CITY OF ONTARIO
CITY COUNCIL/HOUSING AUTHORITY
AGENDA
DECEMBER 7, 2021

Paul S. Leon
Mayor

Alan D. Wapner
Mayor pro Tem

Jim W. Bowman
Council Member

Debra Dorst-Porada
Council Member

Ruben Valencia
Council Member

Sheila Mautz
City Clerk

James R. Milhiser
Treasurer

Scott Ochoa
City Manager

Ruben Duran
City Attorney

WELCOME to a meeting of the Ontario City Council.

- **All documents for public review are on file with the Records Management/City Clerk's Department located at 303 East B Street, Ontario, CA 91764.**
- **Anyone wishing to speak in person during public comment or on a particular item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Clerk will not accept blue slips after that time. To comment by email, submit your comments no later than 4:00 p.m. on the day of the meeting by emailing your name, agenda item you are commenting on and your comments to publiccomments@ontarioca.gov. All comments received by the deadline will be forwarded to the City Council for consideration before action is taken on the matter and will be entered into the record.**
- **Comments will be limited to 3 minutes. Speakers will be alerted when they have 1 minute remaining and when their time is up. Speakers are then to return to their seats and no further comments will be permitted.**
- **In accordance with State Law, remarks during public comment are to be limited to subjects within Council's jurisdiction. Remarks on other agenda items will be limited to those items.**
- **Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council and Staff need to be 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 Closed Session and Closed Session Comment at 6:00 p.m., Public Comment at 6:30 p.m. immediately followed by the Regular Meeting and Public Hearings. No agenda item will be introduced for consideration after 10:00 p.m. except by majority vote of the City Council.

CALL TO ORDER *(OPEN SESSION)*

ROLL CALL

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

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

CLOSED SESSION

GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: Ramirez v. City of Ontario, et al., Superior Court of California, County of San Bernardino, Case No. CIVDS 1935898

GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: Brown v. City of Ontario, et al. U.S. District Court – Central District of California Case No: 5:20-cv-00476-DMG (SHKx)

ATTACHMENT: 20211207 Closed Session

PLEDGE OF ALLEGIANCE

Council Member Valencia

INVOCATION

Pastor David Gaunt, Sunrise Church

REPORT ON CLOSED SESSION

City Attorney

PUBLIC COMMENTS **6:30 p.m.**

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

To comment by email, submit your comments by email no later than 4:00 p.m. on the day of the meeting by emailing your name, agenda item you are commenting on and your comment to publiccomments@ontarioca.gov. All Comments received by the deadline will be forwarded to the City Council for consideration before action is taken on the matter and entered into the record.

As previously noted -- if you wish to address the Council, fill out one of the blue slips at the rear of the chambers and give it to the City Clerk.

AGENDA REVIEW/ANNOUNCEMENTS

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

CONSENT CALENDAR

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

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

1. APPROVAL OF MINUTES

Minutes for the regular meetings of the City Council and Housing Authority on November 2, 2021 and approving same as on file in the Records Management Department.

ATTACHMENT: 20211102 Minutes (not official until approved).pdf

2. *BILLS & PAYROLL*

Bills October 29, 2021 through November 18, 2021, and Payroll October 24, 2021 through November 6, 2021 when audited by the Finance Committee.

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

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

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

ATTACHMENT: 20211207 File No. PDA21-003 Chino Avenue LLC^02 ORD^RM
ATTACHMENT: 20211207 File No. PDA21-003 Chino Avenue LLC^03 AGMT
ATTACHMENT: 20211207 File No. PDA21-003 Chino Avenue LLC^01 AR EXH A & B

4. *PROFESSIONAL SERVICES AGREEMENT FOR CREATIVE AND DIGITAL PRODUCTION SERVICES*

That the City Council approve a Professional Services Agreement (on file in the Records Management Department) in the amount of $150,000 with Public Advertising Agency of Temecula, California, to provide creative and digital production services for the City's Economic Development Department for an initial three-year term; and authorize the option to extend the Agreement for up to two additional one-year terms, and authorize the City Manager to execute said Agreement and future amendments consistent with the approved budget.

5. *A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 20335, LOCATED AT 2862 SOUTH CAMPUS*

AVENUE

That the City Council adopt a resolution approving an Improvement Agreement, Improvement Security and Final Tract Map No. 20335, located at 2862 South Campus Avenue.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 20335, LOCATED AT 2862 SOUTH CAMPUS AVENUE.

ATTACHMENT: 20211207 Tract Map No. 20335^02 RESO^RM
ATTACHMENT: 20211207 Tract Map No. 20335^01 EXH A

6. ***PURCHASE AND INSTALLATION OF REPLACEMENT FIRE STATION ALERTING SYSTEM***

That the City Council take the following actions:

A. Authorize the City Manager to execute the sole source purchase with US Digital Designs of Tempe, Arizona, for a fire station alerting system in the amount of $575,000;
B. Authorize the City Manager to complete and execute the sole source Contract with Bergelectric of Encino, California, for installation of fire station alerting system in the amount of $225,275;
C. Authorize a 15% contingency of $33,791 to address any unforeseen issues that may arise during installation; and
D. Authorize the City Manager or his designee to execute all documents required for the completion of the project, including, but not limited to contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

7. ***PROFESSIONAL SERVICES AGREEMENT FOR BROADBAND DESIGN, ENGINEERING, PROJECT MANAGEMENT, AND INSPECTION SERVICES***

That the City Council approve and authorize the City Manager to execute a three-year Professional Services Agreement (on file in the Records Management Department) with Telcon Services, LLC, to provide design, engineering, project management, and inspection services for OntarioNet expansion in the amount of $1,200,000 plus a 15% contingency of $180,000 for a total authorized expenditure not to exceed $1,380,000; and authorize the City Manager to extend the agreements for up to two additional one-year periods at the City's discretion.

8. ***A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ESTABLISHING PARKING RESTRICTIONS FOR STREET SWEEPING PURPOSES ON CERTAIN PORTIONS OF NORTH CORONA AVENUE AND EAST FLORA STREET IN THE CITY OF ONTARIO***

That the City Council adopt a Resolution of the City Council of the City of Ontario, California, establishing parking restrictions for street sweeping purposes on certain portions of North Corona Avenue and East Flora Street in the City of Ontario.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ESTABLISHING PARKING RESTRICTIONS FOR STREET

SWEEPING PURPOSES ON CERTAIN PORTIONS OF NORTH CORONA AVENUE AND EAST FLORA STREET IN THE CITY OF ONTARIO.

ATTACHMENT: 20211207 Parking Restrictions for Street Sweeping Purposes on N Corona Ave and E Flora St^01 RESO

9. AUTHORIZE THE PURCHASE OF FLEET VEHICLES

That the City Council authorize the cooperative purchase and delivery of four (4) Ford Explorer vehicles in the amount of $154,500 for the Police Department, one (1) Ford F150 truck in the amount of $46,180 for the Fire Department, one (1) Chevrolet Colorado truck in the amount of $27,280 and one (1) Ford F550 Gate Valve truck in the amount of $177,565 for the Utilities Department, one (1) Ford F350 Utility Body in the amount of $72,750 and one (1) Ford F450 Stencil truck in the amount of $135,255 for the Parks and Maintenance Department, and one (1) Ford Expedition SUV in the amount of $47,655 for the Police Department from National Auto Fleet Group of Watsonville, California, consistent with the terms and conditions of the Sourcewell Cooperative Contract No. 120716-NAF.

10. MAINTENANCE SERVICES AGREEMENT FOR WEED ABATEMENT SERVICES

That the City Council authorize the City Manager to execute a three-year Maintenance Services Agreement (on file in the Records Management Department) for contract No.PM2122-1 with Brightview Landscape Services Inc. located in Upland, California for an annual cost of $110,988, with a 5% contingency of $5,550, for a total amount not to exceed $349,644 over a three-year term; authorize addition of future services; and authorize the City Manager to extend the agreement for up to two additional years at the City's discretion, consistent with future budgets approved by the City Council.

11. A RESOLUTION APPROVING THE SUBMITTAL OF AN APPLICATION TO PARTICIPATE IN THE BEVERAGE CONTAINER RECYCLING CITY/COUNTY PAYMENT PROGRAM (FISCAL YEAR 2021-22) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

That the City Council adopt a resolution approving the submittal of an application for approximately $57,000 from the Beverage Container Recycling City/County Payment Program (Fiscal Year 2021-22), and authorize the City Manager or his designee to execute all necessary documents to participate in the program.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE SUBMITTAL OF AN APPLICATION TO PARTICIPATE IN THE BEVERAGE CONTAINER RECYCLING CITY/COUNTY PAYMENT PROGRAM (FISCAL YEAR 2021-22) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE).

ATTACHMENT: 202101207 City County Payment^01 RESO

12. ADOPT AN ORDINANCE AMENDING CHAPTER 8A OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATED TO THE WATER CONSERVATION PLAN AND AN ORDINANCE AMENDING CHAPTER 8C OF TITLE 6 OF THE ONTARIO MUNICIPAL CODE RELATED TO RECYCLED WATER

That City Council adopt changes to the Municipal Code pertaining to the City's Water Conservation Plan and protection and regulation of the City's recycled water system.

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

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

ATTACHMENT: 20211207 Water Conservation ORD UPDATE^01 ORD RM
ATTACHMENT: 20211207 Water Conservation ORD UPDATE^02 ORD EXH A^RM
ATTACHMENT: 20211207 Recycled Water ORD UPDATE^03 ORD^RM
ATTACHMENT: 20211207 Recycled Water ORD UPDATE^04 ORD EXH A^RM

13. UPDATED INVESTMENT POLICY (2021)

That the City Council consider and approve an update to the City of Ontario's Investment Policy.

UPDATED INVESTMENT POLICY (2021)

ATTACHMENT: 20211207 Investment Policy (2021)^EXHIBIT A.pdf

PUBLIC HEARINGS

Pursuant to Government Code Section 65009, if you challenge the City's zoning, planning or any other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the public hearing. Affidavits of posting compliance, for all items below, are on file with the Records Management Department.

14. A PUBLIC HEARING TO CONSIDER FOUR MILLS ACT CONTRACTS (PRESERVATION AGREEMENTS) FOR FOUR DESIGNATED HISTORIC PROPERTIES

That the City Council consider and adopt resolutions approving and authorizing the City Manager to enter into Mills Act contracts (Preservation Agreements), for the following designated historic properties:

A. File No. PHP21-006, 1240 North Euclid Avenue (APN: 1047-531-07), Bryan and Monica Sinsabaugh
B. File No. PHP21-010, 1130 North Columbia Avenue (APN: 1047-543-03), Jonathan and Kelly Rushing
C. File No. PHP21-011, 1112 North Euclid Avenue (APN: 1047-542-04), Zhenwei and Wei Xu
D. File No. PHP21-012, 1108 North Euclid Avenue (APN: 1047-542-03), Luke and Jessica Bideaux

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,

CALIFORNIA, APPROVING FILE NO. PHP21-006, AND AUTHORIZING THE CITY OF ONTARIO TO ENTER INTO A HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT) WITH BRYAN AND MONICA SINSABAUGH, FOR THE PROPERTY LOCATED AT 1240 NORTH EUCLID AVENUE (APN: 1047-531-07).

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PHP21-010, AND AUTHORIZING THE CITY OF ONTARIO TO ENTER INTO A HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT) WITH JONATHAN AND KELLY RUSHING, FOR THE PROPERTY LOCATED AT 1130 NORTH COLUMBIA AVENUE (APN: 1047-543-03).

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PHP21-011, AND AUTHORIZING THE CITY OF ONTARIO TO ENTER INTO A HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT) WITH ZHENWEI AND WEI XU, FOR THE PROPERTY LOCATED AT 1112 NORTH EUCLID AVENUE (APN: 1047-542-04).

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PHP21-012, AND AUTHORIZING THE CITY OF ONTARIO TO ENTER INTO A HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT) WITH LUKE AND JESSICA BIDEAUX, FOR THE PROPERTY LOCATED AT 1108 NORTH EUCLID AVENUE (APN: 1047-542-03).

ATTACHMENT: 20211207 Mills Act^00 PC Backup
ATTACHMENT: 20211207 Mills Act PHP21-006 1240 N Euclid Ave^01 RESO^RM
ATTACHMENT: 20211207 Mills Act- PHP21-006 1240 N Euclid Ave^02 AGMT
ATTACHMENT: 20211207 Mills Act PHP21-010 1130 N Columbia Ave^03 RESO^RM
ATTACHMENT: 20211207 Mills Act- PHP21-010 1130 N Columbia Ave^04 AGMT
ATTACHMENT: 20211207 Mills Act PHP21-011 1112 N Euclid Ave^05 RESO^RM
ATTACHMENT: 20211207 Mills Act- PHP21-011 1112 N Euclid Ave^06 AGMT
ATTACHMENT: 20211207 Mills Act PHP21-012 1108 N Euclid Ave^07 RESO^RM
ATTACHMENT: 20211207 Mills Act- PHP21-012 1108 N Euclid Ave^08 AGMT

STAFF MATTERS

CITY MANAGER OCHOA

COUNCIL MATTERS

MAYOR LEON
MAYOR PRO TEM WAPNER
COUNCIL MEMBER BOWMAN
COUNCIL MEMBER DORST-PORADA
COUNCIL MEMBER VALENCIA

ADJOURNMENT

CITY OF ONTARIO
CLOSED SESSION REPORT
City Council // Housing Authority // Other // *(GC 54957.1)*
December 7, 2021

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

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

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

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: Ramirez v. City of Ontario, et al., Superior Court of California, County of San Bernardino, Case No. CIVDS 1935898

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

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

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: Brown v. City of Ontario, et al. U.S. District Court – Central District of California Case No: 5:20-cv-00476-DMG (SHKx)

No Reportable Action	Continue	Approved
/ /	/ /	/ /

Disposition: _____

Reported by:

_____
City Attorney / City Manager / Executive Director

ONTARIO CITY COUNCIL/
ONTARIO HOUSING AUTHORITY
MINUTES
NOVEMBER 2, 2021
(Not Official Until Approved)

JOINT MEETINGS

Regular meetings of the Ontario City Council and Ontario Housing Authority were held on Tuesday, November 2, 2021 at the Ontario City Hall, 303 East B Street Ontario, California.

CALL TO ORDER

Mayor Leon called the Joint City Council and Ontario Housing Authority meetings to order at 6:00 p.m.

ROLL CALL

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

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

CLOSED SESSION PUBLIC COMMENT

Mayor Leon inquired whether persons were on the phone line who wished to speak to the Closed Session items. Hearing no one, City Attorney Duran announced the matters for discussion, as listed on the agenda, and the City Council recessed to Closed Session at 6:01 p.m. for discussion of the following:

CLOSED SESSION

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

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

CALL TO ORDER – OPEN SESSION

Mayor Leon called the City Council and Ontario Housing Authority meetings to order at 6:33 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Bowman.

INVOCATION

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

REPORT ON CLOSED SESSION

City Attorney Duran announced there was no reportable action.

PUBLIC COMMENTS

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

Mayor Leon then called on the public speakers:

Andrew Gerardo, provided an update on upcoming events with the D'Andre Lampkin Foundation.

Adriana Robledo, provided an update on upcoming events with the Greater Ontario Business Council.

Hope Bolderain, announced the American Cancer Society's Ontario for the Cure comedy show fundraiser.

Nya Palmer, provided updates regarding upcoming events with the D'Andre Lampkin Foundation.

Susana Andalon, requested permission to sing at the Ontario Senior Center.

Boback Tehranirad, owner of Brick Shack Pizza spoke on issues with vandalism surrounding his business and the West Inn Motel.

Jesse Fonseca, spoke on airplane noise, specifically changes to flight patterns.

AGENDA REVIEW/ANNOUNCEMENTS

City Manager Ochoa had no announcements.

CONSENT CALENDAR

MOTION: Moved by Council Member Bowman, seconded by Mayor pro Tem Wapner and carried by 5-0 vote, 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 on October 5, 2021, and approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

The City Council approved **Bills** for the period October 1, 2021, through October 14, 2021, in the amount of $18,495,411.45 and **Payroll** for the period September 26, 2021, through October 9, 2021, in the amount of $3,650,504.27 when audited by the Finance Committee.

3. A RESOLUTION ORDERING THE SUMMARY VACATION OF A RAILROAD EASEMENT LOCATED APPROXIMATELY 600 FEET EAST OF CUCAMONGA AVENUE AND APPROXIMATELY 100 FEET SOUTH OF CEDAR STREET

The City Council adopted a Resolution ordering the summary vacation of a railroad easement located approximately 600 feet east of Cucamonga Avenue and approximately 100 feet south of Cedar Street.

RESOLUTION NO. 2021-161 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ORDERING THE SUMMARY VACATION OF A RAILROAD EASEMENT LOCATED APPROXIMATELY 600 FEET EAST OF CUCAMONGA AVENUE AND APPROXIMATELY 100 FEET SOUTH OF CEDAR STREET.

4. A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 20345, LOCATED AT THE NORTHEAST CORNER OF HAVEN AVENUE AND ONTARIO RANCH ROAD

The City Council adopted a Resolution approving an Improvement Agreement, Improvement Security and Final Tract Map No. 20345 located at the northeast corner of Haven Avenue and Ontario Ranch Road of the Rich Haven Specific Plan area.

RESOLUTION NO. 2021-162 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 20345, LOCATED AT THE NORTHEAST CORNER OF HAVEN AVENUE AND ONTARIO RANCH ROAD.

5. AN ORDINANCE LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 62 (ONTARIO COMMERCE CENTER SERVICES)

The City Council considered and adopted an ordinance authorizing the levy of special taxes within City of Ontario Community Facilities District No. 62 (Ontario Commerce Center Services). First reading and introduction took place at a regular meeting of the City Council on October 19, 2021.

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

6. ACCEPT AND APPROVE GRANT PROGRAM CITIZEN'S OPTION FOR PUBLIC SAFETY/ ENHANCING LAW ENFORCEMENT ACTIVITIES FOR FISCAL YEAR 2021-22

The City Council accepted and approved the Citizen's Option for Public Safety (COPS) / Enhancing Law Enforcement Activities Subaccount (ELEAS) Grant for Fiscal Year 2021-22.

7. A RESOLUTION ESTABLISHING PARKING RESTRICTIONS FOR STREET SWEEPING PURPOSES ON CERTAIN PORTIONS OF NORTH ELDERBERRY AVENUE, NORTH BAKER AVENUE, AND WEST VESTA STREET IN THE CITY OF ONTARIO

The City Council adopted a Resolution establishing parking restrictions for street sweeping purposes on certain portions of North Elderberry Avenue, West Baker Avenue, and West Vesta Street in the City of Ontario.

RESOLUTION NO. 2021-163 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ESTABLISHING PARKING RESTRICTIONS FOR STREET SWEEPING PURPOSES ON CERTAIN PORTIONS OF NORTH ELDERBERRY AVENUE, NORTH BAKER AVENUE AND WEST VESTA STREET IN THE CITY OF ONTARIO.

8. STATE OF CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ABC) FY2021-22 ALCOHOL POLICING PARTNERSHIP PROGRAM

The City Council authorized the City Manager or designee to accept and execute grant documents of an 11-month grant award for $20,000 from the State of California Department of Alcoholic Beverage Control (ABC) to fund overtime enforcement operations and to address alcohol-related problems in the community.

9. RESOLUTIONS UPDATING AUTHORIZED DEPUTY CITY TREASURERS WHO INVEST CITY FUNDS

The City Council adopted Resolutions rescinding Resolution Nos. 2020-171 and 2020-172; and amending the list of Deputy City Treasurers authorized to invest City funds in the Local Agency Investment Fund (LAIF) and other eligible investment securities.

RESOLUTION NO. 2021-164 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, PROVIDING FOR THE INVESTMENT OF INACTIVE FUNDS IN THE LOCAL AGENCY INVESTMENT FUND OF THE CALIFORNIA STATE TREASURY AND HEREBY RESCINDING RESOLUTION NO. 2020-171.

RESOLUTION NO. 2021-165 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE INVESTMENT OF CITY FUNDS AND HEREBY RESCINDING RESOLUTION NO. 2020-172.

PUBLIC HEARINGS

10. A PUBLIC HEARING TO CONSIDER ADOPTION OF A RESOLUTION TO VACATE CEDAR STREET FROM CUCAMONGA AVENUE TO APPROXIMATELY 600 FEET EAST OF CUCAMONGA AVENUE

The City Council conducted a public hearing to consider adoption of a Resolution to vacate Cedar Street from Cucamonga Avenue to approximately 600 feet east of Cucamonga Avenue.

RESOLUTION NO. 2021-166 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ORDERING THE GENERAL VACATION OF CEDAR STREET FROM CUCAMONGA AVENUE TO APPROXIMATELY 600 FEET EAST OF CUCAMONGA AVENUE.

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

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

MOTION: Moved by Council Member Dorst-Porada seconded by Mayor pro Tem Wapner and carried by 5-0 vote, to approve Resolution No. 2021-166.

11. A PUBLIC HEARING TO CONSIDER A DEVELOPMENT CODE AMENDMENT, FILE NO. PDCA20-002, REVISING CERTAIN PROVISIONS ADDRESSING PUBLIC HEARING NOTIFICATIONS, ALLOWED USES WITHIN THE CS

(CORNER STORE) ZONING DISTRICT, MINIMUM RECREATION AMENITIES WITHIN COMMON ACTIVE OPEN SPACE AREAS, AND OFF-STREET PARKING REQUIREMENTS FOR SMALL LOT INFILL SUBDIVISIONS

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

ORDINANCE NO. 3193 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PDCA20-002, A DEVELOPMENT CODE AMENDMENT REVISING CERTAIN PROVISIONS ADDRESSING PUBLIC HEARING NOTIFICATIONS, ALLOWED USES WITHIN THE CS (CORNER STORE) ZONING DISTRICT, MINIMUM RECREATION AMENITIES WITHIN COMMON ACTIVE OPEN SPACE AREAS AND OFF-STREET PARKING REQUIREMENTS FOR SMALL LOT INFILL SUBDIVISIONS, AND MAKING FINDINGS IN SUPPORT THEREOF.

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

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

MOTION: Moved by Council Member Dorst-Porada, seconded by Council Member Bowman and carried by 5-0 vote, introduce Ordinance No. 3193.

ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

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

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

ORDINANCE NO. 3194 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 32 TO TITLE 5 OF VOLUME I TO THE ONTARIO MUNICIPAL CODE, RELATING TO ENFORCING

VIOLATIONS OF CODES OF CONDUCT IN THE CITY LIBRARIES, MUSEUM OF HISTORY AND ART, AND RECREATION AND COMMUNITY SERVICES COMMUNITY CENTERS AND FINDING THE ACTION EXEMPT FROM CEQA.

MOTION: Moved by Council Member Bowman, seconded by Council Member Valencia and carried by 5-0 vote, to introduce Ordinance No. 3194.

STAFF MATTERS

City Manager Ochoa made no comments.

COUNCIL MATTERS

Council Member Dorst-Porada had no comments.

Mayor pro Tem Wapner spoke about the success of the Ontario International Airport State of the Airport lunch and thanked the community for their support in gaining local control.

Council Member Bowman stated the City of Ontario has always stepped up to the plate. He added that the success of the of Ontario International Airport is seven years in the making and 5 years in existence.

Council Member Valencia spoke of his positive experience at the Ontario Farmers Market and noted Staff is doing an amazing job.

Mayor Leon suggested that the Ontario Farmers Market be moved to a later time on Sunday or moved to Saturdays.

ADJOURNMENT

Mayor Leon adjourned the meetings of the Joint Agencies at 7:05 p.m. and announced the next regular meeting to be held on Tuesday, November 16, 2021.

Respectfully submitted,

_____
SHEILA MAUTZ, CITY CLERK/SECRETARY

APPROVED:

_____
PAUL S. LEON, MAYOR/CHAIRMAN

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**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: 3

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

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

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

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

BACKGROUND & ANALYSIS: On November 16, 2021, the City Council introduced and waived further reading of an ordinance approving the Development Agreement. On April 18, 2006, the City Council certified the Environmental Impact Report (State Clearing Housing No. 2004071001) and related Countryside Specific Plan, File No. PSP04-001 (the "Specific Plan"). The Specific Plan addressed the potential development of up to 819 single family detached residential units with

connectivity to surrounding commercial and recreational facilities through a network of pedestrian sidewalks, bicycle trails, and landscaped paseos. Chino Avenue, LLC ("Owner"), has amended the Specific Plan (File No. PSPA19-001) to allow for: (1) the introduction of Neighborhood 3A; (2) an increase in allowable dwelling units from 819 to 825; and (3) use of the Cluster Court product within Neighborhood 3A.

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

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

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

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

The Map (see Exhibit B - attached) is located at 9510 East Chino Avenue and proposes to subdivide 4.79 acres of land into 37 numbered lots and one common lettered lot in conjunction with a Development Plan (File No. PDEV19-023) to construct 37 dwelling units, an associated recreation facility, residential, public/private streets, landscaped neighborhood edges, and common open space purposes. The term of the Agreement is for 10 years, with a 5-year option to renew.

The main points of the agreement address funding for all new City expenses created by the project, which includes: Development Impact Fees ("DIF") for construction of public improvements (i.e. streets and bridges, sewer, water, storm drain and fiber); Public Service Funding to ensure adequate provisions of public services (police, fire and other public services); and, the creation of a Community Facilities District ("CFD") for the maintenance of public facilities.

In considering the application at their meeting on October 26, 2021, the Planning Commission found that the Development Agreement was consistent with state law, The Ontario Plan, and the City's Development Agreement policies. As a result, the Planning Commission adopted Resolution No. PC21-

076, recommending City Council approval of the Development Agreement with a 7-0 vote.

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

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

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

ORDINANCE NO. _____

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

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

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

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

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

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

WHEREAS, the City's "Local Guidelines for the Implementation of the California Environmental Quality Act (CEQA)" provide for the use of a single environmental assessment in situations where the impacts of subsequent projects are adequately analyzed; and

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

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport (ONT), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the ONT Airport Land Use Compatibility Plan (ALUCP), which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on October 26, 2021, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Resolution No. PC21-076 recommending the City Council approve the Application; and

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

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

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

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

(1) The environmental impacts of this project were previously reviewed in conjunction with File No. PSP04-001, the Countryside Specific Plan for which a Certified EIR was adopted by the City Council on April 18, 2006; and

(2) The previous Certified EIR contains a complete and accurate reporting of the environmental impacts associated with the Project; and

(3) The previous Certified EIR was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

(4) The previous Certified EIR reflects the independent judgment of the City Council; and

(5) The proposed project will introduce no new significant environmental impacts beyond those previously analyzed in the previous Certified EIR, and all mitigation measures previously adopted with the Certified EIR, are incorporated herein by this reference.

SECTION 2. ***Subsequent or Supplemental Environmental Review Not Required.*** Based on the information presented to the City Council, and the specific findings set forth in Section 1, above, the City Council finds that the preparation of a subsequent or supplemental Certified EIR is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the Certified EIR that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

(2) Does not constitute substantial changes with respect to the circumstances under which the Certified EIR was prepared, that will require major revisions to the Certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and.

(3) Does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the Certified EIR was certified/adopted, that shows any of the following:

(a) The project will have one or more significant effects not discussed in the Certified EIR; or

(b) Significant effects previously examined will be substantially more severe than shown in the Certified EIR; or

(c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City declined to adopt such measures; or

(d) Mitigation measures or alternatives considerably different from those analyzed in the Certified EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

SECTION 3. ***Ontario International Airport Land Use Compatibility Plan ("ALUCP") Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the Ontario International Airport Land use Compatibility Plan ("ALUCP"), establishing the Airport Influence Area for Ontario International Airport ("ONT"), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors,

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

SECTION 4. ***Housing Element Compliance***. Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending authority for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the number of dwelling units (37) and density (5-9 du/ac) specified in the Available Land Inventory.

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

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

b. The Development Agreement establishes parameters for the development of the Neighborhood 3A land use district of the Countryside Specific Plan. The Development Agreement also grants the Applicant, the right to develop, the ability to quantify the fees; and establish the terms and conditions that apply to those projects. These terms and conditions are consistent with The Ontario Plan Policy Plan (General Plan), design guidelines and development standards for the Countryside Specific Plan; and

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

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

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

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

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

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

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

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

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

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

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

PASSED, APPROVED, AND ADOPTED this 7th day of December 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3195 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 16, 2021 and adopted at the regular meeting held December 7, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3195 duly passed and adopted by the Ontario City Council at their regular meeting held December 7, 2021 and that Summaries of the Ordinance were published on November 23, 2021 and December 14, 2021, in the Inland Valley Daily Bulletin newspaper.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

ATTACHMENT A:

File No. PDA21-003

DEVELOPMENT AGREEMENT

By and Between

City of Ontario
a California municipal corporation

and

Chino Avenue, LLC
a California limited liability company

(Development Agreement to follow this page)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

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

Exempt from Fees Per Gov. Code § 6103

Space above this line for Recorder's Use Only

FILE NO. PDA21-003

DEVELOPMENT AGREEMENT

By and Between

City of Ontario
a California municipal corporation

and

Chino Avenue, LLC
a California limited liability company

_____, 2021

San Bernardino County, California

DEVELOPMENT AGREEMENT NO. PDA21-003

This Development Agreement (hereinafter "Agreement") is entered into effective as of the ____ day of _____, 2021 by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and Chino Avenue, LLC., a California limited liability company (hereinafter "OWNER"):

RECITALS

WHEREAS, CITY is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, et seq. of the Government Code; and

WHEREAS, OWNER has requested CITY to enter into a development agreement and proceedings have been taken in accordance with the rules and regulations of CITY; and

WHEREAS, by electing to enter into this Agreement, CITY shall bind future City Councils of CITY by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of CITY; and

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by CITY and the City Council and have been found to be fair, just and reasonable; and

WHEREAS, the best interests of the citizens of the CITY and the public health, safety and welfare will be served by entering into this Agreement; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and the Agreement in that Countryside Specific Plan (State Clearinghouse No. 2004071001 (the "FEIR"). The City Council found and determined that the FEIR was prepared in accordance with the requirements of the California Environmental Quality Act and adequately describes the impacts of the project described in the FEIR, which included consideration of this Agreement; and

WHEREAS, this Agreement and the Project are consistent with the CITY's Comprehensive General Plan and the Countryside Specific Plan; and

WHEREAS, all actions taken and approvals given by CITY have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

WHEREAS, development of the Property in accordance with this Agreement will provide substantial benefits to CITY and will further important policies and goals of CITY; and

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property, ensure progressive installation of necessary

improvements, provide for public services appropriate to the development of the Project, and generally serve the purposes for which development agreements under Sections 65864 et seq. of the Government Code are intended; and

WHEREAS, OWNER has incurred and will in the future incur substantial costs in excess of the generally applicable requirements in order to assure vesting of legal rights to develop the Property in accordance with this Agreement.

WHEREAS, the Property is located in an area of the City of Ontario that has been known as the "New Model Colony" area and the New Model Colony area has now been renamed as "Ontario Ranch."

WHEREAS, the property developer/owners are made aware of the South Archibald Trichloroethylene (TCE) Plume Disclosure Letter (Exhibit "G"). Property owner may wish to provide the attached Letter as part of the Real Estate Transfer Disclosure requirements under California Civil Code Section 1102 et seq. This may include notifications in the Covenants, Conditions and Restrictions (CC&Rs) or other documents related to property transfer and disclosures. Additional information on the plume is available from the Santa Ana Regional Water Quality Control Board at http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000004658.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1 "Agreement" means this Development Agreement.

1.1.2 "CITY" means the City of Ontario, California, a California municipal corporation.

1.1.3 "Construction Agreement" means that certain Agreement for the Financing and Construction of Phases I and II Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony, entered into between the CITY and NMC Builders as of the 4th day of October, 2005, and all amendments thereto and "Construction Agreement Amendment" means that First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve and Easterly Portion of the New Model Colony entered into between the CITY and NMC Builders as of the 21st day of August 2012.

1.1.4 “Development” means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of public infrastructure and public facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping. “Development” does not include the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.5 “Development Approvals” means all permits and other entitlements for use subject to approval or issuance by CITY in connection with development of the Property including, but not limited to:

(a) specific plans and specific plan amendments;

(b) tentative and final subdivision and parcel maps;

(c) development plan review;

(d) conditional use permits (including model home use permits), public use permits and plot plans;

(e) zoning;

(f) grading and building permits.

1.1.6 “Development Exaction” means any requirement of CITY in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests.

1.1.7 “Development Impact Fee” means a monetary exaction, other than a tax or special assessment, whether characterized as a fee or a tax and whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, and, for purposes of this Agreement only, includes fees collected under development agreements adopted pursuant to Article 2.5 of the Government Code (commencing with Section 65864) of Chapter 4, For purposes of this Agreement only, "Development Impact Fee" shall not include processing fees and charges imposed by CITY to cover the estimated actual costs to CITY of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued, including, without limitation, fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Cortese-Knox-Hertzberg Local Government

Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code; or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 of the Government Code, fees and charges as described in Sections 51287, 56383, 57004, 65104, 65456, 65863.7, 65909.5, 66013, 66014, and 66451.2 of the Government Code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code, as such codes may be amended or superseded, including by amendment or replacement.

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

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

1.1.10 "Existing Development Approvals" means all Development Approvals approved or issued prior to the Effective Date. Existing Development Approvals includes the Approvals incorporated herein as Exhibit "C" and all other Approvals which are a matter of public record on the Effective Date.

1.1.11 "Existing Land Use Regulations" means all Land Use Regulations in effect on the Effective Date. Existing Land Use Regulations includes the Regulations incorporated herein as Exhibit "D" and all other Land Use Regulations that are in effect and a matter of public record on the Effective Date.

1.1.12 "General Plan" means the General Plan adopted on January 27, 2010, as amended up to the date of the first reading of the ordinance adopting and approving this Agreement.

1.1.13 "Improvement" or "Improvements" means those public improvements required to support the development of the Project as described in the Tract Map conditions for Tract No. 20281 as further described in Exhibit "E" and depicted in Exhibit "F" (the "Infrastructure Improvements Exhibit").

1.1.14 "Land Use Regulations" means all ordinances, resolutions, codes, rules, regulations and official policies of CITY governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. "Land Use Regulations" does not include any CITY ordinance, resolution, code, rule, regulation or official policy, governing:

(a) the conduct of businesses, professions, and occupations;

(b) taxes and assessments;

(c) the control and abatement of nuisances;

(d) the granting of encroachment permits and the conveyance of similar rights and interests that provide for the use of or the entry upon public property;

(e) the exercise of the power of eminent domain.

1.1.15 "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns.

1.1.16 "Model Units" means a maximum of five (5) model units, private common recreation facilities and sales facilities constructed by OWNER prior to the construction of any Production units and not offered for sale and occupancy until after the issuance of the first certificate of occupancy for a Production Unit.

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

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

1.1.19 "Production Unit(s)" means all units constructed for sale and occupancy by OWNER and excludes the specified number of Model Units constructed by OWNER for promotion of sales.

1.1.20 "Project" means the development of the Property contemplated by the Development Plan, as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

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

1.1.22 "Reservations of Authority" means the rights and authority excepted from the assurances and rights provided to OWNER under this Agreement and reserved to CITY under Section 3.6 of this Agreement.

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

1.1.24 "Storm Water Treatment Capacity Availability" means a designated portion of the total Storm Water Treatment Capacity Availability made available through the completion of construction of a Phase of regional storm water treatment facilities by the NMC Builders LLC as described in the Construction Agreement Amendment. The amount, in acres, of Storm Water Treatment Capacity Availability required for the

issuance of a grading permit shall be based upon the factors and assumptions listed in the Construction Agreement Amendment.

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

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

1.1.27 "Water Availability Equivalent (WAE)" means a designated portion of the total Net MDD made available through the construction of each Phase described in the Water Phasing Plan of the Construction Agreement. The number of Water Availability Equivalents (of portions thereof) required for the issuance of each building permit shall be based upon water demand factors and assumptions listed in the Construction Agreement and Construction Agreement Amendment as "Water Availability Equivalents by Land Use" for each land use category.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit "A" — Legal Description of the Property.

Exhibit "B" — Map showing Property and its location.

Exhibit "C" — Existing Development Approvals.

Exhibit "D" — Existing Land Use Regulations.

Exhibit "E" — Description of Required Infrastructure Improvements

Exhibit "F" — Depiction of Required Infrastructure Improvements Exhibit(s)

Exhibit "G" - Form of Plume Disclosure Letter

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. The Property is hereby made subject to this Agreement. Development of the Property is hereby authorized and shall be carried out only in accordance with the terms of this Agreement.

2.2 Ownership of Property. OWNER represents and covenants that it is the owner of the fee simple title to the Property or a portion thereof, or has the right to acquire fee simple title to the Property or a portion thereof from the current owner(s) thereof. To the extent OWNER does not own fee simple title to the Property, OWNER shall obtain written consent from the current fee owner of the Property agreeing to the terms of this Agreement and the recordation thereof.

2.3 Term. The term of this Agreement shall commence on the Effective Date and shall continue for an initial term of ten (10) years thereafter unless this term is modified or extended pursuant to the provisions of this Agreement. The term of this Agreement may be extended for an additional five (5) years following expiration of the initial ten (10) year term, provided the following have occurred:

(a) OWNER provides at least 180 days written notice to CITY prior to expiration of the initial term; and

(b) In non-mixed use and residential use only projects, the OWNER shall have obtained, as applicable, building permits for at least seventy percent (70%) of the actual number of residential units permitted under this Agreement; and

(c) OWNER is not then in uncured default of this Agreement.

2.4 Assignment.

2.4.1 Right to Assign. OWNER shall have the right to sell, transfer or assign the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, et seq.), to any person, partnership, limited liability company, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement and be made in strict compliance with the following:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property. OWNER may be required to provide disclosure that the Property is within the South Archibald Trichloroethylene (TCE) Plume. OWNER may wish to provide the attached Disclosure Letter (Exhibit G) as part of the Real Estate Transfer Disclosure requirements under California Civil Code Section 1102 et seq.(b) Concurrent with any such sale, transfer or assignment, or within fifteen (15) business days thereafter, OWNER shall notify CITY's City Manager, in writing, of such sale, transfer or assignment and shall provide CITY with: (1) an executed agreement, in a form reasonably acceptable to CITY, by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of OWNER under this Agreement with respect to the portion of the Property so sold, transferred or assigned; and (2) the payment of the applicable processing charge to cover the CITY's review and consideration of such sale, transfer or assignment.

(c) Any sale, transfer or assignment not made in strict compliance with the foregoing conditions shall constitute a default by OWNER under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by Paragraph (b) of this Subsection 2.4.1, the burdens of this Agreement shall be binding upon such purchaser, transferee or assignee, but the

benefits of this Agreement shall not inure to such purchaser, transferee or assignee until and unless such agreement is executed. The City Manager shall have the authority to review, consider and either approve, conditionally approve, or deny any proposed sale, transfer or assignment that is not made in compliance with this section 2.4.

2.4.2 Release of Transferring Owner. Notwithstanding any sale, transfer or assignment, a transferring OWNER shall continue to be obligated under this Agreement unless such transferring owner is given a release in writing by CITY, which release shall be provided by CITY upon the full satisfaction by such transferring owner of the following conditions:

(a) OWNER no longer has a legal or equitable interest in all or any part of the portion of the Property sold, transferred or assigned.

(b) OWNER is not then in default under this Agreement.

(c) OWNER has provided CITY with the notice and executed agreement required under Paragraph (b) of Subsection 2.4.1 above.

(d) The purchaser, transferee or assignee provides CITY with security equivalent to any security previously provided by OWNER to secure performance of its obligations hereunder.

2.4.3 Effect of Assignment and Release of Obligations. In the event of a sale, transfer or assignment pursuant to the provisions of Section 2.4.2 above:

(a) The assignee shall be liable for the performance of all obligations of OWNER with respect to transferred property, but shall have no obligations with respect to the portions of the Property, if any, not transferred (the "Retained Property").

(b) The owner of the Retained Property shall be liable for the performance of all obligations of OWNER with respect to Retained Property, but shall have no further obligations with respect to the transferred property.

(c) The assignee's exercise, use and enjoyment of the Property or portion thereof shall be subject to the terms of this Agreement to the same extent as if the assignee were the OWNER.

2.4.4 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Section 2.4.

2.4.5 Termination of Agreement with Respect to Individual Lots Upon Sale to Public and Completion of Construction. The provisions of Subsection 2.4.1 shall not apply to the sale or lease (for a period longer than one year) of any lot which has been finally subdivided and is individually (and not in "bulk") sold or leased to a member of the public or other ultimate user. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any lot and such lot shall be

released and no longer be subject to this Agreement without the execution or recordation of any further document upon satisfaction of both of the following conditions:

(a) The lot has been finally subdivided and individually (and not in "bulk") sold or leased (for a period longer than one year) to a member of the public or other ultimate user; and,

(b) A certificate of occupancy has been issued for a building on the lot, and the fees set forth under Section 4 of this Agreement have been paid.

2.4.6 Partial Assignment and Assumption. CITY and OWNER agree OWNER may partially assign its obligations and rights under this Agreement, and all amendments hereto, to a purchaser, transferee or assignee of a lot, which has been subdivided subject to provisions of a partial assignment and assumption agreement in a form approved by CITY. Any such complete and executed partial assignment and assumption of this Agreement shall be submitted to CITY for approval pursuant to Section 2.4.1 of this Agreement. Within thirty (30) days following such complete submittal, CITY shall review, and if the above conditions are satisfied, may approve the partial assignment and release and notify the purchasor, transferee or assignee in writing thereof. No such release approved pursuant to this Subsection 2.4.6 shall cause, or otherwise affect, a release of OWNER from the duties and obligations under this Agreement that are retained by OWNER and excluded from the transfer or assignment.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only in the manner provided for in Government Code Section 65868.1. Any amendment of this Agreement, which amendment has been requested by OWNER, shall be considered by the CITY only upon the payment of the applicable processing charge. This provision shall not limit any remedy of CITY or OWNER as provided by this Agreement. Either Party or successor in interest, may propose an amendment to or cancellation, in whole or in part, of this Agreement. Any amendment or cancellation shall be by mutual consent of the parties or their successors in interest except as provided otherwise in this Agreement or in Government Code Section 65865.1. For purposes of this section, the term "successor in interest" shall mean any person having a legal or equitable interest in the whole of the Property, or any portion thereof as to which such person wishes to amend or cancel this Agreement. The procedure for proposing and adopting an amendment to, or cancellation of, in whole or in part, this Agreement shall be the same as the procedure for adopting and entering into this Agreement in the first instance. Notwithstanding the foregoing sentence, if the CITY initiates the proposed amendment to, or cancellation of, in whole or in part, this Agreement, CITY shall first give notice to the OWNER of its intention to initiate such proceedings at least sixty (60) days in advance of the giving the public notice of intention to consider the amendment or cancellation.

2.5.1 Amendment to Reflect Consistency With Future Amendments to the Construction Agreement. To the extent any future amendment to the Construction Agreement provides for modifications to rights or obligations that differ from or alter the

same or similar rights or obligations contained in this Development Agreement, OWNER reserves the right to request an amendment to the Development Agreement to reflect any or all of such modifications.

2.6 Minor Modification. Upon the written application of OWNER, minor modifications and changes to the Development Plan including modifications to building design or footprint (not affecting minimum setbacks), parking layout and design, and landscape area design may be approved by the Director of the Planning Department without the need to amend this Development Agreement. Other changes in the Development Plan shall be processed pursuant to the City Zoning Ordinance. It is also contemplated by CITY and OWNER that OWNER may, from time to time, seek amendments to one or more of the Development Approvals. Any such amendments are contemplated by CITY and OWNER as being within the scope of this Agreement as long as they are consistent with the Land Use Regulations and shall, upon approval by CITY, continue to constitute the Development Approvals as referenced herein. The parties agree that any such modifications or amendments shall not constitute an amendment to this Agreement nor require an amendment to this Agreement.

2.7 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

(a) Expiration of the stated term of this Agreement as set forth in Section 2.3.

(b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.

(c) The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement.

(d) Completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits and acceptance by CITY or applicable public agency of all required dedications.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination or with respect to any obligations which are specifically set forth as surviving this Agreement. Upon such termination, any public facilities and services mitigation fees paid pursuant to Section 4.2 of this Agreement by OWNER to CITY for residential units on which construction has not yet begun shall be refunded to OWNER by CITY.

2.8 Notices.

(a) As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

(b) All notices shall be in writing and shall be considered given either: (i) when delivered in person, including, without limitation, by courier, to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below. All notices shall be addressed as follows:

If to CITY:
Scott Ochoa, City Manager
City of Ontario
303 East "B" Street
Ontario, CA 91764

If to OWNER:
Phillip LoSasso, Member
CHINO AVENUE, LLC.
12223 Highland Avenue #106-553
Rancho Cucamonga, CA 91739
phillplosasso@yahoo.com

with a copy to:
Ruben Duran, City Attorney
Best Best & Krieger, LLP
2855 E Guasti Road
Ontario, CA 91761

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

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

3. DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan. The Project shall remain subject to all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan. Except as otherwise provided in this Agreement, the permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land for public purposes shall be those set forth in the Development Plan.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided under the terms of this Agreement including the Reservations of Authority, the rules, regulations and official policies governing permitted uses of the Property, the density and intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to development of the Property shall be the Existing Land Use Regulations. In connection with any Subsequent Development Approval, CITY shall exercise discretion in accordance with the same manner as it exercises its discretion under its police powers, including the Reservations of Authority set forth herein; provided however, that such discretion shall not prevent development of the Property for the uses and to the density or intensity of development set forth in this Agreement.

3.3 Timing of Development. The parties acknowledge that OWNER cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors which are not within the control of OWNER, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Ca1. 3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that OWNER shall have the right to develop the Property in such order and at such rate and at such times as OWNER deems appropriate within the exercise of its subjective business judgment.

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

3.4 Requirement for Public Infrastructure Improvements. Development of the Property is contingent in part on the phasing of area-wide infrastructure improvements over which the OWNER has control. The issuance of building permits by CITY for Model Units and Production Units is, in general, contingent on OWNER's completion of needed infrastructure improvements and the availability of improvements and services to serve the Property.

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

3.4.2 Subject to the prior submittal by OWNER and approval by CITY of a plan to provide sufficient public infrastructure for the construction of a maximum number of five (5) Model Units, private common recreation facilities and sales facilities. CITY may issue a maximum of five (5) building permits for Model Units, private common recreation facilities and sales facilities. The plan to be submitted by OWNER for CITY approval shall describe the utilities and other

infrastructure necessary to provide sufficient fire protection and other public health and safety requirements for the Model Units and other facilities.

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. In the event OWNER finds that a change in the Existing Development Approvals is necessary or appropriate, OWNER shall apply for a Subsequent Development Approval to effectuate such change and CITY shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement including the Reservations of Authority. If approved, any such change in the Existing Development Approvals shall be incorporated herein as an addendum to Exhibit "C", and may be further changed from time to time as provided in this Section. Unless otherwise required by law, as determined in CITY's reasonable discretion, a change to the Existing Development Approvals shall be deemed "minor" and not require an amendment to this Agreement provided such change does not:

(a) Alter the permitted uses of the Property as a whole; or,

(b) Increase the density or intensity of use of the Property as a whole; or,

(c) Increase the maximum height and size of permitted buildings; or,

(d) Delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole; or,

(e) Constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

3.6 Reservations of Authority.

3.6.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the CITY shall not be prevented from applying new rules, regulations and policies upon the OWNER, nor shall a development agreement prevent the CITY from denying or conditionally approving any subsequent development project application on the basis of such new rules, regulations and policies where the new rules, regulations and policies consist of the following:

(a) Processing fees by CITY to cover costs of processing applications for development approvals or for monitoring compliance with any development approvals;

(b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records and any other matter of procedure;

(c) Regulations, policies and rules governing engineering and construction standards and specifications applicable to public and private improvements, including all uniform codes adopted by the CITY and any local amendments to those codes adopted by the CITY; provided however that, OWNER shall have a vested right to develop the Property in accordance with, and to the extent of, the standards and specifications that are expressly identified in the Specific Plan;

(d) Regulations that may conflict with this Agreement and the Development Plan but that are reasonably necessary to protect the residents of the project and/or of the immediate community from a condition perilous to their health or safety;

(e) Regulations that do not conflict with those rules, regulations and policies set forth in this Agreement or the Development Plan;

(f) Regulations that may conflict but to which the OWNER consents.

3.6.2 Subsequent Development Approvals. This Agreement shall not prevent CITY, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations that do not conflict with the Development Plan, nor shall this Agreement prevent CITY from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan.

3.6.3 Modification or Suspension by State or Federal Law. In the event that State or Federal laws or regulations, enacted after the Effective Date of this Agreement, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such State or Federal laws or regulations, provided, however, that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce. In the event OWNER alleges that such State or Federal laws or regulations preclude or prevent compliance with one or more provisions of this Agreement, and the CITY does not agree, the OWNER may, at its sole cost and expense, seek declaratory relief (or other similar non-monetary remedies); provided however, that nothing contained in this Section 3.6.3 shall impose on CITY any monetary liability for contesting such declaratory relief (or other similar non-monetary relief).

3.6.4 Intent. The parties acknowledge and agree that CITY is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to CITY all of its police

power which cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to CITY all such power and authority which cannot be restricted by contract.

3.7 Public Works; Utilities. If OWNER is required by this Agreement to construct any public works facilities which will be dedicated to CITY or any other public agency upon completion, and if required by applicable laws to do so, OWNER shall perform such work in the same manner and subject to the same requirements as would be applicable to CITY or such other public agency should it have undertaken such construction. As a condition of development approval, OWNER shall connect the Project to all utilities necessary to provide adequate water, recycled water, sewer, gas, electric, and other utility service to the Project. As a further condition of development approval, OWNER shall contract with the CITY for CITY-owned or operated utilities for this purpose, for such price and on such terms as may be available to similarly situated customers in the CITY.

3.7.1 OWNER agrees that development of the Project shall require the construction of storm drain improvements as described in Exhibit E and depicted in Exhibit F. OWNER shall be responsible for the construction of the necessary extension of storm drain facilities. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the storm drain improvements, as described in Exhibit E and depicted in Exhibit F.

3.7.2 OWNER agrees that development of the Project shall require the construction of street improvements as described in Exhibit E and depicted in Exhibit F. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the street improvements, as described in Exhibit E and depicted in Exhibit F.

3.7.3 OWNER agrees that development of the Property shall require the extension of permanent water and recycled water improvements as described in Exhibit E and depicted in Exhibit F to serve the Property. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the water and recycled water improvements as described in Exhibit E and depicted in Exhibit F. OWNER also agrees that recycled water shall be available and utilized by OWNER for all construction-related water uses including prior to, and during, any grading of the Property.

3.7.4 OWNER agrees that development of the Property shall require the construction of sewer improvements as described in Exhibit E and depicted in Exhibit F. OWNER agrees that no building permits shall be issued by CITY for Production Units prior to completion of the sewer improvements, as described in Exhibit E and depicted in Exhibit F.

3.7.5 OWNER agrees that development of the Property shall require the extension of permanent fiber optic communications infrastructure, as described in the attached Exhibit E and depicted in Exhibit F. OWNER agrees that no building

permits shall be issued by CITY for Production Units prior to completion of the fiber optic communication improvements, as described in Exhibit E and depicted in Exhibit F.

3.8 Acquisition of Offsite Provision of Real Property Interests. In any instance where OWNER is required by any Development Approval or Land Use Regulation and the Construction Agreement to construct any public improvement on land not owned by OWNER ("Offsite Improvements"), the CITY and OWNER shall cooperate in acquiring the necessary legal interest ("Offsite Property") in accordance with the procedures set forth in Section 2.4 of the Construction Agreement. This section 3.8 is not intended by the parties to impose upon the OWNER an enforceable duty to acquire land or construct any public improvements on land not owned by OWNER, except to the extent that the OWNER elects to proceed with the development of the Project, and then only in accordance with valid conditions imposed by the CITY upon the development of the Project under the Subdivision Map Act or other legal authority.

3.8.1 CITY Acquisition of Non-Construction Agreement Offsite Property. In the event OWNER is required to construct any public improvements on land not owned by OWNER, but such requirement is not based upon the Construction Agreement, Sections 3.8.1 and 3.8.2 shall control the acquisition of the necessary property interest(s) ("Non-Construction Agreement Offsite Property"). If the OWNER is unable to acquire such Non-Construction Agreement Offsite Property, and following the written request from the OWNER to CITY, CITY agrees to use reasonable and diligent good faith efforts to acquire the Non-Construction Agreement Offsite Property from the owner or owners of record by negotiation to the extent permitted by law and consistent with this Agreement. If CITY is unable to acquire the Non-Construction Agreement Offsite Property by negotiation within thirty (30) days after OWNER'S written request, CITY shall, initiate proceedings utilizing its power of eminent domain to acquire that Non-Construction Agreement Subject Property at a public hearing noticed and conducted in accordance with California Code of Civil Procedure Section 1245.235 for the purpose of considering the adoption of a resolution of necessity concerning the Non-Construction Agreement Offsite Property, subject to the conditions set forth in this Section 3.8. The CITY and OWNER acknowledge that the timelines set forth in this Section 3.8.1 represent the maximum time periods which CITY and OWNER reasonably believe will be necessary to complete the acquisition of any Non-Construction Agreement Offsite Property. CITY agrees to use reasonable good faith efforts to complete the actions described within lesser time periods, to the extent that it is reasonably able to do so, consistent with the legal constraints imposed upon CITY.

3.8.2 Owner's Option to Terminate Proceedings. CITY shall provide written notice to OWNER no later than fifteen (15) days prior to making an offer to the owner of the Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease all acquisition proceedings with respect to that Non-Construction Agreement Offsite Property, whereupon CITY shall cease such proceedings.

CITY shall provide written notice to OWNER no later than fifteen (15) days prior to the date of the hearing on CITY'S intent to consider the adoption of a resolution of necessity as to any Non-Construction Agreement Offsite Property. At any time within that fifteen (15) day period, OWNER may, at its option, notify CITY that it wants CITY to cease condemnation proceedings, whereupon CITY shall cease such proceedings. If OWNER does not notify CITY to cease condemnation proceedings within said fifteen (15) day period, then the CITY may proceed to consider and act upon the Non-Construction Agreement Offsite Property resolution of necessity. If CITY adopts such resolution of necessity, then CITY shall diligently institute condemnation proceedings and file a complaint in condemnation and seek an order of immediate possession with respect to the Non-Construction Agreement Offsite Property.

3.9 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies. CITY agrees to cooperate fully, at no cost to CITY, with OWNER in obtaining any required permits or compliance with the regulations of other public agencies provided such cooperation is not in conflict with any laws, regulations or policies of the CITY.

3.10 Tentative Tract Maps; Extension. With respect to applications by OWNER for tentative subdivision maps for portions of the Property, CITY agrees that OWNER may file and process tentative maps in accordance with Chapter 4.5 (commencing with Section 66498.1) of Division 2 of Title 7 of the California Government Code and the applicable provisions of CITY's subdivision ordinance, as the same may be amended from time to time. In accordance with the provisions of Section 66452.6 of the Government Code, each tentative subdivision map or tentative parcel map, heretofore or hereafter approved in connection with development of the Property, shall be deemed to have been granted an extension of time to and until the date that is five (5) years following the Effective Date of this Agreement.; The CITY's City Council may, in its discretion, extend any such map for an additional period of up to five (5) years beyond its original term, so long as the subdivider files a written request for an extension with the City prior to the expiration of the initial five (5) year term.

4. PUBLIC BENEFITS.

4.1 Intent. The parties acknowledge and agree that development of the Property will result in substantial public needs that will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers substantial private benefits on OWNER that should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on OWNER by providing more fully for the satisfaction of the public needs resulting from the Project.

4.2 Development Impact Fees.

4.2.1 Amount of Development Impact Fee. Development Impact Fees (DIF) shall be paid by OWNER. The Development Impact Fee amounts to be paid by OWNER shall be the amounts that are in effect at the time such amounts are due. Nothing contained in this Agreement shall affect the ability of the CITY to impose new Development Impact Fees or amend the amounts of existing Development Impact Fees. Additionally, nothing contained in this Agreement shall affect the ability of other public agencies that are not controlled by CITY to impose and amend, from time to time, Development Impact Fees established or imposed by such other public agencies, even though such Development Impact Fees may be collected by CITY.

4.2.2 Time of Payment. The Development Impact Fees required pursuant to Subsection 4.2.1 shall be paid to CITY prior to the issuance of building permit for each applicable residential or other unit, except for the Open Space and Habitat Acquisition Development Impact fee, which shall be paid by OWNER to CITY prior to the issuance of a grading permit. Deferral of the payment of Development Impact Fees may be granted pursuant to a separate agreement approved by City pursuant to City policy.

4.2.3 Parkland and Quimby Act Fees. Pursuant to the General Plan (Ontario Plan) Goal PR1, Policy PR1-5 (achievement of a park standard of 5 acres of parkland per 1,000 residents) OWNER shall provide improved parks, developed in accordance with the City's park standards in an amount equal to two (2) acres per 1,000 of projected population without credit, reimbursement, offset or consideration from City. Such areas shall either be dedicated to the City or transferred to a homeowners' association. If approved by the City Manager, OWNER may satisfy this requirement through the development of non-public recreation facilities such as private recreational clubhouses or pool facilities. Credit for such private recreational facilities areas shall be limited to a maximum of 50% of the foregoing park development requirement. If OWNER's Project does not provide dedicated and developed park acreage equal to two (2) acres per 1,000 projected population, OWNER shall pay a fee in-lieu equal to the per acre estimated costs of acquisition and development of parkland in the City's Development Impact Fee for the calculated park acreage deficiency. Such in-lieu fee shall be due and payable prior to the issuance of the first building permit issued to OWNER for Production Units. Any park dedication and/or improvements in excess of such two (2) acres per thousand standard, provided such park has been developed in accordance with the City's park standards and is open to the public generally, shall entitle OWNER to a credit toward its obligations under the Quimby Act (Gov. Code, § 64477) and the City's implementing ordinance and/or resolution (collectively "**Quimby Act Obligations**"), and to the extent OWNER's Quimby Act Obligations are satisfied, OWNER shall be entitled to have the City acquire such developed and publicly available parks as Non-Program Interests in accordance with Section 4.3.3 below.

4.3 Responsibility for Construction of Public Improvements.

4.3.1 Timely Construction of Public Infrastructure. The phasing of the areawide infrastructure construction within the New Model Colony will be as approved by the CITY. OWNER shall be responsible for the timely construction and completion of all public infrastructure required for the Project as shown on the attached Exhibit "F" and any and all tentative tract map conditions. Unless otherwise specified in the Subdivision Agreement/Tract Map conditions, all other required Improvements for each Tract Map, shall be completed and operational prior to, and as a condition precedent to, OWNER requesting and CITY's granting of the first building permit for production units for each such Tract Map. All Infrastructure and Improvements shall be completed as required by the Subdivision Agreement/Tract Map conditions for Tract No. 20281.

4.3.2 Construction of DIF Program Infrastructure (Construction Agreement). To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program and the Construction Agreement between CITY and NMC Builders LLC, CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of the Construction Agreement and any amendments thereto. Use of DIF Credit issued to OWNER as a member of NMC Builders LLC to offset OWNER's DIF payment obligations shall also be subject to the provisions of the Construction Agreement and any amendments thereto.

4.3.3 Construction of DIF Program Infrastructure (Non-Construction Agreement). To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program and such public improvements are not included the Construction Agreement between CITY and NMC Builders LLC, CITY agrees that CITY shall issue DIF Credit in accordance with the provisions of a separate Fee Credit Agreement between CITY and OWNER. Limitation on the use of DIF Credit issued to OWNER to offset OWNER's DIF payment obligations shall also be subject to the provisions of a separate Fee Credit Agreement. CITY and OWNER agree that the Fee Credit Agreement between CITY and OWNER shall comply with CITY's adopted policies applicable to such agreements.

4.4 Affordable Housing Requirement.

4.4.1 Affordable Housing- Number of Units. OWNER shall provide a minimum number of affordable housing units, equivalent to 10% of the OWNER's total approved residential units within the Project, that are affordable to very low, low and moderate income households. Such requirement for affordable housing shall be met through one, or a combination of one or more, of the options provided in the following Sections 4.3.2.1 through 4.3.2.1. For the purposes of this Section, any term not defined in this Agreement shall be as defined by California Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.).

4.4.2 Affordability Spread. Of the total number of residential dwelling units specified in Section 4.4.1, to be constructed or rehabilitated pursuant to Sections 4.4.2.1 or 4.4.2.2 respectively, thirty percent (30%) shall be available to very low income, thirty percent (30%) shall be available to low income and forty percent (40%) shall be available to moderate income households. "**Households**" shall be as defined by California Health and Safety Code Section 50053.

4.4.2.1 New Construction. If OWNER elects to fully or partially satisfy the affordable housing requirement by the construction of new residential units, it shall construct and restrict the affordability of residential dwelling units within its Project or, at OWNER's option and with the approval of the City, within another project elsewhere within the City. The affordable units constructed shall be intermingled with other units as part of the Project, and shall be built to the same construction, design and aesthetic standards, as well as number of rooms, as other units constructed as part of that OWNER's Project. In addition, the percentage ratio of affordable units offered for sale versus those offered for rent shall equal the percentage ratio of other units offered for sale versus for rent within OWNER's Project. Such construction shall be completed no later than the date that is five (5) years following the issuance of the first building permit for OWNER's Project; provided however that to the extent OWNER has not constructed the required percentage of units, based on the number of building permits for non-restricted units, OWNER shall, prior to the issuance of such building permits, provide security (in the form and substance approved by the City Manager and City Attorney) to City in order to ensure the faithful completion of such required percentage of construction of affordable units. If OWNER elects the option of constructing new affordable units, a detailed Affordable Housing Agreement specifying terms for the allowable monthly housing costs or rents (as applicable) and maintenance and occupancy standards shall be prepared, executed and recorded against such units as a condition to the issuance of a building permit. The Affordable Housing Agreement shall hold a recorded priority position senior to any other non-statutory lien or encumbrance affecting the unit.

4.4.2.2 Rehabilitation. If OWNER elects to fully or partially satisfy the affordable housing requirement by the substantial rehabilitation of existing residential units in the City, it shall substantially rehabilitate and restrict the affordability of, the number of residential units specified in Section 4.4.1, provided that such units shall be provided elsewhere within the City. The rehabilitation work shall be substantial and of high quality and shall also address any deferred property maintenance issues on the property. "**Substantial rehabilitation**" shall mean rehabilitated multi-family rented dwelling units with three or more units and the value of the rehabilitation constitutes 25 percent of the after rehabilitation value of the dwelling, inclusive of land value pursuant to Health and Safety Code Section 33413(b)(2)(A)(iii-iv) as such section exists as of the Effective Date of this Agreement. If OWNER chooses the option of rehabilitation of existing

housing units within the City, a detailed Affordable Housing Agreement specifying the terms for the allowable month housing costs or rents (as applicable) and maintenance and occupancy standards shall be prepared, executed and recorded against such units as a condition to the issuance of a building permit. Such rehabilitation shall be completed no later than the date that is five (5) years following the issuance of the first building permit for OWNER's Project; provided however that to the extent OWNER has not rehabilitated the required percentage of units, based on the number of building permits, OWNER shall, prior to the issuance of such building permits, provide security (in the form and substance approved by the City Manager and City Attorney) to the City in order to ensure the faithful completion of such required percentage of rehabilitation.

4.4.2.3 In-Lieu Fee. If OWNER has not fully complied with the requirements of Section 4.4.1 by providing the minimum number of affordable units through the construction of new affordable units or by the substantial rehabilitation of existing units, shall pay an "**Affordability In-Lieu Fee**". If OWNER has not provided any affordable residential units by construction or rehabilitation, the Affordability In-Lieu fee shall be equal to Two Dollars Eighty Five Cents ($2.85) per square foot of residential development within OWNER's Project or, if pre-paid as set forth below, Two Dollars Fifty Cents ($2.50) per square foot of residential development within OWNER's Project. If OWNER has partially complied with the requirements of Section 4.4.1 by construction or rehabilitation of less than the minimum number of units, then the Affordability In-lieu Fee shall be recalculated and reduced in consideration of the number and type of affordable units provided. The Affordability In-Lieu Fee shall be paid by OWNER to City no later than prior to the issuance of each building permit within OWNER's Project based on the square footage of the residential unit for which such building permit is sought; provided however that OWNER may, at OWNER's election, pre-pay such Affordability In-Lieu Fee by paying such Affordability In-Lieu Fee within thirty (30) days following the earliest discretionary approval by the City for OWNER's Project, including, but not limited to, any general plan amendment, specific plan adoption, development agreement, tentative map approval, variance, conditional use permit, or resolution of intention to form any public financing mechanism. The Two Dollars, Eighty-Five Cents ($2.85) and the Two Dollars Fifty Cents ($2.50) per square foot amounts shall automatically be increased annually, commencing on July 1, 2022, and automatically each July 1 thereafter. Such adjustment shall be based on the percentage increase (but no decrease) in the Consumer Price Index (Riverside - San Bernardino - Ontario, CA), (December 2017=100) over the preceding year. The pre-paid Affordability In-Lieu Fee shall be calculated based on the maximum floor area ratio (FAR) permitted within the General Plan and any applicable FAR contained within the applicable specific plan, whichever is greater, and the Maximum Development Density. For purposes of this Agreement, "**Maximum Development Density**" shall be determined by multiplying the

OWNER's Project's density for residential development potential as set forth in the General Plan or the applicable Specific Plan, whichever is less, by the net acreage of land within OWNER's Project. All "Affordability In-Lieu Fees" collected by the City shall be used to promote the construction of affordable housing within the City.

4.4.2.4 Affordability Covenants. Prior to the issuance of the first building permit for any affordable unit, the City and OWNER shall enter into an Affordable Housing Agreement Affordability shall be assured for a period of forty-five (45) years for for-sale units and fifty-five (55) years for rentals. For rental units, base rents shall be established by the City and rental adjustments required by the City shall be performed on an annual basis. In addition, the Affordable Housing Agreement shall impose maximum occupancy limits of 2 occupants per bedroom plus 1 additional occupant per dwelling unit, and a requirement for the owner or tenant to properly maintain each dwelling unit.

4.4.2.5 Transfer of Affordable Project. No transfer of title to any affordable housing project shall occur without the prior written consent of the City. In the event OWNER transfers title to any affordable housing project required to be constructed pursuant to this Agreement to a non-profit entity, or other entity, that receives an exemption from ad valorem real property taxes, the City shall be required to assure payment of an annual in lieu fee to the City on July 1 of each year equal to one-tenth of one percent (0.1%) of the assessed value of such project. The City may permit OWNER to satisfy this obligation by recorded covenants against the property and enforceable against said entity by the City. Any such covenants shall be approved by the Planning Director and the City Attorney.

4.5 Schools Obligations.

4.5.1 Written Evidence of Compliance with Schools Obligations.
OWNER shall, either through joint or individual agreements between OWNER and the applicable school district(s), shall satisfy its new school obligations. The new school obligations for the Mountain View School District in the Ontario Ranch area have been projected to include the acquisition or dedication of school sites for, and construction of, up to eight (8) schools. Of these eight (8) schools, six (6) are to be elementary (K-5) grade schools and two (2) are to be middle grade schools. The new school obligations for the Chaffey Joint Union High School District in the Ontario Ranch area have been projected to include the dedication of a school site for, and construction of, an additional high school. The new school obligations for the applicable school district shall be met by a combination of the following: (1) designating and dedicating school site(s) within the Property as set forth in the General Plan, and/or (2) paying school impact fees, (3) entering into a joint mitigation agreement or individual mitigation agreements, or (4) any combination of the foregoing. Written evidence of approval by the applicable school district that OWNER has met their school

obligations may be required by the City as the condition to the issuance by the City of any entitlements for OWNER's Project. In the event OWNER is unable to provide such written evidence from the applicable school district(s), the City shall have the right to decline to honor any DIF Credit, Certificates of MDD Availability, Certificates of Storm Water Treatment Capacity Availability, or any combination thereof, presented by such OWNER, without liability to the City. To the extent that a joint mitigation agreement is approved by the applicable school district(s), and OWNER is a participant in good standing in such mitigation agreement, OWNER shall be deemed to have mitigated its new school obligations under this Section 4.4.1.

4.6 Public Services Funding Fee.

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

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

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

If the First installment amount is not paid for all residential dwelling units within the Project (based on the Maximum Development Density, or the number of units described on "B Maps" if approved) by January 1, 2022, the amount of the First Installment shall be increased. Such increase shall be based on the percentage increase (but no decrease) in the Consumer Price Index (Riverside - San Bernardino - Ontario, CA) (December 2017=100) over the preceding year. Additionally, the amount shall be further increased automatically by the percentage increase in the Consumer Price Index (Riverside - San Bernardino - Ontario, CA) (December 2017=100) on each January 1 thereafter.

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

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

4.7 Net MDD/Water Availability Equivalents.

4.7.1 Assigned Net MDD/Water Availability Equivalents. The City has agreed with NMC Builders LLC to reserve exclusively for Members of NMC Builders, including OWNER, Net MDD made available through the construction of water system improvements funded by NMC Builders LLC. NMC Builders has assigned to OWNER its allocable share of the Net MDD issued by City. The provisions of the Construction Agreement Amendment requires that the City shall not approval a final tract map or issue building permits or certificates of occupancy for the area of development within the New Model Colony served by the water system improvements funded by NMC Builders LLC, except to the bearer of an Assignment of Net MDD Water Availability.

4.7.2 Use of Assigned Net MDD Water Availability. OWNER shall provide evidence of sufficient Net MDD Water Availability Equivalents (or portions thereof) prior to and as a condition precedent to, the City's approval of any and all tract maps for the Property. The amount of Net MDD Water Availability Equivalents required for City's approval of a tract map shall be based upon water demand factors and assumptions listed in Exhibit C-2R of the Construction

Agreement Amendment as "Water Demand Equivalents by Land Use" for each land use category.

4.7.3 Requirement for other Water System Improvements. A Certificate of Net MDD Availability is evidence only of available water capacity and does not satisfy any other conditions applicable to an OWNER's Project, including those relating to design and construction of master-planned potable water and recycled water transmission and distribution system for the respective pressure zone and other public infrastructure requirements.

4.7.4 Effectiveness of Agreement. Notwithstanding anything set forth in this Agreement, CITY and OWNER each acknowledge, confirm, and agree that (i) the CITY approval of this Agreement and (ii) the effectiveness of this Agreement, in each case, are conditioned upon OWNER's admission to NMC Builders as a "Member" thereof pursuant to the terms and conditions of the operating agreement of NMC Builders within 30 days following the Effective Date of this Agreement.

4.8 Storm Water Capacity Availability.

4.8.1 Requirement for Storm Water Treatment Capacity Availability. OWNER shall provide evidence of sufficient Storm Water Treatment Capacity Availability as reserved in a Certificate of Storm Water Treatment Capacity Availability the same manner and subject to the same limitations as provided for the assignment of Certificates of Net MDD Availability in Section 4.6 of this Agreement.

4.8.2 Use of Storm Water Treatment Capacity Availability. The amount of Storm Water Treatment Capacity Availability required for the issuance of a grading permit to OWNER shall be based upon the Net Residential Acreage of the area to be graded regardless of the corresponding use.

4.8.3 Requirement for other Storm Water Improvements. The Certificate of Storm Water Treatment Capacity Availability is evidence only of available storm water treatment capacity and does not satisfy any other conditions applicable to a particular development project, including those relating to on-site water treatment, water quality, connection to the storm water collection system, or other public infrastructure requirements.

4.9 Maintenance of Open Space. OWNER shall provide for the ongoing maintenance of all park, common areas and open space areas within the Project as more particularly set forth in the Specific Plan, through a homeowners' association as approved by the CITY. Covenants, conditions and restrictions establishing any homeowners' association shall be approved by the Planning Director and City Attorney.

4.11 Compliance with Public Benefits Requirements.

4.11.1 Failure to Provide Public Benefits. In the event OWNER fails or refuses to comply with any condition referenced in Section 4.1 through 4.10, or

challenges (whether administratively or through legal proceedings) the imposition of such conditions, OWNER shall be deemed in default of this Agreement pursuant to Section 8.4 hereof, thereby entitling the City to any and all remedies available to it, including, without limitation, the right of the City to withhold OWNER's Project-related building permits, certificates of occupancy, or discretionary approvals, without liability.

5. FINANCING OF PUBLIC IMPROVEMENTS.

5.1 Financing Mechanism(s). In accordance with the Memorandum of Agreement between the CITY and NMC Builders, CITY will cooperate with OWNER in the formation of a CFD, or CFDs, to include all of the Project, to provide a financing mechanism to reimburse the OWNER for funds paid to NMC Builders LLC for OWNER's share of the costs of public infrastructure pursuant to the Construction Agreement and to acquire other public facilities constructed by OWNER subject to the provisions of the Memorandum of Agreement between CITY and NMC Builders LLC. Notwithstanding such reimbursements and acquisitions, OWNER shall remain entitled to DIF Credits as provided for in Article 3 of the Construction Agreement and/or as provided for in a separate Fee Credit Agreement between CITY and OWNER. OWNER agrees that, prior to the recordation of any Tract Map for the Property, the Property shall be included in a CFD to finance City services through annual special taxes that will initially be $1,560.77 per Single Family Detached Dwelling Unit, $1,352.65 per Multiple-Family Dwelling Unit, $1,134.14 per Gated Apartment Community Dwelling Unit, and $.29 per square foot for Non-Residential buildings. These amounts shall be subject to an automatic increase at a rate not to exceed four (4%) percent per year. CITY shall be the sole and exclusive lead agency in the formation of any CFD, assessment district or other public financing mechanism within the Property; provided however, that the proceeds of any such CFD, assessment district, or financing mechanism may be used, subject to restrictions that may be imposed by applicable law, for the purposes of acquiring, constructing or maintaining public facilities to be owned or operated by other public agencies, including, without limitation those facilities owned or operated by a school district. In addition to the rights of the CITY pursuant to section 5.2 hereof, CITY shall have the right, but not the obligation, to condition the formation of any CFD, assessment district or other public financing mechanism within the Property on the OWNER mitigating all Project-related impacts to the applicable school district(s) as required by such school district(s). Written evidence by such school district(s) may be required by the CITY as the condition to the formation of any CFD, assessment district or other public financing mechanism within the Property, or any steps preliminary thereto, including, without limitation, the adoption of any resolution of intention to form such CFD, assessment district or other public financing mechanism within the Property. It is not the intent of the parties hereto, by this provision, to prohibit or otherwise limit the City's ability to take any and all necessary steps requisite to the formation of the CFD to finance City services through annual special taxes as set forth in this Section 5.1. Formation of any CFD, assessment district or other public financing mechanism within the Property, shall be subject to CITY's ability to make all findings required by applicable law and complying with all applicable legal procedures and requirements including, without limitation, CITY's public financing district policies as such policies may

be amended from time to time. Notwithstanding the foregoing, it is acknowledged and agreed by the parties that nothing contained in this Agreement shall be construed as requiring CITY or the City Council to form any such district or to issue and sell bonds.

6. REVIEW FOR COMPLIANCE.

6.1 Periodic and Special Reviews.

6.1.1 Time for and Initiation of Periodic Review. The CITY shall review this Agreement every twelve (12) months from the Effective Date in order to ascertain the good faith compliance by the OWNER with the terms of this Agreement. The OWNER shall submit an Annual Monitoring Report to CITY, in a form acceptable to the City Manager, along with any applicable processing charge within ten (10) days after each anniversary date of the Effective Date of this Agreement. Within fifteen (15) days after the receipt of the Annual Monitoring Report, CITY shall review the Annual Monitoring Report. Prior to the expiration of the fifteen (15) day review period, CITY shall either issue a notice of continuing compliance or a notice of non-compliance and a notice of CITY's intent to conduct a Special Review pursuant to Sections 6.1.2 through 6.1.6. Issuance of a notice of continuing compliance may be issued by the City Manager or his designee.

6.1.2 Initiation of Special Review. A special review may be called either by agreement between the parties or by initiation in one or more of the following ways:

(1) Recommendation of the Planning staff;

(2) Affirmative vote of at least four (4) members of the Planning Commission; or

(3) Affirmative vote of at least three (3) members of the City Council.

6.1.3 Notice of Special Review. The City Manager shall begin the special review proceeding by giving notice that the CITY intends to undertake a special review of this Agreement to the OWNER. Such notice shall be given at least ten (10) days in advance of the time at which the matter will be considered by the Planning Commission.

6.1.4 Public Hearing. The Planning Commission shall conduct a hearing at which the OWNER must demonstrate good faith compliance with the terms of this Agreement. The burden of proof on this issue is upon the OWNER.

6.1.5 Findings Upon Public Hearing. The Planning Commission shall determine upon the basis of substantial evidence whether or not the OWNER has, for the

period under review, complied in good faith with the terms and conditions of this Agreement.

6.1.6 Procedure Upon Findings.

(a) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has complied in good faith with the terms and conditions of this Agreement during the period under review, the review for that period is concluded.

(b) If the Planning Commission finds and determines on the basis of substantial evidence that the OWNER has not complied in good faith with the terms and conditions of this Agreement during the period under review, the Planning Commission may recommend to the City Council to modify or terminate this Agreement.

(c) The OWNER may appeal a determination pursuant to paragraph (b) to the City Council in accordance with the CITY's rule for consideration of appeals in zoning matters generally.

6.2 Proceedings Upon Modification or Termination. If, upon a finding under Section 6.1.6(b), the CITY determines to proceed with modification or termination of this Agreement, the CITY shall give notice to the property OWNER of its intention so to do. The notice shall contain:

(a) The time and place of the hearing;

(b) A statement as to whether or not the CITY proposes to terminate or to modify this Agreement; and

(c) Other information that the CITY considers necessary to inform the OWNER of the nature of the proceeding.

6.3 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, the OWNER shall be given an opportunity to be heard. The OWNER shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on the OWNER. If the City Council finds, based upon substantial evidence in the administrative record, that the OWNER has not complied in good faith with the terms and conditions of the agreement, the City Council may terminate or modify this Agreement and impose those conditions to the action it takes as it considers necessary to protect the interests of the CITY. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

6.4 Certificate of Agreement Compliance. If, at the conclusion of a Periodic or Special Review, OWNER is found to be in compliance with this Agreement, CITY shall, upon written request by OWNER, issue a Certificate of Agreement Compliance ("Certificate") to OWNER stating that after the most recent Periodic or Special Review

and based upon the information known or made known to the Planning Director and City Council that (1) this Agreement remains in effect and (2) OWNER is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a Periodic or Special Review and shall state the anticipated date of commencement of the next Periodic Review. OWNER may record the Certificate with the County Recorder. Whether or not the Certificate is relied upon by assignees or other transferees or OWNER, CITY shall not be bound by a Certificate if a default existed at the time of the Periodic or Special Review, but was concealed from or otherwise not known to the Planning Director or City Council.

7. [RESERVED]

8. DEFAULT AND REMEDIES.

8.1 Remedies in General. It is acknowledged by the parties that CITY would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that CITY shall not be liable in damages to OWNER, or to any successor in interest of OWNER, or to any other person, and OWNER covenants not to sue for damages or claim any damages:

(a) For any breach of this Agreement or for any cause of action which arises out of this Agreement; or

(b) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

(c) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

8.2 Specific Performance. The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties for the following reasons:

(a) Money damages are unavailable against CITY as provided in Section 8.1 above.

(b) Due to the size, nature and scope of the project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, OWNER may be foreclosed from other choices it may have had to utilize the Property or portions thereof. OWNER has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in

reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate OWNER for such efforts.

8.3 Release. Except for nondamage remedies, including the remedy of specific performance and judicial review as provided for in Section 6.5, OWNER, for itself, its successors and assignees, hereby releases the CITY, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the CITY because it entered into this Agreement or because of the terms of this Agreement.

8.4 Termination or Modification of Agreement for Default of OWNER. Subject to the provisions contained in Subsection 6.3 herein, CITY may terminate or modify this Agreement for any failure of OWNER to perform any material duty or obligation of OWNER under this Agreement, or to comply in good faith with the terms of this Agreement (hereinafter referred to as "default"); provided, however, CITY may terminate or modify this Agreement pursuant to this Section only after providing written notice to OWNER of default setting forth the nature of the default and the actions, if any, required by OWNER to cure such default and, where the default can be cured, OWNER has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

8.5 Termination of Agreement for Default of CITY. OWNER may terminate this Agreement only in the event of a default by CITY in the performance of a material term of this Agreement and only after providing written notice to CITY of default setting forth the nature of the default and the actions, if any, required by CITY to cure such default and, where the default can be cured, CITY has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

9. THIRD PARTY LITIGATION.

9.1 General Plan Litigation. CITY has determined that this Agreement is consistent with its Comprehensive General Plan, as such General Plan exists as of the Effective Date ("General Plan"), and that the General Plan meets all requirements of law. OWNER has reviewed the General Plan and concurs with CITY's determination. CITY shall have no liability in damages under this Agreement for any failure of CITY to perform under this Agreement or the inability of OWNER to develop the Property as contemplated by the Development Plan of this Agreement as the result of a judicial

determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law.

9.2 Third Party Litigation Concerning Agreement. OWNER shall defend, at its expense, including attorneys' fees, indemnify, and hold harmless CITY, its agents, officers and employees from any claim, action or proceeding against CITY, its agents, officers, or employees to attack, set aside, void, or annul the approval of this Agreement or the approval of any permit granted pursuant to this Agreement. CITY shall promptly notify OWNER of any such claim, action or proceeding, and CITY shall cooperate in the defense. If CITY fails to promptly notify OWNER of any such claim, action or proceeding, or if CITY fails to cooperate in the defense, OWNER shall not thereafter be responsible to defend, indemnify, or hold harmless CITY. CITY may in its discretion participate in the defense of any such claim, action or proceeding.

9.3 Indemnity. In addition to the provisions of 9.2 above, OWNER shall indemnify and hold CITY, its officers, agents, employees and independent contractors free and harmless from any liability whatsoever, based or asserted upon any act or omission of OWNER, its officers, agents, employees, subcontractors and independent contractors, for property damage, bodily injury, or death (OWNER's employees included) or any other element of damage of any kind or nature, relating to or in any way connected with or arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, failure and conveyance of the public improvements, save and except claims for damages arising through the sole active negligence or sole willful misconduct of CITY. OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents, employees and independent contractors in any legal action based upon such alleged acts or omissions. CITY may in its discretion participate in the defense of any such legal action.

9.4 Environment Assurances. OWNER shall indemnify and hold CITY, its officers, agents, and employees free and harmless from any liability, based or asserted, upon any act or omission of OWNER, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and OWNER shall defend, at its expense, including attorneys' fees, CITY, its officers, agents and employees in any action based or asserted upon any such alleged act or omission. CITY may in its discretion participate in the defense of any such action.

9.5 Reservation of Rights. With respect to Sections 9.2, 9.3 and 9.4 herein, CITY reserves the right to either (1) approve the attorney(s) which OWNER selects, hires or otherwise engages to defend CITY hereunder, which approval shall not be unreasonably withheld, or (2) conduct its own defense, provided, however, that OWNER shall reimburse CITY forthwith for any and all reasonable expenses incurred for such defense, including attorneys' fees, upon billing and accounting therefor.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement.

10. MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit OWNER, in any manner, at OWNER's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. CITY acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with OWNER and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. CITY will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee, has submitted a request in writing to the CITY in the manner specified herein for giving notices, shall be entitled to receive written notification from CITY of any default by OWNER in the performance of OWNER's obligations under this Agreement.

(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to OWNER under the terms of this Agreement, CITY shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to OWNER. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of OWNER's obligations or other affirmative covenants of OWNER hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by OWNER is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY's performance hereunder, and further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.4 of this Agreement.

11. MISCELLANEOUS PROVISIONS.

11.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the San Bernardino County Recorder by the City Clerk within the ten (10) days after the CITY executes this Agreement, as required by Section 65868.5 of the Government Code. If the parties to this Agreement or their successors in interest amend or cancel this Agreement as provided for herein and in Government Code Section 65868, or if the CITY terminates or modifies the agreement as provided for herein and in Government Code Section 65865.1 for failure of the applicant to comply in good faith with the terms or conditions of this Agreement, the City Clerk shall have notice of such action recorded with the San Bernardino County Recorder.

11.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

11.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provision of the Public Benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and CITY would not have entered into this Agreement but for such provisions, and therefore in the event such provisions are determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

11.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

11.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.6 Singular and Plural. As used herein, the singular of any word includes the plural.

11.7 Joint and Several Obligations. Subject to section 2.4, if at any time during the term of this Agreement the Property is owned, in whole or in part, by more than one

owner, all obligations of such owners under this Agreement shall be joint and several, and the default of any such owner shall be the default of all such owners. Notwithstanding the foregoing, no owner of a single lot which has been finally subdivided and sold to such owner as a member of the general public or otherwise as an ultimate user shall have any obligation under this Agreement except as provided under Section 4 hereof.

11.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

11.9 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

11.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

11.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other Acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than five (5) years.

11.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

11.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

11.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

11.15 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

11.16 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and OWNER is that of a government entity regulating the development of private property and the owner of such property.

11.17 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement. The City Manager may delegate his powers and duties under this Agreement to an Assistant City Manager or other management level employee of the CITY.

11.18 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by CITY of its power of eminent domain.

11.19 Agent for Service of Process. In the event OWNER is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer resident of the State of California, or it is a foreign corporation, then in any such event, OWNER shall file with the Planning Director, upon its execution of this Agreement, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon OWNER. If for any reason service of such process upon such agent is not feasible, then in such event OWNER may be personally served with such process out of this County and such service shall constitute valid service upon OWNER. OWNER is amenable to the process so served, submits to the jurisdiction of the Court so obtained and waives any and all objections and protests thereto. OWNER for itself, assigns and successors hereby waives the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Estoppel Certificate. Within thirty (30) business days following a written request by any of the parties, the other party shall execute and deliver to the requesting party a statement certifying that (i) either this Agreement is unmodified and in full force and effect or there have been specified (date and nature) modifications to the Agreement, but it remains in full force and effect as modified; and (ii) either there are no known current uncured defaults under this Agreement or that the responding party alleges that specified (date and nature) defaults exist. The statement shall also provide any other reasonable information requested. The failure to timely deliver this statement shall constitute a conclusive presumption that this Agreement is in full force and effect without modification except as may be represented by the requesting party and that there are no uncured defaults in the performance of the requesting party, except as may be represented by the requesting party. OWNER shall pay to CITY all costs incurred by CITY in connection with the issuance of estoppel certificates under this Section 11.20 prior to CITY's issuance of such certificates.

11.21 Authority to Execute. The person or persons executing this Agreement on behalf of OWNER warrants and represents that he or she/they have the authority to execute this Agreement on behalf of his or her/their corporation, partnership or business entity and warrants and represents that he or she/they has/have the authority to bind OWNER to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

SIGNATURE PAGE
TO DEVELOPMENT AGREEMENT NO. PDA21-003

"OWNER"

CHINO AVENUE, LLC a California limited liability company

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

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

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

"CITY"

CITY OF ONTARIO

By:_____
Scott Ochoa
City Manager

Date: _____

APPROVED AS TO FORM:
BEST BEST & KRIEGER, LLP

_____
City Attorney

ATTEST:

_____
City Clerk, Ontario

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF_____)

On _____, 20_____, before me,_____,
Date *Insert Name and Title of the Officer*

personally appeared _____
Name(s) of Signer(s)
_____, who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____
Signature of Notary Public

Place Notary Seal Above

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF_____)

On _____, 20_____, before me_____,
Date *Insert Name and Title of the Officer*

personally appeared _____
Name(s) of Signer(s)

_____,
who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____
Signature of Notary Public

Place Notary Seal Above

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF_____)

On _____, 20_____, before me_____,
Date *Insert Name and Title of the Officer*

personally appeared _____
Name(s) of Signer(s)

_____,
who proved to me on the basis of satisfactory evidence to be the person whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____
Signature of Notary Public

Place Notary Seal Above

EXHIBIT "A"
TO DEVELOPMENT AGREEMENT

Legal Description of Property

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

PARCEL A:

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

PARCEL B:

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

APN: 0218-111-56-0-000

EXHIBIT "B"
TO DEVELOPMENT AGREEMENT

Map showing Property and its location

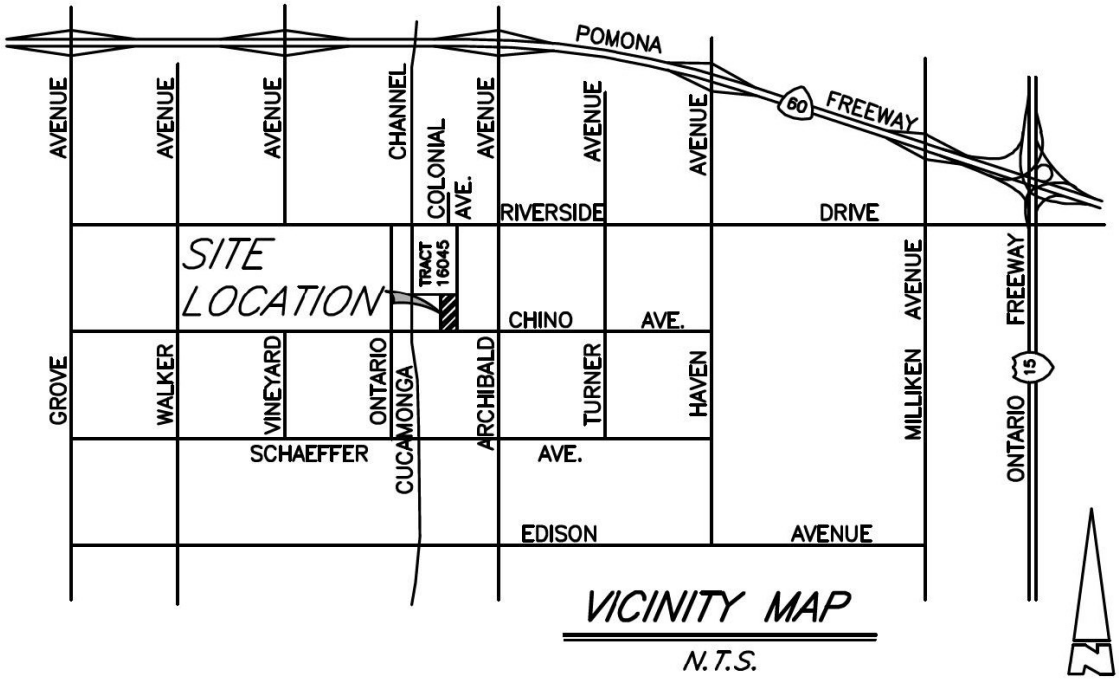


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Existing Development Approvals

On March 28, 2006, the Planning Commission:

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

b) Issued Resolution No. PC06-021 recommending City Council approval of the Countryside Specific Plan (PSP04-001).

On April 18, 2006, the City Council:

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

On April 25, 2006, the Planning Commission:

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

On May 2, 2006, the City Council:

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

On June 20, 2006 the City Council:

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

EXHIBIT "D"
TO DEVELOPMENT AGREEMENT

Existing Land Use Regulations

These documents are listed for reference only:

1. Countryside Specific Plan (File No. PSP04-001), Ordinance No. 2828

2. Countryside Specific Plan Environmental Impact Report (SCH# 2004071001)

3. Countryside Specific Plan (File No. PSPA06-063), Ordinance No. 2830

4. Countryside Specific Plan Amendment (File No. PSPA19-001)

5. City of Ontario Municipal Code
    a. Six – Sanitation & Health
    b. Seven – Public Works
    c. Eight – Building Regulations
    d. Nine – Development Code
    e. Ten – Parks & Recreation

EXHIBIT "E"
TO DEVELOPMENT AGREEMENT

Description of Required Improvements

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

EXHIBIT "F"
TO DEVELOPMENT AGREEMENT

Depiction of Required Improvements

(SEE ATTACHMENT)

TENTATIVE TRACT MAP NO 20281
IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
ONSITE INFRASTRUCTURE IMPROVEMENTS
EXHIBIT
ONSITE INFRASTRUCTURE
LEGEND/SYMBOLS
PROPOSED DOMESTIC WATER
PROPOSED RECYCLED WATER
PROPOSED SANITARY SEWER
PROPOSED STORM DRAIN
PROPOSED FIBER OPTIC
TRACT BOUNDARY
PROPOSED IMPROVEMENTS PER TTM 20281
PROPOSED STREET IMPROVEMENTS
PROPOSED PARK
INFRASTRUCTURE IMPROVEMENTS
1 CONNECT TO EXISTING DOMESTIC WATER
2 CONNECT TO EXISTING RECYCLED WATER
3 CONNECT TO EXISTING SEWER
4 CONNECT TO EXISTING STORM DRAIN
5 CONNECT TO TM16054
6 CONNECT TO TM18810
ABBREVIATIONS
DW DOMESTIC WATER
LAT. LATERAL
PROP. PROPOSED
RW RECYCLED WATER
SD STORM DRAIN
SS SANITARY SEWER
SCALE: 1"=80'
DATE: 10-14-21
DESIGNED: HC
CHECKED: TMC
KWC ENGINEERS
CIVIL ENGINEERS • PLANNERS • SURVEYORS
1880 COMPTON AVENUE, SUITE 100 • CORONA, CA. 92881-3390 • 951-734-2130
TRACT 20281
TRACT BOUNDARY
TM 18455
M.B. 344/65-67
TM 16045
TM 17449
TM 18810
COLONIAL AVE.
CHINO AVE.
BARNVELDER CT.
PROP. 8" SS MAIN
PROP. 8" DW MAIN
PROP. 24" SD MAIN
EX. ONTARIONET HAND HOLE
PROP. TRAFFIC SIGNAL
SITE LOCATION
SCALE
80
0
80

EXHIBIT "G"
TO DEVELOPMENT AGREEMENT

Form of Plume Disclosure Letter

CITY OF ONTARIO

ONTARIO MUNICIPAL UTILITIES COMPANY

PAUL S. LEON
MAYOR

DEBRA DORST-PORADA
MAYOR PRO TEM

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

AL C. BOLING
CITY MANAGER

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT BURTON
UTILITIES GENERAL MANAGER

March 2017

DISCLOSURE NOTICE
SOUTH ARCHIBALD TRICHLOROETHYLENE PLUME

Dear Property Owner/Developer/Applicant:

The City of Ontario ("City") has approved or will be approving development in the Ontario Ranch area in the next few years, subject to the appropriate and required statutory process. This letter is intended to serve as notice to all potential property owners of the existence of a groundwater plume, known as the South Archibald Trichloroethylene (TCE) Plume which may exist in, under or near owner's property.

The groundwater plume is in an area in the central Chino Basin south of the Pomona Freeway, west of Turner Avenue, east of Grove Avenue, and north of Kimball Avenue. The plume primarily consists of TCE, a discontinued industrial solvent, and is subject to a clean-up under the oversight and direction of the Santa Ana Regional Water Quality Control Board ("Regional Board").

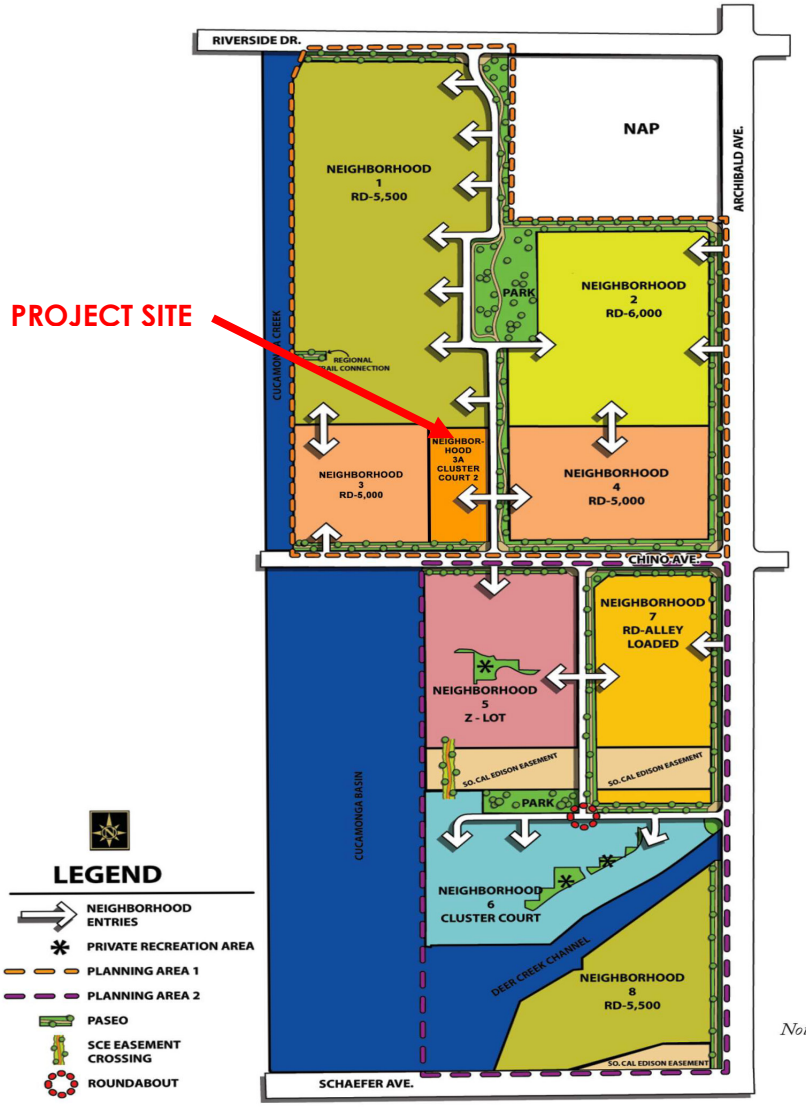
The Regional Board's approved clean-up procedure involves the removal and treatment of groundwater containing TCE via groundwater wells to reduce the plume concentrations and control its migration. In addition, the City is providing potable water supplies for domestic purposes to residences with private domestic wells affected by the plume. Finally, the Regional Board will continue to monitor all impacted areas and private domestic wells to ensure that residents' health and the environment are properly safeguarded. These remedial actions are documented in a Remedial Action Plan approved by the Regional Board in September 2016.

Further and current information may be found on the Regional Board's Geotracker website at https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000004658.

Property owners may wish to include this letter as a part of a Real Estate Transfer Disclosure under California Civil Code Section 1102 et seq.

1425 SOUTH BON VIEW - ONTARIO, CALIFORNIA 91761-4406 - (909) 395-2605 - FAX (909) 395-2601

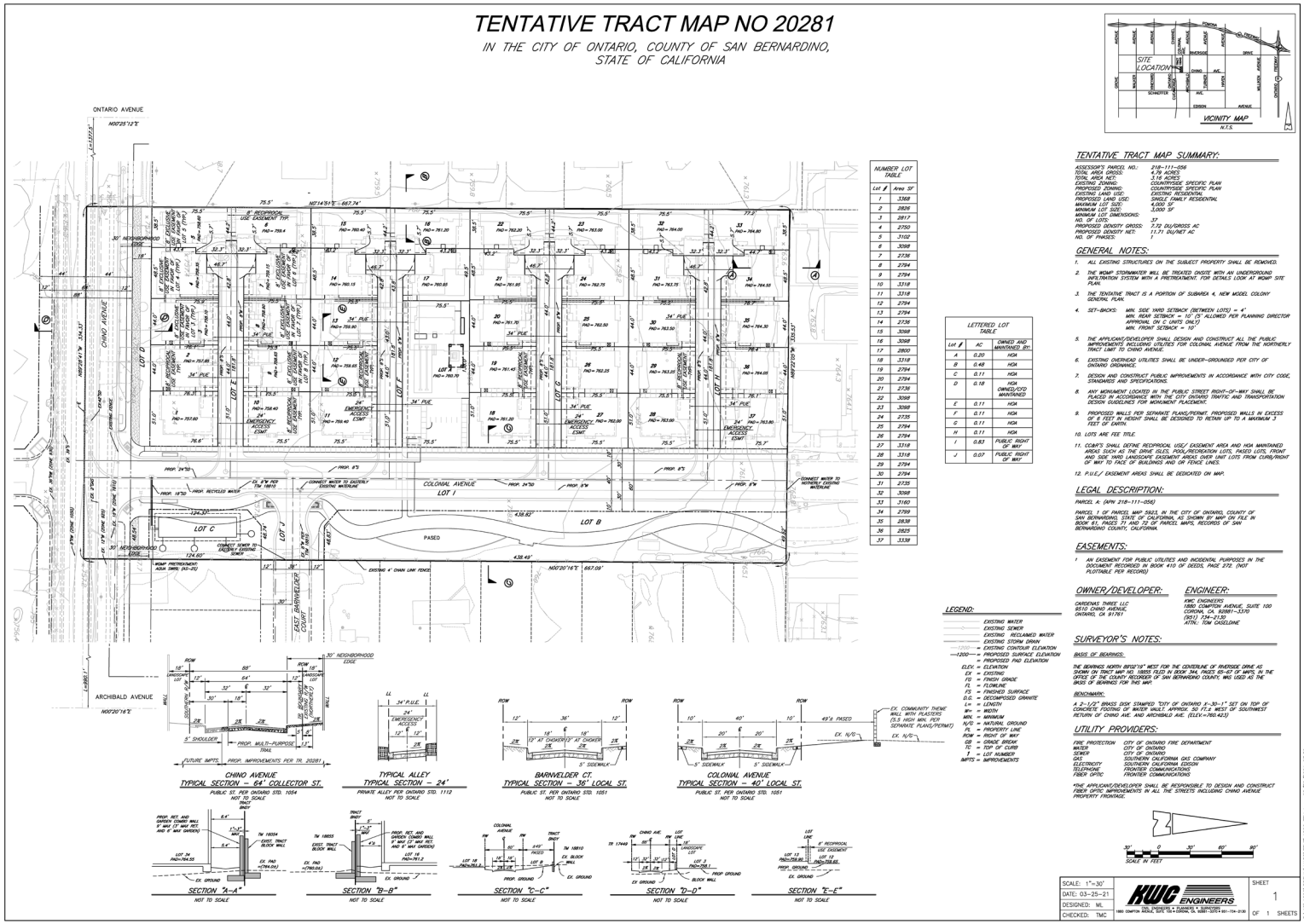
Countryside



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

Exhibit 10
Land Use Plan

Exhibit B—TENTATIVE TRACT MAP NO. 20281



CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Economic Development Prepared By: Karla Tavera Staff Member Presenting: Jennifer McLain Hiramoto, Economic Development Director Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 4

SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR CREATIVE AND DIGITAL PRODUCTION SERVICES

RECOMMENDATION: That the City Council approve a Professional Services Agreement (on file in the Records Management Department) in the amount of $150,000 with Public Advertising Agency of Temecula, California, to provide creative and digital production services for the City's Economic Development Department for an initial three-year term; and authorize the option to extend the Agreement for up to two additional one-year terms, and authorize the City Manager to execute said Agreement and future amendments consistent with the approved budget.

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 Fiscal Year 2021-22 Adopted Budget includes appropriations in the Economic Development budget for Advertising and Promotional activities. Annual expenditures for this three-year contract are estimated at $50,000 covering creative and digital production services for various economic development projects, including marketing, collateral development, and promotion of the State of the City event.

At the City's discretion, two additional one-year extensions may be exercised. Future contracting actions will be commensurate with the City Council authorized work programs and budgets. Contracting for the multi-year period allows the City to avoid the cost of re-bidding the contract annually, provides service continuity, and the ability to better project future years' costs.

BACKGROUND & ANALYSIS: The Economic Development Department is responsible for business attraction and retention efforts. To achieve its goals, Economic Development utilizes a combination of print and digital advertising and in-person marketing at special events.

In October 2021, the City solicited proposals for creative and digital production services from qualified vendors. The following four proposals were received through the City's electronic bid management system:

Company	Location
Geographics	Riverside, CA
Little Bear Productions	Etiwanda, CA
Public Advertising Agency	Temecula, CA
Robert E. Jacka	San Bernardino, CA

After a thorough review of the proposals, City staff from the Economic Development and Communications Departments interviewed the top two firms (Geographics and Public Advertising Agency). Consideration was given to the overall proposal, experience of each team member, and the portfolio of previous work.

Public Advertising Agency was the top ranked firm across all criteria. The firm's team demonstrated creativity, a strong understanding of the City of Ontario and its brand, and an ability to deliver on a variety of products on time and on budget. Based on their qualifications, staff is recommending that the City enter into a Professional Services Agreement with Public Advertising Agency for creative and digital production services.

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Engineering Prepared By: Michael Bhatanawin Staff Member Presenting: Scott Murphy, Executive Director Community Development Reviewed By: Raymond Lee, Khoi Do Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 5

SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL TRACT MAP NO. 20335, LOCATED AT 2862 SOUTH CAMPUS AVENUE

RECOMMENDATION: That the City Council adopt a resolution approving an Improvement Agreement, Improvement Security and Final Tract Map No. 20335, located at 2862 South Campus Avenue.

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

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

BACKGROUND & ANALYSIS: Final Tract Map No. 20335, consisting of one numbered lot on approximately seven acres of land, as shown on Exhibit A, has been submitted by the Developer, Meritage Homes of California, Inc., a California corporation. The Tentative Tract Map No. 20335 was approved by the Planning Commission on November 24, 2020.

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

The Developer has entered into an Improvement Agreement with the City for Final Tract Map No. 20335 and has posted adequate security to ensure construction of the required public improvements. This map meets all conditions of the Subdivision Map Act and the Ontario Municipal Code and has been reviewed and approved by the City Engineer.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA APPROVING FINAL TRACT MAP NO. 20335 LOCATED AT 2862 SOUTH CAMPUS AVENUE.

WHEREAS, Tentative Tract Map No. 20335 submitted for approval by MLC Holdings, was approved by the Planning Commission of the City of Ontario on November 24, 2020; and

WHEREAS, Tentative Tract Map No. 20335 consists of one numbered lot being a subdivision of a portion of Lot 55, in Section 5, Township 2 South, Range 7 West, according to map of subdivision of part of Rancho Santa Ana Del Chino, Recorded in Book 6 of Maps, Page 15, being Parcel "A" of Lot Line Adjustment No. LLA20-017, recorded 3/12/21 as instrument no. 2021-0114493 in official records, both of the records of San Bernardino County; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Tract Map No. 20335, Meritage Homes of California, Inc., a California corporation has offered the Improvement Agreement together with good and sufficient improvement security, in conformance with the City Attorney's approved format, for approval and execution by the City; and

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

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

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

2. That said Improvement Security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney; and

3. That Final Tract Map No. 20335 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

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

PASSED, APPROVED, AND ADOPTED this 7th day of December 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

_____
BEST, BEST & KREIGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 7, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

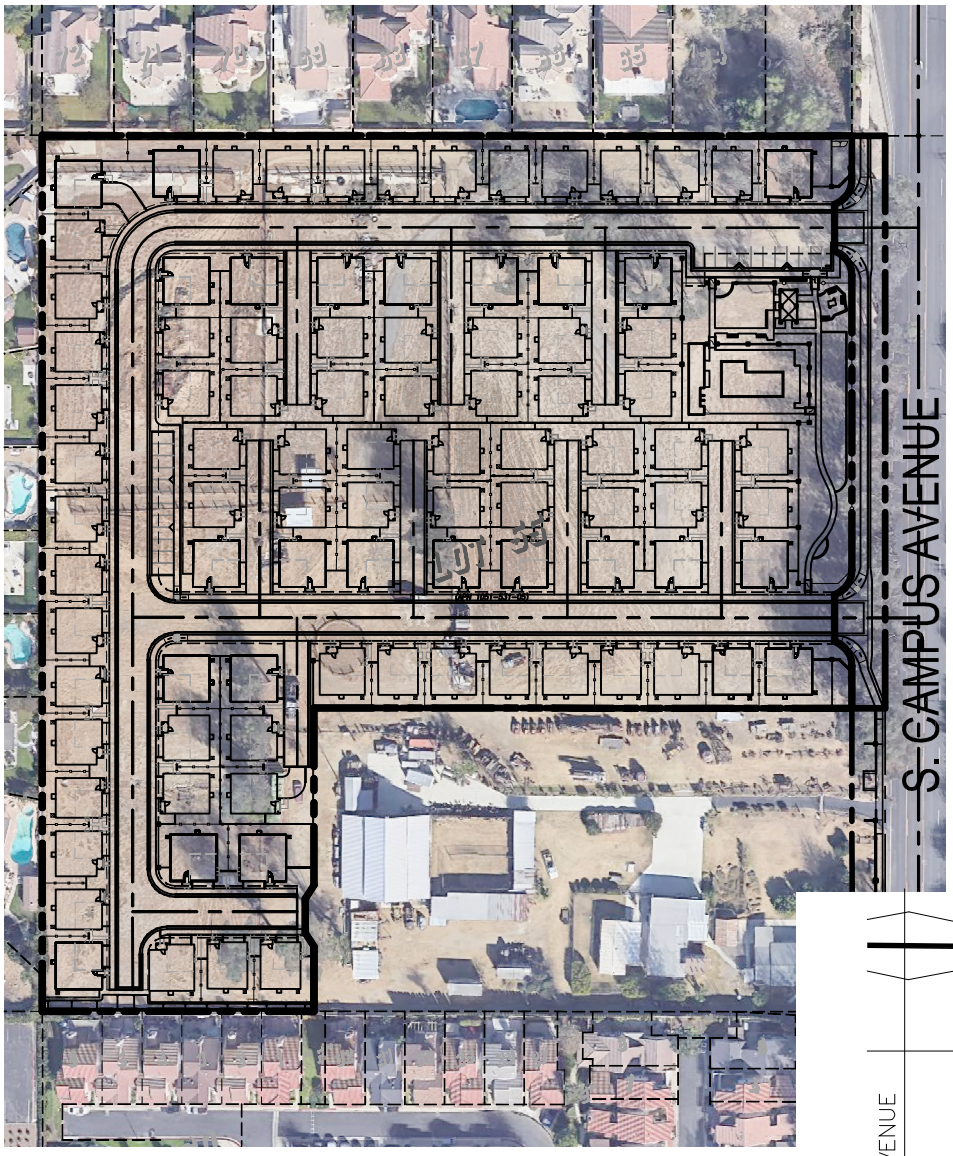
(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held December 7, 2021.

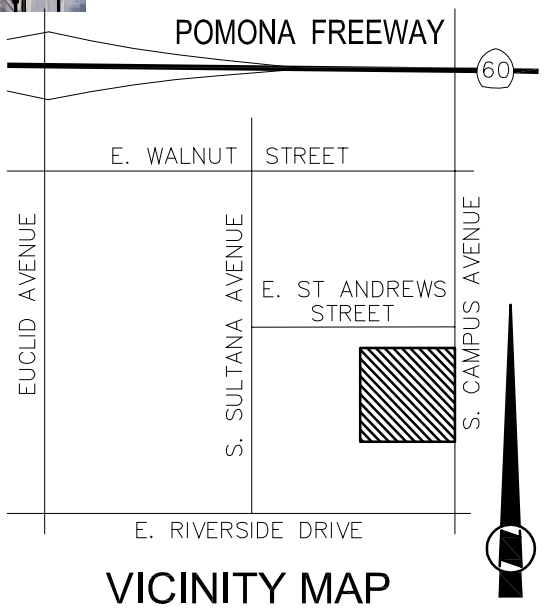
_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A
TRACT MAP NO. 20335



NOT TO SCALE



VICINITY MAP
N.T.S.

ALLARD ENGINEERING
Civil Engineering - Land Surveying - Land Planning
16866 Seville Avenue
Fontana, California 92335
Phone (909) 356-1815 Fax (909) 356-1795

CITY OF ONTARIO
ENGINEERING DEPARTMENT

APPLICANT:
MLC HOLDINGS, INC.

PROJECT: TRACT NO. 20335

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Fire Department Prepared By: Janny Phan Staff Member Presenting: Ray Gayk, Fire Chief Reviewed By: Jordan T Villwock Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 6

SUBJECT: PURCHASE AND INSTALLATION OF REPLACEMENT FIRE STATION ALERTING SYSTEM

RECOMMENDATION: That the City Council take the following actions:

A. Authorize the City Manager to execute the sole source purchase with US Digital Designs of Tempe, Arizona, for a fire station alerting system in the amount of $575,000;
B. Authorize the City Manager to complete and execute the sole source Contract with Bergelectric of Encino, California, for installation of fire station alerting system in the amount of $225,275;
C. Authorize a 15% contingency of $33,791 to address any unforeseen issues that may arise during installation; and
D. Authorize the City Manager or his designee to execute all documents required for the completion of the project, including, but not limited to contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

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

FISCAL IMPACT: The Fiscal Year 2021-22 Adopted Budget includes appropriations in the General Fund for the purchase and installation of a replacement fire station alerting system. The not to exceed amount for the project is $834,066.

BACKGROUND & ANALYSIS: Since the 1990's the Ontario Fire Department has utilized Sigler Systems for fire station alerting. While this system has served the Department well, it is now at end of life. Over the last 20 years, technological advancements have also progressed to meet the demands of the modern fire service. As an Agency Strategic Objective in FY 2019/2020, the Ontario Fire Department completed a Staff Study Report to research and recommend an up to date fire station alerting system. The research was completed by a team of Ontario Fire Department employees visiting multiple fire agencies of comparative size and complexity to appropriately compare system capabilities.

The Ontario Fire Department recommends purchasing the US Digital Designs, Inc. (USDD) fire station alerting system for all Ontario fire stations, with the exception of the Ontario International Airport Authority (OIAA) Fire Station, where a request will be submitted later during OIAA's budget process.

The USDD station alerting system includes a streamlined notification system and multimedia monitors throughout the station, which immediately display maps, addresses, and other important call information. The system also includes contingency alerting methods, such as VHF radio activation in the event network communications fail. This feature will bring the Fire Department into compliance with the current industry standard, NFPA 1710. Additionally, the USDD alerting system utilizes ramped tones and zoned alerting that only notifies required stations and/or individual units. The ramped alerting tones contribute to firefighter wellness by reducing cardiac stress, anxiety, optical shock, and sleep deprivation.

Research indicates that adding these capabilities to station alerting will not only improve the efficiency of 911 response times, but also improve the health and wellness of our firefighters. In order to maintain consistent communication methods across all fire stations and connect with our computer aided dispatch system, USDD alerting system is necessary.

As for system implementation, on October 18, 2021, the City solicited proposals on PlanetBids and notified 423 potential bidders. A mandatory pre-bid meeting was held on October 25, 2021, and only one prospective bidder was in attendance. The bidder present at the meeting was not a G2 Certified Installer, which is a requirement for this type of installation. Thus, pursuant to Public Contract Code 22038, Ontario Fire Department is recommending a negotiated sole source contract with Bergelectric Corporation, a certified G2 installer.

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Innovation, Performance and Audit Prepared By: Jimmy Chang Staff Member Presenting: Jimmy Chang, Innovation Performance and Audit Director Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 7

SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR BROADBAND DESIGN, ENGINEERING, PROJECT MANAGEMENT, AND INSPECTION SERVICES

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute a three-year Professional Services Agreement (on file in the Records Management Department) with Telcon Services, LLC, to provide design, engineering, project management, and inspection services for OntarioNet expansion in the amount of $1,200,000 plus a 15% contingency of $180,000 for a total authorized expenditure not to exceed $1,380,000; and authorize the City Manager to extend the agreements for up to two additional one-year periods at the City's discretion.

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

FISCAL IMPACT: The $1,380,000 allocated for broadband design, engineering, project management, and inspection services does not have a fiscal impact on the General Fund. The Fiscal Year 2021-22 Budget includes appropriations in the Broadband Fund for such services as part of the City's Broadband/Fiber Optic Expansion project approved on July 20, 2021.

BACKGROUND & ANALYSIS: Broadband design, engineering, project management, and inspection services are vital elements to the launch of the City's Broadband/Fiber Optic Expansion Project, commonly known as "OntarioNet." Fundamentally, developing a thorough blueprint allows for timely construction and effective delivery of broadband services. To continue the transformative broadband efforts in Ontario, careful selection of an experienced and competent broadband development firm is essential in supporting the expansion of OntarioNet throughout entire City.

Through an RFP process, the City solicited proposals for broadband design, engineering, project management, and inspection services from the following three firms:

COMPANY	LOCATION
AE Managed Services	Fontana, CA
Magellan Advisors	Denver, CO

Telcon Services, LLC Boise, ID

Using a qualifications-based selection process, a panel of City staff and external local government personnel reviewed the proposals. Telcon Services, LLC was judged to be the most qualified firm. As such, Telcon Services, LLC is being recommended based on their broad range of expertise, as demonstrated by their services provided to other municipal agencies and capability to perform the work effectively, on time, and within budget.

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Public Works Prepared By: Bonnie Tam Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 8

SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ESTABLISHING PARKING RESTRICTIONS FOR STREET SWEEPING PURPOSES ON CERTAIN PORTIONS OF NORTH CORONA AVENUE AND EAST FLORA STREET IN THE CITY OF ONTARIO

RECOMMENDATION: That the City Council adopt a Resolution of the City Council of the City of Ontario, California, establishing parking restrictions for street sweeping purposes on certain portions of North Corona Avenue and East Flora Street in the City of Ontario.

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

FISCAL IMPACT: There will be nominal administrative costs of $2,000 in the Gas Tax Fund related to signage, which is included in the FY 2021-22 adopted budget.

BACKGROUND & ANALYSIS: On July 6, 2021, the City of Ontario adopted Ordinance No. 3188, adding Section 4- 6.1019 to Article 10 of Chapter 6 of Title 4 to establish parking restrictions on public streets for street sweeping purposes. This Ordinance was adopted pursuant to the authority provided to the City by California Vehicle Code Section 22507.6, which permits local authorities to prohibit or restrict the parking or standing of vehicles on designated streets or highways, or portions thereof, for the purpose of street sweeping.

In accordance with Section 4-6.1019, the Executive Director Public Works established a process for the creation of street sweeping parking restrictions on designated streets. A resident will initiate a request by submitting a petition to Public Works Agency staff. If two-thirds or greater of the residents in the area agree with a proposed parking restriction, staff would recommend adoption of a resolution to designate parking restrictions to the City Council.

Pursuant to this process, one (1) petition was submitted to the Public Works Agency by the board members (residents) from the Trio Glen Community Homeowners' Association bordered by North Madera Avenue, East G Street, East Flora Street, and North Corona Avenue. Staff verified that two-thirds of residents or greater desired parking restriction for street sweeping.

Accordingly, staff recommends that the City Council approve the following parking restrictions for these areas:

1. North Corona Avenue between East G Street and East Holt Boulevard (no parking on both sides of the street on Thursdays from 2 P.M. to 6 P.M.)

2. East Flora Street between North Madera Avenue and North Corona Avenue (no parking on both sides of the street on Thursdays from 2 P.M. to 6 P.M.)

Should the City Council agree to establish the aforementioned parking restrictions, it should adopt the proposed Resolution No. _____, in accordance with Section 4-6.1019(c).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ESTABLISHING PARKING RESTRICTIONS FOR STREET SWEEPING PURPOSES ON CERTAIN PORTIONS OF NORTH CORONA AVENUE AND EAST FLORA STREET IN THE CITY OF ONTARIO.

WHEREAS, the California Vehicle Code Section 22507.6 permits local authorities to prohibit or restrict the parking or standing of vehicles on designated streets or highways, or portions thereof, for the purpose of street sweeping; and

WHEREAS, on July 6, 2021, the City of Ontario adopted Ordinance No. 3188, adding Section 4-6.1019 to Article 10 of Chapter 6 of Title 4 to establish parking restrictions on public streets for street sweeping; and

WHEREAS, in accordance with Section 4-6.1019(b), the Executive Director of Public Works established a process for designating restricted parking zones for street sweeping purposes, as follows: residents would initiate requests by submitting a petition with signatures from residents who encompass two-thirds or greater of the residents of the block; and

WHEREAS, Section 4-6.1019(c) authorizes the City Council to establish designated restricted parking zones for street sweeping purposes, by resolution; and

WHEREAS, staff has received the requisite petitions with two-thirds of residents or greater in support of parking restrictions from residents of two (2) areas of the City and is recommending to the City Council adoption of a resolution to designate parking restrictions in those areas; and

WHEREAS, the City Council wishes to adopt a resolution, pursuant to Section 4-6.1019(c) on the Ontario Municipal Code, designating portions of North Corona Avenue and East Flora Street, on certain dates and times, as restricted parking zones for street sweeping purposes.

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

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

SECTION 2. Regulation. The City Council hereby designates the following as restricted parking zones, on the days and times indicated, for street sweeping purposes:

A. North Corona Avenue between East G Street and East Holt Boulevard: No parking on both sides of the street on Thursdays from 2 P.M. to 6 P.M.; and

B. East Flora Street between North Madera Avenue and North Corona Avenue: No parking on both sides of the street on Thursdays from 2 P.M. to 6 P.M.

SECTION 3. Exceptions. Pursuant to Vehicle Code section 22507.6, in residential areas, the parking restrictions established by this resolution shall not apply to commercial vehicles making pickups or deliveries of goods, wares, or merchandise from or to any building or structure located on a restricted street, or for the purpose of delivering materials to be used in the repair, alteration, remodeling or reconstruction of any building or structure for which a building permit has previously been obtained.

SECTION 4. Signage. The City Manager shall cause appropriate signage to be posted on each street on which parking is restricted for the purpose of street sweeping. The signage shall be in accordance with the requirements of Vehicle Code section 22507.6 and shall set forth the days and hours during which parking is prohibited for the purpose of street sweeping. The parking restrictions established in this Resolution shall become effective upon posting of the signage.

SECTION 5. CEQA. The Council finds that this project is categorically exempt from the California Environmental Quality Act under Title 14 of the California Code of Regulations sections 15301 (existing facilities) and 15304 (minor alterations to existing public facilities) and no further environmental assessment is necessary.

SECTION 6. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City declares that the City Council could have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 7. Effective Date. This Resolution shall become effective immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 7th day of December 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KRIEGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 7, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held December 7, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Municipal Services Prepared By: Michael Johnson Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 9

SUBJECT: AUTHORIZE THE PURCHASE OF FLEET VEHICLES

RECOMMENDATION: That the City Council authorize the cooperative purchase and delivery of four (4) Ford Explorer vehicles in the amount of $154,500 for the Police Department, one (1) Ford F150 truck in the amount of $46,180 for the Fire Department, one (1) Chevrolet Colorado truck in the amount of $27,280 and one (1) Ford F550 Gate Valve truck in the amount of $177,565 for the Utilities Department, one (1) Ford F350 Utility Body in the amount of $72,750 and one (1) Ford F450 Stencil truck in the amount of $135,255 for the Parks and Maintenance Department, and one (1) Ford Expedition SUV in the amount of $47,655 for the Police Department from National Auto Fleet Group of Watsonville, California, consistent with the terms and conditions of the Sourcewell Cooperative Contract No. 120716-NAF.

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

FISCAL IMPACT: The Fiscal Year 2021-22 Adopted Budget includes appropriations in the Equipment Services Fund for the purchase of replacement vehicles. The total cost of the vehicles recommended for purchase is $661,185.

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

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

QUANTITY	TYPE	DEPARTMENT	PRICE
4	Ford Explorer	PD	$154,500
1	Ford F150	FD	$46,180
1	Chevrolet Colorado	PU	$27,280
1	Ford F550 Gate Valve Truck	PU	$177,565
1	Ford F350 Utility Body	PKS/MT	$72,750
1	Ford F450 Stencil Truck	PKS/MT	$135,255
1	Ford Expedition SUV	PD	$47,655
TOTAL			**TOTAL**
10			$661,185

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Parks & Maintenance Prepared By: Alfredo Banuelos Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 10

SUBJECT: MAINTENANCE SERVICES AGREEMENT FOR WEED ABATEMENT SERVICES

RECOMMENDATION: That the City Council authorize the City Manager to execute a three-year Maintenance Services Agreement (on file in the Records Management Department) for contract No.PM2122-1 with Brightview Landscape Services Inc. located in Upland, California for an annual cost of $110,988, with a 5% contingency of $5,550, for a total amount not to exceed $349,644 over a three-year term; authorize addition of future services; and authorize the City Manager to extend the agreement for up to two additional years at the City's discretion, consistent with future budgets approved by the City Council.

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

FISCAL IMPACT: The estimated annual base cost of the proposed Maintenance Service Agreement is $110,998 plus $5,550 of contingency for urgency services for a total contract of $116,548 for each of the first three-years for a total of $349,644. Appropriations in the General Fund for the maintenance cost for the weed abatement services is included in the Fiscal Year 2021-22 Adopted Budget.

BACKGROUND & ANALYSIS: In September 2021, the City solicited bids for weed abatement services citywide. Three proposals were received that met the bid criteria and standards necessary to perform the work. A summary of the proposal results reflecting base cost are as follows:

VENDOR	LOCATION	AMOUNT
Brightview Landscape Services Inc.	Upland, CA	$110,998
DW Landscape Inc.	Upland, CA	$151,933
Mariposa landscapes Inc.	Irwindale CA	$213,072

Brightview Landscape Services Inc. located in Upland, California, submitted a proposal that met all the required specifications with a base cost, three-year total of $349,644. Based on the proposal,

credentials, pricing and favorable reference check, staff recommends award of a Maintenance Services Agreement to Brightview Landscape Services Inc.

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Integrated Waste Prepared By: Benjamin Mayorga Staff Member Presenting: Tito Haes, Executive Director Public Works Reviewed By: Bonnie Tam Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 11

SUBJECT: A RESOLUTION APPROVING THE SUBMITTAL OF AN APPLICATION TO PARTICIPATE IN THE BEVERAGE CONTAINER RECYCLING CITY/COUNTY PAYMENT PROGRAM (FISCAL YEAR 2021-22) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

RECOMMENDATION: That the City Council adopt a resolution approving the submittal of an application for approximately $57,000 from the Beverage Container Recycling City/County Payment Program (Fiscal Year 2021-22), and authorize the City Manager or his designee to execute all necessary documents to participate in the program.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: The City is eligible to receive approximately $57,000 through the Beverage Container Recycling City/County Payment Program (Fiscal Year 2021-22) for the implementation of beverage container recycling and litter cleanup activities. There is no additional cost and/or matching fund requirement for the City to participate in this program. There is no fiscal impact to the General Fund.

BACKGROUND & ANALYSIS: The California Beverage Container Recycling and Litter Reduction Act provides annual payments to local governments for the implementation of beverage container recycling and litter cleanup activities. The costs covered by this program include public education promoting beverage container recycling, curbside recycling programs, litter reduction, and cleanup where the waste stream includes beverage containers that will be recycled. The program is intended to assist the City in achieving the goals set by the State of California to reduce the amount of waste sent to landfills by 50% and reach and maintain an 80% recycling rate for all California Refund Value beverage containers.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE SUBMITTAL OF AN APPLICATION TO PARTICIPATE IN THE BEVERAGE CONTAINER RECYCLING CITY/COUNTY PAYMENT PROGRAM (FISCAL YEAR 2021-22) FROM THE STATE OF CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE).

WHEREAS, pursuant to Public Resources Code §14581 the Department of Resources Recycling and Recovery (CalRecycle) has established the Beverage Container Recycling City/County Payment Program to make payments to qualifying jurisdictions for implementation of their beverage container recycling and litter cleanup activities; and

WHEREAS, in furtherance of this authority, CalRecycle is required to establish procedures governing the administration of the Beverage Container Recycling City/County Payment Programs; and

WHEREAS, CalRecycle's procedures for administering the Beverage Container Recycling City/County Payment Program require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the Beverage Container Recycling City/County Payment Program

NOW, THEREFORE, BE IT RESOLVED that the City of Ontario is authorized to apply to CalRecycle for the Beverage Container City/County Payment Program; and

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 payments to support our Beverage Container Recycling Program

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 7th day of December 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KRIEGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 7, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held December 7, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Utilities Prepared By: Courtney Jones Department: Utilities Prepared By: Joline Neal Staff Member Presenting: Scott Burton, Utilities General Manager Reviewed By: Dennice Raygoza, Albert G Gastelum, Michael Sigsbee Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 12

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

RECOMMENDATION: That City Council adopt changes to the Municipal Code pertaining to the City's Water Conservation Plan and protection and regulation of the City's recycled water system.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:
Operate in a Businesslike Manner
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

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

BACKGROUND & ANALYSIS: On November 16, 2021 the City Council conducted a public hearing on the proposed Amendment to the City's Water Conservation Plan and the Recycled Water Ordinance. Chapter 8A - Water Conservation Plan Ordinance: The City's Water Conservation Plan is intended to minimize the potential for a water shortage and impacts to the City's customers through the practice of water conservation. It is required that the water resources available to the City of Ontario be put to the maximum beneficial use to the extent to which they are capable. The waste or unreasonable use of water is to be prevented and conservation should be practiced so that reasonable and beneficial use is in the best interest of the people of the City.

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

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

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

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

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

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

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

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

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

Ordinance changes include:

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

ORDINANCE NO. _____

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PASSED, APPROVED, AND ADOPTED this 7th day of December 2021.

_____

PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3196 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 16, 2021 and adopted at the regular meeting held December 7, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3196 duly passed and adopted by the Ontario City Council at their regular meeting held December 7, 2021 and that Summaries of the Ordinance were published on November 23, 2021 and December 7, 2021 in the Inland Valley Daily Bulletin newspaper.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CHAPTER 8A: WATER CONSERVATION PLAN

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

Sec. 6-8.20. Scope and title.

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

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

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

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

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

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

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

Sec. 6-8.22. Authorization.

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

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

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

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

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

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

Sec. 6-8.23. General prohibitions.

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

(1) Non-recycling decorative fountains;

(2) Single-pass cooling systems; and

(3) Conveyor and in-bay vehicle wash and commercial laundry systems that do not reuse water.

(b) No water customer of the City shall make, cause, use, or permit the use of water from the City in a manner contrary to any provision of this chapter or in an amount in excess of the use permitted by any restriction provisions then in effect pursuant to the provisions of this chapter.

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

Sec. 6-8.24. Exceptions.

(a) The prohibited uses of water and water use restrictions provided within this chapter are not applicable for the use of recycled water or the use of potable water necessary for public health and safety or for essential government services such as police, fire, and other similar services.

(b) Nothing contained within this chapter shall be construed to require the City to curtail the supply of water necessary for the health, safety, and welfare of any person.

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

Sec. 6-8.25. Voluntary Conservation Stage.

(a) All persons are encouraged to voluntarily limit the amount of water used to the amount absolutely necessary for health and safety, business operations, and irrigation. Except as otherwise provided in this chapter where a declared water shortage stage or water shortage emergency requires mandatory or other more stringent requirements, the following elements of conservation apply at all times on a voluntary basis by all persons within the City:

(1) Avoid hose washing of sidewalks, walkways, driveways, parking areas or other paved surfaces, except as required for sanitary purposes. If a person uses a hand-held hose to wash any sidewalk, walkway, driveway, parking area or other paved surface, the hose shall be equipped with a positive shutoff nozzle.

(2) Wash motor vehicles, trailers, boats and other types of mobile equipment using a hand held bucket or a hose equipped with a positive shutoff nozzle for quick rinses, or at the immediate premises of a commercial car wash or with recycled wastewater for approved uses.

(3) Avoid using water to clean, fill or maintain levels in decorative fountains, ponds, lakes or other similar aesthetic structures unless such water is part of a recycling system.

(4) Encourage restaurants, hotels, cafés, cafeterias or other public places where food is sold, served or offered for sale, to serve drinking water only to those customers expressly requesting water.

(5) Promptly repair all leaks from indoor and outdoor plumbing fixtures.

(6) Avoid watering lawn, landscape or other turf areas between 6:00 a.m. and 6:00 p.m.

(7) Avoid causing or allowing the water to run off landscape areas into adjoining streets, sidewalks or other paved areas due to incorrectly directed or maintained sprinklers or excessive watering.

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

Sec. 6-8.26. Stage 1 water supply shortage-water supply reduced up to ten percent (10%).

(a) During Stage 1, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that the City's water conservation goals are not being met by voluntary water conservation measures, or that the City's water supplies are likely to be reduced by up to ten percent (10%) or it has

otherwise been requested or directed by executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount.

(1) Except as required for health and sanitary purposes, washing of sidewalks, walkways, driveways, parking areas or other paved surfaces is prohibited. Any held-hose used for such purposes shall be equipped with a positive shutoff nozzle.

(2) Washing of motor vehicles, trailers, boats and other types of mobile equipment shall be done only with a hand-held bucket or a hose equipped with a positive shutoff nozzle for quick rinses, except that washing may be done at the immediate premises of a commercial car wash or with reclaimed wastewater.

(3) No water shall be used to clean, fill or maintain levels in decorative fountains, ponds, lakes or other similar aesthetic structures unless such water is part of a recycling system.

(4) No restaurant, hotel, café, cafeteria or other public place where food is sold, served or offered for sale, shall serve drinking water to any customer unless expressly requested.

(5) All water customers of the City shall promptly repair all leaks from indoor and outdoor plumbing fixtures. Such leak shall be repaired in a timely manner after notification by the city, but in no case after notification in excess of seventy-two (72) hours for the first violation and then every seventy-two (72) hours thereafter for the second and third violations.

(6) No person shall sprinkle, water, or irrigate any shrubbery, trees, lawns, grass, groundcovers, plants, vines, gardens, vegetables, flowers, or any other landscaped or vegetated areas between the hours of 9:00 a.m. and 4:00 p.m. In any event, such watering shall not be in excess of needs nor be of a manner that allows water to flow onto streets or other paved areas. The above mentioned plants may be watered by a hand-held hose equipped with a positive shutoff nozzle at any time of the day. This provision shall not apply to commercial nurseries, golf courses and other water-dependent industries.

(7) No water customer of the City shall cause or allow the water to run off landscape areas into adjoining streets, sidewalks or other paved areas due to incorrectly directed or maintained sprinkler or excessive watering.

(8) The use of water from fire hydrants shall be limited to fire fighting and related activities necessary to maintain the public health, safety, and welfare. An exception may be made for construction use through a proper city-designated meter. The use of potable water for construction activities shall be restricted in areas where recycled water is available for such use.

(b) At any time during Stage 1, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the adoption and imposition of a volumetric penalty established therein.

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

Sec. 6-8.27. Stage 2 water supply shortage-water supply reduced up to twenty percent (20%).

(a) During Stage 2, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than ten percent (10%) and up to (20%) in its water supplies

or it has otherwise been requested or directed by an executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount.

(1) All prohibitions and restrictions in § 6-8.26 shall be in effect provided that more restrictive measures noted in this section shall take precedence.

(2) Filling or refilling of empty swimming pools shall not occur without the written permission of the City Manager or his/her designee.

(3) All customers are prohibited from irrigating turf or ornamental landscapes during and within 48 hours following measurable rainfall.

(4) Operators of hotels and motels must provide guests with the option of choosing not to have towels and linens laundered daily and prominently display notice of this option.

(5) All persons, including the City, are prohibited from irrigating with potable water any ornamental turf on public street medians.

(6) The use of potable water for irrigation outside of newly constructed homes and buildings shall be consistent with California Building Standards Commission and Department of Housing & Community Development.

(b) At any time during Stage 2, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the adoption and imposition of a volumetric penalty established therein.

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

Sec. 6-8.28. Stage 3 water supply shortage-water supply reduced up to thirty percent (30%).

(a) During Stage 3, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than twenty percent (20%) and up to thirty percent (30%) in its water supplies or it has otherwise been requested or directed by executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount.

(1) All the prohibitions and restrictions in § 6-8.27 shall be in effect provided that the more restrictive measures noted in this section shall take precedence.

(2) Residents and CII customers will be prohibited from irrigating any turf or landscape area more than four (4) days a week.

(3) The use of water from fire hydrants shall be limited to fire fighting and related activities and other uses of water for municipal purposes shall be limited to activities necessary to maintain the public health, safety and welfare. Unless written permission has been granted by the City Manager or his/her designee, the use of potable water for construction activities and grading shall be prohibited.

(b) At any time during Stage 3, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the adoption and imposition of a volumetric penalty established therein.

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

Sec. 6-8.29. Stage 4 water supply shortage-water supply reduced up to forty percent (40%).

(a) During Stage 4, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than thirty percent (30%) and up to forty percent (40%) in its water supplies or it has otherwise been requested or directed by executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount.

(1) All the prohibitions and restrictions in § 6-8.28 shall be in effect provided that the more restrictive measures noted in this section shall take precedence.

(2) Residents and CII customers will be prohibited from irrigating turf or other landscaping more than two (2) days a week.

(3) No person shall irrigate any turf or landscaped area more than fifteen minutes (15) on watering days.

(4) No vehicles shall be washed unless it is taken to a carwash.

(b) At any time during Stage 4, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the imposition of a volumetric penalty established therein.

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

Sec. 6-8.30. Stage 5 water supply shortage-water supply reduced up to fifty percent (50%).

(a) During Stage 5, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than forty percent (40%) and up to fifty percent (50%) in its water supplies or it has otherwise been requested or directed by executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount.

(1) All the prohibitions and restrictions in § 6-8.29 shall be in effect provided that the more restrictive measures noted in this section shall take precedence.

(2) Residents and CII customers will be prohibited from irrigating turf or other landscaping more than one (1) day a week.

(b) At any time during Stage 5, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the imposition of a volumetric penalty established therein.

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

Sec. 6-8.31. Stage 6 water supply shortage emergency-water supply reduced more than fifty percent (50%).

(a) During Stage 6, the following mandatory restrictions on the use of potable water shall be applicable when the City Council determines that it is likely that the City will suffer a reduction of more than fifty percent (50%) in its water supplies or it has otherwise been requested or directed by executive order or regulation of a State agency to reduce its potable water consumption or production by a specified amount. A water

shortage emergency may be declared whenever the City Council finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the City to the extent that there would be insufficient water for human consumption, sanitation, and fire protection. A water shortage emergency may include an immediate emergency. An immediate emergency may occur as a result of a breakage or failure of a dam, pump, pipe line or conduit, a major earthquake, large-scale fire, or other so called “Act of God” which may have serious impacts on the City's available water supply.

(1) All the prohibitions and restrictions in § 6-8.30 shall be in effect provided that the more restrictive measures noted in this section shall take precedence.

(2) Unless otherwise permitted by a resolution of the City Council, there shall be no use of potable water for irrigation of outdoor landscape or turf.

(3) Commercial nurseries shall be prohibited from the use of potable water for irrigation of outdoor, landscape and turf except by use of a hand-held hose equipped with a positive shutoff nozzle.

(4) The following nonessential uses of water shall be prohibited: the filling, cycling, filtering, or refilling swimming pools, spas, Jacuzzis, fountains or other like devices.

(b) At any time during Stage 6, if the City Council determines that additional reductions in the amount the potable water being used by water customers are necessary, it may adopt a resolution establishing water use limitations and enforce those water use limitations by the imposition of a volumetric penalty established therein.

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

Sec. 6-8.32. Relief from compliance.

(a) A water customer of the City may file a written application for relief in whole or in part, from the water use restriction provisions of this chapter. The City Manager or his/her designee shall review the request for a variance and take such steps as he or she deems reasonable to resolve the application for relief. The decision of the City Manager shall be final.

(b) Relief may be granted if the water customer shows that he or she has achieved the maximum practical reduction in water consumption other than in the specific areas in which relief is being sought. No relief shall be granted to any water customer who, when requested by the City Manager, fails to provide any information necessary for resolution of the customer’s application for relief.

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

Sec. 6-8.33. Failure to comply.

(a) Each and every day that a violation of this chapter occurs or continues to occur shall be considered a new and separate offense. Except for any violation of water use limitations for which a volumetric penalty may be imposed, for each violation of this chapter the following civil penalties may be imposed by issuance of a citation and complaint:

(1) First violation. For a first violation, the City shall issue a written warning to the water customer.

(2) Second violation. For a second violation, the City shall impose a civil penalty in the amount of One Hundred Dollars ($100.00).

(3) Third violation. For a third violation, the City shall impose a civil penalty in the amount of Two Hundred Dollars ($200.00).

(4) Subsequent Violations. For the fourth and any subsequent violation within one year, the City shall impose a penalty in the amount of Five Hundred Dollars ($500.00). In addition to the civil penalty, the City may also install a flow restricting device on the service of at the premises at which the violation occurred for a period of not less than forty-eight (48) hours. The City shall charge the responsible party the reasonable costs incurred for installing and removing the flow-restricting devices and for restoration of normal service. The charge shall be paid before normal service may be restored.

(b) Except for any violation of water use limitations for which a volumetric penalty may be imposed, the City shall give notice of a violation to the person committing the violation as follows:

(1) For a first violation, if the person committing the violation is a water customer of the City, then notice shall be given in writing by regular mail or personal delivery to the address at which the water customer is normally billed or at the address where the violation occurred. If the person committing the violation is not a water customer of the City, or if the event is not related to a specific property, the notice may be sent to the last known address of the responsible party or personally delivered.

(2) Notice of second or subsequent violations shall be given by the issuance of a citation and complaint in accordance with §§ 6-8.33(c) and (d).

(3) Unless an appeal and/or hearing is requested pursuant to the provisions of § 6-8.34, any civil penalty(ies) imposed by the City shall be due and payable within thirty (30) days of the issuance of the citation and complaint.

(c) Except for any violation of water use limitations for which a volumetric penalty may be imposed, any notice of violation of this chapter shall be issued as a citation and complaint and shall:

(1) Identify the provision(s) of this chapter and any State law, if applicable, alleged to have been violated; and

(2) State that continued noncompliance may result in civil, criminal, or administrative enforcement actions against the person who committed the violation, or the customer or the property owner and/or occupant of the property where the violation occurred; and

(3) State a compliance date that must be met by the person who committed the violation, or the customer, or the property owner and/or occupant of the property where the violation occurred; and

(4) Order remediation work, where applicable, that must be taken; and

(5) State that the recipient has a right to request a hearing and appeal the matter as set forth in § 6-8.34; and

(6) Include the address of the affected property and be addressed to the water customer or the property owner as shown on the most recently issued equalized assessment roll or as may otherwise appear in the current records of the City. If the notice of violation applies to a responsible party who is not the property owner or a water customer, or if the event is not related to a specific property, the notice may be sent to the last known address of the responsible party or personally delivered; and

(7) Be deemed served within ten (10) business days after posting on the property, if the property owner or occupant of the affected property cannot be located after the reasonable efforts of the City Manager or his/her authorized designee.

(d) Any citation and complaint may be sent by regular mail or personal delivery. Service by regular mail is effective on the date of mailing. Service by personal delivery is effective on the date delivered. The citation and complaint, may include, where deemed

applicable by the City Manager or his/her authorized designee, the following terms and conditions.

(1) Specific steps or actions and time schedules for compliance as reasonably necessary to prevent future violations of this chapter; and

(2) Any other terms, conditions, or requirements reasonably calculated to prevent continued or threatened future violations of this chapter, including, but not limited to, discontinuing or limiting water service with the installation of a flow restricting device.

(e) Any volumetric penalty imposed shall be:

(1) Applicable to all potable water used in excess of the water use limitations as established by separate resolution of the City Council;

(2) Collected on the customer's water bill;

(3) Due and payable as part of the customer's water bill;

(4) The responsibility of the customer of record for the property where the violation occurred; and

(5) Paid in addition to the water service fees the City imposes for the potable water delivered to the property where the violation occurred.

(f) The receipt of a water bill with any applicable volumetric penalty shall serve as notice of violation of the adopted water use limitations as established by resolution of the City Council.

(g) Any person who wishes to appeal the imposition of a volumetric penalty may do so pursuant to § 6-8.34. Notice of the right to a hearing and to appeal the imposition of a volumetric penalty shall be included in the customer's water bill.

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

Sec. 6-8.34. Appeal and hearing regarding violations.

(a) Any person receiving notice of a violation of this chapter and the imposition of a civil penalty or volumetric penalty, shall have a right to a hearing by the City Manager or his/her authorized designee to appeal the imposition of any civil penalty. Any request for a hearing must be submitted to the City within fifteen (15) days of mailing or other delivery of the citation and complaint or water bill, as applicable. Additional documentation may be requested at the discretion of the City Manager or his/her authorized designee.

(b) The timely written request for a hearing shall automatically stay installation of flow-restricting device on the premises where the violation occurred and imposition of the civil penalty or volumetric penalty until after the City Manager or his/her designee renders his or her decision. The hearing shall be held no sooner than thirty (30) days after the issuance of the citation and complaint or water bill, as applicable.

(c) The decision of the City Manager or his/her designee shall be final and shall be memorialized in a final order. If the appeal is denied, then within ten (10) days after issuance of the final order, the person shall pay any civil penalty(ies) imposed by the City.

(d) The provisions of Section 1094.5 of the Code of Civil Procedure of the State of California shall be applicable to judicial review of the final order.

(e) Non-payment of any civil penalty or volumetric imposed pursuant to this chapter shall be subject to the same remedies available to the City as for non-payment of basic water service fees.

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

Sec. 6-8.35. Remedies are not exclusive.

In addition to any other remedies provided in this chapter or available under applicable law, the City may alternatively seek injunctive relief in the Superior Court or take enforcement action, including discontinuing or appropriately limiting water service to any customer, or installing a flow restricting device. All remedies provided herein shall be cumulative and not exclusive.
(§ 2, Ord. 3027, eff. October 1, 2015)

ORDINANCE NO. _____

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

WHEREAS, the City of Ontario (City) owns and operates a recycled water system comprised of over 50 miles of mains serving over 500 residential, commercial, and agricultural customers; and

WHEREAS, consistent with State policy, recycled water reduces the amount of potable water that the City is required to supply to meet overall water demand and conserves drinking water supplies during drought conditions; and

WHEREAS, the City's recycled water is treated wastewater produced by the Inland Empire Utilities Agency (IEUA) and governed by the State Water Resources Control Board (State Board) through a permit issued to IEUA and applicable state regulations; and

WHEREAS, Member Agencies of IEUA, such as the City, are required to periodically update their ordinances consistent with governing permits and state and local regulations; and

WHEREAS, IEUA updated its recycled water rules and regulations by adopting Ordinance No. 69 and adding requirements as mandated by the State Board; and

WHEREAS, the City first adopted Ordinance No. 2689 in 1999, establishing regulations for recycled water distribution and use, which was last amended by Ordinance No. 2816 in 2005, codified in Chapter 8C of the City's Municipal Code; and

WHEREAS, the City wishes to amend Chapter 8C of Title 6 of the Municipal Code to be consistent with governing laws.

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

SECTION 1. The Recitals set forth above are incorporated herein and made an operative part of this Ordinance.

SECTION 2. Chapter 8C of Title 6 of the Municipal Code is hereby amended as set forth in Exhibit A, attached hereto and by this reference made an operative part of this Ordinance.

SECTION 3. The City Manager, or the City Manager's authorized designee, is hereby authorized and directed to take all actions necessary to implement, impose, and otherwise enforce this ordinance. The City Manager, or the City Manager's authorized designee, is also hereby authorized to adopt administrative regulations which may be necessary in order to reflect or implement the actions taken by way of this Ordinance.

SECTION 4. If any section, subsection, clause or phrase in this Ordinance or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Ordinance or the application of such provisions to other persons or circumstances shall not be affected thereby. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.

SECTION 5. All ordinances, resolutions, administrative actions, amendments, revisions, or any other policies or procedures which conflict with this Ordinance and which were in effect prior to the effective date of this Ordinance shall be superseded by this Ordinance and shall be of no further force or effect.

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

SECTION 7. This Ordinance shall be become effective thirty (30) days from its adoption.

PASSED, APPROVED, AND ADOPTED this 7th day of December 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

_____
BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3197 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 16, 2021 and adopted at the regular meeting held December 7, 2021 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3197 duly passed and adopted by the Ontario City Council at their regular meeting held December 7, 2021 and that Summaries of the Ordinance were published on November 23, 2021 and December 14, 2021 in the Inland Valley Daily Bulletin newspaper.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

CHAPTER 8C: RECYCLED WATER

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Article 1: General Provisions

Sec. 6-8.701. Authority.

Recycled water use is regulated by the California State Water Resources Control Board (State Board) and the Regional Water Quality Control Board, Santa Ana Region (RWQCB). In accordance with waste discharge requirements for water reclamation projects, the RWQCB requires control mechanisms to regulate facilities distributing recycled water. The California Legislature has established a State policy encouraging the use of recycled water (California Water Code, Section 13510). Permission to use recycled water is based on Inland Empire Utilities Agency's ability to treat domestic wastewater in accordance with the Uniform Statewide Recycling Criteria under Title 22, Division 4, Chapter 3 of the California Code of Regulations. These regulations were adopted to ensure proper health protection and specify the treatment degree to meet the needs of the intended applications.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.702. Purpose.

The purpose of this chapter is to establish procedures, specifications, and limitations for the safe use and operation of recycled water facilities and systems within the City's service area, and adopt rules and regulations controlling such use and operation.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.703. Goals.

The goals of this chapter are as follows:

(a) Achieve conservation of potable water supplies by using recycled water for current and future demands. Recycled water uses may include:

(1) Agricultural irrigation.
(2) Commercial uses (including flushing toilets and urinals).
(3) Construction use.
(4) Industrial processes.
(5) Landscape irrigation.
(6) Landscape and/or recreational impoundments.
(7) Wildlife habitat.
(8) Groundwater recharge, as approved by the State Board and RWQCB.

(b) Maintain recycled water quality through a stringent pretreatment program for industrial wastewater.

(c) Prevent direct human consumption of recycled water through:

(1) Adherence to all applicable rules and regulations.
(2) Posting of warning signs by the user.
(3) Cross-connection/backflow prevention program.

(d) Control runoff of recycled water through monitoring of the installation and operation of all recycled water facilities and use areas.

(e) Monitor recycled water quality.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.704. Policy.

(a) It is the policy of the City that recycled water be used for any and all purposes approved by State regulations for recycled water use. Recycled water shall be the primary source of supply for commercial and industrial uses, whenever available and/or feasible. Use of potable water for commercial and industrial uses shall be contrary to City policy, shall not be considered the most beneficial use of a natural resource, and shall be avoided to the maximum extent feasible. If the City determines that recycled water service is feasible under Sections 6-8.710 and 6-8.711, the applicant, owner, or user will be required to use recycled water service.

(1) The people of the State of California have a primary interest in the development of facilities to recycle water containing waste to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the State (California Water Code, Section 13510). Conservation of all available water resources requires the maximum reuse of recycled water for beneficial uses of water (California Water Code, Section 461). The State of California has declared that use of potable water for non-potable uses may be a waste or an unreasonable use where recycled water is available (California Government Code, Section 65602(e); California Water Code, Section 13550).

(2) It is the policy of the City that recycled water shall be used within the jurisdiction of the City whenever and wherever: 1) there is not an alternative higher or

better use for the recycled water; and 2) such use is consistent with legal requirements, preservation of public health, safety and welfare of the public, and protection of the environment.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.705. Priority.

Connection to the City's recycled water system shall be provided on a first-come, first-served basis, as long as infrastructure and recycled water are available.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.706. Administrator.

Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of this chapter. The City Manager may, at his or her discretion, delegate any or all of these powers and duties.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.707. Other applicable rules and codes.

Other guidelines, rules and regulations, ordinances, and specifications that may be applied by the Administrator to govern the use of recycled water within the City include:

(a) Regulations that deal with backflow prevention, billing, deposits, penalties, delinquencies, and metering for potable water as established in Sections 6-8.49 through 6-8.61 of the Ontario Municipal Code.
(b) Regional Recycled Water Distribution System Ordinance (Ordinance No. 69, Inland Empire Utilities Agency.)
(c) Water Reclamation (Title 22, Division 4 of the California Code of Regulations.)
(d) Regulations Relating to Cross-Connections (Title 17 of the California Code of Regulations.)
(e) Guidelines for Distribution of Non-potable Water (California-Nevada Section AWWA.)
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.708. Severability.

If any section, subsection, sentence, clause or phrase of this chapter establishing rules and regulations for the use of recycled water is for any reason found to be invalid or unconstitutional, such decision shall not affect the remaining portions of this chapter.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Article 2: Definitions

Sec. 6-8.709. Definitions.

The terms used in this chapter shall have the following meanings:

a) "Agricultural Use" shall mean water used for the production of crops and/or livestock. Agricultural uses include, but are not limited to, the growing of field and nursery crops, row crops, trees and vines, and the feeding of fowl and livestock.

b) "Air Gap Separation" shall mean a physical break between a supply pipe and a receiving vessel. The air gap shall be at least double the diameter of the supply pipe, measured vertically from the flood rim of the receiving vessel to the supply pipe; however, in no case shall this separation be less than one (1) inch.

c) "Applicant" shall mean any person, group, firm, partnership, corporation, association, or agency that applies for recycled water service.

d) "Approved Use" shall mean an application of recycled water in a manner, and for a purpose, designated in a Recycled Water Use Agreement, and in compliance with applicable State and local rules and regulations.

e) "Approved Use Area" shall mean a site with well-defined boundaries designated in a Recycled Water Use Agreement in compliance with applicable State and local rules and regulations.

f) "As-built Drawings" shall mean the record drawings that show the completed facilities as constructed or modified.

g) "Auxiliary Water Supply" shall mean any water supply on or available to the premises other than the City's potable water.

h) "AWWA" shall mean the American Water Works Association.

i) "City Council" shall mean the City Council of the City of Ontario.

j) "City Manager" shall mean the chief administrative officer of the City of Ontario or his or her authorized designee.

k) "Commercial Use" shall mean the water used for non-body contact such as toilets, urinals, decorative fountains, decorative indoor and outdoor landscape, and other uses approved by the City.

l) "Construction Water Service" shall mean temporary water service obtained from the City for construction purposes on any new facilities or structures.

m) "Cross-Connection" shall mean any unapproved and/or unprotected, actual or potential, connection between any part of a potable water system and any equipment, source, or system containing water or other substances not approved as safe and potable for human consumption.

n) "Direct Beneficial Use" shall mean the use of recycled water, which has been transported from the point of production to the point of use, without an intervening discharge to waters of the State.

o) "Discharge" shall mean any release or distribution of recycled water to a use area or disposal site/mechanism. Such discharges are subject to approval by the City.

p) "Divert" shall mean to change the intended course or path of recycled water into or out of the City's recycled water system without the authorization or consent of the City. Any unpermitted withdrawal of recycled water from the City's facilities is a "diversion".

q) "IEUA" shall mean the Inland Empire Utilities Agency.

r) "Industrial Use" shall mean the water used for industrial process such as rinsing, washing, cooling, flushing, circulation, or construction; and other uses approved by the City.

s) "Infiltration Rate" shall mean the rate at which water penetrates the soil surface and enters the soil profile.

t) "Landscape Irrigation" shall mean recycled water used for the propagation and maintenance of trees, shrubs, ground cover and turf used for erosion control and aesthetic value, not for resale or profit purposes.

u) "Letter of Approval" shall mean a written formal letter issued by the State Board approving the use of recycled water at a premise.

v) "Non-potable Water" shall mean water that has not been treated for, or is not acceptable for human consumption, in conformance with Federal, State and local water standards. Non-potable water includes recycled water.

w) "Offsite Facilities" shall mean all existing or proposed facilities under the control of the IEUA or the City, from the source of supply to the point of connection with the customer's onsite facilities, up to and including the City's recycled water meter and meter box. Such facilities shall include, without limitation, recycled water transmission mains, recycled water pipes and reservoirs, pumping stations, treatment plants and other appurtenances and property.

x) "Onsite Facilities" shall mean all existing or proposed facilities within property under the control of the customer, normally downstream of the City's recycled water meter and meter box.

y) "Onsite Recycled Water Supervisor" shall mean a qualified person designated by a recycled water user and approved by the City to be responsible for the safe and efficient operation of the user's recycled water system. This person shall be knowledgeable in the operation of the recycled water system and in the application of Federal, State and local guidelines, criteria, standards, and rules and regulations governing the use of recycled water.

z) "POC" shall mean the point of connection at the recycled water service meter.

aa) "Ponding" shall mean the retention of recycled water on the ground surface or human-made surface for a period of time following the cessation of an approved recycled water use activity, such that potential hazard to the public health may result, as determined by regulatory agencies.

bb) "Potable Water" shall mean water which conforms to the latest Federal, State and local drinking water standards.

cc) "Recycled Water" shall mean water, which as a result of treatment of wastewater, is suitable for direct beneficial use or a controlled use that otherwise would not occur. The treatment of wastewater is accomplished in accordance with the Uniform Statewide Recycling Criteria set forth in Title 22, Division 4 of the California Code of Regulations.

dd) "Recycled Water System" means the publicly owned property involved in the distribution of recycled water within the City and any privately owned onsite facilities, including piping, pumps, reservoir, land, supply lines (main lines), fittings, and equipment related to such elements.

ee) “Recycled Water Facilities” shall mean the systems and structures used in the treatment, storage, pumping, transmission and distribution of recycled water.

ff) “Recycled Water Use Agreement” shall mean an agreement between the user and the City to use recycled water in compliance with all applicable rules and regulations.

gg) “Regulatory Agency” shall mean any public entity legally constituted by Federal, State and local statutes to protect health and water quality.

hh) “Runoff’ shall mean the flow of water along natural or human-made surfaces away from the designated use area.

ii) “RWQCB” shall mean the California Regional Water Quality Control Board, Santa Ana Region.

jj) “Service” shall mean the delivery of recycled water to a user.

kk) “Service Connection” shall mean City facilities between the City recycled water distribution system and the customer’s meter, including, but not limited to, the meter, meter box, valves, and piping equipment.

ll) “Standard Specifications” shall mean the specifications approved by the City for construction of recycled water facilities.

mm) “State Board” shall mean the California State Water Resources Control Board.

nn) “Tampering” shall mean the unauthorized entering, breaking, damaging, destroying, uncovering, defacing, rearranging, injuring, altering, or interference with any temporary or permanent structure (including any pipeline), equipment (including any pumps or backflow devices), or appurtenance owned by the City or that is part of the City’s recycled water. Any unpermitted connection the City’s facilities is “tampering”.

oo) “Unauthorized Discharge” shall mean any release of recycled water that violates any applicable Federal, State, or local statutes, regulations, chapters, contracts, or other requirements.

pp) “Uniform Statewide Recycling Criteria” shall mean the criteria for treatment of recycled water established for the protection of public health and codified under Title 22, Division 4, Chapter 3 of the California Code of Regulations.

qq) “Use Area” shall mean the specific area designated to be served with recycled water through onsite recycled water facilities.

rr) “User” shall mean any person, group, firm, partnership, corporation, association or agency accepting recycled water from the City’s recycled water facilities for use in accordance with this chapter. “Applicant,” “Owner,” or “Customer” are terms that are to be considered as users.

ss) “Windblown Spray” shall mean any dispersed, airborne particles of recycled water capable of being transmitted through the air to a location other than that for which the direct application of recycled water is approved.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Article 3: Area Served

Sec. 6-8.710. Service area.

The rules and regulations contained in this chapter apply to recycled water service to lands and/or improvements lying within the legal boundaries of the City, and to properties contiguous to the City under the same ownership as abutting lands within the City or its designated service boundary. Recycled water service shall be provided to a specific service area when related distribution facilities are completed, and service becomes available.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Article 4: General Requirements

Sec. 6-8.711. Determination of recycled water use area.

(a) General

(1) The City Council may adopt and periodically review the City's Recycled Water Master Plan and recommend where water service should be made with recycled water in place of potable water. The Master Plan shall be in accordance with all of the requirements of the State Board and the RWQCB, and shall encourage recycled water use.

(2) If the City determines recycled water is available, or will be available within five (5) years, the City may request modifications to existing onsite water facilities and require construction of recycled water systems in new developments.

(3) The City Council may enter into agreements with other municipalities and public entities to identify recycled water use service areas within the City and the jurisdiction of each entity.

(4) The City may identify customers who are located within the City's service area, and within an area identified in the City's Recycled Water Master Plan as an area capable of receiving service from the City's recycled water system, and may determine the feasibility of providing recycled water service to identified users.

(5) If the City determines recycled water service is feasible, applicants for new recycled water service must install onsite facilities to accommodate both potable water and recycled water in accordance with this chapter.

(b) Existing potable water service.

(1) The City may make determinations of areas where existing potable water use should be replaced with recycled water use.

(2) The City shall provide notice of the determination to use recycled water to the current customer, explaining the reasons for recycled water use, procedures to facilitate recycled water use, and proposed conditions and schedule for the conversion. Partial or full conversion of existing customers to recycled water use may be mandated to the extent allowed or required by law.

(3) A customer seeking to convert to recycled water service must submit an application for a Letter of Approval to the City for review, along with any required application fee. The City shall review the application for completeness and contact the customer regarding the potential provision of recycled water service and the City's Recycled Water Use Agreement. If the customer does not agree to the terms of the Recycled Water Use Agreement, or if the City determines that recycled water is not available for the proposed use, the City may, in its sole and absolute discretion, refuse to provide such service.

(c) New recycled water service.

(1) Upon submittal by applicant of a tentative map, land use permit, other proposed land development/land use, or request for recycled water service, the Administrator shall make preliminary determinations if recycled water service can be provided to the area in question. Based upon such determinations, use of recycled water and construction of recycled water distribution systems or other facilities, and the application for recycled water service, may be required as conditions of approval for any development application, in addition to any other conditions of the new industrial, commercial or residential development.

(2) Upon submittal by applicant of a proposed alteration or remodeling of multifamily, commercial, or industrial structures which substantially increase a facility's area, volume or size, or upon request for recycled water service, the Administrator shall make preliminary determinations if recycled water service can be provided to the area in question. Based upon such determinations, use of recycled water and construction of recycled water distribution systems or other facilities, and the application for such use, may be required as conditions of approval for any application, in addition to other conditions of approval for the alteration or remodel.

(3) The Administrator may require the use of recycled water for approved uses and refuse or otherwise restrict potable water service when recycled water is available and approved for use.

(4) Any recycled water supply assessments or verifications prepared by the City will not entitle the applicant's project to recycled water service, or to any right, priority, or allocation in any supply, capacity, or facility, or affect the City's obligation to provide service to its users or potential future users. In order to receive service, the applicant, owner, or user must meet all of the applicable requirements of this chapter.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § 28, Ord. 2816, eff. December 1, 2005, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.712. Authorized uses.

(a) Uses of recycled water include only those uses approved by the State Board and consistent with the Uniform Statewide Recycling Criteria under Title 22 of the California Code of Regulations. Each proposed use will be considered for approval by the City on a case-by-case basis, and the City may determine in its discretion whether it is feasible to furnish recycled water for the proposed use. The City's determination of feasibility will be based on the following factors:

(1) Whether recycled water may be furnished for the intended use at a reasonable cost to the user and the City.

(2) Whether recycled water use is in accordance with the standards of treatment and water quality requirements set forth in Title 22, Division 4, Chapter 3, of the California Code of Regulations and all other applicable federal, state, and local laws and regulations.

(3) Whether the use of recycled water can be made in a manner not detrimental to public health.

(b) Prior to approving such uses, the City may, in its discretion, set forth specific requirements as conditions to providing such services and/or require specific approval from the appropriate regulatory agencies. Prior to approval, the user must comply with the requirements established by this chapter and any other requirements imposed by the

Inland Empire Utilities Agency, State Board, or any other regulatory agencies that have jurisdiction over such uses.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.713. Conditions of service.

(a) Prior to obtaining recycled water service, the user must enter into a Recycled Water Use Agreement with the City. Recycled water use shall be subject to terms and conditions established in the Agreement, and in accordance with this chapter and other applicable codes, rules, and regulations. If any of the conditions of service are not satisfied at all times, the Recycled Water Use Agreement may be revoked by the Administrator, after which all recycled water service shall cease:

(b) The City shall not be liable for any damage by recycled water or resulting from:

(1) Defective plumbing.

(2) Broken or faulty services or recycled water mains.

(3) Onsite facilities failures.

(4) High or low pressure conditions.

(5) Interruptions of service.

(6) Any inappropriate or illegal use or management practices.

(c) All recycled water will be provided to the user in the conditions and quantity specified in the Recycled Water Use Agreement.

(d) Recycled water use will not be subject to the same restrictions as potable water during drought conditions and will be supplied as available.

(e) Recycled water service may be terminated whenever the quality of the recycled water does not comply with the requirements of the regulatory agencies, or at any time the provisions of this chapter, or the conditions specified in the Recycled Water Use Agreement, are violated.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.714. Recycled water service application.

(a) An application for a service connection must be made on a form furnished by the City. The applicant shall provide the City with the anticipated recycled water demand (maximum gallons per minute) and shall specify the size of the water meter that is desired; however, the City reserves the right to determine the ultimate size of the service connection and meter. The applicant shall also specify the property to be served. The information supplied by the applicant shall be considered as authoritative and final. If any error in such application shall cause installation of a service connection that is improper, either in size or location, the cost of all changes required shall be borne by the applicant. The steps for obtaining recycled water service are as follows:

(1) The applicant completes and submits a recycled water service application, including existing facility “as-built” drawings or proposed facility plans as appropriate, description of where and how recycled water use is proposed, and any other information pertinent to the use of recycled water as requested by the Administrator.

(2) An Engineering Report shall be prepared by a qualified engineer registered in California and experienced in the field of wastewater treatment, and submitted to the State Board for approval. The City or Inland Empire Utilities Agency may prepare the report on behalf of the user, provided that the user pays all costs associated with the preparation of the report. The Engineering Report shall be consistent with State Board guidelines. Pursuant to the Uniform Statewide Recycling Criteria under Title 22 of the California Code of Regulations, the Engineering Report shall include:

(i) A description of the design of the proposed reclamation system.

(ii) A means for compliance with Title 22 regulations and any other features specified by the State Board.

(iii) A contingency plan which will assure that no untreated or inadequately treated wastewater will be delivered to the use area.

(3) The City shall forward the completed Engineering Report to the State Board for review and approval.

(4) The user and the City will address any concerns that the State Board may have regarding the Engineering Report and revise the report accordingly.

(5) Upon the State Board's approval of the Engineering Report, the user may enter into a Recycled Water Use Agreement with the City. The user must enter into the Agreement to begin recycled water service and pay any applicable fees.

(6) The Administrator will schedule a start-up test of the onsite recycled water system to ensure that cross-connections do not exist.

(7) Upon the successful completion of the test, the Administrator may authorize recycled water service to begin.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.715. Recycled Water Use Agreement.

Every applicant agreeing to receive recycled water shall sign a Recycled Water Use Agreement (to be furnished by the City) and shall be subject to the following conditions:

(a) The applicant shall pay any specified connection fees, service line charges and other charges, and adhere to the requirements prescribed by this chapter and any additional requirements required by other agencies governing recycled water use.

(b) In order to maintain acceptable operating conditions throughout the recycled water system, the Administrator may schedule recycled water use for specific applications. Such scheduling may involve programming deliveries to different users and/or to various portions of a single user's onsite system. Any scheduling shall consider the operating constraints of the affected users.

(c) The Administrator may temporarily terminate recycled water service at any time recycled water produced by the Inland Empire Utilities Agency does not meet the requirements of the regulatory agencies. Recycled water service would, in such case, be restored when the recycled water meets the governing requirements.

(d) At a minimum, the Recycled Water Use Agreement shall include the following:

(1) Names and addresses of the owner of the property and user(s) of the recycled water.

(2) A statement that no changes in the proposed system will be undertaken without amending the Agreement.

(3) A statement that the applicant recognizes potential penalties for violation of this chapter and any regulatory agencies.

(4) A copy of the State Board approved Engineering Report.

(5) Specific quantity of recycled water to be used, including estimated average annual use in acre-feet, and the maximum gallons per minutes (GPM) needed at the point of connection (POC) as shown on the plans.

(6) Approved uses.

(7) A statement that the Agreement shall be canceled or amended if:

(i) A change of recycled water use occurs.

(ii) A change in the piping system has been implemented without prior approval.

(iii) A violation of these rules and regulations occurs and results in a system turn-off.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.716. Rates, fees, charges and deposits.

(a) All rates and fees regarding recycled water service and their administrative costs shall be established by the City Council and incorporated into Ontario Municipal Code Title 6, Chapter 8B. Any changes in fee and rate schedules shall be automatically adopted into this chapter.

(b) Applicants for recycled water service shall pay their fair share for the construction of facilities needed to deliver recycled water to the applicant's property. All fees and estimated construction costs shall be paid prior to construction; however, the City may reimburse the applicant for a portion of the cost of such facilities as described in subsection (c) of this section.

(c) Under certain circumstances, the City may contribute to the cost of designing and/or constructing the facilities needed to deliver recycled water to an applicant's property. Subject to the availability of funds, the City may:

(1) Reimburse an applicant for costs incurred to install oversized facilities in the public right-of-way.

(2) Elect to participate in or construct pipelines, reservoirs, pumping stations or other facilities, as the City determines necessary, and/or as funds are available.

(3) Elect to fund or construct recycled water facilities, necessary for converting existing customers from potable to recycled water, with customer reimbursement to the City in the form of an increased recycled water rate, not to exceed the potable rate, until such time as reimbursement is complete under the terms of the Recycled Water Use Agreement.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § 29, Ord. 2816, eff. December 1, 2005, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.717. Construction Water Service.

Persons desiring water for construction purposes shall request a temporary water meter for connection to a City recycled water fire hydrant, and shall be subject to the fees and deposits as set forth in this chapter. It shall be the responsibility of the customer to identify the approximate location of the recycled water fire hydrant. The customer shall be responsible for any damage and repair to the meter while in the customer's possession. In the event that a meter is stolen, it will be at the City's sole discretion whether the deposit shall be forfeited. If a replacement meter is requested, a new deposit and application may be required for the replacement meter. All recycled construction meters shall be installed by City staff and secured to the desired recycled water fire hydrant with a City-provided locking device. The meter shall remain at the City approved and designated location until such time as the customer requests it to be moved. The customer can request the meter to be relocated at a maximum number of four (4) times per billing period. Requests for removal or relocation will be accomplished the same working day, provided the request is made to the City prior to 1:00 P.M. of the day of the request. Any request made after 1:00 P.M. may be completed the following business day.
(Ord. 3197, eff. January 7, 2022)

Sec. 6-8.718. Size, location, and installation of service line.

Recycled water service lines shall be extended by the property owner/developer to a curb line or property line of the customer's property, abutting on a public street, highway, road or City easement in which recycled water mains are installed. The size and location and/or type of recycled water service lines, service connections, meters, backflow protection devices, and any/all other appurtenances are subject to review and approval by the City.
(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.719. Service connection limitations.

Recycled water service shall be subject to the following conditions:

(a) The City reserves the right to limit the area of land under one ownership to be supplied by one recycled water service connection and recycled water meter.

(b) A recycled water service connection and its corresponding meter shall not be used to supply adjoining property of a different owner, or to supply property of the same owner across a road, street or other public right-of-way.

(c) When a property provided with a recycled water connection and corresponding recycled water meter is subdivided, such connection and meter shall be considered as serving the lot or parcel of land it directly or first enters. Additional recycled water mains and/or recycled water service lines will be required for all subdivided areas in accordance with this chapter.

(d) Private irrigation systems for homeowner's associations and other developments where landscaping around homes and in common areas are served with one recycled water meter, shall not be allowed to cross public roads, easements, or other public rights-of-way without City approval.

(e) All recycled water used on any property where a meter is installed must pass through the meter. Customers shall be held responsible and charged for all recycled water passing through their meters.

(f) Every recycled water service line shall be equipped with an angle curb stop on the inlet side of the meter; such angle curb stop being intended exclusively for the use of the City in controlling the recycled water supply through the recycled water service line. If the curb stop is damaged by the user's use to an extent requiring replacement, such replacement shall be at the user's expense.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.720. Service pressure.

Whenever possible, the recycled water system will operate at a slightly lower pressure than the potable water system. This will cause potable water to flow in the recycled water system in the event of a cross-connection.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § 30, Ord. 2816, eff. December 1, 2005, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.721. Relocation of recycled water service lines.

Should a recycled water service line installed pursuant to the request of the applicant, owner, or user be of the wrong size, or installed at a wrong location or depth, then the cost of all changes required shall be paid for by the applicant, owner, or user. All recycled water services provided prior to final street improvements will be considered temporary and the costs for all repairs or changes required to be performed by the City must be paid by the applicant, owner, or user.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Article 5: Protective Measures

Sec. 6-8.722. Cross-Connections.

The following provisions are intended to protect the City's potable water supplies against actual, undiscovered, unauthorized, or potential cross-connections to the user's recycled water system. These provisions are in addition to, not in lieu of, the controls and requirements of other regulatory agencies. These provisions are in accordance with State Board regulation and Title 17 (Public Health) of the California Code of Regulations.

(a) These provisions shall be in addition to and not in lieu of the controls and requirements of other regulatory agencies, such as local and State Health Departments. These regulations are intended to protect the City's potable water supply and are not intended to provide regulatory measures for protection of users from the hazards of cross-connections within their own premises. The City's responsibility for preventing cross-connections is limited to its duties under applicable State Board and Title 17 regulations.

(b) The City has developed an active cross-connection control program with Cross-Connection Control Specialists to administer the program. Any questions or

notification regarding these provisions or the program should be directed to the City's Water Quality Programs Manager.

(c) Approved backflow prevention devices on the City's potable water services to the property as required in these provisions, shall be provided, installed, tested, and maintained according to Section 6-8.722. These devices shall be located on the property served immediately downstream of the potable water meter and shall not be on the City's portion of the system. All devices shall be readily accessible for testing and maintenance and no device shall be submerged at any time.

(d) When a request for recycled water service is initiated, the applicant must provide sufficient information, including plumbing and building plans, to enable the Administrator and other regulatory agencies to determine the level of backflow protection required. The proper backflow protection, as determined by the Administrator and other regulatory agencies, shall then be installed and tested according to Section 6-8.725 before recycled water service is provided.

(e) Each time there is a change of user (either owner or tenant) on any commercial or industrial premise, the new user shall notify the Administrator immediately. The Administrator will then reassess the level of protection required. In addition, any alterations to existing onsite facilities that may affect required protection levels must be reported immediately to the Administrator.

(f) At their discretion, representatives of any health agencies having jurisdiction, and the Administrator, may inspect any property provided recycled water service by the City. The inspection shall serve to determine if any actual or potential cross-connections exist, if there are any unapproved uses, and to assess compliance with applicable laws and regulations. The owner or user shall provide full cooperation in facilitating the inspection.

(Ord. 3197, eff. January 7, 2022)

Sec. 6-8.723. Where Protection is Required.

An approved backflow protection device for the City's potable water supplies shall be provided as follows:

(a) Each City water service connection that supplies potable water to premises with an auxiliary water supply, such as recycled or non-potable water that is not accepted as a potable source by the Administrator, and/or is not approved for potable use by the State Board, shall be protected against backflow from the premises into the City's potable water system.

(b) Each City water service connection supplying potable or recycled water to premises on which any substance is handled in such a fashion that could permit entry into the City water systems (potable or recycled) from the premises shall be protected against backflow. This shall include, but is not limited to, the handling of fertilizers, process waters, waters originating from any of the City water systems that have been subject to deterioration in quality, and agricultural use.

(c) Appropriate backflow devices shall be installed where premises have intricate plumbing and piping arrangements or where not all portions of the premises are readily accessible for inspection.

(d) Appropriate backflow protection shall be required at premises where a history of cross-connections has been established or re-established.

(e) Appropriate backflow protection shall be provided to properties served by a temporary above ground water service connection.

(Ord. 3197, eff. January 7, 2022)

Sec. 6-8.724. Types of protection.

The level of protection required shall be related to the degree of potential hazard that exists on the premises served and will be determined by the Administrator. The water user may choose a higher level of protection than required by the City. The minimum level of protection required, relative to various situations, shall comply with Title 17 of the California Code of Regulations, or to the extent not covered thereby, as determined by the City and/or the State Board.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.725. Testing and maintenance of backflow prevention devices.

The user is responsible for testing all backflow prevention devices and maintaining these devices in a satisfactory operating condition. Testing shall be completed at least once a year by a San Bernardino County certified backflow prevention tester. More frequent testing may be required if successive inspections indicate repeated failures. The backflow prevention devices shall be repaired, overhauled and/or replaced whenever they are found to be defective. Testing shall be completed immediately after the devices are installed, relocated or repaired. All inspections, tests and repairs shall be performed at the user's expense. The user shall maintain records of all such tests, repairs and overhauls. These records shall be submitted to the Administrator annually and made available to the State Board on request.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.726. Other measures.

(a) Water meters used for recycled water service shall be tagged or color-coded purple, color pantone 512 or 522, or otherwise distinguished as such per AWWA standards. These meters shall not be interchanged or used for potable water service after repairs and/or meter testing have been performed.

(b) Where premises contain dual or multiple water systems and piping, the exposed portions of pipelines shall be painted, banded, or marked pursuant to Section 6-8.726 at sufficient intervals to distinguish clearly water is safe for drinking purposes and water that is not safe. All outlets intended for drinking purposes shall be plainly marked to indicate that fact.

(c) For residences providing recycled water services, water outlets that serve non-potable water shall be marked with the words “Recycled Water – Do Not Drink”.

(d) Periodic inspection by the City of the recycled water facilities will determine if all identifying items are clearly discernable. If not, they shall be immediately replaced, repaired or refurbished as needed, by the user. These items include:

(1) Warning tags.

(2) Painted surfaces.

(3) Warning tape.

(4) Identification tape.

(5) Covers, caps, signs.

(6) Other items that indicate recycled water is being used.

(e) To determine the existence of any cross-connections or backflow conditions into the potable water system, periodic testing by State Board approved methods will be performed by the Administrator and/or other regulatory agencies.

(f) In the event of contamination or pollution of the City's potable water system due to a cross-connection or other failure, the State Board, the Administrator, and the IEUA shall be promptly notified by telephone so that appropriate and immediate measures may be taken to mitigate the contamination or pollution.

(g) The State and County Health Departments, the Administrator, and the IEUA shall be kept informed by written document of the identity of the person responsible for the user's recycled water system on all premises concerned with these rules and regulations. At each authorized use area, an 'Onsite' Recycled Water Supervisor shall be designated. This supervisor shall be responsible for:

(1) The installation and use of all components of the onsite recycled water system(s).

(2) Prevention of cross-connections.

(3) Change in use of recycled water.

(h) When the recycled water uses or conditions, as determined by the Administrator or other regulatory agencies, represent a clear and immediate hazard to the City's potable and/or recycled water supply that cannot be immediately removed or corrected, the Administrator shall terminate recycled water use. Conditions or uses that create a basis for termination include, but are not limited to, the following:

(1) Refusal to install a required backflow prevention device.

(2) Refusal to test a backflow prevention device.

(3) Refusal to repair a faulty backflow prevention device.

(4) Refusal to replace a faulty backflow prevention device.

(5) Direct or indirect connection between the City's potable water system and an auxiliary water system.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § 31, Ord. 2816, eff. December 1, 2005, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.727. Emergency connection of the recycled water system to the potable water system.

If the Administrator determines an emergency exists where all or parts of the recycled water system are unable to provide recycled water, the Administrator may approve an emergency temporary connection to the potable water system. Before such emergency temporary connection is made, the portion without recycled water shall be isolated by an air gap separation from the remainder of the recycled water system. This isolation shall occur at either individual services or on the offsite system, as determined by the

Administrator. An approved backflow prevention device shall be installed on the potable water lines in accordance with this chapter and any and all applicable rules and regulations of the State and local health departments. The recycled water system shall be disinfected in accordance with Title 22 California Code of Regulations and AWWA C651 Standard prior to any use of potable water through the system. Before the emergency temporary connection or connections shall be removed, whether onsite or offsite, the user shall notify the City's Municipal Utilities' Water Quality Programs Division. The emergency temporary connection shall be removed before connection to the recycled water system is re-established. Re-establishment of recycled water service must be inspected and approved by the Administrator prior to resuming delivery of recycled water. (§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Article 6: Facilities Design and Construction

Sec. 6-8.728. Facilities design.

(a) The design of offsite and onsite recycled water facilities, including the preparation of plans and construction specifications, shall be under the responsibility of an engineer registered in the State of California. The design of customer (onsite) facilities that will use recycled water, and preparations of plans and construction specifications, shall be stamped and signed by a State of California registered Landscape Architect or Civil Engineer, unless otherwise approved by the Administrator.

(b) Before the Administrator grants final acceptance of any system using recycled water, as-built drawings of the system shall be provided. The installed system shall be tested in accordance with the City Standard Specifications to ensure that the system is in full compliance with applicable rules and regulations.

(c) All offsite and onsite recycled water facilities shall be designed and constructed according to the requirements, conditions, and standards as adopted in the City Standard Specifications to ensure that the system is in full compliance with this chapter. Recycled water systems, both onsite and offsite, shall be separate and independent of any potable water systems.

(d) Where the premises contain dual or multiple water systems, the exposed portions of pipelines shall be identified at sufficient intervals.

(e) Areas irrigated with recycled water must be kept completely separated from domestic water wells and reservoirs. Recycled water shall not be applied or allowed to migrate to within fifty (50) feet of any well used for domestic supply. No impoundment of recycled water shall be located within one hundred (100) feet of any domestic water well, unless it can be demonstrated that special circumstances justify lesser distances to be acceptable.

(f) Adequate means of notification shall be provided to inform the public, employees and others that recycled water is being used. Conspicuous signs with appropriate wording that can be clearly read should be placed at adequate intervals around the authorized use area.

(1) Golf courses should print messages on score cards in a different color indicating recycled water is being used. Water hazards containing recycled water should be posted with appropriate signs.

(2) Languages in addition to English should be used on signs where appropriate.

(Ord. 3197, eff. January 7, 2022)

Sec. 6-8.729. Offsite Recycled Water Facilities.

(a) Any offsite recycled water distribution facilities required to serve existing or new developments of the property within the City, as determined by the Administrator, shall be provided by the applicant, owner, or customer at their expense, unless the Administrator determines it is a City benefit to construct these capital facilities.

(b) Plans and specifications for all recycled water distribution facilities shall be submitted to and approved by the Administrator, and other regulatory agencies, in advance of construction.

(c) The City will assume responsibility for providing recycled water service to the point of connection of such development on transfer, to the City, of the title to all offsite recycled water systems and any necessary easements. All easements shall be in a form acceptable to the Administrator, and not subject to outstanding obligations to relocate such facilities or any deeds of trust, except in instances where such is determined by the Administrator to be in the best interest of the City.

(5) The City and the property owner or developer may enter into a reimbursement agreement for the portions of a recycled water system that are required to be oversized with capacity to supply more recycled water than the property owner or developer requires. The determination to enter into a reimbursement agreement, and the specific items that are the subject of reimbursement, will be made by the City.

(Ord. 3197, eff. January 7, 2022)

Sec. 6-8.730. Onsite Recycled Water Facilities

(1) The user or the owner of the property shall be responsible for all costs associated with onsite recycled water facilities.

(2) When City Standards and Specifications require a higher quality material, equipment, design or construction method than that required by other governing codes, rules and regulations, the City Standards and Specifications shall take precedence.

(i) In areas where recycled water is not immediately available when the use area is ready for construction, and if the City has determined that recycled water will be supplied in the future, onsite facilities shall be designed to use recycled water. Provisions shall be made to allow for connection to the City’s offsite recycled water facilities, when available. In the interim, potable or other suitable water may be supplied to the onsite facilities through an “interim service connection.”

(ii) Conditions of interim service are:

(1) The City anticipates recycled water will be available to the site within five (5) years of the time interim service is initiated.

(2) The user or the owner of the property must sign a Recycled Water Use Agreement.

(3) The user or the owner of the property must agree to perform or pay for all work necessary to remove the interim connection and make connections to the permanent recycled water system at the time the recycled water system is installed.

(4) An approved backflow prevention device is required on the interim service. The backflow prevention device shall be downstream of the meter and shall be a part of the onsite recycled water facilities.

(5) Future recycled water users will pay for the following:

(i) ` Cost of constructing and abandoning the interim service and cost of constructing the recycled water service.

(ii) ` Applicable recycled water fees at the time service becomes available.

(iii) ` Applicable interim water rates for the type of water delivered through the interim service.

(6) When recycled water is available to the site, an inspection of the onsite facilities will be conducted by the Administrator to verify that the facilities are still in compliance with the Recycled Water Use Agreement. Recycled water service shall be provided on verification of compliance. If the facilities are not in compliance, the Administrator shall notify the user to make any necessary corrections.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by § 32, Ord. 2816, eff. December 1, 2005, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.731. Construction.

(a) Construction of all new recycled water facilities will follow City Standards and Specifications and the American Water Works Association Construction Guidelines for Recycled Water Facilities.

(b) Where it is planned that an existing non-recycled water system shall be converted to a recycled water facility, the facilities to be converted to recycled water shall be investigated in detail at the user's expense, to determine the measures required to bring the system into full compliance with this chapter. No existing potable water facilities shall be connected to or incorporated into the recycled water system without City and State Board approvals.

(c) If, due to onsite failure of the recycled water system, the Administrator determines that it is necessary to convert onsite facilities from a recycled water supply to a potable water supply, a comprehensive investigation shall be performed by or for the City.

(1) The facilities to be converted to recycled water use shall be investigated in detail, including review of any record drawings, preparation of required reports, and determinations by the City of measures necessary to bring the system into full compliance with this chapter for recycled water service.

(2) No potable water facilities shall be connected to or incorporated in the recycled water system that have not been approved for recycled water service by the City.

(d) It shall be the responsibility of the user to pay all costs for such conversion. Conversion costs may include, but not be limited to, the following:

(1) Isolation of the recycled water supply. Service shall be removed and plugged at the City main or abandoned in a manner approved by the Administrator.

(2) Installation of approved backflow prevention devices, as determined by the Administrator, on all potable and/or other water meter connections.

(3) Removal of any/all special recycled water quick couplers. The user shall be responsible for replacement with quick couplers approved for potable water systems.

(4) Notification to all onsite personnel involved.

(5) Removal of all warning labels/signs.

(6) Installation of any/all potable water facilities and payment of any associated capacity fees, as established in Title 6, Chapter 8B, of the Ontario Municipal Code.

(7) System flushing, disinfecting, decontamination, and water quality analyses, as required by the City and/or other regulatory agencies.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Article 7: Facilities Operation

Sec. 6-8.732. Offsite facilities.

The City and/or the Inland Empire Utilities Agency shall be responsible for the operation, maintenance and surveillance of all offsite recycled water systems. This includes but is not limited to recycled water pipelines, valves, connections, storage facilities, and other related equipment and property up to and including the meter. Only the City and/or the Inland Empire Utilities Agency personnel and their representatives shall operate, adjust, change, alter, move or relocate any portion of their respective offsite recycled water facilities.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.733. Onsite facilities.

(a) General.

(1) The operation, surveillance, repair, and maintenance of all customer recycled water facilities are the responsibility of the user and his or her designated Onsite Recycled Water Supervisor.

(i) The Onsite Recycled Water Supervisor shall be responsible for the installation, operation, and maintenance of the onsite recycled water system, enforcing applicable requirements of the City's Recycled Water Use Agreement, preventing potential hazards related to such system, maintenance of the system plans in "as-built" form, and distribution of recycled water in accordance with applicable laws and permits held by the City.

(2) The Administrator shall have the right to enter the user's premises to monitor and inspect all onsite recycled water facilities. Where necessary, keys and/or lock combinations shall be issued to the Administrator to provide such access during hours of recycled water system operation.

(b) The Onsite Recycled Water Supervisor shall have the following responsibilities pertaining to operation of onsite facilities:

(1) Ensure that all operations personnel are trained and familiarized with the use of recycled water.

(2) Furnish all operations personnel with maintenance instructions, irrigation schedules, controller charts, and as-built drawings to ensure proper operation in accordance with the onsite facilities design and applicable rules and regulations.

(3) Prepare and submit to the Administrator one (1) reproducible set of as-built drawings.

(4) Notify the Administrator of all updates or proposed changes, modifications, or additions to the onsite facilities and operations for review and approval prior to construction or implementation. All updates and proposed changes shall comply with this chapter, the Recycled Water Use Agreement and any other applicable rules and regulations.

(5) Ensure that the operation and maintenance of all recycled water facilities remain in accordance with this chapter, the Recycled Water Use Agreement and any other applicable rules and regulations.

(6) Operate and control the system in order to prevent direct human consumption of recycled water and to control and limit runoff. The user or the owner of the property shall be responsible for any and all subsequent uses of the recycled water. Operation and control measures to be utilized in this regard shall include where appropriate, but not limited to:

(i) Minimizing discharge onto areas not under control of the user so as to minimize public contact. Full circle sprinklers shall not be used adjacent to sidewalks, roadways, and property lines in order to confine the discharge to the use area.

(ii) Operating the onsite recycled water facilities during periods of minimal human use of the service area, and allowing a maximum dry-out time before the irrigated area will be used by the public.

(iii) Providing adequate first aid kits on the premises, and promptly treating all cuts and abrasions to prevent infection. If infection is likely, a physician should be consulted.

(iv) Taking any other precautionary measures to minimize direct contact with recycled water. User's employees, residents, and the public should not be subjected to recycled water sprays.

(v) Applying recycled water at a rate that does not exceed the infiltration rate of the soil. Where varying soil types are present, the design and operation of the recycled water facilities shall be compatible with the lowest infiltration rate of the soils present.

(vi) Reporting to the Administrator any/all failures in the recycled water system that cause an unauthorized discharge of recycled water.

(vii) Protecting all drinking fountains located within the approved use area, by location and/or a structure from contact with recycled water to the maximum extent possible. Windblown spray, direct application through irrigation or other approved uses are considered sources of recycled water. Protection shall be by design, construction practice, or system operation.

(viii) Protecting facilities that may be used by the public, including but not limited to, eating surfaces and playground equipment located within the approved use areas, by locating seating and/or structures from contact with recycled water to the maximum extent possible. Windblown spray, direct contact by irrigation application, or other approved uses are considered sources of recycled water. Protection shall be by design, construction practice, or system operation.

(c) The user shall enforce the following prohibitions:

(1) Cross-connections, as defined by Title 17 of the California Code of Regulations, resulting from the use of recycled water or from the physical presence of a recycled water service, whether by design, construction practice, or system operation, are prohibited.

(2) Discharge of recycled water for any purposes, in areas other than those specifically approved in the Recycled Water Use Agreement, and without the prior approval of the Administrator, is prohibited.

(3) Use or installation of permanent hose bibs on any customer water system that presently operates or is designed to operate with recycled water is prohibited.

(4) Conditions that directly or indirectly cause recycled water to pond either within or outside of the approved use area, whether by design, construction practice, or system operation are prohibited, unless designed specifically for ponding and approved by Administrator.

(5) Conditions that directly or indirectly cause runoff of recycled water onto areas outside of approved use areas, whether by design, construction practice, or system operation, are prohibited.

(6) Use of recycled water for any purposes other than those specifically approved in the Recycled Water Use Agreement, and without the prior approval of the Administrator, is prohibited.

(7) Conditions that directly or indirectly permit windblown spray to pass outside of the approved use area, whether by design, construction practice, or system operation, are prohibited.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.734. Monitoring and inspection.

(a) The Administrator will periodically monitor and inspect the entire recycled distribution facility, including both offsite and onsite facilities. The Administrator will conduct monitoring programs, maintain records as deemed necessary, inspect onsite facilities for compliance with applicable rules and regulations, and provide reports as requested by the State Board. For these purposes, the Administrator will have the right to enter the user's premises during hours of recycled water system operation to inspect onsite recycled water facilities and approved areas of recycled water use, to ensure compliance with this chapter, including the requirement that runoff be controlled and limited (Section 6-8.733(b)(6)) and the prohibition of cross-connections between potable water facilities and recycled water facilities (Section 6-8.733(c)(1)).

(b) The approved user shall be responsible for providing access to and cooperation with the City's Cross-Connection Control Specialist or designee so that the City's Cross-Connection Control Specialist or designee can perform periodic cross-connection tests, site inspections and backflow prevention device tests. Site inspections shall include pressure testing of the system(s) as well as a visual check of the entire system to verify that no cross-connections or unapproved connections exist. The approved user shall be responsible for correcting any work which violates the City's regulations, at the user's sole expense, including any costs associated with repair and re-testing the backflow prevention device should the backflow prevention device fails to pass the required test.

(c) If the user or owner changes, the City's Cross-Connection Control Specialist or designee will perform an inspection and test to verify compliance with this chapter.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.735. Maintenance responsibility.

(a) The user or owner is responsible for maintaining all onsite facilities that are under the ownership of parties other than the City.

(b) No person shall place, dispose, deposit or permit the placement, disposal, or deposit of oil, toxic, hazardous or contaminated liquid or waste, trash, soil, building materials, or any other substances, objects, or obstructions in, on, or around meter boxes or other City facilities. No person shall allow or permit meter boxes or other City facilities from becoming obstructed or obscured by trees, shrubs, plants or in any other manner so as to impede their use or access or make their location difficult to determine.

(c) If such substances, objects, or obstructions are not cleaned and removed, or are permitted to obscure or impede use or access to such facilities, the City may accomplish the cleaning and removal at the user's expense. The Administrator will provide reasonable notice to the user before assessing the charge.

(§ 1, Ord. 2689, eff. June 17, 1999, as amended by Ord. 3197, eff. January 7, 2022)

Sec. 6-8.736. Meter Testing.

If a recycled water meter fails to register during any period or is known to register inaccurately, the owner or user shall be charged using a reasonable average daily consumption based on prior consumption or based on other reasonable calculations in

the absence of historical consumption data. The City will examine and test the meter through which recycled water is being furnished or determine whether it is correctly registering the amount of recycled water being delivered.
(Ord. 3197, eff. January 7, 2022)

Article 8: Enforcement

Sec. 6-8737. Illegal Connections, Diversions, or Tampering

(a) Diversion and tampering are prohibited.

(b) Diversion and tampering are crimes under the California Penal Code and are violations of the Water Code and the Civil Code. Diversion and tampering may be subject to charges and penalties, as well as referral to the District Attorney for criminal prosecution. All charges and penalties shall be applicable and collected in accordance applicable laws and regulations.
(Ord. 3197, eff. January 7, 2022)

Sec. 6-8.738. Violations and Enforcement.

Nothing in this chapter limits or restricts the City's general authority to enforce noncompliance of applicable rules and regulations. The City retains the right to enforce violations of this chapter in accordance with Chapter 1-5 or in accordance with any other legally authorized process, including but not limited to discontinuing service to any customer that commits a violation, infraction, or otherwise fails to comply with the municipal code, any amendments or additions thereto, and any adopted rules or regulations. Prior to the service disconnection, the City shall provide notice to the customer where a violation, infraction, or otherwise noncompliance results, or is likely to result, in a dangerous or unsanitary condition on the customer's premises, or within the City's water system, and where disconnection of service is necessary to protect the City from fraud, imposition, loss or abuse.
(Ord. 3197, eff. January 7, 2022)

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **CONSENT CALENDAR**
Department: Investments & Revenue Resources Prepared By: William B Quan Staff Member Presenting: Armen Harkalyan, Executive Director of Finance Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 13

SUBJECT: UPDATED INVESTMENT POLICY (2021)

RECOMMENDATION: That the City Council consider and approve an update to the City of Ontario's Investment Policy.

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

FISCAL IMPACT: There is not a direct fiscal impact associated with this update to the Investment Policy.

BACKGROUND & ANALYSIS: Section 53646(a)(2) of the California Government Code states that the Treasurer or Chief Fiscal Officer of a local agency may annually render to the legislative body of that local agency a Statement of Investment Policy, which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting.

The current Investment Policy was approved on December 1, 2020. One update is recommended at this time. Section III (Delegation of Authority) of the Investment Policy is updated to reflect the most current resolutions delegating authority for investment transactions. City Council approved these resolutions (Resolution Nos. 2021-164 and 2021-165) on November 2, 2021. No other changes to the Investment Policy are being proposed, however, there are some formatting updates that include a new Table of Contents, Table of Authorized Investments, copies of Resolution Nos. 2021-164 and 2021-165, and the California Municipal Treasurers Association Investment Policy Certification. The updated Investment Policy is attached as Exhibit A.

City Treasurer Jim Milhiser concurs with this recommendation.

INVESTMENT POLICY

December 7, 2021



City of Ontario
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City of Ontario
Investment Policy Statement

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CITY OF ONTARIO
INVESTMENT POLICY STATEMENT

1. PURPOSE

This statement is intended to: (a) describe the policies and procedures utilized in the City's investment management system; (b) put in place guidelines for the prudent investment of the City's funds, and (c) list and describe suitable investments.

The goals of the City's investment policy and investment management function are enhancement of the economic status of the City and protection of the City's funds.

The investment policies and practices of the City of Ontario are based upon federal and state law and prudent money management principles. The primary goals of these policies are:

A. To assure compliance with all laws governing the investments under the control of the City Treasurer.

B. To protect the principal monies entrusted to this office.

C. To generate the maximum amount of investment income consistent with the parameters established in this Statement of Investment Policy.

2. SCOPE

This investment policy applies to all monies belonging to the City of Ontario, and proceeds from bonds or notes issued by the City of Ontario and any authorized special districts. Bond proceeds and any funds associated with bond issues and other monies arising from bond indebtedness are further restricted by the pertinent bond indenture. Funds described above are accounted for in the City's Annual Comprehensive Financial Report.

The City will comply with all applicable sections of the Internal Revenue Code of 1986, Arbitrage Rebate Regulations and bond covenants with regards to the investment of bond proceeds.

All monies entrusted to the City Treasurer will be pooled in an actively managed portfolio and will be referred to as the "fund" or the "portfolio" throughout the remainder of this document.

3. DELEGATION OF AUTHORITY

In accordance with State law (see California Government Code Sec. 53607) and under the authority granted by the City Council in its resolutions 2021-164 and 2021-165 dated November 2, 2021, the City Treasurer and Deputy City Treasurer(s) are authorized to invest the unexpended cash in the City treasury. The responsibility for the day-to-day investment of the City's funds is delegated to the Investment Officer. In the absence of the Investment Officer, the Deputy City Treasurers will be responsible for the investment function.

The City may engage the services of one or more external investment advisers, who are registered under the Investment Advisers Act of 1940, to assist in the management of the City's investment portfolio in a manner consistent with the City's objectives. External investment advisers may be granted discretion to purchase and sell investment securities in accordance with this investment policy.

4. PRUDENCE

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs; not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. The standard of prudence to be used by investment officials shall be the "prudent investor" standard (California Government Code Section 53600.3) and shall be applied in the context of managing an overall portfolio. Investment officers, acting in accordance with written procedures and the investment policy and exercising due diligence, shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

5. INVESTMENT OBJECTIVES

A. Safety of Principal

Safety of principal is the foremost objective of the investment policies and practices of the City of Ontario. Investment decisions shall seek to minimize net capital losses on a portfolio basis. This policy recognizes that market conditions may warrant the sale of individual securities incurring losses in order to protect against further and more substantial capital losses. The intent of this policy is to ensure that capital losses are minimized on a portfolio level rather than on each transaction. The City shall seek to preserve principal by mitigating credit risk and market risk.

1) Credit Risk – Defined as the risk of loss due to failure or insolvency of an issuer; shall be mitigated by diversifying the fund so that the failure of any one issuer would not unduly harm the City's cash flow. No more than 5% of the portfolio may be invested (at time of purchase) in the securities of any one single issuer except the U.S. Government, its agencies, supranational organizations, or the State of California Local Agency Investment Fund.

2) Market Risk – Defined as the risk of market value fluctuations due to changes in the general level of interest rates. Because longer maturity fixed-income securities have greater market risk than shorter maturity securities, market risk will be mitigated by limiting the weighted average maturity of the fund to 2 ½ years. It is explicitly recognized that in an active portfolio, occasional losses are inevitable and must be considered within the context of the overall investment return.

B. Liquidity

The City's fund will be structured to ensure that the projected expenditure requirements of the City for the next six months can be met with a combination of anticipated revenues, maturing securities, principal and interest payments and liquid instruments as required by California Government Code Section 53646.

C. Performance Measurement (Yield)

The performance of the City's investment portfolio will be measured on a total return basis. The portfolio's performance will be measured against a benchmark of the ICE BofAML1-3 year Treasury Index. The index's returns are reported monthly on the City's current portfolio report.

6. ETHICS AND CONFLICTS OF INTEREST

All participants in the investment process shall act as custodians of the public trust. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. Thus employees and officials involved in the investment process shall refrain from personal business activity that could create a conflict of interest or the appearance of a conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

Employees and investment officials shall disclose to the Investment Officer any material interests in financial institutions with which they conduct business, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking any personal investment transactions with the same individual with whom business is conducted on behalf of the City.

7. INTERNAL CONTROLS

The City Treasurer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Periodically, as deemed appropriate by the City, an independent analysis by an external auditor shall be conducted to review internal controls, account activity and compliance with policies and procedures.

8. SAFEKEEPING OF SECURITIES

With the exception of insured Certificates of Deposit and the Local Agency Investment Fund of the State of California, all securities owned by the City, including collateral for repurchase

agreements, shall be held in safekeeping by the City's custodial bank or a third party bank trust department acting as agent for the City under terms of a custody or trustee agreement executed by the bank and the City. All securities will be received and delivered using standard delivery versus payment (DVP) procedures and in accordance with State Code.

9. REPORTING

The City Treasurer is required to submit an investment report on a quarterly basis to the City Manager, the Internal Auditor, and the City Council, in accordance with California Government Code, Section 53646. The report is required to be submitted within 30 days of the end of the quarter. The City Treasurer has elected to provide this report monthly. This report will include the following information:

- Type of investment instrument (i.e. Treasury Bill, CD)
- Issuer name (i.e. US Treasury Note)
- Purchase date (trade and settlement date)
- Maturity date
- Par value
- Purchase price
- Current market value and source of valuation
- Overall portfolio yield based on cost
- Statement of compliance of the portfolio to the investment policy or an explanation of the manner in which the portfolio is not in compliance
- Description of any of the City's funds that are under the management of contracted parties.
- Statement denoting the ability of the City to meet its expenditure requirements for the next six months, or an explanation as to why sufficient money may not be available.

10. QUALIFIED DEALERS

The Investment Officer shall maintain a list of financial institutions qualified to do business with the City. Banks and broker/dealers will be selected on the basis of creditworthiness, experience, and capitalization. Prior to approval, they must read and sign the City's Broker/Dealer Questionnaire and Certification. In accordance with California Government Code, Section 53601, a bank or broker/dealer must be qualified as a dealer regularly reporting to the New York Federal Reserve Bank (a "primary dealer") to conduct repurchase agreements with the City.

Selection of financial institutions and broker/dealers authorized to engage in transactions will be at the sole discretion of the City, except where the City utilizes an external investment adviser in which case the City may rely on the adviser for selection.

Selection of broker/dealers used by an external investment adviser retained by the City will be at the sole discretion of the adviser. Where possible, transactions with broker/dealers shall be selected on a competitive basis and their bid or offering prices shall be recorded. If there is no other readily available competitive offering, best efforts will be made to document quotations

for comparable or alternative securities. When purchasing original issue instrumentality securities, no competitive offerings will be required as all dealers in the selling group offer those securities at the same original issue price.

11. COMPETITIVE BIDDING

It will be the policy of the City to transact all securities purchases and sales through a formal and competitive process requiring the solicitation and evaluation of at least three bids/offers whenever possible. The City will accept the offer, which provides (a) the highest rate of return; and (b) optimizes the investment objectives of the overall portfolio. On transactions where three bids/offers are not available, the Investment Officer shall make an evaluation regarding the relative attractiveness of various offer using factors such as maturity date, credit ratings, structure and other factors which influence pricing. It will be the responsibility of the City's staff involved to produce and retain written records, including the name of the financial institutions solicited, price/rate quoted, description of the security, bid/offer selected, and any special considerations that had an impact on their decision.

12. PURCHASE AND SALE OF SECURITIES

Unless the services of an external investment adviser are used, purchases and sales of securities will be executed only by the Investment Officer and in his absence the Deputy City Treasurer. All transactions will be reviewed and approved by the City Treasurer.

13. POLICY REVIEW

The City Treasurer shall annually render to the City Council an investment policy statement, which shall be considered at a public meeting. Any changes in the policy shall also be considered by the City Council at a public meeting.

14. DIVERSIFICATION

The City will diversify use of investment instructions to avoid unreasonable risks inherent in over-investing in specific instruments, individual financial institutions, or maturities. Market price volatility shall be controlled through maturity diversification, as well as ensuring adequate liquidity is available to meet cash flow requirements, thereby precluding the need to sell instruments at a market loss.

15. MAXIMUM MATURITIES

In accordance to California Government Code Section 53601, the City will not invest in any securities maturing more than five (5) years from the settlement date of purchase. If there is a desire to make investments longer than five years, express authority to make those investments, either specifically or as part of an investment program, must be approved by the City Council no less than three months prior to the investment.

16. TABLE OF AUTHORIZED INVESTMENTS

INVESTMENT TYPE	MAXIMUM MATURITY	MAXIMUM SPECIFIED % OF PORTFOLIO	MINIMUM QUALITY REQUIREMENTS	CA GOVERNMENT CODE SECTIONS
U.S. Treasury Obligations	5 years	None	None	53601(b)
U.S. Agency Obligations	5 years	None, but no more than 20% in any one issuer	None	53601(f)
Bankers' Acceptances	180 days	40% and no more than 5% in any one single bank	Short-term debt rate "A-1" or better by at least one NRSRO, Long-term debt rated "A" or better by at least one NRSRO	53601(g)
Commercial Paper-Non Pooled Funds	270 days	15% and no more than 10% in any one issuer	Rate "A-1" or better by at least two NRSRO and rated "A" or better on long-term debentures by a NRSRO	53601(h)(2)(c)
Commercial Paper-Pooled Funds	270 days	15% and no more than 10% in any one issuer	Rate "A-1" or better by at least two NRSRO and rated "A" or better on long-term debentures by a NRSRO	53635(a)(1)
Negotiable Certificates of Deposit	5 years	30%	Rate "A-1" or better by at least two NRSRO	53601(i)
Repurchase Agreements	1 year	None, but no more than 20% of the cost value of the fund	Collateral rate shall be valued at 102% or greater of the value of the repurchase agreement	53601(j)(1)(2)
Local Agency Investment Fund (LAIF)	N/A	None	None	16429.1
Time Deposits (Non-Negotiable Certificate of Deposit)	5 years	25% of the fund	None	53630 et seq.
Medium-Term Notes	5 years	30% and no more than 15% rated below "AA" by at least two NRSRO; No more than 5% may be in any one corporate name	Must have rate of "A" or better by at least two NRSRO, 30% max and no more than 15% rated below "AA" by at lease two NRSRO; No more than 5% may be in any one corporate name	53601(k)
Collateralized Mortgage Obligations, Mortgage-Backed or Other Pay-Through Bond, Equipment Leased-Backed Certificate (Asset-Backed Securities), or Consumer Receivable-Back Bond	5 years	20% of the fund	Rate "AA"	53601(o)
California Local Agency Obligations	5 years	None	None	53601(e)
California State Obligations	5 years	None	None	53601(d)
Supranational Obligations	5 years	10%	Rate "AA" or better by NRSRO	53601(q)
Mutual Funds	N/A	20% and no more than 10% of total portfolio in any one mutual fund	Attain highest ranking by at least two NRSROs or have retained a registered investment advisor	53601(l) 53601.6(b)
Money Market Mutual Funds	N/A	20% and no more than 20% of total portfolio in any one money market mutual fund	Attain highest ranking by at least two NRSROs or have retained a registered investment advisor	53601(l) 53601.6(b)

17. DESCRIPTION OF AUTHORIZED INVESTMENTS

A. The City's Investment Portfolio is governed by California Government Code, Section 53600 et seq. Percentage holding limits listed in this section apply at the time the security is purchased. Within the context of these limitations, the following investments are authorized, as further limited herein:

1) United States Treasury Bills, Notes, and Bonds, or those securities for which the full faith and credit of the United States are pledged for payment of principal and interest. There is no limitation as to the percentage of the fund, which can be invested in this category.

2) Obligations—including U.S. Government Agency Mortgage pass-through securities- issued by various agencies of the Federal Government including, but not limited to, the Federal Farm Credit Bank System, the Federal Home Loan Bank System, the Federal Home Loan Bank, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation as well as such agencies or enterprises which may be created. There is no percentage limitation on the dollar amount which can be invested in Agency issues in total, no more than 20% of the cost value of the portfolio may be invested in the securities of any one issuer.

3) Bills of exchange or time drafts drawn on and accepted by a commercial bank, commonly known as banker's acceptances. Banker's acceptances may not exceed 180 days to maturity. To be eligible for purchase, banker's acceptances must have short-term debt obligations rated "A-1" or its equivalent or better by at least one NRSRO; or long-term debt obligations which are rated in a rating category of "A" or its equivalent or better by at least one NRSRO. No more than 40% of the cost value of the portfolio may be invested in banker's acceptances and no more than 5% of the cost value of the portfolio may be invested in banker's acceptances of any single bank.

4) Commercial paper rated "A-1" or its equivalent by at least two NRSROs and issued by a domestic corporation having assets in excess of $500 million and having at least an "A" or its equivalent rating on its long-term debentures as provided by a NRSRO. Purchases of eligible commercial paper may not exceed 270 days maturity nor represent more than 10% of the outstanding paper on an issuing corporation. Purchases of commercial paper may not exceed 15% of the portfolio, which may be invested pursuant to this section. An additional 15% or a total of 30% of the City's money may be invested pursuant to this subdivision. The additional 15% may be so invested only if the dollar weighted average maturity of the entire amount does not exceed 31 days.

5) Negotiable certificates of deposit issued by a nationally or State chartered bank or a State or Federal savings institution, or a State licensed branch of a foreign bank ("Yankee"). Purchases of negotiable certificates of deposit may not exceed 30% of the cost value of the portfolio. To be eligible for purchase by the City, the certificate of deposit must be rated "A-1" or its equivalent by at least two NRSROs.

6) Repurchase Agreements – The City may invest in repurchase agreements with primary dealers of the Federal Reserve Bank of New York with which the City has entered into a master repurchase agreement. The Public Securities Association master repurchase agreement is the "master repurchase agreement". The maturity of repurchase agreements shall not exceed one year. The market value of securities used as collateral for repurchase agreements shall be valued at no less than 102% of the value of the repurchase agreement. Collateral pricing will be monitored no less than monthly by the investment staff and not be allowed to fall below 102% of the value of the repurchase agreement. In order to conform to provisions of the Federal Bankruptcy Code which provide for the liquidation of securities held as collateral for repurchase agreements, the only securities acceptable to the city as collateral shall be securities that are direct obligations of, or that are fully guaranteed as to principal and interest, by the United States or any agency thereof. Investments in repurchase agreements may not exceed 20% of the cost value of the fund.

7) Local Agency Investment Fund - The City may invest in the Local Agency Investment Fund ("LAIF") established by the State Treasurer for the benefit of local agencies up to the maximum permitted under Section 16429.1 of the California Government Code.

8) Time Deposits – The City may invest in non-negotiable time deposits collateralized in accordance with the California Government Code, which meet the requirements for investment in negotiable certificates of deposit. The City may invest in insured certificates of deposit with individual depository institutions up to the insured limit. No more than 25% of the fund may be invested in this category.

9) Medium-term notes of a maximum of five years maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any State and operating within the United States. The issuing corporation must have a minimum rating of "A" or its equivalent by at least two NRSROs and have in excess of $500 million in shareholder equity. Purchase of medium-term notes may not exceed 30% of the cost value of the portfolio with no more than 15% of the cost value of the portfolio rated below "AA" or its equivalent by at least two NRSROs. No more than 5% of the portfolio (at time of purchase) may be invested in any one corporate name, including the parent corporation or subsidiaries.

10) Any collateralized mortgage obligations, mortgage-backed or other pay-through bond, equipment lease-backed certificate, or consumer receivable-backed bond. Securities eligible for investment under this section shall be rated in a rating category of "AA" by a nationally recognized statistical rating organization and have a maximum remaining maturity of 5 years or less. Purchase of securities authorized by this subdivision may not exceed 20% of the cost value of the portfolio.

11) Bonds, notes, warrants or other evidences of indebtedness of any local agency of this state, including bonds payable solely out of the revenues from a revenue

producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

12) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state or by a department, board, agency or authority of the state.

13) Supranational Obligations - United States dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank, with a maximum remaining maturity of five years or less, and eligible for purchase and sale within the United States. Investments under this subdivision shall be rated "AA" or better by an NRSRO and shall not exceed 10 percent of the City's moneys that may be invested pursuant to this section.

14) Mutual Funds and Money Market Mutual Funds that are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, provided that:

a) **Mutual Funds** that invest in the securities and obligations as authorized under California Government Code, Section 53601 (a) to (k) and (m) to (q) inclusive and that meet either of the following criteria:

i. Attained the highest ranking or the highest letter and numerical rating provided by not less than two (2) NRSROs; or
ii. Have retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by California Government Code, Section 53601 and with assets under management in excess of $500 million.
iii. No more than 10% of the total portfolio may be invested in shares of any one mutual fund.

b) **Money Market Mutual Funds** registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and issued by diversified management companies and meet either of the following criteria:

i. Have attained the highest ranking or the highest letter and numerical rating provided by not less than two (2) NRSROs; or

ii. Have retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not

less than five years' experience managing money market mutual funds with assets under management in excess of $500 million.

iii. No more than 20% of the total portfolio may be invested in the shares of any one Money Market Mutual Fund.

c) No more than 20% of the total portfolio may be invested in these securities.

B. In the event of a rating downgrade of security in the City's portfolio by any of the applicable rating agencies (Standard and Poor's or Moody's) to a rating category below the minimum required for purchase, the Investment Officer will document such downgrade in writing. The Investment Officer will also communicate to the City Treasurer a recommended course of action for said security.

18. INVESTMENT POOLS/MUTUAL FUNDS

The City shall conduct a thorough investigation of any pool or mutual fund prior to making an investment, and on a continual basis thereafter. The Treasurer shall develop a questionnaire which will answer the following general questions:

- A description of eligible investment securities, and a written statement of investment policy and objectives.
- A description of interest calculations and how it is distributed, and how gains and losses are treated.
- A description of how the securities are safeguarded (including the settlement processes), and how often the securities are priced and the program audited.
- A description of who may invest in the program, how often, what size deposit and withdrawal are allowed.
- A schedule for receiving statements and portfolio listings.
- A description of how the pool/fund utilizes reserves, retained earnings, etc.
- A fee schedule, including when and how is it assessed.
- The eligibility of the pool/fund to invest in bond proceeds and special district funds, and a description of its practices.

19. COLLATERALIZATION

Certificates of Deposit (CDs). The City shall require any commercial bank or savings and loan association to deposit eligible securities with an agency of a depository approved by the State Banking Department to secure any uninsured portion of a Non-Negotiable Certificate of Deposit. The value of eligible securities as defined pursuant to California Government Code, Section 53651, pledged against a Certificate of Deposit shall be equal to 150% of the face value of the CD if the securities are classified as mortgages and 110% of the face value of the CD for all other classes of security.

Collateralization of Bank Deposits. This is the process by which a bank or financial institution pledges securities, or other deposits for the purpose of securing repayment of deposited funds. The City shall require any bank or financial institution to comply with the collateralization criteria defined in California Government Code, Section 53651.

Repurchase Agreements. The City requires that Repurchase Agreements be collateralized only by securities authorized in accordance with California Government Code:

1. The securities which collateralize the repurchase agreement shall be priced at Market Value, including any Accrued Interest plus a margin. The Market Value of the securities that underlie a repurchase agreement shall be valued at 102% or greater of the funds borrowed against those securities.
2. Financial institutions shall mark the value of the collateral to market at least monthly and increase or decrease the collateral to satisfy the ratio requirement described above.
3. The City shall receive monthly statements of collateral.

20. INELIGIBLE INVESTMENTS

Ineligible investments – investments not described herein-, are prohibited for purchase in the City's portfolio. Specifically prohibited as of January 1, 1996 are: Inverse floaters, range notes, interest-only strips derived from a pool of mortgages, or any security that could result in zero interest accrual if held to maturity.

21. GLOSSARY OF INVESTMENT TERMS

Agencies. Shorthand market terminology for any obligation issued by a government-sponsored entity (GSE), or a federally related institution. Most obligations of GSEs are not guaranteed by the full faith and credit of the US government. Examples are:

FFCB. The Federal Farm Credit Bank System provides credit and liquidity in the agricultural industry. FFCB issues discount notes and bonds.

FHLB. The Federal Home Loan Bank provides credit and liquidity in the housing market. FHLB issues discount notes and bonds.

FHLMC. Like FHLB, the Federal Home Loan Mortgage Corporation provides credit and liquidity in the housing market. FHLMC, also called "FreddieMac" issues discount notes, bonds and mortgage pass-through securities.

FNMA. Like FHLB and FreddieMac, the Federal National Mortgage Association was established to provide credit and liquidity in the housing market. FNMA, also known as "FannieMae," issues discount notes, bonds and mortgage pass-through securities.

GNMA. The Government National Mortgage Association, known as "GinnieMae," issues mortgage pass-through securities, which are guaranteed by the full faith and credit of the US Government.

PEFCO. The Private Export Funding Corporation assists exporters. Obligations of PEFCO are not guaranteed by the full faith and credit of the US government.

TVA. The Tennessee Valley Authority provides flood control and power and promotes development in portions of the Tennessee, Ohio, and Mississippi River valleys. TVA currently issues discount notes and bonds.

Ask/Offer. The price at which securities are offered. (The price at which a firm will sell a security to an investor.)

Asset Backed Securities. Securities supported by pools of installment loans or leases or by pools of revolving lines of credit.

Average Life. In mortgage-related investments, including CMOs, the average time to expected receipt of principal payments, weighted by the amount of principal expected.

Banker's Acceptance. A money market instrument created to facilitate international trade transactions. It is highly liquid and safe because the risk of the trade transaction is transferred to the bank which "accepts" the obligation to pay the investor.

Basis Point. One one-hundredth of a percent (i.e., 0.01 percent)

Bear Market. A period of generally pessimistic attitudes and declining market prices.

Benchmark. A comparison security or portfolio. A performance benchmark is a partial market index, which reflects the mix of securities allowed under a specific investment policy.

Bid Price. The price at which a broker/dealer will buy securities from an investor.

Bond Equivalent Yield. The basis on which yields on notes and bonds are quoted.

Book Value (Cost Value). The purchase price of the security as recorded on the City's books.

Broker. A broker brings buyers and sellers together for a transaction for which the broker receives a commission. A broker does not sell securities from his own position.

Bull Market. A period of generally optimistic attitudes and increasing market prices.

California Debt & Investment Advisory Commission (CDIAC). The California Debt and Investment Advisory Commission (CDIAC) provides information, education and technical assistance on debt issuance and public fund investments to local public agencies and other public finance professionals. The Commission was created in 1981 with the passage of Chapter 1088, Statutes of 1981 (Assembly Bill (AB) 1192, Costa). This legislation established the California Debt Advisory Commission as the State's clearinghouse for public debt issuance information and required it to assist state and local agencies with the monitoring, issuance and management of public debt.

Callable. A callable security gives the issuer the option to call/redeem it from the investor prior to its maturity. The main cause of a call is a decline in interest rates. If interest rates decline, the issuer will likely call its current securities and reissue them at a lower rate of interest.

Certificate of Deposit (CD). A time deposit with a specific maturity evidenced by a certificate.

Certificate of Deposit Account Registry SYSTEM (CDARS). A private placement service that allows local agencies to purchase more than $250,000 in CDs from a single financial institution (must be a participating institution of CDARS) while still maintaining FDIC insurance coverage. CDARS is currently the only entity providing this service. CDARS facilitates the trading of deposits between the California institution and other participating institutions in amounts that are less than $250,000 each, so that FDIC coverage is maintained.

Collateral. Securities or cash pledged by a borrower to secure repayment of a loan or repurchase agreement. Also, securities pledged by a financial institution to secure deposits of public monies.

Collateralized Bank Deposit. A bank deposit that is collateralized at least 100% (principal plus interest to maturity). The deposit is collateralized using assets set aside by the issuer such as Treasury securities or other qualified collateral to secure the deposit in excess of the limit covered by the Federal Deposit Insurance Corporation.

Collateralized Mortgage Obligations (CMO). Classes of bonds that redistribute the cash flows of mortgage securities (and whole loans) to create securities that have different levels of prepayment risk, as compared to the underlying mortgage securities.

Collateralized Time Deposit. Time deposits that are collateralized at least 100% (principal plus interest to maturity). These instruments are collateralized using assets set aside by the issuer such as Treasury securities or other qualified collateral to secure the deposit in excess of the limit covered by the Federal Deposit Insurance Corporation.

Commercial Paper. The short-term unsecured debt of corporations.

Corporate Medium Term Note. A security issued by a corporation doing business in the U.S. with a maturity not to exceed five years.

Cost Value (Book Value). The purchase price of the security as recorded on the City's books.

Coupon. The rate of return at which interest is paid on a bond.

Credit Risk. The risk that principal and/or interest on an investment will not be paid in a timely manner due to changes in the condition of the issuer.

Dealer. A dealer acts as a principal in security transactions, selling securities from and buying securities for his own position.

Debenture. A bond secured only by the general credit of the issuer.

Delivery vs. Payment (DVP). A securities industry procedure whereby payment for a security must be made at the time the security is delivered to the purchaser's agent.

Demand Account. An account with a commercial bank from which check withdrawals may be made at any time.

Derivative. Any security that has principal and/or interest payments which are subject to uncertainty (but not for reasons of default or credit risk) as to timing and/or amount, or any security which represents a component of another security which has been separated from other components ("Stripped" coupons and principal). A derivative is also defined as a financial instrument the value of which is totally or partially derived from the value of another instrument, interest rate, or index.

Discount. The difference between the par value of a bond and the cost of the bond, when the cost is below par. Some short-term securities, such as T-bills and banker's acceptances, are known as discount securities. They sell at a discount from par and return the par value to the investor at maturity without additional interest. Other securities, which have fixed coupons, trade at a discount when the coupon rate is lower than the current market rate for securities of that maturity and/or quality.

Diversification. Dividing investment funds among a variety of investments to avoid excessive exposure to any one source of risk.

Duration. The weighted average time to maturity of a bond where the weights are the present values of the future cash flows. Duration measures the price sensitivity of a security to changes interest rates.

Federal Deposit Insurance Corporation (FDIC). The Federal Deposit Insurance Corporation (FDIC) is an independent federal agency insuring deposits in U.S. banks and thrifts in the event of bank failures. The FDIC was created in 1933 to maintain public confidence and encourage stability in the financial system through the promotion of sound banking practices.

Federal Funds Rate. Interest rate charged by one institution lending federal funds to another.

Federal Open Market Committee (FOMC). Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of the bank credit and money.

Federally Insured Time Deposit. A time deposit is an interest-bearing bank deposit account that has a specified date of maturity, such as a certificate of deposit (CD). These deposits are limited to funds insured in accordance with FDIC insurance deposit limits.

Fiscal Agent. A financial institution which performs payment of principal and interest to bondholders, and certain administrative duties on the bond issuer's behalf.

Leverage. Borrowing funds in order to invest in securities that have the potential to pay earnings at a rate higher than the cost of borrowing.

Liquidity. The speed and ease with which an asset can be converted to cash.

Local Agency Investment Fund (LAIF). A voluntary investment fund open to government entities and certain non-profit organizations in California that is managed by the State Treasurer's Office.

Local Agency Investment Guidelines (LAIG). Published by CDIAC, these guidelines are intended to aid local officials in their efforts to implement existing laws pertaining to the investment of public funds. Each year, CDIAC staff convenes a working group of public- and private-sector professionals to support its efforts to revise and update these Guidelines

Local Government Investment Pool. Investment pools that range from the State Treasurer's Office Local Agency Investment Fund (LAIF) to county pools, to Joint Powers Authorities (JPAs). These funds are not subject to the same SEC rules applicable to money market mutual funds.

Make Whole Call. A type of call provision on a bond that allows the issuer to pay off the remaining debt early. Unlike a call option, with a make whole call provision, the issuer makes a lump sum payment that equals the net present value (NPV) of future coupon payments that will not be paid because of the call. With this type of call, an investor is compensated, or "made whole."

Margin. The difference between the market value of a security and the loan a broker makes using that security as collateral.

Market Risk. The risk that the value of securities will fluctuate with changes in overall market conditions or interest rates.

Market Value. The price at which a security can be traded.

Master Repurchase Agreement. A written contract covering all future transactions between the parties to repurchase-reverse repurchases agreements that establishes each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller borrower.

Maturity. The final date upon which the principal of a security becomes due and payable.

Medium Term Notes. Unsecured, investment-grade senior debt securities of major corporations which are sold in relatively small amounts on either a continuous or an intermittent basis. MTNs are highly flexible debt instruments that can be structured to respond to market opportunities or to investor preferences.

Modified Duration. The percent change in price for a 100-basis point change in yields. Modified duration is the best single measure of a portfolio's or security's exposure to market risk.

Money Market. The market in which short-term debt instruments (T-bills, discount notes, commercial paper, and banker's acceptances) are issued and traded.

Money Market Mutual Fund. A mutual fund that invests exclusively in short-term securities. Examples of investments in money market funds are certificates of deposit and U.S. Treasury securities. Money market funds attempt to keep their net asset values at $1 per share.

Mortgage Pass-Through Securities. A securitized participation in the interest and principal cash flows from a specified pool of mortgages. Principal and interest payments made on the mortgages are passed through to the holder of the security.

Municipal Securities. Securities issued by state and local agencies to finance capital and operating expenses.

Mutual Fund. An entity which pools the funds of investors and invests those funds in a set of securities which is specifically defined in the fund's prospectus. Mutual funds can be invested in various types of domestic and/or international stocks, bonds, and money market instruments, as set forth in the individual fund's prospectus. For most large, institutional investors, the costs associated with investing in mutual funds are higher than the investor can obtain through an individually managed portfolio.

Nationally Recognized Statistical Rating Organization (NRSRO). A credit rating agency that the Securities and Exchange Commission in the United States uses for regulatory purposes. Credit rating agencies provide assessments of an investment's risk. The issuers of investments, especially debt securities, pay credit rating agencies to provide them with ratings. The three most prominent NRSROs are Fitch, S&P, and Moody's.

Negotiable Certificate of Deposit (CD). A short-term debt instrument that pays interest and is issued by a bank, savings or federal association, state or federal credit union, or state-licensed branch of a foreign bank. Negotiable CDs are traded in a secondary market and are payable upon order to the bearer or initial depositor (investor).

Offer Price. The price at which a broker/dealer will offer securities to an investor.

Paper Gain Or Loss. Term used for unrealized gain or loss on securities being held in a portfolio based on comparison of current market quotes and their original cost. This situation exists as long as the security is held while there is a difference between cost value (book value) and the market value.

Portfolio. Collection of securities held by an investor.

Premium. The difference between the cost price of a security and its par value, when the cost is higher than par.

Primary Dealer. A financial institution (1) that is a trading counterparty with the Federal Reserve in its execution of market operations to carry out U.S. monetary policy, and (2) that participates for statistical reporting purposes in compiling data on activity in the U.S. Government securities market.

Prudent Person (Prudent Investor) Rule. A standard of responsibility which applies to fiduciaries. In California, the rule is stated as "Investments shall be managed with the care, skill, prudence and diligence, under the circumstances then prevailing, that a prudent person, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims to accomplish similar purposes."

Rate of Return. The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity; on a bond, the current income return.

Repurchase Agreement (REPO). Short-term purchases of securities with a simultaneous agreement to sell the securities back at a higher price. From the seller's point of view, the same transaction is a reverse repurchase agreement.

Reverse Repurchase Agreement (Reverse REPO). A reverse-repurchase agreement (reverse repo) involves an investor borrowing cash from a financial institution in exchange for securities. This investor agrees to repurchase the securities at a specific date for the same cash value plus an agreed upon interest rate. Although the transaction is similar to repo, the purpose of entering into a reverse repo is quite different. While a repo is straightforward investment of public funds, the reverse repo is a borrowing.

Safekeeping. A service to bank customers whereby securities are held by the bank in the customer's name.

Securities and Exchange Commission (SEC). The U.S. Securities and Exchange Commission (SEC) is an independent federal government agency responsible for protecting investors, maintaining fair and orderly functioning of securities markets and facilitating capital formation. It was created by Congress in 1934 as the first federal regulator of securities markets. The SEC promotes full public disclosure, protects investors against fraudulent and manipulative practices in the market, and monitors corporate takeover actions in the United States.

Securities and Exchange Commission SEC) Rule 15c3-1. An SEC rule setting capital requirements for brokers and dealers. Under Rule 15c3-1, a broker or dealer must have sufficient liquidity in order to cover the most pressing obligations. This is defined as having a certain amount of liquidity as a percentage of the broker/dealer's total obligations. If the percentage falls below a certain point, the broker or dealer may not be allowed to take on new clients and may have restrictions placed on dealings with current client.

Spread. a) The yield or price difference between the bid and offer on an issue. b) The yield or price difference between different issues.

Structured Note. A complex, fixed income instrument, which pays interest, based on a formula tied to other interest rates, commodities or indices. Examples include inverse floating rate notes which have coupons that increase when other interest rates are falling, and which fall when other interest rates are rising, and "dual index floaters," which pay interest based on the relationship between two other interest rates - for example, the yield on the ten-year Treasury note minus the Libor rate. Issuers of such notes lock in a reduced cost of borrowing by purchasing interest rate swap agreements.

Supranational. A Supranational is a multi-national organization whereby member states transcend national boundaries or interests to share in the decision making to promote economic development in the member countries. There are three supranational institutions that issue obligations that are eligible investments for California local agencies: the

International Bank of Reconstruction and Development (IBRD), International Finance Corporation (IFC), and Inter-American Development Bank (IADB).

Swap. The sale of one issue and the simultaneous purchase of another for some perceived advantage.

Total Rate of Return. A measure of a portfolio's performance over time. It is the internal rate of return, which equates the beginning value of the portfolio with the ending value; it includes interest earnings, realized and unrealized gains, and losses in the portfolio.

U.S. Treasury Obligations. Securities issued by the U.S. Treasury and backed by the full faith and credit of the United States. Treasuries are considered to have no credit risk and are the benchmark for interest rates on all other securities in the US and overseas. The Treasury issues both discounted securities and fixed coupon notes and bonds.

Treasury Bills. All securities issued with initial maturities of one year or less are issued as discounted instruments and are called Treasury bills. The Treasury currently issues three- and six-month T-bills at regular weekly auctions. It also issues "cash management" bills as needed to smooth out cash flows.

Treasury Bonds. All securities issued with initial maturities greater than ten years are called Treasury bonds. Like Treasury notes, they pay interest semi-annually.

Treasury Notes. All securities issued with initial maturities of two to ten years are called Treasury notes and pay interest semi-annually.

Trustee. A financial institution with trust powers that acts in a fiduciary capacity for the benefit of the bondholders in enforcing the terms of the bond contract.

Yield Curve. Yield calculations of various maturities at a given time to observe spread difference.

Yield to Maturity. The annualized internal rate of return on an investment which equates the expected cash flows from the investment to its cost.

APPENDIX A – RESOLUTION 2021-164 (INVESTMENT OF INACTIVE FUNDS IN LAIF)

RESOLUTION NO. 2021-164

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, PROVIDING FOR THE INVESTMENT OF INACTIVE FUNDS IN THE LOCAL AGENCY INVESTMENT FUND OF THE CALIFORNIA STATE TREASURY AND HEREBY RESCINDING RESOLUTION NO. 2020-171.

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

SECTION 1. The California State Legislature has, pursuant to Chapter 730 of the Statutes of 1976, Sections 16429.1 et seq., added to the Government Code and created the Local Agency Investment Fund as a special fund in the California State Treasury. The pooling of funds by many California local agencies will create a fund allowing for high rates of return due to the use of large denomination instruments.

SECTION 2. The City of Ontario has money in its treasury not required for immediate needs and it is in the best interest of the city to place said money in approved investments yielding maximum returns.

SECTION 3. The City of Ontario, 303 East "B" Street, Civic Center, Ontario, California 91764-4196, will participate in the Local Agency Investment Fund of the California State Treasury.

SECTION 4. The City of Ontario agrees to deposit or withdraw money in the Local Agency Investment Fund in the California State Treasury in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein.

SECTION 5. The following persons are authorized to order the deposit or withdrawal of money in the Local Agency Investment Fund or their successors.

James R. Milhiser, City Treasurer
Armen Harkalyan, Deputy City Treasurer
Michelle Nguyen, Deputy City Treasurer
William Quan, Deputy City Treasurer
Cecilia House, Deputy City Treasurer

SECTION 6. Resolution No. 2020-171 is hereby rescinded.

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

PASSED, APPROVED, AND ADOPTED this 2nd day of November 2021.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021-164 was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 2, 2021 by the following roll call vote, to wit:

AYES:	MAYOR/COUNCIL MEMBERS:	LEON, WAPNER, BOWMAN, DORST-PORADA AND VALENCIA
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE

Sheila Mautz
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021-164 duly passed and adopted by the Ontario City Council at their regular meeting held November 2, 2021.

Sheila Mautz
SHEILA MAUTZ, CITY CLERK

(SEAL)

APPENDIX B – RESOLUTION 2021-165 (INVESTMENT OF CITY FUNDS)

RESOLUTION NO. 2021-165

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE INVESTMENT OF CITY FUNDS AND HEREBY RESCINDING RESOLUTION NO. 2020-172.

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

SECTION 1. That the City Treasurer and/or any duly-appointed Deputy City Treasurers whose names appear in this resolution are hereby authorized to open investment accounts for the City of Ontario with any bank, savings and loan association, broker dealer or other financial institution, hereinafter referred to as "broker", to purchase, sell and or deal in such notes, bonds, bills, certificates of indebtedness, warrants or registered warrants and/or other investments as are authorized for general law cities in the State of California by Chapter 4 of Part 1 Division 2 of Title 5 of the Government Code (commencing with section 53600) (hereinafter "authorized investments"), and as limited by the current investment policy of the City Council of the City of Ontario, a copy of which is attached to and made a part of this resolution, and/or such other investment policy which may be adopted by said City Council, and that all orders and instructions, written or oral, which may be given by either the City Treasurer or a duly-appointed Deputy City Treasurer; and each of whom is hereby authorized and directed to purchase, sell and/or deal in authorized investment instruments through said broker on behalf of the City of Ontario, which they may deem necessary or advisable for the City of Ontario for cash and also to make payments and to sign checks or drafts drawn upon the funds of the City of Ontario and also, to withdraw from said broker from time to time, to deliver or accept delivery of, and/or to endorse, and/or to direct the transfer of record title of, all authorized investments, and/or assets or funds that may be carried by said broker for the account of the City of Ontario, and

SECTION 2. That each of the aforesaid officers of the City of Ontario be and hereby authorized and directed to execute and deliver on behalf of the City of Ontario any customer's agreement required by broker and to enter into, execute, and deliver, any and all other agreements, documents, releases, and writings that may be required by said broker for the opening and/or continuing of said account in connection with any transaction relating to said account or to any securities or moneys of the City of Ontario whether or not in said account, provided, however, that no customer's agreement shall authorize investment in other than authorized investments, and

SECTION 3. That until broker shall receive duly written notices of change or rescission of these resolutions, said broker may rely upon the authority contained in this resolution as continuing fully effective, and the said broker may rely upon any certified copy of resolutions, specimen signatures or other writings, signed on behalf of the City of Ontario by any officer thereof; the acceptance of any other form of notice shall not constitute a waiver, of this provision, nor shall the fact that any person hereby empowered ceases to be an officer or becomes an officer under some other title, in any way affect the powers hereby conferred, until broker shall receive due written notice of change or rescission, as aforesaid, and

SECTION 4. That in the event of any change in the office or powers of persons hereby empowered, the City Council shall certify those changes to broker in writing, in the manner herein above specified, which notification, when received, shall be adequate both to terminate the powers of the person theretofore authorized, and to empower the persons thereby substituted, and

SECTION 5. That any and all orders and instructions heretofore given to said broker on behalf of the City of Ontario by any officer of the City of Ontario, are hereby in all respects ratified, confirmed and approved, and

SECTION 6. That the foregoing resolutions and the certificates actually furnished to broker by any officer of the City of Ontario, be and they hereby are made irrevocable, and shall be fully effective as to any transaction for the account of the City of Ontario notwithstanding that the account may have been temporarily closed or inactive, until written notice of the revocation thereof shall have been received by broker.

SECTION 7. That Resolution No. 2020-172 is hereby rescinded.

SECTION 8. I DO FURTHER CERTIFY that the following are the signatures and titles of the persons authorized and empowered to act on behalf of the City of Ontario, pursuant to the foregoing resolutions, and this resolution is in accordance with and does not conflict with the existing ordinances and/or resolutions.

[redacted]
James R. Milhiser, City Treasurer

[redacted]
Armen Harkalyan, Deputy City Treasurer

[redacted]
Michelle Nguyen, Deputy City Treasurer

[redacted]
William Quan, Deputy City Treasurer

[redacted]
Cecilia House, Deputy City Treasurer

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

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

PASSED, APPROVED, AND ADOPTED this 2nd day of November 2021.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER, LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2021-165 was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 2, 2021 by the following roll call vote, to wit:

AYES:	MAYOR/COUNCIL MEMBERS:	LEON, WAPNER, BOWMAN, DORST-PORADA AND VALENCIA
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE

Sheila Mautz
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021-165 duly passed and adopted by the Ontario City Council at their regular meeting held November 2, 2021.

Sheila Mautz
SHEILA MAUTZ, CITY CLERK

(SEAL)

APPENDIX C – CALIFORNIA MUNICIPAL TREASURERS ASSOCIATION INVESTMENT POLICY CERTIFICATE



California Municipal
Treasurers Association

Investment Policy Certification

CALIFORNIA REPUBLIC

Issued on 10/06/2021

City of Ontario

The California Municipal Treasurers Association certifies that the investment policy of the City of Ontario complies with the current State statutes governing the investment practices of local government entities located within the State of California.

CMTA

President

08/15/2021

Date

Developed by the California Municipal Treasurers Association (CMTA) with support from the California Debt and Investment Advisory Commission (CDIAC), the CMTA Investment Policy Certification Program provides professional guidance and assistance in developing and/or improving investment policies that meet industry best practices for California's public sector agencies and districts.

CITY OF ONTARIO *Agenda Report* **December 7, 2021**	**SECTION:** **PUBLIC HEARINGS**
Department: Planning Prepared By: Elly Antuna Staff Member Presenting: Scott Murphy, AICP, Executive Community Development Director Approved By:	Submitted To: Council/OHA Approved: _____ Continued To: _____ Denied: _____ Item No: 14

SUBJECT: A PUBLIC HEARING TO CONSIDER FOUR MILLS ACT CONTRACTS (PRESERVATION AGREEMENTS) FOR FOUR DESIGNATED HISTORIC PROPERTIES

RECOMMENDATION: That the City Council consider and adopt resolutions approving and authorizing the City Manager to enter into Mills Act contracts (Preservation Agreements), for the following designated historic properties:

A. File No. PHP21-006, 1240 North Euclid Avenue (APN: 1047-531-07), Bryan and Monica Sinsabaugh
B. File No. PHP21-010, 1130 North Columbia Avenue (APN: 1047-543-03), Jonathan and Kelly Rushing
C. File No. PHP21-011, 1112 North Euclid Avenue (APN: 1047-542-04), Zhenwei and Wei Xu
D. File No. PHP21-012, 1108 North Euclid Avenue (APN: 1047-542-03), Luke and Jessica Bideaux

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

FISCAL IMPACT: The projected net impact of the proposed contracts to the City is $1,834 in the first year and approximately $18,340 over the first ten years of the contracts from a reduction in property tax revenue. This minimal reduction in property tax revenue will be accounted for in the revenue estimates as part of the annual budget process. In exchange for property tax reductions, $267,145 in private property investments will be made over a ten-year period.

BACKGROUND & ANALYSIS: Four Mills Act contracts are being proposed for this year, which represent a total investment of $267,145 of private funds into the City's neighborhoods over the next ten years. The contracts call for improvements to exterior finishes (window restoration, roof replacement, stucco and wood siding repair and repainting), interior finishes (wood framing and plaster repairs, paint), and systems upgrades (electrical, plumbing and gas line).

A Mills Act contract is a contract between the City and a property owner whereby the property owner agrees to certain improvements that preserve the historic integrity and character of the building and keep the property in good repair. In exchange for the investments, State law requires the county tax assessor to reassess the property's value based on an alternative formula. The new assessed value may

result in a significant reduction in the owner's property taxes. The Mills Act does not require investment in the property to be equal to the amount of the tax savings. The purpose is to provide a financial incentive to the owners of historic properties to maintain their properties consistent with its historic context.

Upon City Council approval, the City Clerk will inform the San Bernardino County Assessor that the property owners have entered into a Mills Act contract. The contract is a perpetual 10-year contract that automatically renews annually. If a property with a recorded Mills Act contract is sold, the County of San Bernardino will continue to assess the property using the alternate formula and the new owner will be required to fulfill the contractual preservation agreement. A contract can be "non-renewed" by either party upon written notice. If a contract is cancelled as a result of non-compliance with the conditions of the contract, a cancellation fee of 12.5% of the market value (as of the time of cancellation) is assessed by the County Assessor and shall be paid by the property owner to the County Auditor.

The City has 78 approved Mills Act contracts and four proposed, for a total of 82 Mills Act contracts. Of the 82 properties, six are commercial, one is multi-family residential, and 75 are single-family residential. Property tax impacts are summarized below:

	Existing	Proposed	Total
Number of Contracts	78	4	82
Estimated Annual Total Tax Savings to Owners	$138,769	$10,915	$149,684
Estimated Annual Cost to City (first year)	$23,313	$1,834	$25,147
Estimated Cost to City (over ten years)	$233,130	$18,340	$251,470

The estimated cost of the 82 Mills Act contracts over a ten-year period is $251,470. In exchange for this decrease in property tax revenues, approximately $3,472,020 will be reinvested into historic buildings in Ontario neighborhoods over a ten-year period – a ratio of $13.81 in private funds spent for every dollar the City foregoes in property tax revenue.

The Mills Act contracts are in compliance with the provisions of Article 12 (commencing with Section 50280), Chapter 1, Part 1, Division 1, Title 5 of the Government Code of the State of California, which establishes the Mills Act program. The properties are contributors to locally designated historic districts and are owner occupied, single-family residences.

On October 26, 2021, the Historic Preservation Commission voted unanimously (6-0) to recommend City Council approval of the proposed Mills Act contracts.

ENVIRONMENTAL REVIEW: The applications were reviewed pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). Per Section 21065 of the CEQA Guidelines, the Historic Preservation Agreement (Mills Act contract) is not considered a project. Therefore, no further environmental review is required.

HISTORIC PRESERVATION COMMISSION STAFF REPORT

OCTOBER 26, 2021

FILE NOS. : PHP21-006, PHP21-010, PHP21-011 and PHP21-012

SUBJECT: Request for four (4) Mills Act Contracts

LOCATIONS: 1240 North Euclid Avenue (APN: 1047-531-07); 1130 North Columbia Avenue (APN: 1047-543-03); 1112 North Euclid Avenue (APN: 1047-542-04); and 1108 North Euclid Avenue (APN: 1047-542-03)

PROPERTY OWNER: Bryan and Monica Sinsabaugh; Jonathan and Kelly Rushing; Zhenwei and Wei Xu; and, Luke and Jessica Bideaux

RECOMMENDATION: That the Historic Preservation Commission adopt the attached resolutions recommending that the City Council approve File Nos. PHP21-006, PHP21-010, PHP21-011 and PHP21-012. The Historic Preservation Subcommittee reviewed this application on October 14, 2021 and is recommending approval.

BACKGROUND: Effective March 7, 1973, Chapter 1442 of the Statutes of 1972 (also known as the Mills Act) added sections 50280 through 50289 to the Government Code to allow an owner of a qualified historical property to enter into a preservation contract with a local government. The City of Ontario established the Mills Act program in 1997 to provide an economic incentive for the preservation of designated historic landmarks and/or contributing structures within a designated historic district. Since inception of the City's program, 78 Mills Act Contracts have been approved and recorded. There are four contracts proposed at this time, four single-family residences designated as Contributors to the College Park and Euclid Avenue Historic Districts.

In order for the historic property to be eligible for the program, it must meet the requirements outlined in the guidelines and standards set by the State of California, Board of Equalization, and the City's Development Code (Sec. 4.02.065). The historic property must be either a local, state, or nationally designated property or a contributor within a locally designated historic district whereby the property owner agrees to certain improvements to restore, rehabilitate, or preserve a qualified historic building. In exchange, the San Bernardino County Tax Assessor reassesses the property's value based on an alternative formula that may result in a significant reduction in the owner's property taxes.

Case Planner:	**Elly Antuna, Associate Planner**	**Hearing Body**	**Date**	**Decision**	**Action**
Planning Director Approval:		HPSC:	**10/14/2021**	Approval	Recommend
		PC / HPC:	**10/26/2021**	Approval	Recommend
Submittal Date:		CC:	**12/07/2021**		Final

Pursuant to State law, a Mills Act Contract is recorded on the property and is a perpetual 10-year contract that automatically renews annually, unless the property owner or the City request a notice of non-renewal. The Mills Act Contract and all benefits and responsibilities remain with the land, even after a change of ownership. If a contract is cancelled for any reason, including non-compliance with the conditions of the contract, or upon the request of the property owner or City, a cancellation fee of 12.5 percent of the market value (as of the time of cancellation) is assessed.

PROJECT ANALYSIS: Staff provides estimates of potential tax savings for the property owner, but ultimately, only the San Bernardino County Assessor can determine the actual Mills Act adjusted value. The Mills Act assessment involves many variables that are typically determined by market forces such as interest rates, capitalization rates, and fair market rental rates. The average property tax savings for the proposed Mills Act Contracts roughly range between 30 and 55 percent in the initial year, with a tax savings decrease each passing year. According to the City budget, Ontario receives 16.8 percent of the property taxes collected. Using that percentage, staff has also calculated the estimated reduction in property tax revenue, the "City cost," and has included that in the analysis.

Upon City Council approval, the City Clerk informs the San Bernardino County Assessor that the property has entered into a Mills Act Contract. The Assessor valuates the historic property with the Mills Act assessment the following tax year, which may differ from the Planning Department estimates.

A. FILE NO.: PHP21-006

PROPERTY OWNER: Bryan and Monica Sinsabaugh

LOCATION: 1240 North Euclid Avenue

HISTORIC NAME: Peter H. Vandenberg House

DESIGNATION DATE: September 16, 2003 (Local Landmark No. 73) and June 4, 2013 (Euclid Avenue Historic District)



[1] Work Program — The applicants, Bryan and Monica Sinsabaugh, are proposing both exterior and interior work as part of the contract that qualifies under the guidelines and standards set by the State of California. The exterior work includes repair to wood under eaves and exposed rafter tails, window restoration, exterior stucco and paint, and new awnings, shutters, and screen doors. The interior work includes new plumbing. The improvements are valued at an estimated $64,500.

[2] Property Owner Savings — The following Mills Act savings to the property owner are based on estimates calculated by the Planning Department.

Current Annual Taxes Paid:	$5,526
Mills Act Annual Taxes Estimated:	$3,298
Potential Total Annual Tax Savings:	$2,228
Estimated Savings over 10 years:	$22,280
Estimated Savings Percentage:	40.3%

[3] City Cost — According to the City budget, Ontario receives approximately 16.8 percent of the property taxes collected. The following shows the cost to the City for this contract and is based on estimates calculated by the Planning Department.

Current Annual City Tax Revenue:	$928
Mills Act Annual City Tax Revenue Estimated:	$554
Estimated Total Annual Cost to the City:	$374
Estimated Cost to the City over 10 years:	$3,740

This contract provides for $17.24 in improvements for every $1 in estimated property tax cost to the City.

B. FILE NO.: PHP21-010

PROPERTY OWNER: Jonathan and Kelly Rushing

LOCATION: 1130 North Columbia Avenue

HISTORIC NAME: Laura Russell House

DESIGNATION DATE: July 18, 2000 (College Park Historic District)



[1] Work Program — The applicants, Jonathan and Kelly Rushing, are proposing exterior work as part of the contract that qualifies under the guidelines and standards set by the State of California. The work includes driveway and fence replacement, landscaping, irrigation, garage roof repairs and exterior paint. The improvements are valued at an estimated $30,500.

[2] Property Owner Savings — The following Mills Act savings to the property owner are based on estimates calculated by the Planning Department.

Current Annual Taxes Paid:	$3,874
Mills Act Annual Taxes Estimated:	$2,641
Potential Total Annual Tax Savings:	$1,233
Estimated Savings over 10 years:	$12,330
Estimated Savings Percentage:	31.8%

[3] City Cost — According to the City budget, Ontario receives approximately 16.8 percent of the property taxes collected. The following shows the cost to the City for this contract and is based on estimates calculated by the Planning Department.

Current Annual City Tax Revenue:	$651
Mills Act Annual City Tax Revenue Estimated:	$444
Estimated Total Annual Cost to the City:	$207
Estimated Cost to the City over 10 years:	$2,070

This contract provides for $14.73 in improvements for every $1 in estimated property tax cost to the City.

C. FILE NO.: PHP21-011

PROPERTY OWNER: Zhenwei and Wei Xu

LOCATION: 1112 North Euclid Avenue

HISTORIC NAME: Harold Latimer House

DESIGNATION DATE: June 4, 2013 (Euclid Avenue Historic District)



[1] Work Program — The applicants, Zhenwei and Wei Xu, is proposing both exterior and interior work as part of the contract that qualifies under the guidelines and standards set by the State of California. The exterior work includes repair of stucco, paint, and window repairs. The interior work includes new plumbing, water heater, electrical and gas lines, repair to interior plaster and repair to wood framing in the detached garage. The improvements are valued at an estimated $81,120.

[2] Property Owner Savings — The following Mills Act savings to the property owner are based on estimates calculated by the Planning Department.

Current Annual Taxes Paid:	$7,779
Mills Act Annual Taxes Estimated:	$4,193
Potential Total Annual Tax Savings:	$3,586
Estimated Savings over 10 years:	$35,860

Estimated Savings Percentage:	46.1%

[3] City Cost — According to the City budget, Ontario receives approximately 16.8 percent of the property taxes collected. The following shows the cost to the City for this contract and is based on estimates calculated by the Planning Department.

Current Annual City Tax Revenue:	$1,307
Mills Act Annual City Tax Revenue Estimated:	$704
Estimated Total Annual Cost to the City:	$603
Estimated Cost to the City over 10 years:	$6,030

This contract provides for $13.45 in improvements for every $1 in estimated property tax cost to the City.

D. FILE NO.: PHP21-012

PROPERTY OWNER: Luke and Jessica Bideaux

LOCATION: 1108 North Euclid Avenue

HISTORIC NAME: Homer Berger House

DESIGNATION DATE: June 4, 2013 (Euclid Avenue Historic District)



[1] Work Program — The applicants, Luke and Jessica Bideaux, are proposing both exterior and interior work as part of the contract that qualifies under the guidelines and standards set by the State of California. The exterior work includes repair of wood shingles and windows, and restoration of spalling brick at the front patio. Other exterior work includes a new roof on the front of the residence, and repairs to the flat roof at the rear of the residence. The interior work includes a new HVAC system, paint, and electrical upgrades. The improvements are valued at an estimated $91,025.

[2] Property Owner Savings — The following Mills Act savings to the property owner are based on estimates calculated by the Planning Department.

Current Annual Taxes Paid:	$7,834
Mills Act Annual Taxes Estimated:	$3,966
Potential Total Annual Tax Savings:	$3,868
Estimated Savings over 10 years:	$38,680
Estimated Savings Percentage:	49.3%

[3] City Cost — According to the City budget, Ontario receives approximately 16.8 percent of the property taxes collected. The following shows the cost to the City for this contract and is based on estimates calculated by the Planning Department.

Current Annual City Tax Revenue:	$1,316
Mills Act Annual City Tax Revenue Estimated:	$666
Estimated Total Annual Cost to the City:	$650
Estimated Cost to the City over 10 years:	$6,500

This contract provides for $14.00 in improvements for every $1 in estimated property tax cost to the City.

CUMULATIVE IMPACTS: The City currently has 78 approved Mills Act Contracts and four proposed contracts. The cumulative impacts are based on the initial projected assessment of each contract for the proposed year.

	Existing	*Proposed*
Number of contracts:	78	82
Average Estimated Annual Tax Saving to Property Owners:	$1,779	$1,825
Estimated Annual Cost to the City:	$23,313	$25,147
Estimated Cost to the City over 10 Years:	$233,130	$251,470
Estimated Total Value of Mills Act Improvements over 10 Years:	$3,204,875	$3,472,020
Estimated Loss of Revenue to Improvement Ratio:	$1/13.75	$1/13.81

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

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods

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

[2] Policy Plan (General Plan)

Community Design Element – Historic Preservation

- Goal CD4: Historic buildings, streets, landscapes, and neighborhoods, as well as the story of Ontario's people, businesses, and social and community organizations, that have been preserved and serve as a focal point for civic pride and identity.

  - CD4-2 Collaboration with Property Owners and Developers. We educate and collaborate with property owners and developers to implement strategies and best practices that preserve the character of our historic buildings, streetscapes, and unique neighborhoods.

  - CD4-4 Incentives. We use the Mills Act and other federal, state, regional and local programs to assist property owners with the preservation of select properties and structures.

  - CD4-6 Promotion of Public Involvement in Preservation. We engage in programs to publicize and promote the City's and the public's involvement in preservation efforts.

Community Design Element – Protection of Investment

- 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.

  - CD5-3 Improvements to Property & Infrastructure. We provide programs to improve property and infrastructure.

  - CD5-4 Neighborhood Involvement. We encourage active community involvement to implement programs aimed at the beautification and improvement of neighborhoods.

ENVIRONMENTAL REVIEW: A Mills Act Contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and, therefore, is not a project subject to The California Environmental Quality Act, pursuant to Section 21065 of the California Public Resources Code.

RESOLUTION NO. PC21-070

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE FILE NO. PHP21-006, THE MILLS ACT CONTRACT FOR THE PETER H. VANDENBERG HOUSE, LOCATED AT 1240 NORTH EUCLID AVENUE (APN: 1047-531-07).

WHEREAS, BRYAN AND MONICA SINSABAUGH ("Applicant") has filed an Application for the approval of a Mills Act Contract, File No. PHP21-006, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City's character and history are reflected in its cultural, historical, and architectural heritage with an emphasis on the "Model Colony" as declared by an act of the Congress of the United States and presented at the St. Louis World's Fair in 1904; and

WHEREAS, the City's historical foundations should be preserved as living parts of community life and development in order to foster an understanding of the City's past so that future generations may have a genuine opportunity to appreciate, enjoy, and understand Ontario's rich heritage; and

WHEREAS, the Community Development and the Aesthetic, Cultural, Open Space and Recreational Resources Elements of the Ontario Plan (Policy Plan) sets forth Goals and Policies to conserve Ontario's historic buildings and districts; and

WHEREAS, the Peter H. Vandenberg House, a Monterey Revival and Spanish Eclectic style single-family residence constructed in 1927 (est.), located at 1240 North Euclid Avenue (APN: 1047-531-07) is worthy of preservation and was designated by City Council on September 16, 2003 as Local Landmark No. 73 and on June 4, 2013 as a Contributor within the Euclid Avenue Historic District; and

WHEREAS, the Application is not a project pursuant to Section 21065 of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") Guidelines. The Mills Act Contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment; and

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

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been

completed; and

WHEREAS, on October 14, 2021, the Historic Preservation Subcommittee of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Decision No. HPSC21-008, recommending the Historic Preservation Commission recommend to the City Council approval of the Application; and

WHEREAS, on October 26, 2021, the Historic Preservation Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, the Historic Preservation Commission has reviewed this application and determined it to be to the mutual benefit to the City and property owner to enter into a Historic Property Preservation Agreement; and

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

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

SECTION 1. ***Environmental Determination and Findings***. As the recommending body for the Project, the 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 Historic Preservation Commission, the Historic Preservation Commission finds that the Mills Act Contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and, therefore, is not a project subject to The California Environmental Quality Act, pursuant to Section 21065 of the California Public Resources Code.

SECTION 2. ***Concluding Facts and Reasons.*** Based upon the substantial evidence presented to the Historic Preservation Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Historic Preservation Commission hereby concludes as follows:

(1) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

(2) The Peter H. Vandenberg House, located at 1240 North Euclid Avenue, was

designated by City Council on September 16, 2003 as Local Landmark No. 73 and on June 4, 2013 as a Contributor within the Euclid Avenue Historic District; and

(3) The Applicant has set forth a work program for this specific property to ensure the preservation of this historic resource that qualifies under the guidelines and standards set by the State of California.

SECTION 3. ***Historic Preservation Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Historic Preservation Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE THE REQUEST FOR A MILLS ACT CONTRACT.

SECTION 4. ***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 5. ***Custodian of Records***. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 E. B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

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The Secretary Pro Tempore for the 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 Historic Preservation Commission of the City of Ontario at a regular meeting thereof held on the 26th day of October, 2021, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Rick Gage
Historic Preservation Commission
Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Historic Preservation Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Historic Preservation Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC21-070, was duly passed and adopted by the Historic Preservation Commission of the City of Ontario at their regular meeting held on October 26, 2021, by the following roll call vote, to wit:

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

NOES: None

ABSENT: None

ABSTAIN: Gage

Gwen Berendsen
Secretary Pro Tempore

RECORDING REQUESTED BY
And When
RECORDED MAIL TO:

City Clerk, City of Ontario
303 East "B" Street
Ontario, CA 91764

Exempt Recording Fees Pursuant to Government Code Section 6103 & 27383

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of December 2021, by and between the City of Ontario, a municipal corporation (hereinafter referred to as the "City") and Bryan Sinsabaugh and Monica Sinsabaugh (hereinafter referred to as the "Owner").

WITNESSETH:

A. Recitals.

(I) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance;

(ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as the Peter H. Vandenberg House, generally located at the street address 1240 North Euclid Avenue, Ontario, CA 91762 (hereinafter such property shall be referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as

Exhibit “A” and is incorporated herein by this reference;

(iii) On September 16, 2003, the City Council of the City of Ontario designated the Historic Property as Local Landmark No. 73 pursuant to the terms and provisions of Title 9, Chapter 1, Chapter 4 of the Ontario Municipal Code; and,

(iv) On June 4, 2013, the City Council of the City of Ontario designated the Historic Property as a Contributor to the Euclid Avenue Historic District pursuant to the terms and provisions of Title 9, Chapter 1, Chapter 4 of the Ontario Municipal Code; and,

(v) The City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on December 7, 2021 and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the effective date, such initial term will automatically be extended as provided in paragraph 2, below.

2. Renewal. Each year on the anniversary of the effective date of this Agreement (hereinafter referred to as the “renewal date”), a year shall automatically be added to the initial term of this Agreement unless notice of non-renewal is mailed as provided herein. If either Owner or City desires in any year not to renew the Agreement, Owner or City shall serve written notice of non-renewal of the Agreement on the other party in advance of the annual renewal date of the Agreement. Unless such notice is served by Owner to

City at least ninety (90) days prior to the annual renewal date, or served by City to Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall automatically be added to the term of the Agreement provided herein. Owner may make a written protest of the notice. Upon receipts by the Owner of a notice from the City of non-renewal, the City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice to Owner of non-renewal. If either City or Owner serves notice to the other of non-renewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

3. Fees. Prior to recordation the Applicant shall pay the applicable fee in effect at the time recordation is requested.

4. Standards for Historical Property. During the term of this Agreement, the Historic Property shall be subject to the following conditions, requirements and restrictions:

A. Owner shall preserve and maintain the characteristics of historical significance of the Historic Property. Attached hereto, marked as Exhibits "B", and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Agreement.

B. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Rehabilitation Standards, the State Historical Building Code, and the Ontario Development Code and in accordance with the attached schedule of potential improvements, drafted by the applicant and approved by the City Council, attached hereto as Exhibit "C".

C. Pursuant to Section 4.02.050 of the Ontario Development Code, Owner

shall obtain a Certificate of Appropriateness for any alteration, addition, restoration, rehabilitation, repainting, resurfacing, and for each and every item listed in Exhibit "C", prior to commencement of work. Failure to obtain all necessary permits, including building permits, and approvals may result in cancellation of this Agreement as set forth on Paragraph 6, Cancellation herein.

D. Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

5. Provision of Information of Corporation. Owner hereby agrees to furnish City with any and all information requested by the City, which may be necessary or advisable to determine compliance with the terms and provision of this Agreement.

6. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, et seq., may cancel this Agreement if it determines that Owner breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. City may also cancel this Agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 4(B) of this Agreement. In the event of cancellation, Owner may be subject to payment of those cancellation fees set forth in California Government Code Sections 50280, et seq.

7. Enforcement of Agreement. In lieu of and/or in addition to any provision to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such reasonable time as may be required to cure the breach or

default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach of default may be commenced within thirty (30) days and must be pursued to completion by Owner), then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such other relief against any violation by Owner or apply for such other relief an may be appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this agreement shall be deemed to be a waiver of any other subsequent breach thereof or default herein under.

8. Binding Effect of Agreement. The Owner hereby subjects the Historic Property described in Exhibit "A" hereto to the covenants, reservations and restriction as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that Owner's legal interest in the Historic Property is rendered less valuable thereby. City and Owner hereby further declare their understanding and intent that the

benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and the Owner.

9. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below or at any other address as may be later specified by the parties hereto.

To City: City of Ontario
303 East "B" Street
Ontario, CA 91764

Attention: Planning Director

To Owner: Bryan and Monica Sinsabaugh
1240 North Euclid Avenue
Ontario, CA 91762

10. General Provisions.

A. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

B. Owner agrees to and shall hold City and its elected officials, officers, agents, and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of his contractor, subcontractor, agent, employee or other person acting on his behalf which relates to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connection with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by

reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.

C. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

D. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

E. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

F. This Agreement shall be construed and governed in accordance with the laws of the State of California.

11. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Bernardino.

12. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, City and Owner have executed this Agreement on the day and year first written above.

CITY OF ONTARIO

Dated:_____ By: _____
City Manager

Attest

_____
City Clerk

Approved as to Form

_____
City Attorney

Dated:_____ By: _____
Bryan Sinsabaugh, Owner

Dated:_____ By: _____
Monica Sinsabaugh, Owner

Exhibit A: Historic Property Preservation Agreement
Legal Description

Address: 1240 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-531-07 **File No.:** PHP21-006

The property located at: 1240 North Euclid Avenue
Ontario, CA 91762

is legally described as: ONTAR1O COLONY LANDS N 60 FT S 513 FT W 150 FT LOT 774

APN: 1047-531-07-0-000

Exhibit B: Historic Property Preservation Agreement
Property Maintenance

Address: 1240 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-531-07 **File No.:** PHP21-006

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as fences, roofs, doors, walls, and windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers, or similar items;
4. Stagnant water or excavations, including unmaintained pools or spas;
5. Any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition, or its inappropriate location.

The property owner shall also comply with the provisions of the Duty to Keep in Good Repair Section of the Historic Preservation Ordinance (Sec. 9-1.7.01.045 of the Ontario Development Code) and all other applicable provisions of the City's Property Appearance – Nuisance Ordinance (Chapter 22 of Title 5 of the Ontario Municipal Code, Commencing at Sec. 5-22.02).

Exhibit C: Historic Property Preservation Agreement
Proposed Improvements

Address: 1240 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-531-07 **File No.:** PHP21-006

Contract Year	Description
2022:	Replace aluminum windows with wood windows to match original in Master bedroom
2023:	Replace aluminum windows with wood windows to match original in Living room, Dining room and Office
2024:	Replace aluminum windows with wood windows to match original in Bathroom and Bedrooms
2025:	Replace awnings
2026:	Replace wood flooring at balcony with new wood flooring
2027:	New plumbing, entire house.
2028:	Install new wood screen doors at exterior doors.
2029:	Stucco and paint exterior
2030:	Repair original shutters and replace if shutter is damaged beyond repair
2031:	Repair wood under eaves and exposed rafter tails

RESOLUTION NO. PC21-071

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE FILE NO. PHP21-010, THE MILLS ACT CONTRACT FOR THE LAURA RUSSELL HOUSE, LOCATED AT 1130 NORTH COLUMBIA AVENUE (APN: 1047-543-03).

WHEREAS, JONATHAN AND KELLY RUSHING ("Applicant") has filed an Application for the approval of a Mills Act Contract, File No. PHP21-010, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City's character and history are reflected in its cultural, historical, and architectural heritage with an emphasis on the "Model Colony" as declared by an act of the Congress of the United States and presented at the St. Louis World's Fair in 1904; and

WHEREAS, the City's historical foundations should be preserved as living parts of community life and development in order to foster an understanding of the City's past so that future generations may have a genuine opportunity to appreciate, enjoy, and understand Ontario's rich heritage; and

WHEREAS, the Community Development and the Aesthetic, Cultural, Open Space and Recreational Resources Elements of the Ontario Plan (Policy Plan) sets forth Goals and Policies to conserve Ontario's historic buildings and districts; and

WHEREAS, the Laura Russell House, a Craftsman Bungalow style single-family residence constructed in 1916, located at 1130 North Columbia Avenue (APN: 1047-543-03) is worthy of preservation and was designated by City Council on July 18, 2000 as a Contributor within the College Park Historic District; and

WHEREAS, the Application is not a project pursuant to Section 21065 of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") Guidelines. The Mills Act Contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment; and

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

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on October 14, 2021, the Historic Preservation Subcommittee of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Decision No. HPSC21-009, recommending the Historic Preservation Commission recommend to the City Council approval of the Application; and

WHEREAS, on October 26, 2021, the Historic Preservation Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, the Historic Preservation Commission has reviewed this application and determined it to be to the mutual benefit to the City and property owner to enter into a Historic Property Preservation Agreement; and

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

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

SECTION 1. ***Environmental Determination and Findings***. As the recommending body for the Project, the 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 Historic Preservation Commission, the Historic Preservation Commission finds that the Mills Act Contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and, therefore, is not a project subject to The California Environmental Quality Act, pursuant to Section 21065 of the California Public Resources Code.

SECTION 2. ***Concluding Facts and Reasons.*** Based upon the substantial evidence presented to the Historic Preservation Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Historic Preservation Commission hereby concludes as follows:

(1) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

(2) The Laura Russell House, located at 1130 North Columbia Avenue, was designated by City Council on July 18, 2000 as a Contributor within the College Park

Historic District; and

(3) The Applicant has set forth a work program for this specific property to ensure the preservation of this historic resource that qualifies under the guidelines and standards set by the State of California.

SECTION 3. ***Historic Preservation Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Historic Preservation Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE THE REQUEST FOR A MILLS ACT CONTRACT.

SECTION 4. ***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 5. ***Custodian of Records***. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 E. B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

- - - - - - - - - - - - - -

The Secretary Pro Tempore for the 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 Historic Preservation Commission of the City of Ontario at a regular meeting thereof held on the 26th day of October, 2021, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Rick Gage
Historic Preservation Commission
Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Historic Preservation Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Historic Preservation Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC21-071, was duly passed and adopted by the Historic Preservation Commission of the City of Ontario at their regular meeting held on October 26, 2021, by the following roll call vote, to wit:

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

NOES: None

ABSENT: None

ABSTAIN: Gage

Gwen Berendsen
Secretary Pro Tempore

RECORDING REQUESTED BY
And When
RECORDED MAIL TO:

City Clerk, City of Ontario
303 East "B" Street
Ontario, CA 91764

Exempt Recording Fees Pursuant to Government Code Section 6103 & 27383

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of December 2021, by and between the City of Ontario, a municipal corporation (hereinafter referred to as the "City") and Jonathan A. Rushing and Kelly E. Rushing (hereinafter referred to as the "Owner").

WITNESSETH:

A. Recitals.

(I) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance;

(ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as the Laura Russell House, generally located at the street address 1130 North Columbia Avenue, Ontario, CA 91764 (hereinafter such property shall be referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as Exhibit "A" and is

incorporated herein by this reference;

(iii) On July 18, 2000, the City Council of the City of Ontario designated the Historic Property as a Contributor to the College Park Historic District pursuant to the terms and provisions of Title 9, Chapter 1, Chapter 4 of the Ontario Municipal Code; and,

(iv) The City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on December 7, 2021 and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the effective date, such initial term will automatically be extended as provided in paragraph 2, below.

2. Renewal. Each year on the anniversary of the effective date of this Agreement (hereinafter referred to as the "renewal date"), a year shall automatically be added to the initial term of this Agreement unless notice of non-renewal is mailed as provided herein. If either Owner or City desires in any year not to renew the Agreement, Owner or City shall serve written notice of non-renewal of the Agreement on the other party in advance of the annual renewal date of the Agreement. Unless such notice is served by Owner to City at least ninety (90) days prior to the annual renewal date, or served by City to Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall automatically be added to the term of the Agreement provided herein. Owner may make a written protest of the notice. Upon receipts by the Owner of a notice from the City of non-renewal,

the City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice to Owner of non-renewal. If either City or Owner serves notice to the other of non-renewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

3. Fees. Prior to recordation the applicant shall pay the applicable fee in effect at the time recordation is requested.

4. Standards for Historical Property. During the term of this Agreement, the Historic Property shall be subject to the following conditions, requirements and restrictions:

A. Owner shall preserve and maintain the characteristics of historical significance of the Historic Property. Attached hereto, marked as Exhibits "B", and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Agreement.

B. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Rehabilitation Standards, the State Historical Building Code, and the Ontario Development Code and in accordance with the attached schedule of potential improvements, drafted by the applicant and approved by the City Council, attached hereto as Exhibit "C".

C. Pursuant to Section 4.02.050 of the Ontario Development Code, Owner shall obtain a Certificate of Appropriateness for any alteration, addition, restoration, rehabilitation, repainting, resurfacing, and for each and every item listed in Exhibit "C", prior to commencement of work. Failure to obtain all necessary permits, including building permits, and approvals may result in cancellation of this Agreement as set forth on

Paragraph 6, Cancellation herein.

D. Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

5. Provision of Information of Corporation. Owner hereby agrees to furnish City with any and all information requested by the City, which may be necessary or advisable to determine compliance with the terms and provision of this Agreement.

6. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, et seq., may cancel this Agreement if it determines that Owner breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. City may also cancel this Agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 4(B) of this Agreement. In the event of cancellation, Owner may be subject to payment of those cancellation fees set forth in California Government Code Sections 50280, et seq.

7. Enforcement of Agreement. In lieu of and/or in addition to any provision to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach of default may be commenced within thirty (30) days and must be pursued to completion by Owner), then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically

enforce the obligations of Owner growing out of the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such other relief against any violation by Owner or apply for such other relief an may be appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this agreement shall be deemed to be a waiver of any other subsequent breach thereof or default herein under.

8. Binding Effect of Agreement. The Owner hereby subjects the Historic Property described in Exhibit "A" hereto to the covenants, reservations and restriction as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that Owner's legal interest in the Historic Property is rendered less valuable thereby. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and the Owner.

9. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below or at any other address as may be later specified by the parties hereto.

To City: City of Ontario
303 East "B" Street
Ontario, CA 91764

Attention: Planning Director

To Owner: Jonathan and Kelly Rushing
1130 North Columbia Avenue
Ontario, CA 91764

10. General Provisions.

A. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

B. Owner agrees to and shall hold City and its elected officials, officers, agents, and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of his contractor, subcontractor, agent, employee or other person acting on his behalf which relates to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connection with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.

C. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

D. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

E. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

F. This Agreement shall be construed and governed in accordance with the laws of the State of California.

11. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Bernardino.

12. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, City and Owner have executed this Agreement on the day and year first written above.

CITY OF ONTARIO

Dated:_____ By: _____
City Manager

Attest

_____
City Clerk

Approved as to Form

_____
City Attorney

Dated:_____ By: _____
Jonathan A. Rushing, Owner

Dated:_____ By: _____
Kelly E. Rushing, Owner

Exhibit A: Historic Property Preservation Agreement
Legal Description

Address: 1130 North Columbia Avenue **APN:** 1047-543-03 **File No.:** PHP21-010
Ontario, CA 91764

The property located at: 1130 North Columbia Avenue
Ontario, CA 91764

is legally described as: ONTAR1O COLONY LANDS S 55 FT N 380 FT E 135 FT W 168 FT
LOT 800

APN: 1047-543-03-0-000

Exhibit B: Historic Property Preservation Agreement
Property Maintenance

Address: 1130 North Columbia Avenue Ontario, CA 91764 **APN:** 1047-543-03 **File No.:** PHP21-010

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as fences, roofs, doors, walls, and windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers, or similar items;
4. Stagnant water or excavations, including unmaintained pools or spas;
5. Any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition, or its inappropriate location.

The property owner shall also comply with the provisions of the Duty to Keep in Good Repair Section of the Historic Preservation Ordinance (Sec. 9-1.7.01.045 of the Ontario Development Code) and all other applicable provisions of the City's Property Appearance – Nuisance Ordinance (Chapter 22 of Title 5 of the Ontario Municipal Code, Commencing at Sec. 5-22.02).

Exhibit C: Historic Property Preservation Agreement
Proposed Improvements

Address: 1130 North Columbia Avenue Ontario, CA 91764 **APN:** 1047-543-03 **File No.:** PHP21-010

Contract Year	Description
2022:	Remove asphalt driveway
2023:	Install new concrete driveway
2024:	Install new gate at driveway
2025:	Landscape front yard
2026:	Install new water main
2027:	Remove tree that is growing under block wall.
2028:	New irrigation system for front and rear yard
2029:	Remove tree growing under foundation of house
2030:	Repair roof on garage
2031:	Paint exterior of house

RESOLUTION NO. PC21-072

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE FILE NO. PHP21-011, THE MILLS ACT CONTRACT FOR THE HAROLD LATIMER HOUSE, LOCATED AT 1112 NORTH EUCLID AVENUE (APN: 1047-542-04).

WHEREAS, ZHENWEID AND WEI XU ("Applicant") has filed an Application for the approval of a Mills Act Contract, File No. PHP21-011, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City's character and history are reflected in its cultural, historical, and architectural heritage with an emphasis on the "Model Colony" as declared by an act of the Congress of the United States and presented at the St. Louis World's Fair in 1904; and

WHEREAS, the City's historical foundations should be preserved as living parts of community life and development in order to foster an understanding of the City's past so that future generations may have a genuine opportunity to appreciate, enjoy, and understand Ontario's rich heritage; and

WHEREAS, the Community Development and the Aesthetic, Cultural, Open Space and Recreational Resources Elements of the Ontario Plan (Policy Plan) sets forth Goals and Policies to conserve Ontario's historic buildings and districts; and

WHEREAS, the Harold Latimer House, an Italianate style single-family residence constructed in 1919, located at 1112 North Euclid Avenue (APN: 1047-542-04) is worthy of preservation and was designated by City Council on June 4, 2013 as a Contributor within the Euclid Avenue Historic District; and

WHEREAS, the Application is not a project pursuant to Section 21065 of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") Guidelines. The Mills Act Contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment; and

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

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on October 14, 2021, the Historic Preservation Subcommittee of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Decision No. HPSC21-010, recommending the Historic Preservation Commission recommend to the City Council approval of the Application; and

WHEREAS, on October 26, 2021, the Historic Preservation Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, the Historic Preservation Commission has reviewed this application and determined it to be to the mutual benefit to the City and property owner to enter into a Historic Property Preservation Agreement; and

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

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

SECTION 1. ***Environmental Determination and Findings***. As the recommending body for the Project, the 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 Historic Preservation Commission, the Historic Preservation Commission finds that the Mills Act Contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and, therefore, is not a project subject to The California Environmental Quality Act, pursuant to Section 21065 of the California Public Resources Code.

SECTION 2. ***Concluding Facts and Reasons.*** Based upon the substantial evidence presented to the Historic Preservation Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Historic Preservation Commission hereby concludes as follows:

(1) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

(2) The Harold Latimer House, located at 1112 North Euclid Avenue, was designated by City Council on June 4, 2013 as a Contributor within the Euclid Avenue Historic District; and

(3) The Applicant has set forth a work program for this specific property to ensure the preservation of this historic resource that qualifies under the guidelines and standards set by the State of California.

SECTION 3. ***Historic Preservation Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Historic Preservation Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE THE REQUEST FOR A MILLS ACT CONTRACT.

SECTION 4. ***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 5. ***Custodian of Records***. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 E. B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

- - - - - - - - - - - - - -

The Secretary Pro Tempore for the 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 Historic Preservation Commission of the City of Ontario at a regular meeting thereof held on the 26th day of October, 2021, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Rick Gage
Historic Preservation Commission
Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Historic Preservation Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Historic Preservation Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC21-072, was duly passed and adopted by the Historic Preservation Commission of the City of Ontario at their regular meeting held on October 26, 2021, by the following roll call vote, to wit:

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

NOES: None

ABSENT: None

ABSTAIN: Gage

Gwen Berendsen
Secretary Pro Tempore

RECORDING REQUESTED BY
And When
RECORDED MAIL TO:

City Clerk, City of Ontario
303 East "B" Street
Ontario, CA 91764

Exempt Recording Fees Pursuant to Government Code Section 6103 & 27383

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of December 2021, by and between the City of Ontario, a municipal corporation (hereinafter referred to as the "City") and Zhenwei Xu and Wei Xu (hereinafter referred to as the "Owner").

WITNESSETH:

A. Recitals.

(I) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance;

(ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as the Harold Latimer House, generally located at the street address 1112 North Euclid Avenue, Ontario, CA 91762 (hereinafter such property shall be referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as Exhibit "A" and is incorporated herein by this reference;

(iii) On June 4, 2013, the City Council of the City of Ontario designated the Historic Property as a Contributor to the Euclid Avenue Historic District pursuant to the terms and provisions of Title 9, Chapter 1, Chapter 4 of the Ontario Municipal Code; and,

(iv) The City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on December 7, 2021 and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the effective date, such initial term will automatically be extended as provided in paragraph 2, below.

2. Renewal. Each year on the anniversary of the effective date of this Agreement (hereinafter referred to as the "renewal date"), a year shall automatically be added to the initial term of this Agreement unless notice of non-renewal is mailed as provided herein. If either Owner or City desires in any year not to renew the Agreement, Owner or City shall serve written notice of non-renewal of the Agreement on the other party in advance of the annual renewal date of the Agreement. Unless such notice is served by Owner to City at least ninety (90) days prior to the annual renewal date, or served by City to Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall automatically be added to the term of the Agreement provided herein. Owner may make a written protest of the notice. Upon receipts by the Owner of a notice from the City of non-renewal, the City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice to Owner of non-renewal. If either City or Owner serves notice to the other of non-

renewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

3. Fees. Prior to recordation the applicant shall pay the applicable fee in effect at the time recordation is requested.

4. Standards for Historical Property. During the term of this Agreement, the Historic Property shall be subject to the following conditions, requirements and restrictions:

A. Owner shall preserve and maintain the characteristics of historical significance of the Historic Property. Attached hereto, marked as Exhibits "B", and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Agreement.

B. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Rehabilitation Standards, the State Historical Building Code, and the Ontario Development Code and in accordance with the attached schedule of potential improvements, drafted by the applicant and approved by the City Council, attached hereto as Exhibit "C".

C. Pursuant to Section 4.02.050 of the Ontario Development Code, Owner shall obtain a Certificate of Appropriateness for any alteration, addition, restoration, rehabilitation, repainting, resurfacing, and for each and every item listed in Exhibit "C", prior to commencement of work. Failure to obtain all necessary permits, including building permits, and approvals may result in cancellation of this Agreement as set forth on Paragraph 6, Cancellation herein.

D. Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

5. Provision of Information of Corporation. Owner hereby agrees to furnish City with any and all information requested by the City, which may be necessary or advisable to determine compliance with the terms and provision of this Agreement.

6. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, et seq., may cancel this Agreement if it determines that Owner breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. City may also cancel this Agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 4(B) of this Agreement. In the event of cancellation, Owner may be subject to payment of those cancellation fees set forth in California Government Code Sections 50280, et seq.

7. Enforcement of Agreement. In lieu of and/or in addition to any provision to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach of default may be commenced within thirty (30) days and must be pursued to completion by Owner), then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such

other relief against any violation by Owner or apply for such other relief an may be appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this agreement shall be deemed to be a waiver of any other subsequent breach thereof or default herein under.

8. Binding Effect of Agreement. The Owner hereby subjects the Historic Property described in Exhibit "A" hereto to the covenants, reservations and restriction as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that Owner's legal interest in the Historic Property is rendered less valuable thereby. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and the Owner.

9. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below or at any other

address as may be later specified by the parties hereto.

To City: City of Ontario
303 East “B” Street
Ontario, CA 91764

Attention: Planning Director

To Owner: Zhenwei and Wei Xu
1112 North Euclid Avenue
Ontario, CA 91762

10. General Provisions.

A. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

B. Owner agrees to and shall hold City and its elected officials, officers, agents, and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of his contractor, subcontractor, agent, employee or other person acting on his behalf which relates to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner’s activities in connection with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.

C. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the

parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

D. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

E. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

F. This Agreement shall be construed and governed in accordance with the laws of the State of California.

11. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Bernardino.

12. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, City and Owner have executed this Agreement on the day and year first written above.

CITY OF ONTARIO

Dated:_____ By: _____
City Manager

Attest

_____
City Clerk

Approved as to Form

_____
City Attorney

Dated:_____ By: _____
Zhenwei Xu, Owner

Dated:_____ By: _____
Wei Xu, Owner

Exhibit A: Historic Property Preservation Agreement
Legal Description

Address: 1112 North Euclid Avenue **APN:** 1047-542-04 **File No.:** PHP21-011
Ontario, CA 91762

The property located at: 1112 North Euclid Avenue
Ontario, CA 91762

is legally described as: COLLEGE PARK TRACT LOT 11 AND N 6 FT LOT 12 BLK 2

APN: 1047-542-04-0-000

Exhibit B: Historic Property Preservation Agreement
Property Maintenance

Address: 1112 North Euclid Avenue, Ontario, CA 91762 **APN:** 1047-542-04 **File No.:** PHP21-011

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as fences, roofs, doors, walls, and windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers, or similar items;
4. Stagnant water or excavations, including unmaintained pools or spas;
5. Any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition, or its inappropriate location.

The property owner shall also comply with the provisions of the Duty to Keep in Good Repair Section of the Historic Preservation Ordinance (Sec. 9-1.7.01.045 of the Ontario Development Code) and all other applicable provisions of the City's Property Appearance – Nuisance Ordinance (Chapter 22 of Title 5 of the Ontario Municipal Code, Commencing at Sec. 5-22.02).

Exhibit C: Historic Property Preservation Agreement
Proposed Improvements

Address: 1112 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-542-04 **File No.:** PHP21-011

Contract Year	Description
2022:	Install new gas line and redo concrete.
2023:	Repair rotted and damaged wood framing in garage.
2024:	Install new water line and redo concrete.
2025:	Upgrade electrical panel and wiring.
2026:	Repair damaged plaster in basement and paint
2027:	Install new water heater
2028:	Paint exterior
2029:	Repair 28 wood windows on 1st floor (replace ropes as needed, repair wood, add weatherstripping)
2030:	Repair cracks in exterior stucco/plaster
2031:	Repair 22 wood windows on 2nd floor (replace ropes as needed, repair wood, add weatherstripping)

RESOLUTION NO. PC21-073

A RESOLUTION OF THE HISTORIC PRESERVATION COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE FILE NO. PHP21-012, THE MILLS ACT CONTRACT FOR THE HOMER BERGER HOUSE, LOCATED AT 1108 NORTH EUCLID AVENUE (APN: 1047-542-03).

WHEREAS, LUKE AND JESSICA BIDEAUX ("Applicant") has filed an Application for the approval of a Mills Act Contract, File No. PHP21-012, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the City's character and history are reflected in its cultural, historical, and architectural heritage with an emphasis on the "Model Colony" as declared by an act of the Congress of the United States and presented at the St. Louis World's Fair in 1904; and

WHEREAS, the City's historical foundations should be preserved as living parts of community life and development in order to foster an understanding of the City's past so that future generations may have a genuine opportunity to appreciate, enjoy, and understand Ontario's rich heritage; and

WHEREAS, the Community Development and the Aesthetic, Cultural, Open Space and Recreational Resources Elements of the Ontario Plan (Policy Plan) sets forth Goals and Policies to conserve Ontario's historic buildings and districts; and

WHEREAS, the Homer Berger House, a Craftsman style single-family residence constructed in 1915, located at 1108 North Euclid Avenue (APN: 1047-542-03) is worthy of preservation and was designated by City Council on June 4, 2013 as a Contributor within the Euclid Avenue Historic District; and

WHEREAS, the Application is not a project pursuant to Section 21065 of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA") Guidelines. The Mills Act Contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment; and

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

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on October 14, 2021, the Historic Preservation Subcommittee of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date, voting to issue Decision No. HPSC21-011, recommending the Historic Preservation Commission recommend to the City Council approval of the Application; and

WHEREAS, on October 26, 2021, the Historic Preservation Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

WHEREAS, the Historic Preservation Commission has reviewed this application and determined it to be to the mutual benefit to the City and property owner to enter into a Historic Property Preservation Agreement; and

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

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

SECTION 1. ***Environmental Determination and Findings***. As the recommending body for the Project, the 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 Historic Preservation Commission, the Historic Preservation Commission finds that the Mills Act Contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and, therefore, is not a project subject to The California Environmental Quality Act, pursuant to Section 21065 of the California Public Resources Code.

SECTION 2. ***Concluding Facts and Reasons.*** Based upon the substantial evidence presented to the Historic Preservation Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Historic Preservation Commission hereby concludes as follows:

(1) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

(2) The Homer Berger House, located at 1108 North Euclid Avenue, was designated by City Council on June 4, 2013 as a Contributor within the Euclid Avenue Historic District; and

(3) The Applicant has set forth a work program for this specific property to ensure the preservation of this historic resource that qualifies under the guidelines and standards set by the State of California.

SECTION 3. ***Historic Preservation Commission Action.*** Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Historic Preservation Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE THE REQUEST FOR A MILLS ACT CONTRACT.

SECTION 4. ***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 5. ***Custodian of Records***. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 E. B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. ***Certification to Adoption.*** The Secretary shall certify to the adoption of the Resolution.

- - - - - - - - - - - - - -

The Secretary Pro Tempore for the 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 Historic Preservation Commission of the City of Ontario at a regular meeting thereof held on the 26th day of October, 2021, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.

Rick Gage
Historic Preservation Commission
Chairman

ATTEST:

Rudy Zeledon
Planning Director and
Secretary to the Historic Preservation Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Historic Preservation Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC21-073, was duly passed and adopted by the Historic Preservation Commission of the City of Ontario at their regular meeting held on October 26, 2021, by the following roll call vote, to wit:

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

NOES: None

ABSENT: None

ABSTAIN: Gage

Gwen Berendsen
Secretary Pro Tempore

RECORDING REQUESTED BY
And When
RECORDED MAIL TO:

City Clerk, City of Ontario
303 East "B" Street
Ontario, CA 91764

Exempt Recording Fees Pursuant to Government Code Section 6103 & 27383

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of December 2021, by and between the City of Ontario, a municipal corporation (hereinafter referred to as the "City") and Luke Bideaux and Jessica Bideaux (hereinafter referred to as the "Owner").

WITNESSETH:

A. Recitals.

(I) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance;

(ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as the Homer Berger House, generally located at the street address 1108 North Euclid Avenue, Ontario, CA 91762 (hereinafter such property shall be referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as Exhibit "A" and is incorporated herein by this reference;

(iii) On June 4, 2013, the City Council of the City of Ontario designated the Historic Property as a Contributor to the Euclid Avenue Historic District pursuant to the terms and provisions of Title 9, Chapter 1, Chapter 4 of the Ontario Municipal Code; and,

(iv) The City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on December 7, 2021 and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the effective date, such initial term will automatically be extended as provided in paragraph 2, below.

2. Renewal. Each year on the anniversary of the effective date of this Agreement (hereinafter referred to as the "renewal date"), a year shall automatically be added to the initial term of this Agreement unless notice of non-renewal is mailed as provided herein. If either Owner or City desires in any year not to renew the Agreement, Owner or City shall serve written notice of non-renewal of the Agreement on the other party in advance of the annual renewal date of the Agreement. Unless such notice is served by Owner to City at least ninety (90) days prior to the annual renewal date, or served by City to Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall automatically be added to the term of the Agreement provided herein. Owner may make a written protest of the notice. Upon receipts by the Owner of a notice from the City of non-renewal, the City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice to Owner of non-renewal. If either City or Owner serves notice to the other of non-

renewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

3. Fees. Prior to recordation the applicant shall pay the applicable fee in effect at the time recordation is requested.

4. Standards for Historical Property. During the term of this Agreement, the Historic Property shall be subject to the following conditions, requirements and restrictions:

A. Owner shall preserve and maintain the characteristics of historical significance of the Historic Property. Attached hereto, marked as Exhibits "B", and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Agreement.

B. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Rehabilitation Standards, the State Historical Building Code, and the Ontario Development Code and in accordance with the attached schedule of potential improvements, drafted by the applicant and approved by the City Council, attached hereto as Exhibit "C".

C. Pursuant to Section 4.02.050 of the Ontario Development Code, Owner shall obtain a Certificate of Appropriateness for any alteration, addition, restoration, rehabilitation, repainting, resurfacing, and for each and every item listed in Exhibit "C", prior to commencement of work. Failure to obtain all necessary permits, including building permits, and approvals may result in cancellation of this Agreement as set forth on Paragraph 6, Cancellation herein.

D. Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

5. Provision of Information of Corporation. Owner hereby agrees to furnish City with any and all information requested by the City, which may be necessary or advisable to determine compliance with the terms and provision of this Agreement.

6. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, et seq., may cancel this Agreement if it determines that Owner breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. City may also cancel this Agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 4(B) of this Agreement. In the event of cancellation, Owner may be subject to payment of those cancellation fees set forth in California Government Code Sections 50280, et seq.

7. Enforcement of Agreement. In lieu of and/or in addition to any provision to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach of default may be commenced within thirty (30) days and must be pursued to completion by Owner), then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such

other relief against any violation by Owner or apply for such other relief an may be appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this agreement shall be deemed to be a waiver of any other subsequent breach thereof or default herein under.

8. Binding Effect of Agreement. The Owner hereby subjects the Historic Property described in Exhibit "A" hereto to the covenants, reservations and restriction as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that Owner's legal interest in the Historic Property is rendered less valuable thereby. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and the Owner.

9. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below or at any other

address as may be later specified by the parties hereto.

To City: City of Ontario
303 East “B” Street
Ontario, CA 91764

Attention: Planning Director

To Owner: Luke and Jessica Bideaux
1108 North Euclid Avenue
Ontario, CA 91762

10. General Provisions.

A. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

B. Owner agrees to and shall hold City and its elected officials, officers, agents, and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of his contractor, subcontractor, agent, employee or other person acting on his behalf which relates to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner’s activities in connection with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.

C. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the

parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

D. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

E. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

F. This Agreement shall be construed and governed in accordance with the laws of the State of California.

11. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Bernardino.

12. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, City and Owner have executed this Agreement on the day and year first written above.

CITY OF ONTARIO

Dated:_____ By: _____
City Manager

Attest

_____
City Clerk

Approved as to Form

_____
City Attorney

Dated:_____ By: _____
Luke Bideaux, Owner

Dated:_____ By: _____
Jessica Bideaux, Owner

Exhibit A: Historic Property Preservation Agreement
Legal Description

Address: 1108 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-542-03 **File No.:** PHP21-012

The property located at: 1108 North Euclid Avenue
Ontario, CA 91762

is legally described as: COLLEGE PARK TR S 6O FT LOT 12 AND N 6 FT LOT 13 BLK 2

APN: 1047-542-03-0-000

Exhibit B: Historic Property Preservation Agreement
Property Maintenance

Address: 1108 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-542-03 **File No.:** PHP21-012

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as fences, roofs, doors, walls, and windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers, or similar items;
4. Stagnant water or excavations, including unmaintained pools or spas;
5. Any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition, or its inappropriate location.

The property owner shall also comply with the provisions of the Duty to Keep in Good Repair Section of the Historic Preservation Ordinance (Sec. 9-1.7.01.045 of the Ontario Development Code) and all other applicable provisions of the City's Property Appearance – Nuisance Ordinance (Chapter 22 of Title 5 of the Ontario Municipal Code, Commencing at Sec. 5-22.02).

Exhibit C: Historic Property Preservation Agreement
Proposed Improvements

Address: 1108 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-542-03 **File No.:** PHP21-012

Contract Year	Description
2022:	Replace rotted and damaged wood shingle siding at exterior.
2023:	Install new smoke detectors and update electrical outlets.
2024:	Sand, prep and paint interior of windows.
2025:	None
2026:	Interior paint, repairs to sprinklers, porch and attic fan.
2027:	New first floor HVAC unit remove old ductwork and furnace.
2028:	Remove tile and refinish original wood flooring at entryway. Repair 5 windows at rear of house, seal around windows.
2029:	Restore damaged bricks on front porch pony wall.
2030:	Repair flat roof at rear of house and other roof repairs.
2031:	Replace composition shingles at front of house

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PHP21-006, AND AUTHORIZING THE CITY OF ONTARIO TO ENTER INTO A HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT) WITH BRYAN AND MONICA SINSABAUGH, FOR THE PROPERTY LOCATED AT 1240 NORTH EUCLID AVENUE (APN: 1047-531-07).

WHEREAS, California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

WHEREAS, Bryan and Monica Sinsabaugh possess fee title in and to that certain real property, together with associated structures and improvements thereon, located at the street address commonly known as 1240 North Euclid Avenue, Ontario, California (hereinafter referred to as the “Property”); and

WHEREAS, on September 16, 2003, the City Council of the City of Ontario designated the Property as Local Landmark No. 73 pursuant to the terms and provisions of Chapter 4, of the Ontario Development Code; and

WHEREAS, on June 4, 2013, the City Council of the City of Ontario designated the Property as a Contributor within the Euclid Avenue Historic District pursuant to the terms and provisions of Chapter 4, of the Ontario Development Code; and

WHEREAS**,** the City and Bryan and Monica Sinsabaugh, for their mutual benefit, now desire to enter into a Historic Property Preservation Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference (hereinafter referred to as the “Preservation Agreement”); 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, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on October 14, 2021, the Historic Preservation Subcommittee conducted a hearing and issued Decision No. HPSC21-008, recommending the Historic Preservation Commission recommend the City Council approve the Application; and

WHEREAS, on October 26, 2021, the Historic Preservation Commission conducted a hearing and issued Resolution No. PC21-070, recommending the City Council approve the Application; and

WHEREAS, on December 7, 2021, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. ***Environmental Determination and Findings***. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the 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 Mills Act contract is not considered a project pursuant to Section 21065 of the CEQA Guidelines. The Mills Act contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

(2) The determination of CEQA exemption reflects the independent judgement of the City Council.

SECTION 2. ***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 above, the City Council hereby concludes as follows:

(1) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

(2) Pursuant to California Government Code Section 50280, et seq., qualified historical properties are designated historic landmarks, contributing structures within designated historic districts, and properties listed on the National Register of Historic Places or the California Register of Historic Resources; and

(3) The Peter H. Vandenberg House, a Monterey Revival and Spanish Eclectic style single-family residence located at 1240 North Euclid Avenue, was designated as Local Landmark No. 73 and as a Contributor within the Euclid Avenue Historic District; and

(4) The Applicant has set forth a work program for this specific property to ensure the preservation of this historic resource that qualifies under the guidelines and standards set by the State of California.

SECTION 3. ***City Council Action.*** Based upon the findings and conclusions set forth in Sections 1 and 2 above, THE CITY COUNCIL APPROVES AND RATIFIES the historic property preservation agreement and authorizes the City Manager to execute the agreement, which is subject to the provisions of the City's Development Code (Sec. 4.02.065) and to each and every condition set forth in the Preservation Agreement, attached hereto as Exhibit "A" and incorporated herein by this reference; and

SECTION 4. ***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 5. ***Recordation of Agreement.*** That the City Clerk of the City of Ontario, California, shall cause the Historic Preservation Agreement to be recorded in the office of the County Recorder of San Bernardino County.

SECTION 6. ***Notification of Assessor***. That the City Clerk of the City of Ontario, California, shall notify the San Bernardino County Assessor in writing that the property has entered into a Preservation Agreement within 30 days of the recordation of the contract.

SECTION 7. ***Certification to Adoption.*** The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 7th day of December 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 7, 2021, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held December 7, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

Exhibit “A”

Preservation Agreement

RECORDING REQUESTED BY
And When
RECORDED MAIL TO:

City Clerk, City of Ontario
303 East "B" Street
Ontario, CA 91764

Exempt Recording Fees Pursuant to Government Code Section 6103 & 27383

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of December 2021, by and between the City of Ontario, a municipal corporation (hereinafter referred to as the "City") and Bryan Sinsabaugh and Monica Sinsabaugh (hereinafter referred to as the "Owner").

WITNESSETH:

A. Recitals.

(I) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance;

(ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as the Peter H. Vandenberg House, generally located at the street address 1240 North Euclid Avenue, Ontario, CA 91762 (hereinafter such property shall be referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as

Exhibit “A” and is incorporated herein by this reference;

(iii) On September 16, 2003, the City Council of the City of Ontario designated the Historic Property as Local Landmark No. 73 pursuant to the terms and provisions of Title 9, Chapter 1, Chapter 4 of the Ontario Municipal Code; and,

(iv) On June 4, 2013, the City Council of the City of Ontario designated the Historic Property as a Contributor to the Euclid Avenue Historic District pursuant to the terms and provisions of Title 9, Chapter 1, Chapter 4 of the Ontario Municipal Code; and,

(v) The City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on December 7, 2021 and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the effective date, such initial term will automatically be extended as provided in paragraph 2, below.

2. Renewal. Each year on the anniversary of the effective date of this Agreement (hereinafter referred to as the “renewal date”), a year shall automatically be added to the initial term of this Agreement unless notice of non-renewal is mailed as provided herein. If either Owner or City desires in any year not to renew the Agreement, Owner or City shall serve written notice of non-renewal of the Agreement on the other party in advance of the annual renewal date of the Agreement. Unless such notice is served by Owner to

City at least ninety (90) days prior to the annual renewal date, or served by City to Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall automatically be added to the term of the Agreement provided herein. Owner may make a written protest of the notice. Upon receipts by the Owner of a notice from the City of non-renewal, the City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice to Owner of non-renewal. If either City or Owner serves notice to the other of non-renewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

3. Fees. Prior to recordation the applicant shall pay the applicable fee in effect at the time recordation is requested.

4. Standards for Historical Property. During the term of this Agreement, the Historic Property shall be subject to the following conditions, requirements and restrictions:

A. Owner shall preserve and maintain the characteristics of historical significance of the Historic Property. Attached hereto, marked as Exhibits "B", and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Agreement.

B. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Rehabilitation Standards, the State Historical Building Code, and the Ontario Development Code and in accordance with the attached schedule of potential improvements, drafted by the applicant and approved by the City Council, attached hereto as Exhibit "C".

C. Pursuant to Section 4.02.050 of the Ontario Development Code, Owner

shall obtain a Certificate of Appropriateness for any alteration, addition, restoration, rehabilitation, repainting, resurfacing, and for each and every item listed in Exhibit "C", prior to commencement of work. Failure to obtain all necessary permits, including building permits, and approvals may result in cancellation of this Agreement as set forth on Paragraph 6, Cancellation herein.

D. Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

5. Provision of Information of Corporation. Owner hereby agrees to furnish City with any and all information requested by the City, which may be necessary or advisable to determine compliance with the terms and provision of this Agreement.

6. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, et seq., may cancel this Agreement if it determines that Owner breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. City may also cancel this Agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 4(B) of this Agreement. In the event of cancellation, Owner may be subject to payment of those cancellation fees set forth in California Government Code Sections 50280, et seq.

7. Enforcement of Agreement. In lieu of and/or in addition to any provision to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such reasonable time as may be required to cure the breach or

default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach of default may be commenced within thirty (30) days and must be pursued to completion by Owner), then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such other relief against any violation by Owner or apply for such other relief an may be appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this agreement shall be deemed to be a waiver of any other subsequent breach thereof or default herein under.

8. Binding Effect of Agreement. The Owner hereby subjects the Historic Property described in Exhibit "A" hereto to the covenants, reservations and restriction as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that Owner's legal interest in the Historic Property is rendered less valuable thereby. City and Owner hereby further declare their understanding and intent that the

benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and the Owner.

9. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below or at any other address as may be later specified by the parties hereto.

To City: City of Ontario
303 East "B" Street
Ontario, CA 91764

Attention: Planning Director

To Owner: Bryan and Monica Sinsabaugh
1240 North Euclid Avenue
Ontario, CA 91762

10. General Provisions.

A. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

B. Owner agrees to and shall hold City and its elected officials, officers, agents, and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of his contractor, subcontractor, agent, employee or other person acting on his behalf which relates to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connection with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by

reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.

C. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

D. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

E. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

F. This Agreement shall be construed and governed in accordance with the laws of the State of California.

11. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Bernardino.

12. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, City and Owner have executed this Agreement on the day and year first written above.

CITY OF ONTARIO

Dated: _____ By: _____
City Manager

Attest

_____
City Clerk

Approved as to Form

_____
City Attorney

Dated:_____ By: _____
Bryan Sinsabaugh, Owner

Dated:_____ By: _____
Monica Sinsabaugh, Owner

Exhibit A: Historic Property Preservation Agreement
Legal Description

Address: 1240 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-531-07 **File No.:** PHP21-006

The property located at: 1240 North Euclid Avenue
Ontario, CA 91762

is legally described as: ONTAR1O COLONY LANDS N 60 FT S 513 FT W 150 FT LOT 774

APN: 1047-531-07-0-000

Exhibit B: Historic Property Preservation Agreement
Property Maintenance

Address: 1240 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-531-07 **File No.:** PHP21-006

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as fences, roofs, doors, walls, and windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers, or similar items;
4. Stagnant water or excavations, including unmaintained pools or spas;
5. Any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition, or its inappropriate location.

The property owner shall also comply with the provisions of the Duty to Keep in Good Repair Section of the Historic Preservation Ordinance (Sec. 9-1.7.01.045 of the Ontario Development Code) and all other applicable provisions of the City's Property Appearance – Nuisance Ordinance (Chapter 22 of Title 5 of the Ontario Municipal Code, Commencing at Sec. 5-22.02).

Exhibit C: Historic Property Preservation Agreement
Proposed Improvements

Address: 1240 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-531-07 **File No.:** PHP21-006

Contract Year	Description
2022:	Replace aluminum windows with wood windows to match original in Master bedroom
2023:	Replace aluminum windows with wood windows to match original in Living room, Dining room and Office
2024:	Replace aluminum windows with wood windows to match original in Bathroom and Bedrooms
2025:	Replace awnings
2026:	Replace wood flooring at balcony with new wood flooring
2027:	New plumbing, entire house.
2028:	Install new wood screen doors at exterior doors.
2029:	Stucco and paint exterior
2030:	Repair original shutters and replace if shutter is damaged beyond repair
2031:	Repair wood under eaves and exposed rafter tails

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PHP21-010, AND AUTHORIZING THE CITY OF ONTARIO TO ENTER INTO A HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT) WITH JONATHAN AND KELLY RUSHING, FOR THE PROPERTY LOCATED AT 1130 NORTH COLUMBIA AVENUE (APN: 1047-543-03).

WHEREAS, California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

WHEREAS, Jonathan and Kelly Rushing possess fee title in and to that certain real property, together with associated structures and improvements thereon, located at the street address commonly known as 1130 North Columbia Avenue, Ontario, California (hereinafter referred to as the “Property”); and

WHEREAS, on July 18, 2000, the City Council of the City of Ontario designated the Property as a Contributor within the College Park Historic District pursuant to the terms and provisions of Chapter 4, of the Ontario Development Code; and

WHEREAS**,** the City and Jonathan and Kelly Rushing, for their mutual benefit, now desire to enter into a Historic Property Preservation Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference (hereinafter referred to as the “Preservation Agreement”); 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, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on October 14, 2021, the Historic Preservation Subcommittee conducted a hearing and issued Decision No. HPSC21-009, recommending the Historic Preservation Commission recommend the City Council approve the Application; and

WHEREAS, on October 26, 2021, the Historic Preservation Commission conducted a hearing and issued Resolution No. PC21-071, recommending the City Council approve the Application; and

WHEREAS, on December 7, 2021, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. ***Environmental Determination and Findings***. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the 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 Mills Act contract is not considered a project pursuant to Section 21065 of the CEQA Guidelines. The Mills Act contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

(2) The determination of CEQA exemption reflects the independent judgement of the City Council.

SECTION 2. ***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 above, the City Council hereby concludes as follows:

(1) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

(2) Pursuant to California Government Code Section 50280, et seq., qualified historical properties are designated historic landmarks, contributing structures within designated historic districts, and properties listed on the National Register of Historic Places or the California Register of Historic Resources; and

(3) The Laura Russell House, a Craftsman Bungalow style single-family residence located at 1130 North Columbia Avenue, was designated as a Contributor within the College Park Historic District; and

(4) The Applicant has set forth a work program for this specific property to ensure the preservation of this historic resource that qualifies under the guidelines and standards set by the State of California.

SECTION 3. ***City Council Action.*** Based upon the findings and conclusions set forth in Sections 1 and 2 above, THE CITY COUNCIL APPROVES AND RATIFIES the historic property preservation agreement and authorizes the City Manager to execute the agreement, which is subject to the provisions of the City's Development Code (Sec. 4.02.065) and to each and every condition set forth in the Preservation Agreement, attached hereto as Exhibit "A" and incorporated herein by this reference; and

SECTION 4. ***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 5. ***Recordation of Agreement.*** That the City Clerk of the City of Ontario, California, shall cause the Historic Preservation Agreement to be recorded in the office of the County Recorder of San Bernardino County.

SECTION 6. ***Notification of Assessor***. That the City Clerk of the City of Ontario, California, shall notify the San Bernardino County Assessor in writing that the property has entered into a Preservation Agreement within 30 days of the recordation of the contract.

SECTION 7. ***Certification to Adoption.*** The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 7th day of December 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 7, 2021, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held December 7, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

Exhibit “A”

Preservation Agreement

RECORDING REQUESTED BY
And When
RECORDED MAIL TO:

City Clerk, City of Ontario
303 East "B" Street
Ontario, CA 91764

Exempt Recording Fees Pursuant to Government Code Section 6103 & 27383

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of December 2021, by and between the City of Ontario, a municipal corporation (hereinafter referred to as the "City") and Jonathan A. Rushing and Kelly E. Rushing (hereinafter referred to as the "Owner").

WITNESSETH:

A. Recitals.

(I) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance;

(ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as the Laura Russell House, generally located at the street address 1130 North Columbia Avenue, Ontario, CA 91764 (hereinafter such property shall be referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as Exhibit "A" and is

incorporated herein by this reference;

(iii) On July 18, 2000, the City Council of the City of Ontario designated the Historic Property as a Contributor to the College Park Historic District pursuant to the terms and provisions of Title 9, Chapter 1, Chapter 4 of the Ontario Municipal Code; and,

(iv) The City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on December 7, 2021 and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the effective date, such initial term will automatically be extended as provided in paragraph 2, below.

2. Renewal. Each year on the anniversary of the effective date of this Agreement (hereinafter referred to as the "renewal date"), a year shall automatically be added to the initial term of this Agreement unless notice of non-renewal is mailed as provided herein. If either Owner or City desires in any year not to renew the Agreement, Owner or City shall serve written notice of non-renewal of the Agreement on the other party in advance of the annual renewal date of the Agreement. Unless such notice is served by Owner to City at least ninety (90) days prior to the annual renewal date, or served by City to Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall automatically be added to the term of the Agreement provided herein. Owner may make a written protest of the notice. Upon receipts by the Owner of a notice from the City of non-renewal,

the City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice to Owner of non-renewal. If either City or Owner serves notice to the other of non-renewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

3. Fees. Prior to recordation the applicant shall pay the applicable fee in effect at the time recordation is requested.

4. Standards for Historical Property. During the term of this Agreement, the Historic Property shall be subject to the following conditions, requirements and restrictions:

A. Owner shall preserve and maintain the characteristics of historical significance of the Historic Property. Attached hereto, marked as Exhibits "B", and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Agreement.

B. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Rehabilitation Standards, the State Historical Building Code, and the Ontario Development Code and in accordance with the attached schedule of potential improvements, drafted by the applicant and approved by the City Council, attached hereto as Exhibit "C".

C. Pursuant to Section 4.02.050 of the Ontario Development Code, Owner shall obtain a Certificate of Appropriateness for any alteration, addition, restoration, rehabilitation, repainting, resurfacing, and for each and every item listed in Exhibit "C", prior to commencement of work. Failure to obtain all necessary permits, including building permits, and approvals may result in cancellation of this Agreement as set forth on

Paragraph 6, Cancellation herein.

D. Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

5. Provision of Information of Corporation. Owner hereby agrees to furnish City with any and all information requested by the City, which may be necessary or advisable to determine compliance with the terms and provision of this Agreement.

6. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, et seq., may cancel this Agreement if it determines that Owner breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. City may also cancel this Agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 4(B) of this Agreement. In the event of cancellation, Owner may be subject to payment of those cancellation fees set forth in California Government Code Sections 50280, et seq.

7. Enforcement of Agreement. In lieu of and/or in addition to any provision to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach of default may be commenced within thirty (30) days and must be pursued to completion by Owner), then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically

enforce the obligations of Owner growing out of the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such other relief against any violation by Owner or apply for such other relief an may be appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this agreement shall be deemed to be a waiver of any other subsequent breach thereof or default herein under.

8. Binding Effect of Agreement. The Owner hereby subjects the Historic Property described in Exhibit "A" hereto to the covenants, reservations and restriction as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that Owner's legal interest in the Historic Property is rendered less valuable thereby. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and the Owner.

9. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below or at any other address as may be later specified by the parties hereto.

To City: City of Ontario
303 East "B" Street
Ontario, CA 91764

Attention: Planning Director

To Owner: Jonathan and Kelly Rushing
1130 North Columbia Avenue
Ontario, CA 91764

10. General Provisions.

A. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

B. Owner agrees to and shall hold City and its elected officials, officers, agents, and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of his contractor, subcontractor, agent, employee or other person acting on his behalf which relates to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connection with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.

C. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

D. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

E. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

F. This Agreement shall be construed and governed in accordance with the laws of the State of California.

11. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Bernardino.

12. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, City and Owner have executed this Agreement on the day and year first written above.

CITY OF ONTARIO

Dated:_____ By: _____
City Manager

Attest

_____
City Clerk

Approved as to Form

_____
City Attorney

Dated:_____ By: _____
Jonathan A. Rushing, Owner

Dated:_____ By: _____
Kelly E. Rushing, Owner

Exhibit A: Historic Property Preservation Agreement
Legal Description

Address: 1130 North Columbia Avenue **APN:** 1047-543-03 **File No.:** PHP21-010
Ontario, CA 91764

The property located at: 1130 North Columbia Avenue
Ontario, CA 91764

is legally described as: ONTAR1O COLONY LANDS S 55 FT N 380 FT E 135 FT W 168 FT
LOT 800

APN: 1047-543-03-0-000

Exhibit B: Historic Property Preservation Agreement
Property Maintenance

Address: 1130 North Columbia Avenue Ontario, CA 91764 **APN:** 1047-543-03 **File No.:** PHP21-010

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as fences, roofs, doors, walls, and windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers, or similar items;
4. Stagnant water or excavations, including unmaintained pools or spas;
5. Any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition, or its inappropriate location.

The property owner shall also comply with the provisions of the Duty to Keep in Good Repair Section of the Historic Preservation Ordinance (Sec. 9-1.7.01.045 of the Ontario Development Code) and all other applicable provisions of the City's Property Appearance – Nuisance Ordinance (Chapter 22 of Title 5 of the Ontario Municipal Code, Commencing at Sec. 5-22.02).

Exhibit C: Historic Property Preservation Agreement
Proposed Improvements

Address: 1130 North Columbia Avenue Ontario, CA 91764 **APN:** 1047-543-03 **File No.:** PHP21-010

Contract Year	Description
2022:	Remove asphalt driveway
2023:	Install new concrete driveway
2024:	Install new gate at driveway
2025:	Landscape front yard
2026:	Install new water main
2027:	Remove tree that is growing under block wall.
2028:	New irrigation system for front and rear yard
2029:	Remove tree growing under foundation of house
2030:	Repair roof on garage
2031:	Paint exterior of house

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PHP21-011, AND AUTHORIZING THE CITY OF ONTARIO TO ENTER INTO A HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT) WITH ZHENWEI AND WEI XU, FOR THE PROPERTY LOCATED AT 1112 NORTH EUCLID AVENUE (APN: 1047-542-04).

WHEREAS, California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

WHEREAS, Zhenwei and Wei Xu possess fee title in and to that certain real property, together with associated structures and improvements thereon, located at the street address commonly known as 1112 North Euclid Avenue, Ontario, California (hereinafter referred to as the “Property”); and

WHEREAS, on June 4, 2013, the City Council of the City of Ontario designated the Property as a Contributor within the Euclid Avenue Historic District pursuant to the terms and provisions of Chapter 4, of the Ontario Development Code; and

WHEREAS**,** the City and Zhenwei and Wei Xu, for their mutual benefit, now desire to enter into a Historic Property Preservation Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference (hereinafter referred to as the “Preservation Agreement”); 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, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on October 14, 2021, the Historic Preservation Subcommittee conducted a hearing and issued Decision No. HPSC21-010, recommending the Historic Preservation Commission recommend the City Council approve the Application; and

WHEREAS, on October 26, 2021, the Historic Preservation Commission conducted a hearing and issued Resolution No. PC21-072, recommending the City Council approve the Application; and

WHEREAS, on December 7, 2021, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. ***Environmental Determination and Findings***. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the 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 Mills Act contract is not considered a project pursuant to Section 21065 of the CEQA Guidelines. The Mills Act contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

(2) The determination of CEQA exemption reflects the independent judgement of the City Council.

SECTION 2. ***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 above, the City Council hereby concludes as follows:

(1) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

(2) Pursuant to California Government Code Section 50280, et seq., qualified historical properties are designated historic landmarks, contributing structures within designated historic districts, and properties listed on the National Register of Historic Places or the California Register of Historic Resources; and

(3) The Harold Latimer House, an Italianate style single-family residence located at 1112 North Euclid Avenue, was designated as a Contributor within the Euclid Avenue Historic District; and

(4) The Applicant has set forth a work program for this specific property to ensure the preservation of this historic resource that qualifies under the guidelines and standards set by the State of California.

SECTION 3. ***City Council Action.*** Based upon the findings and conclusions set forth in Sections 1 and 2 above, THE CITY COUNCIL APPROVES AND RATIFIES the historic property preservation agreement and authorizes the City Manager to execute the agreement, which is subject to the provisions of the City's Development Code (Sec. 4.02.065) and to each and every condition set forth in the Preservation Agreement, attached hereto as Exhibit "A" and incorporated herein by this reference; and

SECTION 4. ***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 5. ***Recordation of Agreement.*** That the City Clerk of the City of Ontario, California, shall cause the Historic Preservation Agreement to be recorded in the office of the County Recorder of San Bernardino County.

SECTION 6. ***Notification of Assessor***. That the City Clerk of the City of Ontario, California, shall notify the San Bernardino County Assessor in writing that the property has entered into a Preservation Agreement within 30 days of the recordation of the contract.

SECTION 7. ***Certification to Adoption.*** The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 7th day of December 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 7, 2021, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held December 7, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

Exhibit “A”

Preservation Agreement

RECORDING REQUESTED BY
And When
RECORDED MAIL TO:

City Clerk, City of Ontario
303 East "B" Street
Ontario, CA 91764

Exempt Recording Fees Pursuant to Government Code Section 6103 & 27383

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of December 2021, by and between the City of Ontario, a municipal corporation (hereinafter referred to as the "City") and Zhenwei Xu and Wei Xu (hereinafter referred to as the "Owner").

WITNESSETH:

A. Recitals.

(I) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance;

(ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as the Harold Latimer House, generally located at the street address 1112 North Euclid Avenue, Ontario, CA 91762 (hereinafter such property shall be referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as Exhibit "A" and is incorporated herein by this reference;

(iii) On June 4, 2013, the City Council of the City of Ontario designated the Historic Property as a Contributor to the Euclid Avenue Historic District pursuant to the terms and provisions of Title 9, Chapter 1, Chapter 4 of the Ontario Municipal Code; and,

(iv) The City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on December 7, 2021 and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the effective date, such initial term will automatically be extended as provided in paragraph 2, below.

2. Renewal. Each year on the anniversary of the effective date of this Agreement (hereinafter referred to as the "renewal date"), a year shall automatically be added to the initial term of this Agreement unless notice of non-renewal is mailed as provided herein. If either Owner or City desires in any year not to renew the Agreement, Owner or City shall serve written notice of non-renewal of the Agreement on the other party in advance of the annual renewal date of the Agreement. Unless such notice is served by Owner to City at least ninety (90) days prior to the annual renewal date, or served by City to Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall automatically be added to the term of the Agreement provided herein. Owner may make a written protest of the notice. Upon receipts by the Owner of a notice from the City of non-renewal, the City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice to Owner of non-renewal. If either City or Owner serves notice to the other of non-

renewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

3. Fees. Prior to recordation the applicant shall pay the applicable fee in effect at the time recordation is requested.

4. Standards for Historical Property. During the term of this Agreement, the Historic Property shall be subject to the following conditions, requirements and restrictions:

A. Owner shall preserve and maintain the characteristics of historical significance of the Historic Property. Attached hereto, marked as Exhibits "B", and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Agreement.

B. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Rehabilitation Standards, the State Historical Building Code, and the Ontario Development Code and in accordance with the attached schedule of potential improvements, drafted by the applicant and approved by the City Council, attached hereto as Exhibit "C".

C. Pursuant to Section 4.02.050 of the Ontario Development Code, Owner shall obtain a Certificate of Appropriateness for any alteration, addition, restoration, rehabilitation, repainting, resurfacing, and for each and every item listed in Exhibit "C", prior to commencement of work. Failure to obtain all necessary permits, including building permits, and approvals may result in cancellation of this Agreement as set forth on Paragraph 6, Cancellation herein.

D. Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

5. Provision of Information of Corporation. Owner hereby agrees to furnish City with any and all information requested by the City, which may be necessary or advisable to determine compliance with the terms and provision of this Agreement.

6. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, et seq., may cancel this Agreement if it determines that Owner breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. City may also cancel this Agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 4(B) of this Agreement. In the event of cancellation, Owner may be subject to payment of those cancellation fees set forth in California Government Code Sections 50280, et seq.

7. Enforcement of Agreement. In lieu of and/or in addition to any provision to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach of default may be commenced within thirty (30) days and must be pursued to completion by Owner), then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such

other relief against any violation by Owner or apply for such other relief an may be appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this agreement shall be deemed to be a waiver of any other subsequent breach thereof or default herein under.

8. Binding Effect of Agreement. The Owner hereby subjects the Historic Property described in Exhibit "A" hereto to the covenants, reservations and restriction as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that Owner's legal interest in the Historic Property is rendered less valuable thereby. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and the Owner.

9. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below or at any other

address as may be later specified by the parties hereto.

To City: City of Ontario
303 East “B” Street
Ontario, CA 91764

Attention: Planning Director

To Owner: Zhenwei and Wei Xu
1112 North Euclid Avenue
Ontario, CA 91762

10. General Provisions.

A. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

B. Owner agrees to and shall hold City and its elected officials, officers, agents, and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of his contractor, subcontractor, agent, employee or other person acting on his behalf which relates to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner’s activities in connection with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.

C. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the

parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

D. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

E. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

F. This Agreement shall be construed and governed in accordance with the laws of the State of California.

11. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Bernardino.

12. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, City and Owner have executed this Agreement on the day and year first written above.

CITY OF ONTARIO

Dated:_____ By: _____
City Manager

Attest

_____
City Clerk

Approved as to Form

_____
City Attorney

Dated:_____ By: _____
Zhenwei Xu, Owner

Dated:_____ By: _____
Wei Xu, Owner

Exhibit A: Historic Property Preservation Agreement
Legal Description

Address: 1112 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-542-04 **File No.:** PHP21-011

The property located at: 1112 North Euclid Avenue
Ontario, CA 91762

is legally described as: COLLEGE PARK TRACT LOT 11 AND N 6 FT LOT 12 BLK 2

APN: 1047-542-04-0-000

Exhibit B: Historic Property Preservation Agreement
Property Maintenance

Address: 1112 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-542-04 **File No.:** PHP21-011

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as fences, roofs, doors, walls, and windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers, or similar items;
4. Stagnant water or excavations, including unmaintained pools or spas;
5. Any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition, or its inappropriate location.

The property owner shall also comply with the provisions of the Duty to Keep in Good Repair Section of the Historic Preservation Ordinance (Sec. 9-1.7.01.045 of the Ontario Development Code) and all other applicable provisions of the City's Property Appearance – Nuisance Ordinance (Chapter 22 of Title 5 of the Ontario Municipal Code, Commencing at Sec. 5-22.02).

Exhibit C: Historic Property Preservation Agreement
Proposed Improvements

Address: 1112 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-542-04 **File No.:** PHP21-011

Contract Year	Description
2022:	Install new gas line and redo concrete.
2023:	Repair rotted and damaged wood framing in garage.
2024:	Install new water line and redo concrete.
2025:	Upgrade electrical panel and wiring.
2026:	Repair damaged plaster in basement and paint
2027:	Install new water heater
2028:	Paint exterior
2029:	Repair 28 wood windows on 1st floor (replace ropes as needed, repair wood, add weatherstripping)
2030:	Repair cracks in exterior stucco/plaster
2031:	Repair 22 wood windows on 2nd floor (replace ropes as needed, repair wood, add weatherstripping)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PHP21-012, AND AUTHORIZING THE CITY OF ONTARIO TO ENTER INTO A HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT) WITH LUKE AND JESSICA BIDEAUX, FOR THE PROPERTY LOCATED AT 1108 NORTH EUCLID AVENUE (APN: 1047-542-03).

WHEREAS, California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

WHEREAS, Luke and Jessica Bideaux possess fee title in and to that certain real property, together with associated structures and improvements thereon, located at the street address commonly known as 1108 North Euclid Avenue, Ontario, California (hereinafter referred to as the “Property”); and

WHEREAS, on June 4, 2013, the City Council of the City of Ontario designated the Property as a Contributor within the Euclid Avenue Historic District pursuant to the terms and provisions of Chapter 4, of the Ontario Development Code; and

WHEREAS**,** the City and Luke and Jessica Bideaux, for their mutual benefit, now desire to enter into a Historic Property Preservation Agreement, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference (hereinafter referred to as the “Preservation Agreement”); 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, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on October 14, 2021, the Historic Preservation Subcommittee conducted a hearing and issued Decision No. HPSC21-011, recommending the Historic Preservation Commission recommend the City Council approve the Application; and

WHEREAS, on October 26, 2021, the Historic Preservation Commission conducted a hearing and issued Resolution No. PC21-073, recommending the City Council approve the Application; and

WHEREAS, on December 7, 2021, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. ***Environmental Determination and Findings***. As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the 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 Mills Act contract is not considered a project pursuant to Section 21065 of the CEQA Guidelines. The Mills Act contract will not result in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

(2) The determination of CEQA exemption reflects the independent judgement of the City Council.

SECTION 2. ***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 above, the City Council hereby concludes as follows:

(1) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of a qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as a property of historical significance; and

(2) Pursuant to California Government Code Section 50280, et seq., qualified historical properties are designated historic landmarks, contributing structures within designated historic districts, and properties listed on the National Register of Historic Places or the California Register of Historic Resources; and

(3) The Homer Berger House, a Craftsman style single-family residence located at 1108 North Euclid Avenue, was designated as a Contributor within the Euclid Avenue Historic District; and

(4) The Applicant has set forth a work program for this specific property to ensure the preservation of this historic resource that qualifies under the guidelines and standards set by the State of California.

SECTION 3. ***City Council Action.*** Based upon the findings and conclusions set forth in Sections 1 and 2 above, THE CITY COUNCIL APPROVES AND RATIFIES the historic property preservation agreement and authorizes the City Manager to execute the agreement, which is subject to the provisions of the City's Development Code (Sec. 4.02.065) and to each and every condition set forth in the Preservation Agreement, attached hereto as Exhibit "A" and incorporated herein by this reference; and

SECTION 4. ***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 5. ***Recordation of Agreement.*** That the City Clerk of the City of Ontario, California, shall cause the Historic Preservation Agreement to be recorded in the office of the County Recorder of San Bernardino County.

SECTION 6. ***Notification of Assessor***. That the City Clerk of the City of Ontario, California, shall notify the San Bernardino County Assessor in writing that the property has entered into a Preservation Agreement within 30 days of the recordation of the contract.

SECTION 7. ***Certification to Adoption.*** The City Clerk of the City of Ontario shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 7th day of December 2021.

_____
PAUL S. LEON, MAYOR

ATTEST:

_____
SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2021- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held December 7, 2021, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

The foregoing is the original of Resolution No. 2021- duly passed and adopted by the Ontario City Council at their regular meeting held December 7, 2021.

_____
SHEILA MAUTZ, CITY CLERK

(SEAL)

Exhibit “A”

Preservation Agreement

RECORDING REQUESTED BY
And When
RECORDED MAIL TO:

City Clerk, City of Ontario
303 East "B" Street
Ontario, CA 91764

Exempt Recording Fees Pursuant to Government Code Section 6103 & 27383

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of December 2021, by and between the City of Ontario, a municipal corporation (hereinafter referred to as the "City") and Luke Bideaux and Jessica Bideaux (hereinafter referred to as the "Owner").

WITNESSETH:

A. Recitals.

(I) California Government Code Section 50280, et seq., authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance;

(ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as the Homer Berger House, generally located at the street address 1108 North Euclid Avenue, Ontario, CA 91762 (hereinafter such property shall be referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as Exhibit "A" and is incorporated herein by this reference;

(iii) On June 4, 2013, the City Council of the City of Ontario designated the Historic Property as a Contributor to the Euclid Avenue Historic District pursuant to the terms and provisions of Title 9, Chapter 1, Chapter 4 of the Ontario Municipal Code; and,

(iv) The City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

B. Agreement

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on December 7, 2021 and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the effective date, such initial term will automatically be extended as provided in paragraph 2, below.

2. Renewal. Each year on the anniversary of the effective date of this Agreement (hereinafter referred to as the "renewal date"), a year shall automatically be added to the initial term of this Agreement unless notice of non-renewal is mailed as provided herein. If either Owner or City desires in any year not to renew the Agreement, Owner or City shall serve written notice of non-renewal of the Agreement on the other party in advance of the annual renewal date of the Agreement. Unless such notice is served by Owner to City at least ninety (90) days prior to the annual renewal date, or served by City to Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall automatically be added to the term of the Agreement provided herein. Owner may make a written protest of the notice. Upon receipts by the Owner of a notice from the City of non-renewal, the City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice to Owner of non-renewal. If either City or Owner serves notice to the other of non-

renewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

3. Fees. Prior to recordation the applicant shall pay the applicable fee in effect at the time recordation is requested.

4. Standards for Historical Property. During the term of this Agreement, the Historic Property shall be subject to the following conditions, requirements and restrictions:

A. Owner shall preserve and maintain the characteristics of historical significance of the Historic Property. Attached hereto, marked as Exhibits "B", and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Agreement.

B. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Rehabilitation Standards, the State Historical Building Code, and the Ontario Development Code and in accordance with the attached schedule of potential improvements, drafted by the applicant and approved by the City Council, attached hereto as Exhibit "C".

C. Pursuant to Section 4.02.050 of the Ontario Development Code, Owner shall obtain a Certificate of Appropriateness for any alteration, addition, restoration, rehabilitation, repainting, resurfacing, and for each and every item listed in Exhibit "C", prior to commencement of work. Failure to obtain all necessary permits, including building permits, and approvals may result in cancellation of this Agreement as set forth on Paragraph 6, Cancellation herein.

D. Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

5. Provision of Information of Corporation. Owner hereby agrees to furnish City with any and all information requested by the City, which may be necessary or advisable to determine compliance with the terms and provision of this Agreement.

6. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, et seq., may cancel this Agreement if it determines that Owner breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. City may also cancel this Agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 4(B) of this Agreement. In the event of cancellation, Owner may be subject to payment of those cancellation fees set forth in California Government Code Sections 50280, et seq.

7. Enforcement of Agreement. In lieu of and/or in addition to any provision to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach of default may be commenced within thirty (30) days and must be pursued to completion by Owner), then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such

other relief against any violation by Owner or apply for such other relief an may be appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this agreement shall be deemed to be a waiver of any other subsequent breach thereof or default herein under.

8. Binding Effect of Agreement. The Owner hereby subjects the Historic Property described in Exhibit "A" hereto to the covenants, reservations and restriction as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that Owner's legal interest in the Historic Property is rendered less valuable thereby. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and the Owner.

9. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below or at any other

address as may be later specified by the parties hereto.

To City: City of Ontario
303 East “B” Street
Ontario, CA 91764

Attention: Planning Director

To Owner: Luke and Jessica Bideaux
1108 North Euclid Avenue
Ontario, CA 91762

10. General Provisions.

A. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

B. Owner agrees to and shall hold City and its elected officials, officers, agents, and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of his contractor, subcontractor, agent, employee or other person acting on his behalf which relates to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents, and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner’s activities in connection with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.

C. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the

parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

D. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

E. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

F. This Agreement shall be construed and governed in accordance with the laws of the State of California.

11. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Bernardino.

12. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, City and Owner have executed this Agreement on the day and year first written above.

CITY OF ONTARIO

Dated:_____ By: _____
City Manager

Attest

_____
City Clerk

Approved as to Form

_____
City Attorney

Dated:_____ By: _____
Luke Bideaux, Owner

Dated:_____ By: _____
Jessica Bideaux, Owner

Exhibit A: Historic Property Preservation Agreement
Legal Description

Address: 1108 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-542-03 **File No.:** PHP21-012

The property located at: 1108 North Euclid Avenue
Ontario, CA 91762

is legally described as: COLLEGE PARK TR S 6O FT LOT 12 AND N 6 FT LOT 13 BLK 2

APN: 1047-542-03-0-000

Exhibit B: Historic Property Preservation Agreement
Property Maintenance

Address: 1108 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-542-03 **File No.:** PHP21-012

All buildings, structures, yards and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as fences, roofs, doors, walls, and windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers, or similar items;
4. Stagnant water or excavations, including unmaintained pools or spas;
5. Any device, decoration, design, structure or vegetation which is unsightly by reason of its height, condition, or its inappropriate location.

The property owner shall also comply with the provisions of the Duty to Keep in Good Repair Section of the Historic Preservation Ordinance (Sec. 9-1.7.01.045 of the Ontario Development Code) and all other applicable provisions of the City's Property Appearance – Nuisance Ordinance (Chapter 22 of Title 5 of the Ontario Municipal Code, Commencing at Sec. 5-22.02).

Exhibit C: Historic Property Preservation Agreement
Proposed Improvements

Address: 1108 North Euclid Avenue Ontario, CA 91762 **APN:** 1047-542-03 **File No.:** PHP21-012

Contract Year	Description
2022:	Replace rotted and damaged wood shingle siding at exterior.
2023:	Install new smoke detectors and update electrical outlets.
2024:	Sand, prep and paint interior of windows.
2025:	None
2026:	Interior paint, repairs to sprinklers, porch and attic fan.
2027:	New first floor HVAC unit remove old ductwork and furnace.
2028:	Remove tile and refinish original wood flooring at entryway. Repair 5 windows at rear of house, seal around windows.
2029:	Restore damaged bricks on front porch pony wall.
2030:	Repair flat roof at rear of house and other roof repairs.
2031:	Replace composition shingles at front of house