5-33.02. Public Artworks: Definitions.

As used in this Chapter, the words, terms, and phrases listed below in correct alphabetical order, shall have the following meanings:

(a) “Artworks” means original pieces of art, including limited editions, not limited by medium used. It may include paintings, sculptures, murals, mosaics, and fountains. These categories may be realized through such media as steel, bronze, stained glass, concrete, wood, ceramic tile, stone, and other suitable materials. Artworks may also include earthworks, performing arts, literary arts, special events, festivals, and other arts and culture programming and/or visual arts not specifically outlined herein, as may be deemed appropriate by the Public Art Program Advisory Committee. Artworks include both temporary and permanent projects. Artworks does not include objects that are mass produced.

(b) “Commercial Message” means any message that advertises a business conducted, services rendered, or goods produced or sold.

(c) “Commercial project” means any site, structure, facility, or land use allowed pursuant to Table 5.02-1 (Land Use Matrix) of the City of Ontario Development Code, within any of the commercial zoning districts established under Section 5.01.005.B (Commercial Zoning Districts) of the Development Code, or within the commercial portion of any residential mixed-use development.

(d) “Industrial project” means any site, structure, facility, or land use allowed pursuant to Table 5.02-1 (Land Use Matrix) of the City of Ontario Development Code, within any of the industrial zoning districts established under Section 5.01.005.D (Industrial Zoning Districts) of the Development Code, or within the industrial portion of any nonresidential mixed-use development.

(e) “Original Art Mural” means a unique, hand-painted, hand-tiled, or digitally printed image on the exterior wall of a building that does not contain any commercial message.

(f) “Public Place” means any area on public property, either interior or exterior, which must be accessible and visible to the general public.

(g) “Project Applicant” means the property owner, developer or other responsible party proposing a project requiring an art component.

(h) “Project Improvement Valuation” means the value of the tenant improvements as determined by the then-current City total valuation methodology.

(i) “Project Valuation” means the value of the project as determined by the then-current City total valuation methodology.

(j) “Project Site” means the location of the improvements being developed.

(k) “Public Art on City Property” means original works of art located on, affixed to, or applied on City-owned property.

(l) “Private Art for Public Enjoyment” means original works of art located on, affixed to, or applied on private property that are accessible and/or visible to the general public.

(m) “Public Art Program Advisory Committee” means the five-member advisory committee appointed by the City Council that is responsible for ensuring that the criteria established by this Public Art Program have been met.

(n) “Vintage Original Art Mural” means an original art mural that existed prior to the enactment of this Chapter.

Sec. 5-33.03. Public Art Program Advisory Committee.

(a) There is hereby created and established a Public Art Program Advisory Committee. The Public Art Program Advisory Committee shall be comprised of five members who shall be appointed by the City Council.

(b) Members of the Public Art Advisory Committee shall be comprised as follows:

(1) Three (3) of the five (5) members shall be given priority consideration from each of the following organizations, provided that the City has received an application from at least one representative from each organization.

(A) A representative from the Chaffey Community Museum of Art;

(B) A representative from Ontario Heritage;

(C) A representative from the Ontario Museum of History & Art Associates;

(2) The remaining two (2) members, or more if the City has not received an application from each of the three (3) organizations listed in Section 5-33.03(b)(1)(A)-(C), may be selected from the following:

- (A) Local non-profit historic preservation advocacy organization;
- (B) Local arts educators;
- (C) Local artists;
- (D) Local performers;
- (E) Arts professionals;
- (F) College-level arts students; and
- (G) Architects, landscape architects, and other design professionals.

(3) Notwithstanding any contrary provision in the Ontario Municipal Code, members of the Public Art Advisory Committee may be non-residents of the City, subject to the limitation that no more than two (2) of the five (5) members may be non-residents of the City.

(4) The City Councilmember Liaison to the Ontario Museum of History & Art, shall serve as an ex officio, non-voting member.

(c) The process for appointment to the Public Art Advisory Committee shall be as follows. A call for applications will be sent out for interested appointees. Community Life & Culture staff will review the applications received and determine whether the applicants meet the basic requirement from this Section. Community Life & Culture staff will then present the qualified candidates to the City Council for their review and nomination. The Mayor shall appoint the members of the Committee, subject to ratification by a vote of the entire City Council. Each Councilmember may suggest one member from the list of qualified candidates for the Mayor to appoint to the Committee.

(d) Members of the Public Art Program Advisory Committee shall serve a term of four (4) years. A person may serve multiple terms.

(e) Powers and Duties. The Public Art Program Advisory Committee shall ensure that all criteria established by this Public Art Program have been complied with. The Advisory Committee shall review all requests for the installation of public art, examining proposals for public safety, weather resistance, balance with the program, public response, proper lighting, public accessibility, installation methods, proportion, composition, the artist's previous experience, art training, and exhibition record. Advisory Committee support shall be provided by the Museum, Arts & Culture Director.

(1) Construction and Installation of Public Artworks (Permanent). The following procedure is to be followed in the construction of on-site permanent public artworks:

(A) The composition of the proposed artwork shall be of a permanent type of material in order to be a durable against vandalism, theft, and weather, and require a low level of ongoing maintenance.

(B) The artwork shall be related in terms of scale, material, form and content to immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment. A Certificate of Appropriateness pursuant to Ontario Development Code Section 4.02.050 may be required to ensure that the artwork does not cause an adverse impact to historic resources.

(C) The artwork shall be constructed by persons experienced in the production and installation of such artwork.

(D) The artwork shall be permanently affixed to the property unless it is designated a temporary exhibit in the scope of the project when commissioned.

(E) Installation of the artwork shall be planned and implemented to enhance the piece and allow for unobstructed viewing from as many angles as possible.

(F) The City shall obtain from the artist, complete maintenance instructions, including methods to maintain the piece and the frequency of maintenance.

(G) Each piece of artwork shall be identified by a plaque at the site of an appropriate size and scale to the piece. The plaque shall be made of cast metal and then placed in a location near the art piece listing the title of the piece, the artist, and the date as well as the city and the art in public places program.

(2) Construction and Installation of Public Artworks (Temporary). The following procedure is to be followed in the construction of on-site temporary public artworks:

(A) The composition of the proposed artwork shall be of a type of material in order to be a durable against vandalism, theft, and weather, and require a low level of maintenance.

(B) The artwork shall be related in terms of scale, material, form and content to immediate and adjacent buildings and landscaping so that it complements the site and surrounding environment.

(C) The artworks shall be constructed by persons experienced in the production and installation of such artwork.

(D) The method of attachment or securing the artwork shall be identified.

(E) Installation of the artwork shall be planned and implemented to enhance the piece and allow for unobstructed viewing from as many angles as possible.

(F) The City shall obtain from the artist, complete maintenance instructions, including methods to maintain the piece and the frequency of maintenance.

(G) Each piece of artwork shall be identified by a plaque at the site of an appropriate size and scale to the piece. The plaque shall be made of cast metal and then placed in a location near the art piece listing the title of the piece, the artist, and the date as well as the city and the art in public places program.

(H) Any security measures needed to secure the artwork, the estimated cost of the security, and a source of funding for the security shall be identified.

(I) Any temporary artwork must include a deinstallation plan that clearly identifies which parts of the artwork (if any) need to be returned to the artist and which may be disposed of after the term of the installation.

Sec. 5-33.04 Policy for the Gift or Long Term Loan of Public Art.

(a) Purpose. Unsolicited gifts or long term loans to the City can be an important part of the City's art collection. The purpose of this Section is to ensure that proposed gifts of public art undergo a review process to ensure that acceptance of such gifts takes place in a fair and uniform manner. Furthermore, it is the intent of this Section to ensure that potential gifts of public artworks are evaluated as carefully as artworks that are commissioned, and that such artworks undergo a careful review process that evaluates a gift based upon acceptance criteria established according to the purposes, guidelines, goals, and selection process that guides artworks that are commissioned.

(b) Applicability. This Section applies to all unsolicited offers of donation or long term loans of artworks to the City of Ontario.

(c) Procedures for Gifts or Long Term Loans. For each proposed gift or long term loan of public art, a written proposal or letter of intent shall be submitted to the City Manager. The City Manager shall refer the proposal to the Public Art Advisory Committee for review and recommendation. The City Council's decision shall be final and conclusive. The proposal shall consist of the following items:

- (1) Completed application form;
- (2) Photographs, drawings, models, or designs of proposed artwork;
- (3) Description and samples (if available) of materials and colors;
- (4) Appraisal by a professional art appraiser (for long term loans);

(5) A site plan, to include photographs of site and neighborhood, drawings of the proposed site with the project to scale. If located within a historic district or on any other historic resource, a Certificate of Appropriateness may be required pursuant to Ontario Development Code Section 4.02.050;

(6) Proposed transportation/delivery schedule, and request of City responsibility for transport of the artwork to the City, if applicable;

(7) Proposed installation schedule;

(8) Maintenance manual, including the long-term intent of artist for the preservation and maintenance of artwork;

(9) Maintenance schedule prepared by professional art curator;

(10) Estimated budget for installation and maintenance;

(11) Resume and examples of artist's previous work;

(12) Duration of the loan (if applicable)

(13) Proof of insurance sufficient to meet the requirements of the City's Risk Manager, if necessary; and

(14) Building permits, if necessary.

(d) Criteria for the Evaluation of Proposed Gifts or Long Term Loans of Public Art. The following criteria shall be used in evaluating proposed gifts of long term loans of public art for review and acceptance by the City:

(1) Artworks may be existing or proposed works of art;

(2) Artworks must be one-of-a-kind or part of an original series. Reproductions of originals are not considered eligible for acceptance;

(3) Gifts must maintain high artistic standards and are appropriate in relationship or historical relevance to the City;

(4) The proposed location (if specified) is available and is appropriate to the artwork's content, scale, and material. Factors to be considered in selecting an appropriate site include type of artwork, relationship to architectural and natural features, visibility and public access, traffic patterns, future development plans for the area (if known), and public use patterns of the site and surrounding area. If a location is on a historic building, site, landscape or within a district issuance of a Certificate of Appropriateness may be required pursuant to Ontario Development Code Section 4.02.050;

(5) Restrictions from the donor, if any;

(6) Artwork proposals must demonstrate how the surrounding community has been involved and consulted in the process;

(7) Costs of installation and maintenance and repair over the expected life of the artwork shall be defined;

(8) Artistic quality (vision, originality and craftsmanship);

(9) Context (architectural, historical, geographical and socio-cultural context of the site);

(10) Quality and permanency of materials (if ephemeral material: is appropriate documentation included?);

(11) Safety;

(12) Diversity of artists (gender, race, culture) representation in the existing collection of publicly-accessible artworks; and

(13) Diversity of artworks (media, scale, style, intention) in the existing collection of publicly accessible artworks.

(e) Long Term Loans of Artwork. Upon recommendation by the Public Art Program Advisory Committee and acceptance by the City Council, long term loans of artwork may be displayed upon execution of a contract between the City and the artist clearly identifying the terms and conditions of the loan and the rights and responsibilities of all parties.

(f) Acceptance of Gifts of Public Art. Upon recommendation by the Public Art Program Advisory Committee and acceptance by the City Council, gifts of artworks will be deemed part of the permanent collection of the City, and registered with the City's Department of Museum Arts & Culture, once the donor has supplied the City with the following:

(1) Written certification of the installation of the artwork, if completed by artist;

(2) An executed contract between the City and the artist transferring title of the artwork and clearly defining the rights and responsibilities of all parties;

(3) Written instructions for the care, maintenance, preservation, and handling of the artwork, prepared with the assistance of a professional art conservator to be provided by the artist;

(4) A sworn statement of no liens, claims, or other encumbrances associated with the artwork;

(5) A written assignment of any and all warranties for materials used, or labor performed by subcontractors or other persons; and

(6) A written assignment conveying, at a minimum, a perpetual license for the City to reproduce the artwork in digital or print medium for City purposes. The written assignment may include, should it be the artist's desire, the conveying of all rights, including copyrights and waiver of all rights under the Visual Artist's Rights Act of 1990, and its amendments (Section 106A of the United States Copyright Act; Pub. L. No. 101-650).

(g) Title and Ownership. Permanent gifts of artwork to the City shall become the property of the City once an Agreement for Acceptance Donated Artwork has been fully executed and the Donor has delivered the Bill of Sale/Transfer of Title. At such time, all rights of title and ownership shall be conveyed to the City, and all future decisions regarding the use and continued ownership of the artwork shall be under the sole discretion of the City. As owner of the artwork, the City may exercise any and all legal rights of ownership, including, but not limited to, sale, relocation, or removal of the artwork.

(h) Maintenance. When artwork gifts are situated at or on City owned or occupied properties or facilities, the City shall assume its continued maintenance.

(i) Removal, Relocation, or Deaccession of an Artwork. Artworks gifted to the City may be relocated, removed, or deaccessioned from the City's public art collection if the artwork becomes a hazard or liability, if the approved terms of acceptance are not fulfilled, or for any other reason as determined by the City Council, upon recommendation by the Public Art Program Advisory Committee.

(j) Exemption. Gifts of state presented to the City by foreign governments or by other political jurisdictions of the United States that may be accepted by the City Council or City Manager on behalf of the City. Permanent placement of any such artworks will be determined jointly by the City Manager and the Public Art Program Advisory Committee. If not provided by the donor, maintenance of the art will be the responsibility of the host City department.

Sec. 5-33.05 Private Art for Public Enjoyment in Commercial and Industrial Development Projects.

(a) Purpose.

(1) The purpose of this Section is to establish a program for private art for public enjoyment in which private developers shall be required to integrate artworks throughout the commercial and industrial sectors of the City, for the benefit of the general public. The goals of this program are as follows:

(A) Differentiate the City of Ontario as a special place to live, work, play, visit, and invest;

(B) Strengthen cultural awareness, creativity, and innovative thinking in the community;

(C) Integrate the vision of artists with the perspective of other design professionals into the planning and design of the urban landscape;

(D) Ensure public artworks are visually accessible to every member of the community;

(E) Provide an acceptable counterbalance to what many consider to be the undesirable effects of commercial and industrial development (e.g. construction noise, traffic, congestion, and pollution); and

(F) Build a diverse collection of outdoor artworks by qualified artists and ensure the collection is continually maintained.

(2) The public art in commercial and industrial development projects program provides developers a way to make a lasting and visible contribution to the community and alleviate the undesirable effects that may be associated with commercial and industrial development.

(b) Applicability.

(1) All new commercial and industrial development projects, and new tenant improvements constructed in or on new or existing commercial and industrial buildings, having a total project building valuation of \$500,000 or more, shall be subject to the requirements of this Section. This Section does not apply to the residential portion of mixed-use projects.

(2) All residential projects and public facilities projects constructed by the City or by nonprofit organizations shall be exempt from the requirements of this Section.

(c) Minimum Public Art Allocation.

(1) The required minimum public art allocation fees shall be as follows, and may be amended from time to time by Resolution:

Eligibility	On-Site Fee Option	City Fee Option	Maximum City Fee
New commercial/industrial development \$500K or more.	Developer installs On-Site public art display valued at 1% of the total final project valuation as determined by the building official or designee.	Developer provides the City 0.5% worth of the valuation of the total final project valuation as determined by the building official or designee for City to deposit into the Public Art Fund to be used for the installation of a new public art display or maintain, upgrade, or expand an existing display.	\$5,000 per project.
Tenant Improvement on commercial/industrial	Developer installs On-Site public art display valued at 1% of the total final	Developer provides the City 0.5% worth of the valuation of the total final project	\$2,500 per project

development \$500K or more.	project improvement valuation as determined by the building official or designee.	improvement valuation as determined by the building official or designee for City to deposit into the Public Art Fund to be used for the installation of a new public art display or maintain, upgrade, or expand an existing display.	
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(2) All projects created through the On-Site Fee Option must be reviewed and approved by the City and shall be installed in compliance with all federal, state, and local applicable laws and regulations.

(3) All projects, whether installed through the On-Site Fee Option or the City Fee Option, must be maintained by the developer during the life of the buildings and structures.

(4) If the artwork installed pursuant to this Section is altered, removed, is not maintained in good condition, or is not provided as required, the City may exercise any and all available legal and/or equitable remedies.

(d) Penalties. Violations of this Section may be subject to the penalties set forth in Chapter 2 of Title 1 of Volume I of the Ontario Municipal Code and/or subject to revocation of the entitlements for the development project.

Sec. 5-33.06 Murals.

(a) Murals commissioned by the City may only be installed and maintained if they have been approved by the Public Art Program Advisory Committee. Other murals not commissioned by the City will be subject to an objective design checklist established, and amended from time to time, by Resolution, and subject to ministerial City review. Murals may only be located in commercial, industrial, city-owned public, and private property. The Advisory Committee shall have the authority to review and approve City commissioned murals in accordance with the procedures and standards outlined in this Chapter.

(b) Standards. The Public Art Program Advisory Committee shall ensure that City commissioned murals are consistent with the following standards:

(1) Murals shall be an original art mural, a work of art, that is hand-painted, hand-tiled or digitally printed image or digital display system on the exterior surfaces of a building or site designed as a work of art. The image cannot be advertising or other commercial message with brand name, product name, abbreviation thereof, company or business name or logo, trademark, brand imagery or products and services for sale. The Public Art Program Advisory Committee will determine if an image, painting pattern, or other element on the exterior of a building or site is a work of art. If the Public Art Program Advisory Committee determines that the image, painting pattern, or other element is not a work of art, then other applicable law may be applied such as sign or building design guidelines by other City departments.

(2) Murals must be durable and capable of being well-maintained.

(3) Murals shall not compromise the proper function of any building or use or diminish public safety.

(4) Murals shall not incorporate recognized signs of hatred or discrimination against any race, color, sex, age, national origin, disability, religion, ancestry, marital status, familial status, gender identity or expression, or sexual orientation.

(5) Murals shall not be obscene or harmful to minors as defined by law.

(6) A Certificate of Appropriateness shall be required if the mural is on a historic building or site pursuant to Ontario Development Code Section 4.02.050.

(c) Application fee. There shall be an application fee of \$100 per non-City-commissioned mural application, which may be amended from time to time by Resolution.

(d) An Original Art Mural is not considered a sign as defined in the Ontario Development Code. However, nothing contained in this Chapter is intended to change the rules governing the determination of whether a mural may be placed on a historic building.

(e) A City commissioned mural shall remain in place, without alteration, for a minimum of six (6) months.

(f) Removal. A City commissioned mural may be removed after six (6) months from the date of registration, so long as it is not a registered historic landmark itself or associated with a registered historic landmark property, under any the following circumstances as determined by the Executive Director of the Community Life & Culture Agency:

(1) The property is sold;

(2) The structure or property is substantially remodeled or altered in a way that precludes continuance of the mural;

(3) The property undergoes a change of use authorized.”

SECTION 3. The City Council hereby directs the Planning Director to proceed with a Development Code Amendment repealing the Public Art provisions from the Development Code following approval of this Ordinance.

SECTION 4. 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 5. This Ordinance shall become effective thirty (30) days after its adoption by the City Council.

SECTION 6. 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 7. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this ____ day of _____ 2022.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. ____ was duly introduced at a regular meeting of the City Council of the City of Ontario held April 5, 2022 and adopted at the regular meeting held _____, 2022 by the following roll call vote, to wit:

AYES: MAYOR/COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. ____ duly passed and adopted by the Ontario City Council at their regular meeting held _____, 2022 and that Summaries of the Ordinance were published on _____, 2022 and _____, 2022, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
April 5, 2022

SECTION:
PUBLIC HEARINGS

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: 10

SUBJECT: A PUBLIC HEARING REGARDING AN ECONOMIC DEVELOPMENT SUBSIDY REPORT AND OPERATING COVENANT AGREEMENT BETWEEN THE CITY OF ONTARIO AND SID TOOL, INC. A SUBSIDIARY OF MSC INDUSTRIAL DIRECT CO., INC. PURSUANT TO GOVERNMENT CODE SECTION 53083.1; AND CONSIDERATION OF A RESOLUTION ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT, APPROVING THE OPERATING COVENANT AGREEMENT

RECOMMENDATION: That the City Council take the following actions:

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

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner

FISCAL IMPACT: Pursuant to the terms of the proposed Operating Covenant Agreement ("Agreement"), the operating covenant payment between the City and Sid Tool is calculated based on Sid Tool's sales tax revenue during a computation quarter in an amount equal to the sum of **fifty percent** (50%) of the local sales tax revenue received. Per the Economic Development Subsidy Report, payment to Sid Tool is estimated at \$587,000 annually commencing upon the effective date of the Agreement, and the total amount of the expenditure or loss of revenue of public funds as a

result of the economic development subsidy will be approximately \$11,740,000 over the 20-year-term.

BACKGROUND & ANALYSIS: The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law. The City of Ontario receives one percent (1%) of all taxable sales generated within the City under this law. Sales and Use Tax revenues are an important source of revenue for the City, which are used to provide essential city services, such as police, fire, infrastructure maintenance and community facilities.

Sid Tool and its affiliates comprise one of the largest industrial equipment distributors in the United States, distributing more than 1.5 million metalworking and other industrial products. Sid Tool is seeking to restructure its business operations in order to better serve customers within California and the Western region of the United States.

Through this Agreement, Sid Tool will lease a sales office of approximately 1,500 square feet within the City of Ontario. Without an Agreement, Sid Tool would not consider locating its sales office in the City. The economic development subsidy will ensure that Sid Tool selects the City for its sales office thereby generating a benefit to the City for a period of up to 20 years.

Entering into this Agreement will generate nearly \$587,000 annually over a 20-year term to the City. By establishing the Ontario sales offices, Sid Tool will consolidate other office locations across Southern California to the City. The Ontario location will serve as the sole point of sale for all of the owner's products sold in California. This will, in turn, result in an increase revenue to the City, and there may be other community and public improvements that might not otherwise be available to the community for many years. Considering the potential benefits Sid Tool will have on the community, staff recommends executing an Operating Covenant Agreement to incentivize Sid Tool to expand and grow its operations in the City.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT PREPARED PURSUANT TO GOVERNMENT CODE SECTION 53083 REGARDING THE LEASE OF A SALES OFFICE BY SID TOOL, INC. IN THE CITY OF ONTARIO AND APPROVING AN OPERATING COVENANT AGREEMENT BETWEEN THE PARTIES.

WHEREAS, the City of Ontario ("City") and Sid Tool, Inc. ("MSC") have negotiated an Operating Covenant Agreement ("Agreement") with respect to the lease of a sales office ("Office") within the City; and

WHEREAS, pursuant to that Agreement, MSC is committed to leasing the Office in the City for at least 20 years following the Agreement's effective date; and

WHEREAS, MSC has also covenanted to, among other things, designate the City as the point of sale for sales transactions out of that Office; and

WHEREAS, the City has agreed to purchase those covenants through quarterly payments equal to:

- Fifty percent (50%) of the all sales tax revenue over the 20-year term; and

WHEREAS, based on information provided by City staff, and other such written and oral evidence as presented to the City, the City finds and determines that the allocation of funds to MSC pursuant to the Agreement is reasonably related to a legitimate governmental purpose in that the establishment and retention of the Office will provide numerous public benefits including:

- Generating substantial revenue for the City through additional Local Sales Tax Revenue which may be used by the City for the funding of necessary public services and facilities, including but not limited to, public safety services and facilities, public improvements and recreational opportunities that otherwise may not be available to the community for many years; and
- The creation (by re-assignment) of 40 full-time jobs.
- Helping the City achieve the building blocks set forth in the Ontario Plan (adopted by the City Council in 2010) including taking actions that help to achieve a "Dynamic Balance" that enables the community to confront the continued dynamic growth of the region and technological change with confidence and a sense of opportunity and a "Prosperous Economy" that sustains prosperity across our entire community; and
- Entering into this Agreement and ensuring the Office's presence in Ontario may attract additional businesses and investment in the community due to increased services and economic activity in the area.

WHEREAS, in accordance with Government Code Section 53083, the City provided certain information in written form to the public and on its website, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference, and held a public hearing on April 5, 2022 to consider all written and oral comments on the Economic Development Subsidy Report; and

WHEREAS, in accordance with Government Code Section 65090 et. seq., the City provided notice of the April 5, 2022 public hearing.

WHEREAS, MSC is a duly formed New York corporation and the establishment and retention of the Office serves MSC's business purposes in that the advantageous location of the City and its business conducive environment will permit MSC to operate more efficiently and effectively, will better serve its customers, and may provide an avenue for business expansion in the future; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein and made an operative part of this Resolution.

SECTION 2. Findings. The City Council hereby finds that:

(a) Entering into this Agreement will serve the following public purposes:

(1) Through this Agreement, MSC will be committed to operating sales office in the City.

(2) The establishment and retention of the Facility within the City will generate substantial revenue for the City, create new jobs (through re-assignment of existing employees to the City), revitalize an area of the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years.

(3) By having a company like MSC establish and retain an sales office in the City, the City will be adding diversity to and generating new opportunities for economic growth.

(4) Further, the establishment of the Office serves the public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom, thereby assisting the City in its goal of furthering the development of the community. The increased economic activity resulting from the Office and MSC's footprint in the City will improve the economic and social viability and vitality of the local community.

(5) Entering into this Covenant Agreement will also further the City's efforts to achieve certain goals set forth in the 2010 Ontario Plan. The Ontario Plan included certain building blocks for the economic growth and improvement of the community. The Plan called upon the City to take actions that help to achieve a "Dynamic Balance" that enables the community to confront the continued dynamic growth of the region and technological change with confidence and a sense of opportunity and a "Prosperous Economy" that sustains prosperity across our entire community. The establishment of the Office is another step in achieving those goals.

(b) Based upon these and other public benefits the public purposes of the Agreement outweigh any private benefit to private persons or entities.

(c) Contingent Obligations. The City finds that each City obligation is contingent upon separate consideration by MSC including but not limited to quarterly sales tax generation.

SECTION 3. CEQA. The City Council hereby finds that pursuant to the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), approval of the Agreement and acceptance of the Economic Development Subsidy Report is not a "project" for purposes of CEQA and therefore is not subject to CEQA review. The Agreement and acceptance of the Economic Development Subsidy Report is not a project pursuant to State CEQA Guidelines section 15378(b)(4), which states that government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant environmental impact are not subject to CEQA. Further, the Agreement and acceptance of the Economic Development Subsidy Report is not a project under State CEQA Guidelines section 15061(b)(3), which states that CEQA does not apply where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 4. Acceptance of Economic Development Subsidy Report. The City Council finds and determines that the Economic Development Subsidy Report (Exhibit A) is in compliance with applicable law and specifically Government Code Section 53083.

SECTION 5. Approve Agreement. The City Council hereby approves the Operating Covenant Agreement in substantially final form as attached to this Resolution as Exhibit B. The City Council hereby authorizes the City Manager, with the concurrence of the City Attorney, to make any non-financially substantive changes determined to be appropriate and in the City's interest and execute said Agreement. City Manager is hereby authorized to take any additional steps necessary to facilitate the intent of this action.

SECTION 6. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 7. Effective Date. This Resolution shall become effective immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 5th day of April 2022.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST AND KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2022- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held April 5, 2022 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2022- duly passed and adopted by the Ontario City Council at their regular meeting held April 5, 2022.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A
ECONOMIC DEVELOPMENT SUBSIDY REPORT

[Attached behind this cover page]

**ECONOMIC DEVELOPMENT SUBSIDY REPORT
PURSUANT TO GOVERNMENT CODE SECTION 53083.1**

**FOR AN OPERATING COVENANT AGREEMENT
BY AND BETWEEN
CITY OF ONTARIO
AND
SID TOOL, INC.**

Pursuant to Government Code Section 53083.1, the City Council of the City of Ontario must hold a noticed public hearing and, prior to the public hearing, provide all of the following information in written form and available to the public and through the City's website, regarding a proposed economic development subsidy to be provided by the City pursuant to an Operating Covenant Agreement by and between the City of Ontario and SID TOOL, Inc. ("Agreement"). Notice was published in the local newspaper for a public hearing to be held on April 5, 2022.

The purpose of this report is to provide the information required pursuant to Government Code Section 53083.1 in regards to the Agreement. This report shall remain available to the public and posted on the City's website until the end date of the economic development subsidy, as further described in number 2 below.

- 1. The name and address of all corporations, including members of a commonly controlled group or members of a combined reporting group of which the corporation is a member, or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy.**

The Agreement is with SID TOOL, Inc., a New York corporation ("MSC"). MSC is the beneficiary of the economic development subsidy.

Kristen Actis-Grande, Chief Financial Officer
75 Maxess Road, Melville, NY 11747
(516) 812-2000

- 2. The name and address of the commercial sales office that are the beneficiary of the economic development subsidy.**

The Sales Office currently under consideration is a 1,616 square foot office in the Palmbrook Corporate Center on Inland Empire Boulevard in Ontario, CA ("Office"), which would benefit pursuant to the terms of the Agreement, and subject to approval by the City Council. MSC may consider other similar locations within the City.

- 3. The start and end dates and schedule, if applicable, for the economic development subsidy.**

If the Agreement is approved by the City Council, the term will begin on the Effective Date of the Agreement and continue for no less than 20 years. The first Covenant Payment will be paid following the first Covenant Quarter in which MSC has performed its covenants and other obligations pursuant to the Agreement.

4. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.

The economic development subsidy shall be the sum of fifty percent (50%) of the Sales Tax Revenues attributable to annual taxable sales received by the City for Office.

The City estimates that the annual payment to MSC will be approximately five hundred eighty-seven thousand dollars (\$587,000) for each year commencing upon the effective date of the Agreement, and that the total amount of the expenditure or loss of revenue of public funds as a result of the economic development subsidy will be approximately eleven million seven hundred forty thousand dollars (\$11,740,000) over the 20-year term.

MSC's sales tax paid to City is estimated to be up to twenty-three million four hundred eighty thousand dollars (\$23,480,000) over the 20-year term of the Agreement.

5. A statement of the public purposes for the economic development subsidy.

MSC and its affiliates comprise one of the largest industrial equipment distributors in the United States, distributing more than 1.5 million metalworking and other industrial products and is seeking to restructure its business operations in order to better serve customers within California and the Western region of the United States.

Through this Agreement, MSC will lease a sales office of approximately 1,600 square feet within the City of Ontario. Without an agreement, MSC would not consider locating its sales office in the City. The economic development subsidy will ensure that MSC selects the City for its sales office thereby generating a benefit to the City for a period of up to 20 years.

The City has determined that location of MSC, as described in the preceding paragraph, will generate substantial revenue for the City, would serve as the base of operation for about 40 employees who would be re-assigned to the Ontario office, and may result in community and public improvements that might not otherwise be available to the community for many years.

Further, the location of MSC serves the additional public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom, thereby assisting the City in its goal of furthering the development of the community. This Agreement furthers the policies of the City to be business friendly and support economic growth including new sources of revenue that support residents and city services.

6. The projected tax revenue to the local agency as a result of the economic development subsidy.

The City anticipates that the expansion of MSC within the City will result in an approximate increase of annual sales tax revenue in the amount of up to one million one

hundred seventy-four thousand dollars (\$1,174,000), minus the covenant payments to be paid to MSC as set forth in number 4 above.

The City will receive an estimated sixty thousand dollars (\$60,000) in business license tax from MSC annually.

7. A description of any accountability measures, including, but not limited to, clawbacks of subsidies, provided in the contract if the sales office does not meet the goal outlined in the contract for subsidies.

If MSC does not meet any of the covenants required by Agreement, City may automatically terminate its obligations with respect to Covenant Payments without cost, expense or liability, after providing MSC an opportunity to cure. MSC's contractual covenants include an operating and use covenant for the Office, a required designation of City as point of sale in compliance with California sales tax law, and obligations regarding maintenance of the Office and against solicitation or acceptance of financial assistance, as defined. MSC also covenants that the Office shall not be used for any purpose outside of that set forth in the Agreement, as a sales office.

If MSC breaches their covenant obligations within the first five (5) years of the Agreement (20 Computation Quarters), the City may recover an amount equal to sixty-six percent (66%) of the Covenant Payments paid to date.

OPERATING COVENANT AGREEMENT

between

THE CITY OF ONTARIO
a California municipal corporation,

and

SID TOOL, INC.,
a New York Corporation

[Dated as of 04/05/2022, for reference purposes only]

RECITALS

WHEREAS, Sid Tool, Inc. a subsidiary of MSC Industrial Direct Co., Inc. (“Owner”), is considering leasing an office of approximately 1,600 square feet in commercial office space, to be occupied as a West Coast Sales Office (“Office”), within the City of Ontario (“City”); and

WHEREAS, the incentives provided in this Covenant Agreement (as defined in Section 1.1 below) are intended to ensure Owner leases the new Office for purposes of generating sales revenue within the City and remaining in the City for 20 years (240 months) subject to the terms contained herein; and

WHEREAS, entering into this Covenant Agreement will generate substantial revenue for the City; and

WHEREAS, Owner wishes to locate in the City because of the operational advantages including but not limited to the consolidation within a single office of its California sales employees; and

WHEREAS, the incentives herein are intended exclusively to reward and encourage the Owner for establishing an Office within the City of Ontario that participates in California retail sales and that results in additional revenue for the City. The incentives are available to Owner solely related to establishing an Office.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for such other good and valuable consideration, the receipt of which is hereby acknowledged, the City of Ontario and Sid Tool, Inc. agree as follows:

ARTICLE 1. EFFECTIVE DATE; PARTIES; DEFINITIONS

1.1 Effective Date of Covenant Agreement. This Sid Tool, Inc., Operating Covenant Agreement (“Covenant Agreement”) is dated April 5, 2022, for reference purposes only. This Covenant Agreement will not become effective until the date (“Effective Date”) on which all of the following are true:

1.1.1 This Covenant Agreement has been approved and executed by the appropriate authorities of Owner, as defined herein, and delivered to the City;

1.1.2 Following all legally required notices and hearings, this Covenant Agreement has been approved by the City Council;

1.1.3 This Covenant Agreement has been executed by the appropriate authorities of the City and delivered to Owner.

If all of the foregoing conditions precedent have not been satisfied by May 5, 2022, then this Covenant Agreement may not thereafter become effective and any prior signatures and approvals of the Parties will be deemed void and of no force or effect.

1.2 Parties to Covenant Agreement.

1.2.1 The City. The address of the City is 303 East B Street, Ontario, California 91764, Attention: Jennifer McLain Hiramoto, Economic Development Director; telephone: (909) 395-2295; email: jhiramoto@ontarioca.gov; with copies to Ruben Duran, City Attorney, 2855 E Guasti Rd, Ontario, CA, 91761, Telephone: (909) 989-8584; email: ruben.duran@bbklaw.com.

The City represents and warrants to Owner that, to the best of City's actual current knowledge:

(a) The City is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the laws of the State of California;

(b) The City has taken all actions required by law to approve the execution of this Covenant Agreement;

(c) The City's entry into this Covenant Agreement and/or the performance of the City's obligations under this Covenant Agreement does not violate any contract, agreement or other legal obligation of the City;

(d) The City's entry into this Covenant Agreement and/or the performance of the City's obligations under this Covenant Agreement does not constitute a violation of any state or federal statute or judicial decision to which the City is subject;

(e) There are no pending lawsuits or other actions or proceedings which would prevent or impair the timely performance of the City's obligations under this Covenant Agreement;

(f) The City has the legal right, power and authority to enter into this Covenant Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Covenant Agreement has been duly authorized and no other action by the City is requisite to the valid and binding execution, delivery and performance of this Covenant Agreement, except as otherwise expressly set forth herein;

(g) The individual executing this Covenant Agreement is authorized to execute this Covenant Agreement on behalf of the City; and

(h) Nothing in this Covenant Agreement or the implementation thereof shall violate the provisions or intent of Government Code Section 53084.5 et seq.

The representations and warranties set forth above are material consideration to Owner and the City acknowledges that Owner is relying upon the representations set forth above in undertaking Owner's obligations set forth in this Covenant Agreement.

As used in this Covenant Agreement, the term "City's actual current knowledge" shall mean, and shall be limited to, the actual current knowledge of the City Manager as of the

Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

All of the terms, covenants and conditions of this Covenant Agreement shall be binding on and shall inure to the benefit of the City and its nominees, successors and assigns.

1.2.2 Owner. The address of Sid Tool, Inc. (“Owner”) for purposes of this Covenant Agreement is 515 Broadhollow Rd., Suite 1000, Melville, NY 11747; Attn: Thomas Moore, Head of Tax; telephone: (516) 812-2000; email: thomas.moore@mscdirect.com.

Owner represents and warrants to the City that, to the best of its actual current knowledge:

(a) Owner is a duly formed New York corporation, qualified and in good standing to do business under the laws of the State of California;

(b) The individual(s) executing this Covenant Agreement is/are authorized to execute this Covenant Agreement on behalf of Owner;

(c) Owner has taken all actions required by law to approve the execution of this Covenant Agreement;

(d) Owner’s entry into this Covenant Agreement and/or the performance of its obligations under this Covenant Agreement does not violate any contract, agreement or other legal obligation of Owner;

(e) Owner’s entry into this Covenant Agreement and/or the performance of its obligations under this Covenant Agreement does not constitute a violation of any state or federal statute or judicial decision to which Owner is subject;

(f) There are no pending lawsuits or other actions or proceedings which would prevent or impair the timely performance of Owner’s obligations under this Covenant Agreement;

(g) Owner has the legal right, power and authority to enter into this Covenant Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Covenant Agreement have been duly authorized and no other action by Owner is requisite to the valid and binding execution, delivery and performance of this Covenant Agreement, except as otherwise expressly set forth herein; and

(h) Owner and its managerial personnel possess sufficient experience and qualifications necessary to conduct Owner’s Sales Activities (hereinafter defined) as required by this Covenant Agreement.

(i) Nothing in this Covenant Agreement or the implementation thereof shall violate the provisions or intent of Government Code Section 53084.5 et seq.

The representations and warranties set forth herein are material consideration to the City and Owner acknowledges that the City is relying upon the representations set forth above in undertaking the City's obligations set forth above.

As used in this Covenant Agreement, the term "actual current knowledge of Owner" shall mean, and shall be limited to, the actual current knowledge of Thomas Moore, Owner's Head of Tax, as of the Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

All of the terms, covenants and conditions of this Covenant Agreement shall be binding on and shall inure to the benefit of Owner and its permitted nominees, successors and assigns. Wherever the term "Owner" is used herein, such term shall include any permitted nominee, assignee or successor of Owner.

The qualifications and identity of Owner are of particular concern to the City, and it is because of such qualifications and identity that the City has entered into this Covenant Agreement with Owner. No voluntary or involuntary successor-in-interest of Owner shall acquire any rights or powers under this Covenant Agreement except as expressly set forth herein.

1.2.3 The City and Owner are sometimes individually referred to as "Party" and collectively as "Parties."

1.3 Definitions.

1.3.1 "Affiliate" means, as defined by the Internal Revenue Code (IRC) Section 1504, any corporation included in Sid Tool, Inc.'s affiliated group.

1.3.2 "CDTFA" means the California Department of Tax and Fee Administration.

1.3.3 "City" means the City of Ontario, a California municipal corporation, and any nominee, assignee of, or successor to, its rights, powers and responsibilities.

1.3.4 "Computation Quarter" means each calendar quarter beginning on January 1, April 1, July 1, or October 1, as applicable, and ending on the succeeding March 31, June 30, September 30, or December 31, as applicable. The first Computation Quarter within the Eligibility Period shall commence on January 1, 2022, and is referred to herein as "Computation Quarter 1," with each succeeding Computation Quarter within the Eligibility Period being consecutively numbered, concluding with Computation Quarter 80. In the event the lease of the Office is terminated or expires without renewal or lease of a similar office within the City before Computation Quarter 80, the final Computation Quarter shall be appropriately adjusted subject to the terms and obligations of this Covenant Agreement.

1.3.5 "Covenant Payment(s)" means those contingent payments to be made by the City to the Owner pursuant to Section 3.2 of this Covenant Agreement for the purchase of the Covenants and Owner's timely and faithful performance thereunder.

1.3.6 “Covenant Term” means, a period of 20 years, commencing upon the first day of the first Computation Quarter (unless terminated sooner pursuant to specific provisions of this Covenant Agreement). Owner will have the option to extend this Covenant Agreement past the Covenant Term in concert with the underlying lease of Office for an additional term of 10 years.

1.3.7 “Covenants” means those five (5) covenants described in Section 3.1 herein.

1.3.8 “Eligibility Period” means the period commencing as of the first (1st) day of Computation Quarter 1 and ending the last day of the final Computation Quarter contemplated by the lease of the Office as set forth in 1.3.3 but not less than Computation Quarter 80, subject to extension pursuant to the terms of this Covenant Agreement.

1.3.9 “Office” means that certain office of approximately 1,600 square feet in commercial office space, located in the Palmbrook Corporate Center on Inland Empire Boulevard in Ontario, CA, or such other similar location of which Owner will notify City, to be leased as a regional West Coast Sales Office within the City of Ontario, that Owner will be proposing to lease for 20 years (240 months), with potential capital investment in facility upgrades and equipment suitable for an office of such size and use. Office, at Owner’s option and upon prior notice to City, may also include other distribution type facilities leased or owned by Owner within the City from which Owner and/or affiliate product is sold through Owner’s and/or its affiliates’ internet websites and sold directly to an end-user consumer so long as such affiliate sales are completed in compliance with Sections 1.3.12 and 4.27.

1.3.10 “Liquidated Damages” means, for purposes of Section 3.6, as follows: If the breach occurs during Computation Quarters 1 through 16, an amount equal to sixty percent (60%) of the Covenant Payments paid to Owner at any time prior to the Computation Quarter in which the breach occurs.

1.3.11 “Owner” means and refers to Sid Tool, Inc. a New York corporation, and its successors and assigns, cumulatively.

1.3.12 “Owner’s Sales Activities” means Owner’s activities to promote and consummate the sale of tangible personal property (“TPP”) that results in Sales Tax Revenues, including through the use of salespersons who are assigned to the Office and through telesales and online sales conducted from other Owner locations. “Owner’s Sales Activities” also include the above-described activities which are conducted by a parent, subsidiary or wholly or partially owned affiliates of Owner.

1.3.13 “Penalty Assessments” means and refers to penalties, assessments, collection costs and other costs, fees or charges assessed by any governmental authority, including CDTFA, resulting from late or underpaid payments of Sales Tax and which are levied, assessed or otherwise collected from Owner.

1.3.14 “Sales Tax” means and refers to all sales and use taxes levied under the authority of the Sales Tax Law attributable to the Office in City and Owner’s Sales Activities excluding that which is to be refunded to Owner because of an overpayment of such tax.

1.3.15 “Sales Tax Law” means and refers to: (a) California Revenue and Taxation Code Section 7200 et seq., and any successor law thereto; (b) any legislation allowing City or other public agency with jurisdiction in City to levy any form of local Sales Tax on the operations of Owner; and (c) regulations of the CDTFA and other binding rulings and interpretations relating to (a) and (b) of this Section 1.3.15.

1.3.16 “Sales Tax Revenues” means the net Sales Tax actually received by the City from the CDTFA pursuant to the application of the Sales Tax Law (as such statutes may hereafter be amended, substituted, replaced, re-numbered, moved or modified by any successor law) attributable to the Office in City in a particular Computation Quarter. Sales Tax Revenues shall not include: (i) Penalty Assessments; (ii) any Sales Tax levied by, collected for or allocated to the State of California, the County of San Bernardino, or a district or any entity (including an allocation to a statewide or countywide pool); (iii) any administrative fee charged by the CDTFA; (iv) any Sales Tax subject to any sharing, rebate, offset or other charge imposed pursuant to any applicable provision of federal, state or local (except City’s) law, rule or regulation; (v) any Sales Tax attributable to any transaction not consummated within the Eligibility Period; or (vi) any Sales Tax (or other funds measured by Sales Tax) required by the State of California to be paid over to another public entity (including the State) or set aside and/or pledged to a specific use other than for deposit into or payment from the City’s general fund.

ARTICLE 2. ADDITIONAL RECITALS

2.1 The previously stated Recitals are incorporated herein and made a part hereof as though fully set forth.

2.2 The City has determined that the long-term operation of the Office will result in substantial benefits to the City and its citizens, resulting from sales tax revenues and other ancillary benefits. Accordingly, the City has also determined that its entry into this Covenant Agreement and its purchase of the Covenants serve a significant public purpose, while providing only incidental benefits to a private party.

ARTICLE 3. COVENANTS RUNNING WITH THE LAND; COVENANT PAYMENTS; REMEDIES FOR BREACH.

3.1 Covenants Running with the Land.

3.1.1 Operating and Use Covenant. Owner covenants and agrees that for the Covenant Term, Owner shall operate, or cause to be operated upon the Property, the Office in City in a commercially reasonable business manner, consistent with all applicable provisions of federal, state and local laws and regulations. Subject to Section 4.9, the Office in City shall be operated in accordance with the reasonable and customary practices in surrounding communities.

(a) Owner will operate its business in a commercially reasonable and prudent manner, with the objective of generating a reasonable amount of Sales Tax Revenues. Owner’s obligations pursuant to the immediately preceding sentence include, without limitation, the obligation to obtain all federal, state and local licenses and permits required for the operation of the business and to conduct the business in a commercially reasonable fashion. For the Covenant Term, the Owner may use the Property only for the

purposes of the operation of the Office, related business uses and conducting Owner's Sales Activities in accordance with this Covenant Agreement.

3.1.2 Covenant to Designate City as Point of Sale. Owner covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 3.1.1, Owner shall maintain such licenses and permits as may be required by any governmental agency to conduct Owner's Sales Activities related to the Office and shall consummate at the Office all taxable sales transactions resulting from Owner's Sales Activities and identify the City as such in all reports to the CDTFA in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Revenue and Taxation Code 7200, et seq.), as it may be amended or substituted. Owner shall designate City as the sole point of sale for all of Owner's products sold. Owner shall maintain the appropriate master sales permits applicable to and required for the operation of the Office. The Owner shall consummate all taxable sales transactions for Owner's Sales Activities at the Office, consistent with all applicable statutory and CDTFA regulatory requirements applicable to Owner's Sales Activities and the designation of the City as the "point of sale" for all Owner's taxable sales occurring as a result of Owner's Sales Activities.

3.1.3 Owner's Additional Obligations Regarding Repairs and Alterations to Office. Owner covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 3.1.1, the Owner shall maintain, or cause to be maintained, the Office in good condition, ordinary wear and tear excepted, and free from the accumulation of trash or other debris and agrees to promptly remove, or cause the removal of, all graffiti upon the Office.

3.1.4 Covenant Against Solicitation and Acceptance of Economic Incentives During the Covenant Term. Owner covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 3.1.1, Owner will not directly or indirectly solicit or accept any "Financial Assistance" from any other public entity, if such Financial Assistance is given for the purpose of causing or would result in Owner's breach of any of the Covenants. For purposes of this Section 3.1.4 the term "Financial Assistance" means any direct or indirect payment, subsidy, rebate, or other similar or dissimilar monetary or non-monetary benefit, including, without implied limitation, payment of land subsidies, relocation expenses, public financings, property or sales tax relief, rebates, exemptions or credits, relief from public improvement obligations, and payment for public improvements to or for the benefit of Owner.

3.1.5 Use of Property. Owner covenants and agrees that for the term of the Operating and Use Covenant as described in Section 3.1.1, the real property upon which the Office sits shall be put to no use other than those uses specified in the City's General Plan, the Specific Plan, zoning ordinances, and this Covenant Agreement as the same may be amended from time to time. Nothing in this Section 3.1.5 shall limit, expand, modify or otherwise affect any right of the Owner to continue any legal nonconforming use upon the real property upon which the Office sits following changes in the City's General Plan or zoning ordinances.

3.2 Covenant Payments.

3.2.1 Statement of Intent. The consideration to be paid to the Owner in exchange for the Covenants and Owner's performance of its obligations set forth in this Covenant Agreement, and subject to satisfaction of all conditions precedent thereto, shall consist of City's

payment to the Owner for each Computation Quarter during the Eligibility Period that the City receives Sales Tax Revenue, an amount equal to the sum of fifty percent (50%) of the Sales Tax Revenues attributable to annual taxable sales at the local Sales Tax rate as of the Effective Date of this Covenant Agreement by the Office received by the City (“Covenant Payment”). For the avoidance of doubt, the amount of Sales Tax Revenue from which each Covenant Payment shall be derived will be calculated using the local Sales Tax rate in effect as of the Effective Date and shall not be increased during the Covenant Term; provided, however, nothing herein shall relieve Owner of its obligation to pay any and all Sales Tax, whether local or otherwise, at the rate then in effect when such Sales Tax becomes due and payable to the applicable taxing authority. The City’s obligations under this Section 3.2 are contingent on a Computation Quarter-to-Quarter basis and, for each Computation Quarter, City’s obligations to make any payments hereunder are expressly contingent upon the Owner having, for the entirety of such Computation Quarter, completely fulfilled its material obligations under this Covenant Agreement, including, without limitation, the Covenants. Should such condition precedent not be satisfied for each Computation Quarter, then City shall have no obligation under this Section 3.2 to make any Covenant Payments to Owner in such Computation Quarter.

3.2.2 Computation Quarter Covenant Payments. Within forty-five (45) days following the end of each Computation Quarter, Owner shall submit to City certified copies of its quarterly reports to the CDTFA which sets forth the amount of Sales Taxes paid to the CDTFA during the Computation Quarter arising from Owner’s Sales Activities conducted at the Office. Within one hundred twenty (120) days following the end of each Computation Quarter, City shall pay to Owner any Computation Quarter Covenant Payment due for such Computation Quarter.

3.2.3 No Carry Forward or Back. The determination of the Covenant Payment(s) shall be determined and calculated on a Computation Quarter to Computation Quarter basis. Except as provided in Section 3.2.4, no Sales Tax Revenue which is generated in a Computation Quarter other than the Computation Quarter for which the Covenant Payment is being determined shall be used or considered in the calculation of any Covenant Payment which may be due for that Computation Quarter.

3.2.4 CDTFA Determination of Improperly Allocated Local Sales Tax Revenues. If, at any time during or after the Eligibility Period of this Covenant Agreement, the CDTFA determines that all or any portion of the Sales Tax Revenues received by the City were improperly allocated and/or paid to the City, and if the CDTFA requires repayment of, offsets against future sales tax payments, or otherwise recaptures from the City those improperly allocated and/or paid Sales Tax Revenues, then Owner shall, within thirty (30) calendar days after written demand from the City, repay all Covenant Payments (or applicable portions thereof) theretofore paid to Owner which are attributable to such repaid, offset or recaptured Sales Tax Revenues. If Owner fails to make such repayment within thirty (30) calendar days after the City’s written demand, then Owner shall be in breach of this Covenant Agreement and such obligation shall accrue interest from the date of the City’s original written demand at the then-maximum legal rate imposed by the California Code of Civil Procedure on prejudgment monetary obligations, compounded monthly, until paid. Additionally, the City may deduct any amount required to be repaid by Owner under this Section 3.2.4 from any future Covenant Payments otherwise payable to Owner under this Covenant Agreement. This Section 3.2.4 shall survive the expiration or termination of this Covenant Agreement.

3.2.5 Not a Pledge of Sales Tax. Owner acknowledges that the City is not making a pledge of Sales Tax Revenues, or any other particular source of funds; the definition of Sales Tax Revenues, as used herein, is used merely as a measure of the amount payment due hereunder and as means of computing the City's payment in consideration for the Covenants. It is acknowledged by Owner that the City's obligation to make payments is specifically contingent upon receipt by the City of the Sales Tax Revenues attributable to operation of the Office.

3.3 Default.

3.3.1 Owner Default. City shall provide Owner with written notice of Owner's failure ("Owner Default") to strictly abide by any material provision of this Covenant Agreement, including, without limitation, the Covenants. Owner shall have thirty (30) days from the date of such notice to either cure such Owner Default, or, if such Owner Default cannot be reasonably cured during such thirty (30) day period, to commence to cure within said thirty (30) day period and diligently prosecute such cure to completion thereafter.

3.3.2 City Default. Owner shall provide City with written notice of City's failure ("City Default") to strictly abide by any material provision of this Covenant Agreement. City shall have thirty (30) days from the date of such notice to either cure such City Default, or, if such City Default cannot be reasonably cured during such thirty (30) day period, to commence to cure within said thirty (30) day period and diligently prosecute such cure to completion thereafter.

3.4 General Remedies for Default. Except as provided in Section 3.6, upon either a City or an Owner Default (as defined in Section 3.3), Owner or City (as applicable) shall have the right to seek all available legal and equitable remedies, including, without implied limitation, general and consequential damages, unless otherwise expressly provided to the contrary herein. Unless prohibited by law or otherwise provided by a specific term of this Covenant Agreement, the rights and remedies of the City and the Owner under this Covenant Agreement are nonexclusive and all remedies hereunder may be exercised individually or cumulatively, and the City may simultaneously pursue inconsistent and/or alternative remedies. Either Party may, upon the uncured Default of the other Party and in addition to pursuing all remedies otherwise available to it, terminate this Covenant Agreement and all of its obligations hereunder without cost, expense or liability to itself.

3.5 Owner's and City's Rights to Terminate Their Obligations under Sections 3.1 and 3.2, Respectively. The parties' respective obligations under Sections 3.1 and 3.2 shall automatically terminate without cost, expense, or liability to either party, upon the occurrence of any one or more of the following: (i) uncured Owner Default; (ii) the end of the Eligibility Period; or (iii) upon the final determination by a court of competent jurisdiction that any one or more of the Covenants are void, voidable, invalid, or even unenforceable for any reason whatsoever, including, without limitation, legal infirmity. In addition, if, after 120 days from the Effective Date, despite the parties' good faith efforts, Owner has not obtained the necessary permits from the City to operate the Office, either party may, on ten (10) days' written notice, terminate this Covenant Agreement without cost, expense, or liability to either party.

3.6 Liquidated Damages.

3.6.1 Owner Default With Respect to Obligations Under Sections 3.1.1 through 3.1.5. The Parties acknowledge that the consideration to the City for its entry into this Covenant Agreement and the performance of its obligations hereunder include the City's receipt of Sales Tax Revenues and other direct and indirect financial and non-financial benefits arising from the operation of Owner's Sales Activities and the location of the Office in the City in accordance with Article 3 of this Covenant Agreement. Owner agrees that the City will suffer damages if Owner commits any Owner Default and fails to cure the same with respect to any of its obligations arising under Sections 3.1.1 through 3.1.5. The Parties agree that the exact determination of such damages would be impracticable and extremely difficult to quantify. Accordingly, the Parties have determined that Liquidated Damages (as determined pursuant to Section 1.3.10) represents a reasonable estimate of the damages which would be suffered by the City if Owner commits any Owner Default with respect to any of its obligations set forth in Sections 3.1.1 through 3.1.5. Accordingly, as its sole and exclusive remedy for an Owner Default with respect to any of its covenants and obligations set forth in Sections 3.1.1 through 3.1.5, the City shall be entitled to (1) terminate this Covenant Agreement and the entirety of its obligations hereunder, including any accrued and unpaid Covenant Payments, and (2) receive from Owner the applicable amount of Liquidated Damages as provided by Section 1.3.10.

3.6.2 ACKNOWLEDGEMENT OF REASONABLENESS OF LIQUIDATED DAMAGES. UPON AN UNCURED OWNER DEFAULT WITH RESPECT TO ANY OF ITS OBLIGATIONS SET FORTH IN SECTIONS 3.1.1 THROUGH 3.1.5, FOLLOWING NOTICE AND OPPORTUNITY TO CURE PURSUANT TO SECTION 3.3.1, THE CITY AND OWNER ACKNOWLEDGE AND AGREE THAT IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE AMOUNT OF DAMAGES THAT WOULD BE SUFFERED BY THE CITY WITH RESPECT TO SUCH DEFAULT. HAVING MADE DILIGENT BUT UNSUCCESSFUL ATTEMPTS TO ASCERTAIN THE ACTUAL DAMAGES THE CITY WOULD SUFFER, THE PARTIES AGREE THAT THE LIQUIDATED DAMAGES AMOUNT AS DETERMINED IN ACCORDANCE WITH SECTION 1.3.10 REPRESENTS A REASONABLE ESTIMATION OF THOSE DAMAGES. THEREFORE, UPON AN OWNER DEFAULT WITH RESPECT TO ANY OF ITS OBLIGATIONS SET FORTH IN SECTIONS 3.1.1 THROUGH 3.1.5, AS ITS SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT, THE CITY SHALL BE ENTITLED TO (1) RECEIPT OF THE LIQUIDATED DAMAGES AMOUNT CALCULATED IN ACCORDANCE WITH SUBSECTION 1.3.10, WHICH OWNER SHALL PAY WITHIN THIRTY (30) DAYS FOLLOWING WRITTEN DEMAND FROM THE CITY, AND (2) TERMINATE THIS COVENANT AGREEMENT AND THE ENTIRETY OF ITS OBLIGATIONS HEREUNDER, INCLUDING ANY ACCRUED BUT YET UNPAID COVENANT PAYMENTS.

Initials of Authorized City Representative

Initials of Authorized Owner Representative

ARTICLE 4. GENERAL TERMS

4.1 Tax Consequences. Owner acknowledges that it may experience tax consequences as a result of its receipt of the payments provided for in this Covenant Agreement

and agrees that it shall bear any and all responsibility, liability, costs, and expenses connected in any way therewith.

4.2 Rights Not Granted Under Covenant Agreement. This Covenant Agreement is not, and shall not be construed to be, a Development Agreement under Government Code Section 65864 et seq., or a disposition and development agreement under Health and Safety Code Section 33000 et seq. This Covenant Agreement is not, and shall not be construed to be, an approval or an agreement to issue permits or a granting of any right or entitlement by the City concerning the Office, Owner's Sales Activities or any other project, development, or construction by the Owner in the City. This Covenant Agreement does not, and shall not be construed to, exempt Owner from the application and/or exercise of the City's or City's power of eminent domain or its police power, including, but not limited to, the regulation of land uses and the taking of any actions necessary to protect the health, safety, and welfare of its citizenry.

4.3 Consent. Whenever consent or approval of any party is required under this Covenant Agreement, that party shall not unreasonably withhold, delay or condition such consent or approval unless otherwise allowed by a specific provision of this Covenant Agreement.

4.4 Notices and Demands. All notices or other communications required or permitted between the City and Owner under this Covenant Agreement shall be in writing, and may be (i) personally delivered, (ii) sent by United States registered or certified mail, postage prepaid, return receipt requested, (iii) sent by telecopier, or (iv) sent by nationally recognized overnight courier service (e.g., Federal Express), addressed to the Parties at the addresses provided in Article 1, subject to the right of either party to designate a different address for itself by notice similarly given. Any notice so given by registered or certified United States mail shall be deemed to have been given on the second business day after the same is deposited in the United States mail. Any notice not so given by registered or certified mail, such as notices delivered by courier service (e.g., Federal Express), shall be deemed given upon receipt of the same by the party to whom the notice is given.

4.5 Nonliability of the City or City Officials and Employees. No board member, official, contractor, consultant, attorney or employee of the City or City shall be personally liable to Owner, any voluntary or involuntary successors or assignees, or any lender or other party holding an interest in the Property, in the event of any default or breach by the City, or for any amount which may become due to the Owner or to its successors or assignees, or on any obligations arising under this Covenant Agreement.

4.6 Conflict of Interests. No board member, official, contractor, consultant, attorney or employee of the City or City shall have any personal interest, direct or indirect, in this Covenant Agreement nor shall any such board member, official or employee participate in any decision relating to this Covenant Agreement which affects his/her personal interests or the interests of any corporation, partnership or association in which he/she is directly or indirectly interested.

4.7 Pledge or Hypothecation of Covenant Payments. Owner may assign any Covenant Payment(s) due in accordance with the terms of this Covenant Agreement (but not any

other right or obligation of this Covenant Agreement) upon thirty (30) days' prior written notice to City as collateral for any loan or financing obtained by the Owner in connection with the Office; provided that nothing in this Section 4.7 shall be deemed to limit the operation of Section 4.16. Without limiting the general applicability of the foregoing, Owner acknowledges that Owner's lender and any transferee of Owner's lender shall be subject to the transfer restrictions of Section 4.16.

4.8 Entire Agreement; Good Faith Negotiations. This Covenant Agreement contains all of the terms and conditions agreed upon by the Parties and supersedes any previous agreements between the Parties concerning the subject matter of this Covenant Agreement. No other understanding, oral or otherwise, regarding the subject matter of this Covenant Agreement shall be deemed to exist or to bind any of the parties hereto. All prior written or oral offers, counteroffers, memoranda of understanding, proposals and the like are superseded by this Covenant Agreement.

4.9 Time Deadlines Critical; Extensions and Delays; No Excuse Due to Economic Changes. Time is of the essence in the performance of the City's and Owner's obligations under this Covenant Agreement. In addition to specific provisions of this Covenant Agreement providing for extensions of time, times for performance hereunder shall be extended where delays or defaults are due to war; insurrection; any form of labor dispute; lockouts; riots; floods; earthquakes; fires; acts of God or of third parties; third party litigation; acts of a public enemy; referenda; acts of governmental authorities (except that the failure of the City to act as required hereunder shall not excuse its performance); moratoria; epidemics; quarantine restrictions; and freight embargoes (collectively, "Enforced Delays") provided, however, that the Party claiming the extension notify the other Party of the nature of the matter causing the default; and, provided further, that the extension of time shall be only for the period of the Enforced Delays. However, deadlines for performance may not be extended as provided above due to any inability of the Owner to obtain or maintain acceptable financing for the operation of the Office.

ANYTHING IN THIS COVENANT AGREEMENT TO THE CONTRARY NOTWITHSTANDING, OWNER EXPRESSLY ASSUMES THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES AND/OR MARKET DEMAND/CONDITIONS AND WAIVES, TO THE GREATEST LEGAL EXTENT, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, FRUSTRATION OF PURPOSE, CHANGED ECONOMIC CIRCUMSTANCES OR SIMILAR THEORIES.

OWNER EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF OWNER SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN THE MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS COVENANT AGREEMENT. OWNER EXPRESSLY ASSUMES THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF OWNER'S EXECUTION OF THIS COVENANT AGREEMENT.

OWNER'S INITIALS _____

4.10 Attorneys' Fees. In the event of the bringing of an arbitration, action or suit by a Party hereto against another Party hereunder by reason of any breach of any of the covenants or agreements or any intentional inaccuracies in any of the representations and warranties on the part of the other Party arising out of this Covenant Agreement or any other dispute between the Parties concerning this Covenant Agreement or the Property, then, in that event, the prevailing party in such action or dispute, whether by final judgment or arbitration award, shall be entitled to have and recover of and from the other Party all costs and expenses of suit or claim, including actual attorneys' fees. Any judgment, order or award entered in any final judgment or award shall contain a specific provision providing for the recovery of all costs and expenses of suit or claim, including actual attorneys' fees (collectively, the "Costs") incurred in enforcing, perfecting and executing such judgment or award. For the purposes of this Section 4.10, "Costs" shall include, without implied limitation, attorneys' and experts' fees, costs and expenses incurred in the following: (i) post judgment motions and appeals, (ii) contempt proceedings, (iii) garnishment, levy and debtor and third party examination, (iv) discovery; and (v) bankruptcy litigation. This Section 4.10 shall survive any termination of this Covenant Agreement.

4.11 Amendments to This Covenant Agreement. Any amendments to this Covenant Agreement must be in writing and signed by the appropriate authorities of both the City and Owner. The City Manager is authorized on behalf of the City to approve and execute minor amendments to this Covenant Agreement, including, but not limited to, the granting of extensions of time to Owner, not to exceed ninety (90) days in the aggregate.

4.12 Jurisdiction and Venue. Any legal action or proceeding concerning this Covenant Agreement shall be filed and prosecuted in the appropriate California state court in the County of San Bernardino, California. Both Parties hereto irrevocably consent to the personal jurisdiction of that court. The City and Owner each hereby expressly waive the benefit of any provision of federal or state law or judicial decision providing for the filing, removal, or change of venue to any other court or jurisdiction, including, without implied limitation, federal district court, due to any diversity of citizenship between the City and Owner, due to the fact that the City is a party to such action or proceeding or due to the fact that a federal question or federal right is involved or alleged to be involved. Without limiting the generality of the foregoing, the City and Owner specifically waive any rights provided to them pursuant to California Code of Civil Procedure Section 394. Owner acknowledges that the provisions of this Section 4.12 are material consideration to the City for its entry into this Covenant Agreement, in that the City will avoid the potential cost, expense and inconvenience of litigating in a distant forum.

4.13 Interpretation. The City and Owner acknowledge that this Covenant Agreement is the product of mutual arms-length negotiation and drafting and that both Parties have been represented by legal counsel in the negotiation and drafting of this Covenant Agreement. Accordingly, the rule of construction which provides that ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Covenant Agreement. In any action or proceeding to interpret or enforce this Covenant Agreement, the finder of fact may refer to any extrinsic evidence not in direct conflict with any specific provision of this Covenant Agreement to determine and give effect to the intention of the Parties.

4.14 Counterpart Originals; Integration. This Covenant Agreement may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument. This Covenant Agreement and any exhibits represent the entire understanding of the Parties and supersedes all negotiations, letters of intent, memoranda of understanding or previous agreements between the parties with respect to all or any part of the subject matter hereof.

4.15 No Waiver. Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times. For a waiver to be effective, it must be in writing and signed by the party against whom waiver is asserted.

4.16 Successors and Assigns. The terms, covenants and conditions of this Covenant Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns. Except as provided in this Section 4.16, Owner shall neither transfer nor convey Owner's interest in the Office without the express written consent of the City, which shall not be unreasonably withheld, conditioned or delayed. In determining whether to approve of such a sale, transfer, conveyance or assignment of the Owner's interest in the Property, the City shall evaluate: (i) the financial ability of the proposed transferee to own and operate the Office, or portion so transferred, and to meet the Owner's obligations under this Covenant Agreement; (ii) the fitness and experience of the proposed transferee and its managerial personnel to own and operate the Office or portion so transferred thereof; and (iii) the ability of the proposed transferee to maintain a level of quality and service comparable to that maintained by the Owner for the Office. Upon the permitted sale, transfer or conveyance by Owner of its interest therein, such owner shall thereupon be relieved of its obligations under this Covenant Agreement from and after the date of sale, transfer or conveyance except with respect to any defaults in the performance of its obligations hereunder or thereunder which occurred prior to such sale, transfer or conveyance, and the transferee shall thereafter be solely responsible for the performance of all of the duties and obligations of Owner under this Covenant Agreement.

4.17 No Third-Party Beneficiaries. The performance of the respective obligations of the City and Owner under this Covenant Agreement are not intended to benefit any party other than the City or Owner, except as expressly provided otherwise herein. No person or entity not a signatory to this Covenant Agreement shall have any rights or causes of action against any party to this Covenant Agreement as a result of that party's performance or non-performance under this Covenant Agreement, except as expressly provided otherwise herein.

4.18 No Effect on Eminent Domain Authority. Nothing in this Covenant Agreement shall be deemed to limit, modify, or abridge or affect in any manner whatsoever the City's or City's eminent domain powers with respect to the Office.

4.19 Warranty Against Payment of Consideration for Covenant Agreement. Owner warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Covenant Agreement. Third parties, for the purposes of this Section 4.19, shall not include persons to whom fees are paid for professional services if

rendered by attorneys, financial consultants, accountants, engineers, architects and the like when such fees are considered necessary by Owner.

4.20 Severability. The City and Owner declare that the provisions of this Covenant Agreement are severable. If it is determined by a court of competent jurisdiction that any term, condition or provision hereof is void, voidable, or unenforceable for any reason whatsoever, then such term, condition or provision shall be severed from this Covenant Agreement and the remainder of the Covenant Agreement enforced in accordance with its terms.

4.21 Further Acts and Releases. The City and Owner each agree to take such additional acts and execute such other documents as may be reasonable and necessary in the performance of their obligations hereunder.

4.22 Estoppels. At the request of Owner or any holder of a mortgage or deed of trust secured by all or any portion of the Office, the City shall promptly execute and deliver to Owner or such holder a written statement of the City as to any of the following matters as to which Owner or such holder may inquire: (i) that no default or breach exists, or would exist with the passage of time, or giving of notice, or both, by Owner pursuant to this Covenant Agreement, if such be the case; (ii) the total amount of Covenant Payments made by the City to Owner pursuant to this Covenant Agreement prior to the date of such written statement; (iii) the amount of any Covenant Payments earned by or due and owing to Owner pursuant to this Covenant Agreement as of the date of such written statement; (iv) the Covenant Payments for a particular Computation Quarter; (v) if the City has determined that Owner is in default or breach hereunder, the nature of such default and the action or actions required to be taken by Owner to cure such default or breach; and (vi) any other matter affecting the rights or obligations of Owner hereunder as to which Owner or such holder may reasonably inquire. The form of any estoppel letter shall be prepared by Owner or such holder at its sole cost and expense and shall be reasonably acceptable in form and content to the City and Owner. The City may make any of the representations described above based on the actual current knowledge of the then-current City Manager.

4.23 Indemnity.

4.23.1 Owner shall defend (using counsel of City's reasonable choosing), indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against any and all third party claims, losses, proceedings, damages, causes of action, liability, cost and expense (including reasonable attorney's fees) arising from, in connection with or related to this Agreement or the functions or operations of the Office (other than to the extent arising as a result of the City's negligence or willful misconduct). The City shall fully cooperate in the defense of any such actions and upon written request of Owner shall provide to Owner such documents and records in possession of the City that are relevant to such actions and not otherwise protected by law. Notwithstanding the foregoing, should any third party bring any such action or proceeding Owner shall have the right to terminate this Agreement, and as of such date of termination, all unaccrued liabilities of the parties under this Agreement shall cease except for Owner's obligation of indemnity owed to the City as provided in this Section 4.23.1. For purposes of clarification, should Owner exercise its termination right as provided in this Section 4.23.1, the same shall not be considered a Default and the City shall have no claims against

Owner for liquidated damages.

4.24 Public Benefits.

4.24.1 State of California Legislation Impact on Covenant Payment. Owner acknowledges that the California Legislature has in the past adopted certain legislation which diverted to the State of California a portion of the Sales Tax Revenues which were otherwise payable to the City. Owner acknowledges that it is possible that the legislature may enact similar legislation in the future which would cause a corresponding reduction of and/or delay in the payment of the Sales Tax Revenues and that such reduction will cause Owner a corresponding reduction and/or delay in the payment of the Covenant Payments due to Owner during such time as such legislation is in effect. Furthermore, Owner acknowledges that it is possible that the legislation described above, or some variant thereof, may be enacted and effective during one or more subsequent times during the Eligibility Period and may materially and negatively impact the amount of Sales Tax Revenues and, accordingly, Covenant Payments. The City does not make any representation, warranty or commitment concerning the future actions of the California legislature with respect to the allocation of Sales Tax Revenues to the City. Owner agrees that it is undertaking its obligations under this Covenant Agreement after having considered, and is expressly assuming the risk of, the possibility of the enactment of such legislation.

(a) The foregoing paragraph notwithstanding, City acknowledges that the California legislature may provide for the payment to City of other revenues for the purpose of offsetting any losses in Sales Tax Revenues resulting from the enactment of legislation of the type described in the immediately preceding paragraph. City agrees that, should the California legislature provide for such offsetting revenues, then for purposes of this Covenant Agreement and the computation of any Covenant Payments which may become due to Owner hereunder, City will consider any such offsetting revenues which are (i) indexed to Sales Tax and offset the loss of Sales Tax Revenues to the City on a dollar for dollar basis, (ii) actually received by the City, and (iii) not subject to any restrictions on use beyond those which are otherwise generally applicable to sales tax revenues received by California municipalities, to be Sales Tax Revenues within the meaning of this Covenant Agreement.

4.26. Anti-Bribery. City and its representatives, including but not limited to its elected officials, officers and directors: (i) have complied and will comply with all applicable anti-bribery and anti-corruption laws and regulations in connection with this Agreement; (ii) have not directly or indirectly offered, paid, promised, requested, or accepted a bribe, kickback, or other improper benefit in connection with this Agreement; and (iii) will not directly or indirectly offer, pay, promise, request, or accept a bribe, kickback, or other improper benefit in connection with this Agreement. If City or its representatives become aware of any violation of the foregoing provisions or any anti-bribery or anti-corruption laws or regulation in connection with this Agreement, City shall give notice to Owner. City has undertaken and will undertake reasonable measures to ensure compliance with the foregoing provisions by City and its representatives, including but not limited to its executive officers and directors. The above representations are an inducement to Owner to enter into this Agreement. In the event City breaches the representations in this clause or violates applicable law related thereto, Owner may terminate this Lease without penalty or prejudice to any of its rights under law.

4.27. Addition of Affiliates. At such time as an Affiliate of Owner desires to locate a commercial sales office in the City of Ontario, Owner shall request approval in writing from the City to have any sales tax generated by the Affiliate included in the Sales Tax Revenues attributable to Owner for calculation of the Covenant Payment. Said written request shall be submitted to the City Manager for review and consideration by the City Council, following any legally required noticing and public hearings. Said review shall be in the City's sole and unfettered discretion. As condition precedent to the City consideration of the request, Owner and the Affiliate shall make and attest to all representation and warranties required by this Agreement, including but not limited to that inclusion of the Affiliate in this Agreement or the implementation thereof will not violate Government Code Section 53084.5. Additionally, City shall only make a Covenant Payment to Owner. Owner shall be prohibited from sharing the Covenant Payment with Affiliate and Affiliate shall be prohibited from requesting the City enter into a separate Operating Covenant Agreement with Affiliate directly. City shall have no liability to Affiliate for the distribution of Covenant Payments.

[Signatures on the following pages]

**SIGNATURE PAGE TO THE
SID TOOL, INC. OPERATING COVENANT AGREEMENT**

CITY OF ONTARIO
a California municipal corporation

By: _____

ATTEST:

By: _____

APPROVED AS TO FORM:

By: _____
Ruben Duran
City Attorney

**SIGNATURE PAGE TO THE
SID TOOL INC. OPERATING COVENANT AGREEMENT**

Sid Tool, Inc.
a New York corporation

By: _____
Signature

Name (Print)

Title (Print)

By: _____
Signature

Name (Print)

Title (Print)

CITY OF ONTARIO

Agenda Report
April 5, 2022

SECTION: PUBLIC HEARINGS

Department: Records Management
Prepared By: Claudia Y Isbell
Staff Member Presenting:
Ruben Duran, City Attorney
Approved By: 

Submitted To: Council/OHA
Approved: _____
Continued To: _____
Denied: _____
Item No: 11

SUBJECT: PUBLIC HEARING #1 TO RECEIVE PUBLIC COMMENTS ON TRANSITIONING TO DISTRICT-BASED ELECTIONS UNDER THE CALIFORNIA VOTING RIGHTS ACT

RECOMMENDATION: That the City Council open the Public Hearing, receive input regarding the formation of districts and close the public hearing.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Operate in a Businesslike Manner

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

FISCAL IMPACT: There is no fiscal impact associated with this Public Hearing.

BACKGROUND & ANALYSIS: The California Voting Rights Act (CVRA) prohibits the use of an at-large election in a political subdivision if it would impair the ability of a protected class to elect candidates of its choice. Since the CVRA was signed into law, many local government entities have converted (or are in the process of converting) to by-district elections. In recent years, a number of cities in California have been sued under the CVRA. Typically, plaintiffs allege that the defendant city's at-large election system has resulted in "racially polarized" voting and usually request that the defendant city transition to a by-district system. On March 5, 2020, a claim was filed against the City of Ontario, and as a result, the City is now one of many entities that will be moving to by-districts elections.

The drawing of districts is regulated by both state and federal law, including the CVRA and the Federal Voting Rights Act. These regulations require districts to be drawn as nearly equal in population as possible according to the latest federal decennial census and prohibit districts from being drawn with race as the predominate factor. In establishing the boundaries, Council may consider the following factors: Topography (e.g., rivers, mountains, cliffs, and lakes); Geography (e.g., land use patterns, major roadways, and railway lines); Cohesiveness, Contiguity, Integrity, and Compactness of Territory; and Communities of Interest within the Districts (e.g., homeowner's associations, historic communities, school districts, and downtown areas). Based on the input received at the public hearings, Council may wish to identify additional criteria to guide the establishment of districts.

City Staff along with experts from Best Best and Krieger, LLP (BBK) will ensure the districts are compliant with all legal standards.

Public comments on the transition and the proposed district maps are very important. As such, community workshops will be held in various areas of the City to encourage public participation. The dates and locations of the community workshops are as follows:

Date	Location	Community Workshop
April 4, 2022	Anthony Muñoz Community Center/Park	Review of mapping tool and how to read maps.
April 6, 2022	Ontario Convention Center	Review of mapping tool and how to read maps.
April 11, 2022	Westwind Community Center/Park	Review of mapping tool and how to read maps.
April 12, 2022	Ontario Ranch Club House – Shadetree (Archibald/Merrill)	Review of mapping tool and how to read maps.
April 13, 2022	De Anza Community & Teen Center/Park	Review of mapping tool and how to read maps.

In addition to the community workshops, the City will conduct a total of four public hearings. Two public hearings will be held before the preparation of any district draft maps, and two public hearings will be held after the introduction of a draft map or maps.

In conclusion, Staff recommends City Council conduct the first public hearing giving the public the opportunity to provide input regarding the composition of the districts.