

**CITY OF ONTARIO
CITY COUNCIL AND HOUSING AUTHORITY
AGENDA
JULY 17, 2018**

Paul S. Leon
Mayor

Alan D. Wapner
Mayor pro Tem

Jim W. Bowman
Council Member

Debra Dorst-Porada
Council Member

Ruben Valencia
Council Member



Scott Ochoa
City Manager

John E. Brown
City Attorney

Sheila Mautz
City Clerk

James R. Milhiser
Treasurer

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 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.
- 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.

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

(EQUIPMENT FOR THE HEARING IMPAIRED AVAILABLE IN THE RECORDS MANAGEMENT OFFICE)

CALL TO ORDER (*OPEN SESSION*)

6:30 p.m.

ROLL CALL

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

PLEDGE OF ALLEGIANCE

Mayor pro Tem Wapner

INVOCATION

Dr. Sylvia Mann, Bethel Congregational Church

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.

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 meeting of the City Council/Housing Authority/Successor Agency to the Ontario Redevelopment Agency of June 19, 2018, and the special meeting of the City Council and Housing Authority of June 18, 2018, approving same as on file in the Records Management Department.

2. BILLS/PAYROLL

Bills May 20, 2018 through June 2, 2018 and **Payroll** May 20, 2018 through June 2, 2018, when audited by the Finance Committee.

3. DESIGNATION OF VOTING DELEGATES FOR THE LEAGUE OF CALIFORNIA CITIES ANNUAL BUSINESS MEETING

That the City Council designate Mayor pro Tem Alan Wapner as the City's voting delegate and Council Member Debra Dorst-Porada as an alternate for the League of California Cities Annual Business Meeting scheduled for September 14, 2018.

4. MAINTENANCE SERVICES AGREEMENT FOR THE CITY'S TRAFFIC SIGNALS AND TRAFFIC SIGNAL SYSTEM/SIEMENS INDUSTRY, INC.

That the City Council approve and authorize the City Manager to execute a one-year Maintenance Services Agreement (on file with the Records Management Department) with Siemens Industry, Inc. of Riverside, California, to provide maintenance services for the City's traffic signals and traffic signal system for an estimated annual cost of \$475,050 plus a 10% contingency of \$47,505 for a total authorized expenditure of \$522,555; and authorize the City Manager to extend the agreement for up to four additional one-year periods with any required future amendments consistent with City Council approved budgets.

5. A CONTRACT FOR THE FY 2018-19 COLLECTOR/ARTERIAL, LOCAL STREET MAINTENANCE - SLURRY SEAL AND CDBG PAVEMENT MANAGEMENT REHABILITATION/ALL AMERICAN ASPHALT

That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) to All American Asphalt, of Corona, California for the FY 2018-19 Collector / Arterial, Local Street Maintenance - Slurry Seal and CDBG Pavement Management Rehabilitation in the bid amount of \$833,476 plus a twenty percent (20%) contingency of \$166,696 for a total authorized expenditure of \$1,000,172; and authorize the City Manager to execute said contract and related documents, and file a notice of completion at the conclusion of all construction activities for the project.

6. LICENSE AGREEMENT FOR MICROSOFT OFFICE 365 SUBSCRIPTIONS/SOFTCHOICE, INC.

That the City Council approve and authorize the City Manager to expand an existing three-year license agreement with Softchoice, Inc., of Chicago, Illinois (on file in the Records Management Department) for Microsoft Office 365 subscriptions in a total annual amount of \$278,600.

7. A DEVELOPMENT IMPACT FEE CREDIT AND REIMBURSEMENT AGREEMENT WITH COLONY COMMERCE CENTER LLC

That the City Council authorize the City Manager to execute a Development Impact Fee Credit and Reimbursement Agreement (on file with the Records Management Department) with Colony Commerce Center LLC for the construction of public infrastructure in the Colony Commerce Center project.

8. AN ORDINANCE AMENDING TITLE 2, CHAPTER 6, ENTITLED PURCHASING SYSTEM, OF THE ONTARIO MUNICIPAL CODE AND IMPLEMENTING THE UNIFORM GUIDANCE PROCUREMENT STANDARDS PURSUANT TO SECTIONS 200.317 THROUGH 200.326 OF THE CODE OF FEDERAL REGULATIONS; AND AUTHORIZING ACCEPTANCE OF ELECTRONIC BID BONDS

That the City Council consider and adopt an ordinance:

- (A) Amending Chapter 6 of Title 2 of the Ontario Municipal Code and establishing the rules and regulations of the City's current Purchasing System;
- (B) Implementing the Uniform Guidance pursuant to Sections 200.317 through 200.326 of the Code of Federal Regulations; and
- (C) Authorizing acceptance of electronic bid bonds.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTIONS 2-6.07, 2-6.13, AND 2-6.22 OF THE ONTARIO MUNICIPAL CODE CONCERNING THE PURCHASE OF GOODS, SERVICES AND PUBLIC PROJECTS

9. ACCEPT A WRITTEN PETITION TO CREATE A COMMUNITY FACILITIES DISTRICT; ADOPT A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 42 (WEST HAVEN) AND TO AUTHORIZE THE ASSOCIATED LEVY OF SPECIAL TAXES; AND ADOPT A RESOLUTION TO INCUR BONDED INDEBTEDNESS

That the City Council consider and:

- (A) Accept a written petition (on file with the Records Management Department) from STG Communities II, LLC, located in Irvine, CA to create a Community Facilities District, and to waive certain procedural matters under the Mello-Roos Community Facilities Act of 1982;
- (B) Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 42 (West Haven) (the “CFD”), authorize the associated levy of special taxes therein, and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, August 21, 2018; and
- (C) Adopt a Resolution to Incur Bonded Indebtedness for proposed Community Facilities District No. 42 (West Haven).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT, PROPOSED TO BE NAMED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 42 (WEST HAVEN), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO INCUR BONDED INDEBTEDNESS OF THE PROPOSED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 42 (WEST HAVEN).

10. ACCEPT WRITTEN PETITIONS TO CREATE A COMMUNITY FACILITIES DISTRICT, ADOPT A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 43 (PARK PLACE FACILITIES PHASE IV) AND AUTHORIZE THE ASSOCIATED LEVY OF SPECIAL TAXES, AND ADOPT A RESOLUTION TO INCUR BONDED INDEBTEDNESS

That the City Council:

- (A) Accept written petitions (on file with the Records Management Department) from SL Ontario Development Company, LLC, a Delaware limited liability company located in Upland, California, TRI Pointe Homes, Inc. a Delaware corporation located in Irvine, California, and KB HOME Coastal Inc., a California corporation located in Wildomar, California, to create a community facilities district, and to waive certain procedural matters, under the Mello-Roos Community Facilities Act of 1982;
- (B) Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 43 (Park Place Facilities Phase IV) (the “CFD”), authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, August 21, 2018; and

- (C) Adopt a Resolution to Incur Bonded Indebtedness of proposed Community Facilities District No. 43 (Park Place Facilities Phase IV).

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT, PROPOSED TO BE NAMED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 43 (PARK PLACE FACILITIES PHASE IV), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO INCUR BONDED INDEBTEDNESS OF THE PROPOSED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 43 (PARK PLACE FACILITIES PHASE IV).

II. AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT (FILE NO. PDA17-004) BETWEEN THE CITY OF ONTARIO AND COLONY COMMERCE CENTER LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR THE POTENTIAL DEVELOPMENT OF UP TO 1,379,501 SQUARE FEET OF INDUSTRIAL DEVELOPMENT ON 57.58 ACRES OF LAND GENERALLY LOCATED ON THE SOUTHEAST CORNER OF MERRILL AVENUE AND CARPENTER AVENUE AT 9467 EAST MERRILL AVENUE, WITHIN PLANNING AREA 1 OF THE COLONY COMMERCE CENTER WEST SPECIFIC PLAN (APNS: 0218-292-05 AND 0218-311-11)

That the City Council consider and adopt an ordinance approving a Development Agreement (File No. PDA17-004, on file with the Records Management Department) between the City of Ontario and Colony Commerce Center LLC, to establish the terms for the development of Planning Area 1 of the Colony Commerce Center West Specific Plan.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT (FILE NO. PDA17-004) BETWEEN THE CITY OF ONTARIO AND COLONY COMMERCE CENTER LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR THE POTENTIAL DEVELOPMENT OF UP TO 1,379,501 SQUARE FEET OF INDUSTRIAL DEVELOPMENT ON 57.58 ACRES OF LAND GENERALLY LOCATED ON THE SOUTHEAST CORNER OF MERRILL AVENUE AND CARPENTER AVENUE AT 9467 EAST MERRILL AVENUE, WITHIN PLANNING AREA 1 OF THE COLONY COMMERCE CENTER WEST SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF (APNS: 0218-292-05 AND 0218-311-11).

12. AUTHORIZE THE PURCHASE OF FLEET VEHICLES/LOS ANGELES TRUCK CENTERS, LLC

That the City Council takes the following actions:

- (A) Award Bid No. 970 and authorize the purchase and delivery of four (4) CNG Roll Off Trucks in the amount of \$1,034,476 for the Integrated Waste Department from Los Angeles Truck Centers, LLC of Whittier, California.
- (B) Award Bid No. 971 and authorize the purchase and delivery of five (5) CNG Automated Side Loading Trucks in the amount of \$1,561,682 for the Integrated Waste Department from Los Angeles Truck Centers, LLC of Whittier, California.
- (C) Award Bid No. 972 and authorize the purchase and delivery of four (4) CNG Front Loading Trucks in the amount of \$1,275,244 for the Integrated Waste Department from Los Angeles Truck Centers, LLC of Whittier, California.

13. STUDENT REPRESENTATIVE AND ALTERNATE APPOINTMENTS TO THE RECREATION AND PARKS COMMISSION FOR 2018/19 AND RECOGNITION OF THE CURRENT STUDENT REPRESENTATIVE AND ALTERNATE FOR THE YEAR SERVED 2017/18

That the City Council confirm Brittney Zendejas of Colony High School as the Student Representative and Venus Medina of Ontario High School as the Alternate to the Recreation and Parks Commission for the term to expire June 30, 2019; and recognize Wendy Navarro Lopez of Ontario High School for serving as the Student Representative and Kayla Ton of Ontario High School for serving as the Student Representative Alternate for the past year.

14. ANNUAL CONTRACT FOR ON-CALL MAINTENANCE, REHABILITATION, INSPECTIONS AND URGENCY WELL REPAIRS/GENERAL PUMP COMPANY INC.

That the City Council award a contract for Contract No. UTOP 1819-01 (on file in the Records Management Department) to General Pump Company Inc. of San Dimas, California, for on-call maintenance, rehabilitation, inspection and urgency well repairs in the not-to exceed amount of \$730,000; and authorize the City Manager to execute a one-year maintenance contract and extend the contract for up to four additional one-year periods consistent with City Council approved budgets.

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.

15. A PUBLIC HEARING TO CONSIDER AN ORDINANCE ADDING CHAPTER 13A TO TITLE 6 OF THE ONTARIO MUNICIPAL CODE REGARDING SMOKE FREE PARKS

That the City Council consider and adopt an ordinance adding Chapter 13A to Title 6 of the Ontario Municipal Code to add provisions regarding Smoke Free Parks.

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

Written communication.
Oral presentation.
Public hearing closed.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 13A TO TITLE 6 OF THE ONTARIO MUNICIPAL CODE REGARDING SMOKE FREE PARKS.

16. A PUBLIC HEARING TO CONSIDER THE ISSUANCE OF QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS FOR VIRGINIA/HOLT APARTMENTS, LOCATED ON 4.18 ACRES OF LAND BORDERED BY HOLT BOULEVARD ON THE SOUTH, RESIDENTIALLY DEVELOPED PROPERTIES ON THE EAST, NOCTA STREET ON THE NORTH, AND VIRGINIA AVENUE ON THE WEST; AND AUTHORIZE EXECUTIVE DIRECTOR TO PROVIDE WRITTEN CONSENT TO ALLOW FOR APPLICATION OF THE WELFARE PROPERTY TAX EXEMPTION FOR THE PROJECT

That the City Council hold a public hearing to consider a resolution authorizing the issuance of qualified residential rental project bonds in one or more series (the "Bonds") in a principal amount not to exceed \$27,000,000 for the purpose of financing the acquisition and construction of Virginia/Holt Apartments, approving and authorizing the execution and delivery of any and all documents necessary to issue the Bonds and implement the resolution, and ratifying and approving any action taken in connection with the Bonds; and that the Board of the Ontario Housing Authority authorize the Executive Director to provide written consent to allow for application of the welfare property tax exemption for the project.

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

Written communication.
Oral presentation.
Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ISSUANCE OF REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$27,000,000 TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A 101-UNIT MULTIFAMILY RENTAL HOUSING FACILITY FOR THE BENEFIT OF A LIMITED PARTNERSHIP CREATED BY NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA, AND CERTAIN OTHER MATTERS RELATING THERETO.

17. A PUBLIC HEARING TO CONSIDER THE ISSUANCE OF QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS FOR ONTARIO TOWNHOUSES, LOCATED AT 1360 EAST D STREET, ONTARIO, CALIFORNIA; AND AUTHORIZE CITY MANAGER TO CONSENT TO THE APPLICATION FOR WELFARE PROPERTY TAX EXEMPTION

That the City Council hold a public hearing to consider a resolution authorizing the issuance of qualified residential rental project bonds in one or more series (the “Bonds”) in a principal amount not to exceed \$25,200,000 for the purpose of financing the acquisition and rehabilitation of Ontario Townhouses, approving and authorizing the execution and delivery of any and all documents necessary to issue the bonds and implement the resolution, and ratifying and approving any action taken in connection with the bonds; and authorize the City Manager to consent to the application for a welfare property tax exemption.

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

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ISSUANCE OF REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$25,200,000 TO FINANCE THE ACQUISITION, REHABILITATION, IMPROVEMENT AND EQUIPPING OF AN 87-UNIT MULTIFAMILY RENTAL HOUSING FACILITY FOR THE BENEFIT OF A LIMITED PARTNERSHIP CREATED BY NATIONAL FOUNDATION FOR AFFORDABLE HOUSING SOLUTIONS, INC., AND CERTAIN OTHER MATTERS RELATING THERETO.

18. ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NOS. 1, 2, 3 AND 4 FOR FISCAL YEAR 2018-2019

That the City Council take the following actions pertaining to the levy of assessments within Ontario Parkway Maintenance Assessment Districts (OPMAD) Nos. 1, 2, 3 and 4:

- (A) Conduct a combined public hearing on the levy of the annual assessments for each district;
- (B) Consider and adopt a resolution approving the Engineer’s Reports relating to the levy of assessments for each district; and
- (C) Consider and adopt resolutions confirming the diagrams and assessments, and providing for the assessment levy within each district.

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

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAMS AND ASSESSMENTS, AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3 FOR FISCAL YEAR 2018-19.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAMS AND ASSESSMENTS, AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3 FOR FISCAL YEAR 2018-19.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICT NO. 4 FOR FISCAL YEAR 2018-19.

19. ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICTS NOS. 1 AND 2 FOR FISCAL YEAR 2018-19

That the City Council take the following actions pertaining to the levy of assessments within Street Lighting Maintenance Districts (SLMD) Nos. 1 and 2:

- (A) Conduct a combined public hearing on the levy of the annual assessments for each district;
- (B) Consider and adopt a resolution approving the Engineer's Reports relating to the levy of assessments for each district; and
- (C) Consider and adopt resolutions confirming the diagrams and assessments, and providing for the assessment levy for each District.

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

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND 2 FOR FISCAL YEAR 2018-19.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2018-2019.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 2 FOR FISCAL YEAR 2018-19.

20. A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE ONTARIO INTERNATIONAL AIRPORT (ONT) LAND USE COMPATIBILITY PLAN (ALUCP) FILE NO. PALU18-004 TO: 1) UPDATE AIRPORT OWNERSHIP REFERENCES FROM LOS ANGELES WORLD AIRPORTS (LAWA) TO ONTARIO INTERNATIONAL AIRPORT AUTHORITY (OIAA); 2) ELIMINATE LAWA'S PROPOSAL TO RECONFIGURE THE ONT RUNWAY SYSTEM BY SHIFTING BOTH RUNWAYS SOUTH AND EAST OF THEIR PRESENT POSITION (EXHIBIT 1-6: SIMPLIFIED AIRPORT DIAGRAM) AND RELY ON THE EXISTING RUNWAY SYSTEM (CURRENT AIRPORT LAYOUT PLAN) FOR THE ONT ALUCP; AND 3) UPDATE POLICY MAPS 2-1: AIRPORT INFLUENCE AREA, 2-2: SAFETY ZONES, 2-3: NOISE IMPACT ZONES, 2-4: AIRSPACE PROTECTION ZONES, AND 2-5: OVERFLIGHT NOTIFICATION ZONES TO REFLECT IMPACTS FROM THE EXISTING RUNWAY CONFIGURATION AND ELIMINATE THE COMPOSITE APPROACH THAT PROTECTS LAWA'S PROPOSED RUNWAY RECONFIGURATIONS. THE GEOGRAPHIC SCOPE OF THE ONT ALUCP IS THE AIRPORT INFLUENCE AREA (AIA), WHICH INCLUDES PORTIONS OF THE CITIES OF ONTARIO, FONTANA, UPLAND, MONTCLAIR, RANCHO CUCAMONGA, CHINO, POMONA, CLAREMONT AND UNINCORPORATED PORTIONS OF SAN BERNARDINO, RIVERSIDE AND LOS ANGELES COUNTIES

That the City Council adopt a resolution approving an amendment to the Ontario International Airport Land Use Compatibility Plan, File No. PALU18-004.

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

Written communication.

Oral presentation.

Public hearing closed.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PALU18-004, AN AMENDMENT TO THE ONTARIO INTERNATIONAL AIRPORT LAND USE COMPATIBILITY PLAN TO: 1) UPDATE AIRPORT OWNERSHIP REFERENCES FROM LOS ANGELES WORLD AIRPORTS (LAWA) TO ONTARIO INTERNATIONAL AIRPORT AUTHORITY (OIAA); 2) ELIMINATE LAWA'S PROPOSAL TO RECONFIGURE THE ONT RUNWAY SYSTEM BY SHIFTING BOTH RUNWAYS SOUTH AND EAST OF THEIR PRESENT POSITION (EXHIBIT 1-6: SIMPLIFIED AIRPORT DIAGRAM) AND RELY ON THE EXISTING RUNWAY SYSTEM (CURRENT AIRPORT LAYOUT PLAN) FOR THE ONT ALUCP; AND 3) UPDATE POLICY MAPS 2-1: AIRPORT INFLUENCE AREA, 2-2: SAFETY ZONES, 2-3: NOISE IMPACT ZONES, 2-4: AIRSPACE PROTECTION ZONES AND 2-5: OVERFLIGHT NOTIFICATION ZONES TO REFLECT IMPACTS FROM THE EXISTING RUNWAY CONFIGURATION AND ELIMINATE THE COMPOSITE APPROACH THAT PROTECTS EXISTING AND LAWA'S PROPOSED RUNWAY RECONFIGURATIONS. THE GEOGRAPHIC SCOPE OF THE ONT ALUCP IS THE AIRPORT INFLUENCE AREA (AIA), WHICH INCLUDES PORTIONS OF THE CITIES OF ONTARIO, FONTANA, UPLAND, MONTCLAIR, RANCHO CUCAMONGA, CHINO, POMONA, CLAREMONT AND UNINCORPORATED PORTIONS OF SAN BERNARDINO, RIVERSIDE AND LOS ANGELES COUNTIES, AND MAKING FINDINGS IN SUPPORT THEREOF.

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

Agenda Report

July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: DESIGNATION OF VOTING DELEGATES FOR THE LEAGUE OF CALIFORNIA CITIES ANNUAL BUSINESS MEETING

RECOMMENDATION: That the City Council designate Mayor pro Tem Alan Wapner as the City's voting delegate and Council Member Debra Dorst-Porada as an alternate for the League of California Cities Annual Business Meeting scheduled for September 14, 2018.

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

FISCAL IMPACT: There is no direct fiscal impact by taking this action; however, representation and participation in the League of California Cities (League) upcoming business meeting will help establish League policy on matters which may affect the City's finances.

BACKGROUND: The League has scheduled its Annual Business Meeting for September 14, 2018 during the Annual League Conference in Long Beach, California. At that meeting, the League membership considers and takes action on resolutions that establish League policy.

Consistent with League bylaws, a city's voting delegate and alternate must be designated by City Council action.

STAFF MEMBER PRESENTING: Al C. Boling, Assistant City Manager

Prepared by: Vicki Kasad
Department: Records Management/City Clerk

City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

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Phone: 916.658.8200 Fax: 916.658.8240
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2018 MAY 29 AM 7 42

Council Action Advised by July 31, 2018

May 17, 2018

TO: Mayors, City Managers and City Clerks

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference – September 12 - 14, Long Beach**

The League's 2018 Annual Conference is scheduled for September 12 – 14 in Long Beach. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly), scheduled for 12:30 p.m. on Friday, September 14, at the Long Beach Convention Center. At this meeting, the League membership considers and takes action on resolutions that establish League policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to the League's office no later than Friday, August 31, 2018. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note the following procedures are intended to ensure the integrity of the voting process at the Annual Business Meeting.

- **Action by Council Required.** Consistent with League bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates must be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. To register for the conference, please go to our website: www.cacities.org. In order to cast a vote, at least one voter must be present at the

Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to League policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the League Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in his or her possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



CITY: _____

2018 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM

Please complete this form and return it to the League office by Friday, August 31, 2018. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

In order to vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: _____

Title: _____

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES.

OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____ E-mail _____

Mayor or City Clerk _____ Phone: _____
(circle one) (signature)

Date: _____

Please complete and return by Friday, August 31, 2018

League of California Cities
ATTN: Kayla Curry
1400 K Street, 4th Floor
Sacramento, CA 95814

FAX: (916) 658-8240
E-mail: kcurry@cacities.org
(916) 658-8254

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: MAINTENANCE SERVICES AGREEMENT FOR THE CITY'S TRAFFIC SIGNALS AND TRAFFIC SIGNAL SYSTEM

RECOMMENDATION: That the City Council approve and authorize the City Manager to execute a one-year Maintenance Services Agreement (on file with the Records Management Department) with Siemens Industry, Inc. of Riverside, California, to provide maintenance services for the City's traffic signals and traffic signal system for an estimated annual cost of \$475,050 plus a 10% contingency of \$47,505 for a total authorized expenditure of \$522,555; and authorize the City Manager to extend the agreement for up to four additional one-year periods with any required future amendments consistent with City Council approved budgets.


COUNCIL GOALS: Maintain the Current High Level of Public Safety
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

FISCAL IMPACT: The FY 2018-19 Adopted Operating Budget includes appropriations of \$617,240 for traffic signal maintenance services. The total recommended expenditure authorization of \$522,555 includes the estimated annual cost of \$475,050 plus a 10% contingency of \$47,505. At the City's discretion, the agreement may be extended for up to four additional one year periods with any increase to billing rates to be negotiated for each year, consistent with City Council approved budgets.

BACKGROUND: The City currently maintains 203 traffic signals throughout Ontario. The existing maintenance services agreement is set to expire on July 31, 2018. A request for proposals for traffic signal maintenance services was issued on May 21, 2018. Below are the three companies that submitted proposals and were interviewed:

<u>Company</u>	<u>Location</u>	<u>Amount</u>
Bear Electrical Solutions	Anaheim, CA	\$643,560
Siemens Industry, Inc.	Riverside, CA	\$475,050
St. Francis Electric	Riverside, CA	\$511,152

STAFF MEMBER PRESENTING: Scott Murphy, AICP, Executive Director, Development Agency

Prepared by: Johnson Hua
Department: Engineering
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

4

Staff recommends award of the Maintenance Services Agreement to Siemens Industry, Inc. based on company experience and resources, technician qualifications, past experience with the City, pricing, and references.

CITY OF ONTARIO

Agenda Report

July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: A CONTRACT FOR THE FY 2018-19 COLLECTOR/ARTERIAL, LOCAL STREET MAINTENANCE - SLURRY SEAL AND CDBG PAVEMENT MANAGEMENT REHABILITATION

RECOMMENDATION: That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) to All American Asphalt, of Corona, California for the FY 2018-19 Collector / Arterial, Local Street Maintenance - Slurry Seal and CDBG Pavement Management Rehabilitation in the bid amount of \$833,476 plus a twenty percent (20%) contingency of \$166,696 for a total authorized expenditure of \$1,000,172; and authorize the City Manager to execute said contract and related documents, and file a notice of completion at the conclusion of all construction activities for the project.

COUNCIL GOALS: Focus Resources in Ontario's Commercial and Residential Neighborhoods Invest In The City's Infrastructure (Water, Street, Sewers, Parks, Storm Drains And Public Facilities)

FISCAL IMPACT: The Fiscal Year 2018-19 Adopted Operating Budget includes appropriations of \$300,000 from Measure I funds, \$412,000 from Gas Tax funds, and \$301,072 from Community Development Block Grant for a total budget of \$1,013,072 related to this project. The total recommended expenditure authorization of \$1,000,172 consists of the bid amount of \$833,476 plus a 20% contingency of \$166,696.

BACKGROUND: The scope of services for this project includes crack-sealing, removal and replacement of existing thermoplastic traffic striping and markings, localized asphalt concrete pavement repair, major crack repair, and placement of Rubber Polymer Modified Slurry Seal (RPMSS) and cape seal on various collector and arterial streets and on various local streets.

STAFF MEMBER PRESENTING: Scott Murphy, AICP, Executive Director, Development Agency

Prepared by: Ariana Kern
Department: Engineering
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

5

Location exhibits are attached for reference (Exhibits 1 through 4). This project will extend the lifespan of the streets by approximately ten (10) years and prevent more-costly future repairs. In June 2018, the City solicited bids for this project, and two bids were received. The bid results are:

COMPANY	LOCATION	AMOUNT
All American Asphalt	Corona, CA	\$ 833,476
American Asphalt South, Inc.	Fontana, CA	\$ 1,063,740



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

The requested 20% contingency will permit staff to take advantage of the low unit-prices and allow additional streets as identified by staff and the City's Pavement Management System to be slurry sealed.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were reviewed and staff has determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to § 1501 (Class 1, Existing Facilities) of the State CEQA Guidelines.

**EXHIBIT 1 OF 4
PROPOSED 2018
LOCAL STREET SLURRY SEAL
PROJECT AREAS**

LEGEND

-  2018 SLURRY
-  2018 CAPE SEAL

BID SCHEDULE "A"

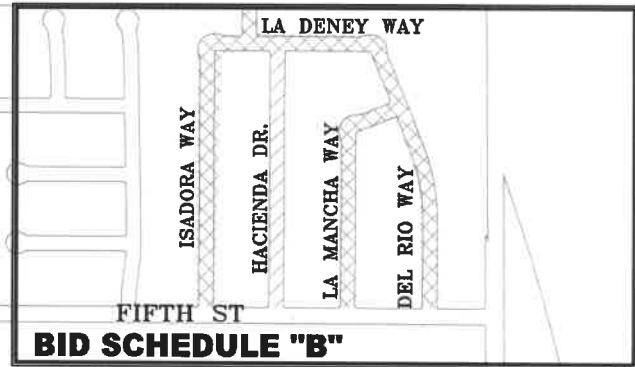
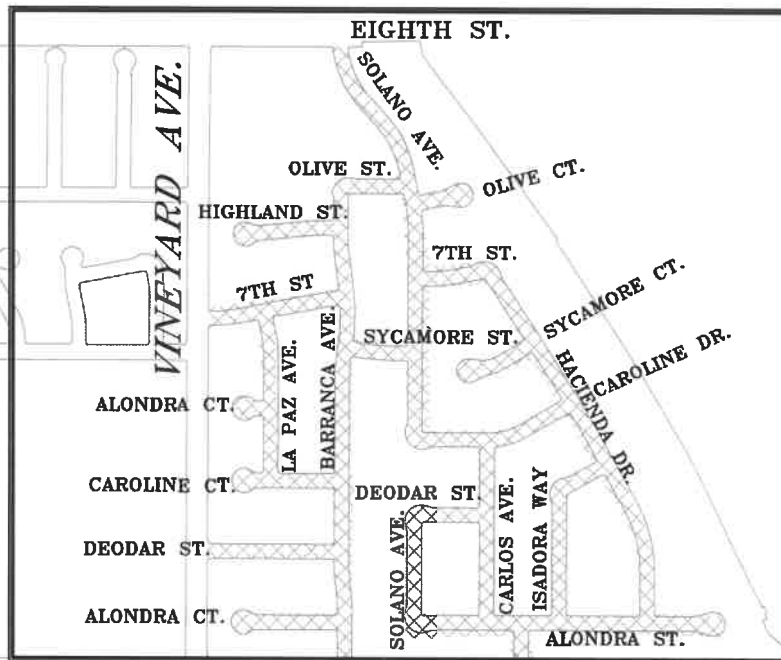

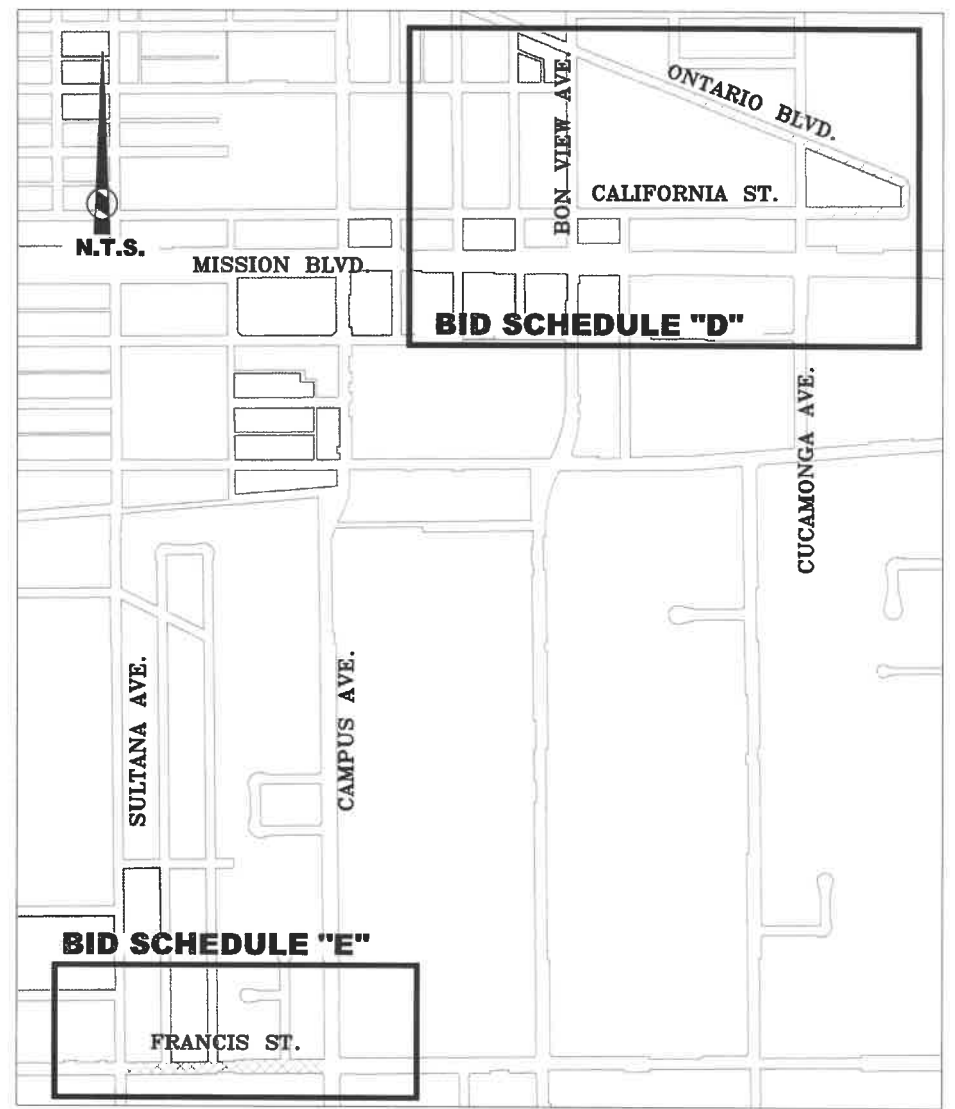
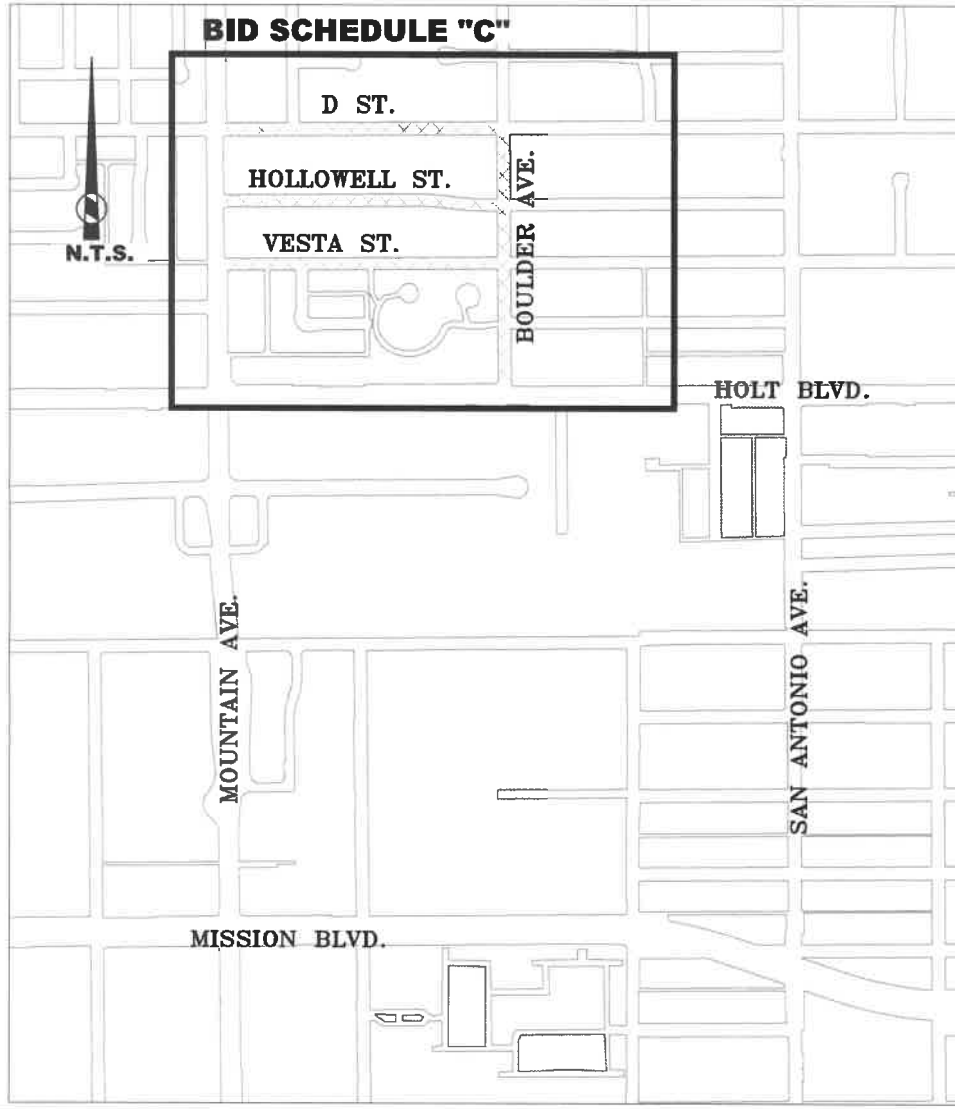


EXHIBIT 2 OF 4
PROPOSED 2018
C.D.B.G STREET SLURRY SEAL
PROJECT AREAS

LEGEND



-  2018 SLURRY
-  2018 CAPE SEAL



**EXHIBIT 3 OF 4
PROPOSED 2018**

**COLLECTOR/ARTERIAL SLURRY SEAL
PROJECT AREAS**

LEGEND

-  2018 SLURRY
-  2018 CAPE SEAL

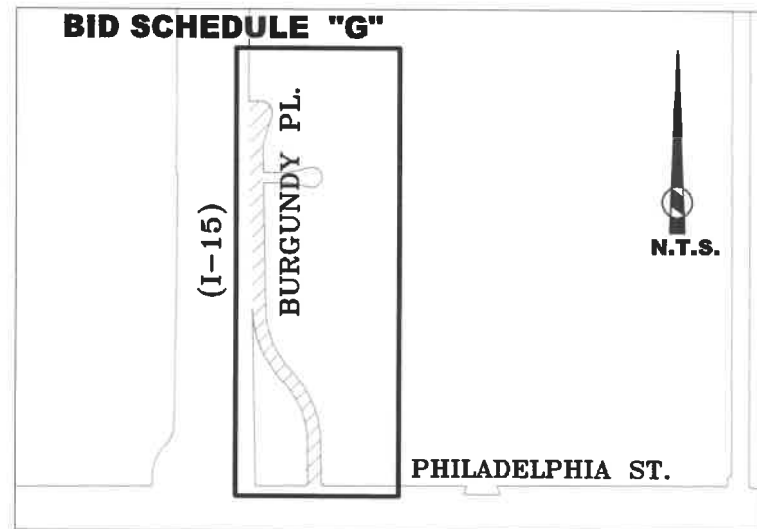
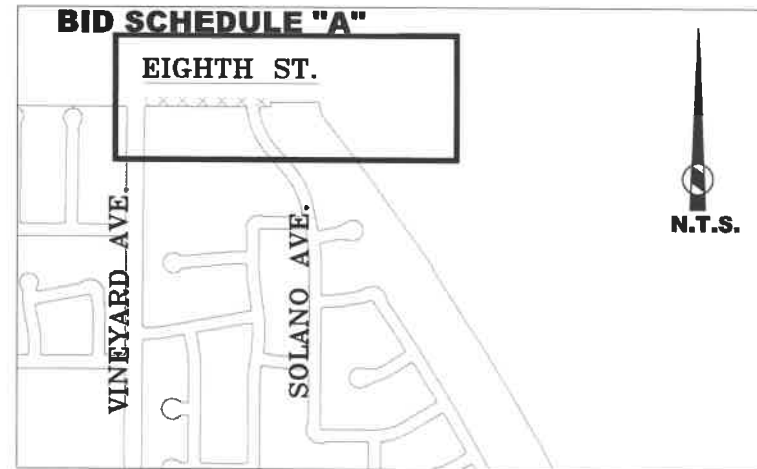
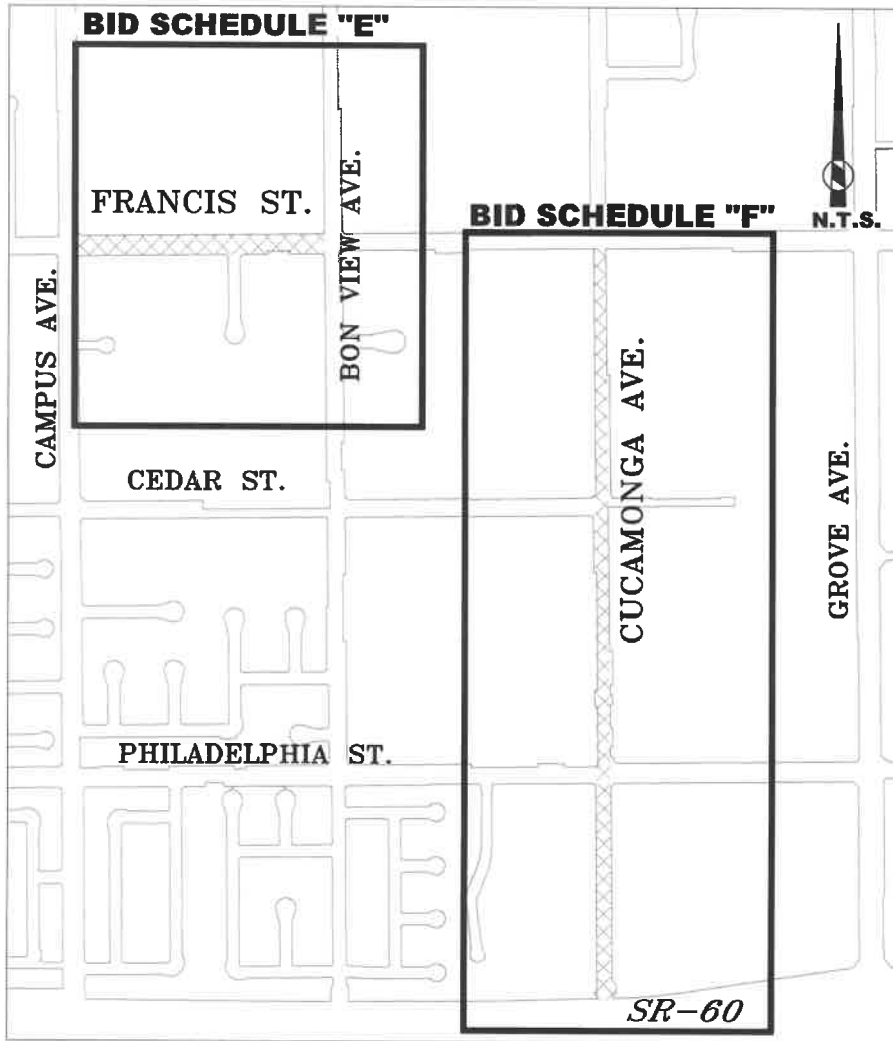
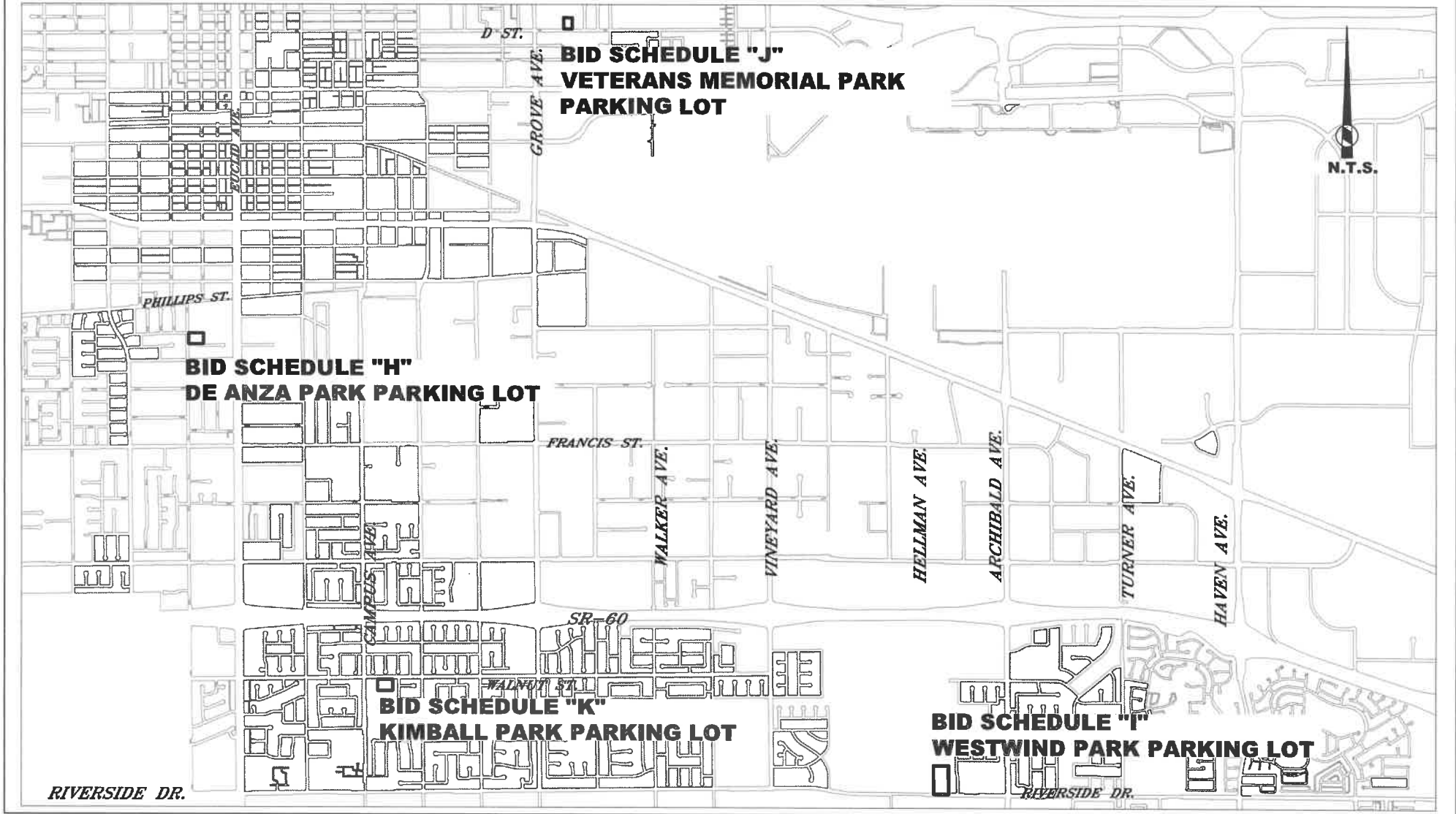


EXHIBIT 4 OF 4
PROPOSED 2018
PARKING LOT SLURRY SEAL
PROJECT AREAS



CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: LICENSE AGREEMENT FOR MICROSOFT OFFICE 365 SUBSCRIPTIONS

RECOMMENDATION: That the City Council approve and authorize the City Manager to expand an existing three-year license agreement with Softchoice, Inc., of Chicago, Illinois (on file in the Records Management Department) for Microsoft Office 365 subscriptions in a total annual amount of \$278,600.

COUNCIL GOALS: Operate in a Businesslike Manner

FISCAL IMPACT: Under the terms of the City's existing license agreement with Softchoice, Inc., the per-user pricing for Microsoft Office 365 subscriptions is \$199/year, and includes 250 users. As part of an effort to implement Office 365 use citywide, the City's current agreement must be expanded to 1400 users. This requires the existing contract of \$49,750/year to be expanded by an additional \$228,850 to an amount of \$278,600/year. Appropriations for the full \$278,600 have been included in the City's adopted Fiscal Year 2018/19 Budget.

BACKGROUND: On February 23, 2017, the City entered into a three-year license agreement with Softchoice, Inc. for the use of Microsoft Office 365 software. This software, which includes Microsoft Word, Excel, Powerpoint and Outlook, has been pilot tested by the City's Information Technology Agency since the execution of the contract and has been deemed suitable for citywide implementation. As such, over the next twelve months, city departments will be transferred one-by-one onto Office 365. Additionally, the City's e-mail and Sharepoint will be moved to Microsoft's cloud based servers, a service provided under the subscription.

Microsoft Office 365 is the standard in desktop productivity, and a citywide upgrade will bring several new technological advances to enhance the administration of citywide services, while helping ensure that the City is utilizing the most secure software available. The cost of the proposed subscription includes any future updates to the software, so the City will be kept up-to-date on the most current versions.

STAFF MEMBER PRESENTING: Elliott Ellsworth, Executive Director, Information Technology

Prepared by: Elliott Ellsworth
Department: Information Technology

City Manager
Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

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CITY OF ONTARIO

Agenda Report

July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: A DEVELOPMENT IMPACT FEE CREDIT AND REIMBURSEMENT AGREEMENT WITH COLONY COMMERCE CENTER LLC

RECOMMENDATION: That the City Council authorize the City Manager to execute a Development Impact Fee Credit and Reimbursement Agreement (on file with the Records Management Department) with Colony Commerce Center LLC for the construction of public infrastructure in the Colony Commerce Center project.

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

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

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

FISCAL IMPACT: Approval of the proposed action will result in no fiscal impact to the City's General Fund. The project's Development Agreement and related conditions require the Developer to construct or fund Development Impact Fee (DIF) Program infrastructure with estimated costs of approximately \$21,570,241. The proposed DIF Credit and Reimbursement Agreement defines the amount of DIF credit and DIF reimbursement that the developer may be eligible to receive. The DIF credit that the Developer will receive upon completion of the improvements may be exchanged for a refund of DIF that was paid by the Developer (up to the Developer's maximum DIF obligation) in the respective DIF category. Additionally, DIF reimbursement may also become available when other developers that directly benefit from the improvements pay their respective Development Impact Fees.

BACKGROUND: Colony Commerce Center LLC (Prologis - Phase 1) entered into a Development Agreement with the City that addresses the development of approximately 1,258,720 square feet of industrial uses. The Development Agreement, approved July 3, 2018, included requirements for the construction of the public facilities to serve the project and the surrounding area.

STAFF MEMBER PRESENTING: Grant D. Yee, Executive Director of Finance

Prepared by: Bob Chandler
Department: Management Services

City Manager
Approval: 

Submitted to Council/O.H.A. 07/17/2018

Approved: _____

Continued to: _____

Denied: _____

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As noted, the Development Agreement requires Colony Commerce Center LLC to construct public infrastructure that is contained within the City's Development Impact Fee Program. This infrastructure is within the Ontario Ranch (OR) Water, Sewer, Storm Drain, Streets and Bridges and Fiber Optic Communications System DIF Program categories. Since the Maximum Eligible Costs in the agreement for the required infrastructure in the Water, Sewer, Storm Drain and Streets and Bridges categories exceeds the Developer's DIF obligations, the Developer is also eligible to receive future reimbursements from DIF collected when future development projects in the area pay their respective DIF in these categories. This DIF Credit and Reimbursement Agreement also provides for direct DIF reimbursements in the Local Adjacent Storm Drain category from other non-residential projects in the area that are expected to develop in the near future. The Development Agreement with Colony Commerce Center LLC provides that the City and Colony Commerce Center LLC would enter into a DIF credit and reimbursement agreement to provide DIF credit and reimbursement to the Developer for the construction of the DIF Program improvements. The DIF Credit and Reimbursement Agreement also provides for the issuance of DIF credit in the Regional Water DIF category in recognition of the requirement in the Development Agreement that Colony Commerce Center LLC (Prologis - Phase 1) will also provide funding for their respective portion of the Phase 2 Water Improvements to serve the Ontario Ranch area.

The proposed agreement is in compliance with the City's DIF Policies and in conformance with the Development Agreement between the City and Colony Commerce Center LLC (Prologis – Phase 1). Under the provisions of the City's DIF Program, the City Manager is authorized to execute such agreements upon authorization of the City Council.

**DEVELOPMENT IMPACT FEE CREDIT AND REIMBURSEMENT AGREEMENT
FOR FACILITY CONSTRUCTION BY AND BETWEEN THE CITY OF ONTARIO
AND COLONY COMMERCE CENTER LLC**

This DEVELOPMENT IMPACT FEE CREDIT AND REIMBURSEMENT AGREEMENT (this "**Fee Credit Agreement**"), entered into this _____ day of _____, 2018, between the **CITY OF ONTARIO**, a California municipal corporation, hereinafter referred to as the "City," and Colony Commerce Center LLC a Delaware limited liability company, hereinafter referred to as the "Developer."

RECITALS

A. Developer is the owner and developer of property located within the City, which property has received development approvals from the City, including the Colony Commerce West Specific Plan ("**Specific Plan**") and Development Plan No. _____ (the "**Development Plan**"). A legal description of the property is attached as Exhibit 1 (the "**Property**"). A map of the Property is attached as Exhibit 2.

B. As a condition of the development approvals for the Property, including the Specific Plan and Development Plan approvals, the Developer is required to construct those public improvements identified on Exhibit 3, consisting of certain master planned public infrastructure and Improvements, (hereinafter referred to as the "**Improvements**") The estimated costs for the design and construction of the Improvements are set forth in Exhibit 4.

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

D. City and Developer have previously entered into a statutory development agreement, pursuant to Section 65864, et seq., of the Government Code, ("**Development Agreement**") and such Development Agreement requires Developer to design and construct the Improvements identified in Exhibit 3 and such improvements are included in the City's Development Impact Fee (DIF) Program as a project, or a portion of a project and eligible for credit against DIF Fees.

E. City and Developer have agreed that the costs to design and construct the Improvements shall be eligible for DIF Credit in accordance with the City's New Model Colony DIF Credit and Reimbursement policies as contained in the City's DIF Program and Resolution No. 2011-011.

F. The Colony Commerce West Specific Plan Area and the West Ontario Commerce Center Specific Plan Area includes a single area that is served by a significant Storm Drain facility that is located in Merrill Avenue. The area served by this Storm Drain facility includes several properties in both Specific Plan areas. This Merrill Street Storm Drain Service Area is to include a total of four (4) currently identified properties. The buildings and related structures to be constructed on the identified properties in the Merrill Storm Drain Service Area are to be constructed by Developer. Such Storm Drain facilities may be designed and constructed pursuant to a cooperative agreement with others. Under the terms of this Agreement and the provisions of the Development Agreement between the City of Ontario and Colony Commerce Center LLC, Developer is expected to complete construction of a significant portion of the storm drain improvements required for the Merrill Street Storm Drain Service Area in accordance with a phasing plan set forth in the Development Agreement and/or conditions of approval imposed on the Development Plan.

G. Developer has requested and City has agreed to provide direct DIF Reimbursements from DIF received by the City in the Local Adjacent Storm Drain DIF Category from other properties within the Merrill Street Storm Drain Service Area. Developer will also be eligible for additional DIF Credits and DIF Reimbursements pursuant to the terms of this Agreement.

AGREEMENT

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

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

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

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

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

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

“Certificate of DIF Reimbursement” means a City certificate for the issuance of DIF Reimbursement in the form attached hereto as Exhibit 7.

“City DIF Program and Policies” means Ordinance Nos. 2779 and 2780 and Resolution No. 2003-39, as may be amended from time to time.

“City Manager” means the City Manager of the City or his or her designee.

“City Engineer” means the City’s City Engineer or his or her designee.

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

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

“Days” shall mean business days unless otherwise stated.

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

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

“DIF” or “DIF Fees” means the development impact fees imposed within the New Model Colony area pursuant to City Ordinance Nos. 2779 and 2780 and City Resolution No. 2003-039 and any subsequent City ordinances and resolutions lawfully adopted by the City Council to update or modify such development impact fees.

“DIF Credit” means credits earned against the payment of DIFs pursuant to this Agreement.

“DIF Obligation” means the amount of Developer’s total obligation for Development Impact Fees in either the Regional or Local Adjacent portion of a DIF category for the Property. Developer’s DIF Obligation Amounts for each DIF Category shall be as provided in Exhibit 4.

“DIF Program” means the Development Impact Fee Program and the capital improvement projects and public infrastructure identified in the Development Impact Fee Program, adopted and amended by the City from time to time.

“DIF Reimbursement” means reimbursements earned pursuant to this Agreement to be paid from future DIF; provided however that nothing contained in this Agreement shall be construed as an obligation or appropriation of general fund moneys by the City.

“Effective Date” means the date set forth in the first paragraph of this Agreement.

“Eligible Cost” means the substantiated cost of an Improvement to be used in calculating DIF Credit amounts or DIF Reimbursement amounts, which costs may include: (i) the costs for the construction (including grading) of such Improvement, (ii) costs directly related to the construction and/or acquisition of the Improvement, such as costs of payment, performance and/or maintenance bonds, the professional costs of material testing, and insurance costs (including costs of any title insurance required); (iii) the cost of acquiring any real property or interest therein in order to construct or operate the Improvement, (iv) the costs incurred in preparing Bid Documents and the related costs of geotechnical and environmental evaluations of the Improvement, (v) the fees paid to governmental agencies for, and all other costs incurred in connection with obtaining permits, licenses or other governmental approvals for such Improvement, (vi) costs of construction and project management, administration and supervision (but only up to five percent (5%) of the costs described in clause (i) above) incurred for the construction of such Improvement, (vii) professional costs associated with such Improvement, such as design, engineering, accounting, inspection, construction staking, and similar professional services including legal services related to the review of construction contracts. The maximum amount of Eligible Costs described in clauses (iv) through (vii) shall be limited to a total of fifteen percent (15%) of the costs described in clause (i).

“Improvement” or “Improvements” means the public improvements required to support the development of the Property as described in Exhibit 3 to the extent required by the applicable conditions of approval.

“Merrill Street Storm Drain Service Area” means the properties or parcels within the area designated in Exhibit 8, attached hereto and incorporated herein.

“Program Cost” or “DIF Program Cost” means the estimated cost of an Improvement identified in the “Nexus Study” referenced in City Resolution No. 2003-039 as it may be modified, supplemented or superseded from time to time. The Program Cost to be applied shall be the Program Cost in effect at the time the Improvement is Completed.

“Usable” shall mean that, with respect to any particular Improvement, the Improvement is actually usable for its intended purposes, and includes, for water

Improvements connection to the applicable water supply, for sewer Improvements connection to an applicable disposal system, and for recycled water Improvements connection to a treated water supply and distribution system. Notwithstanding the foregoing, if an Improvement which Developer is obligated to construct pursuant to the applicable conditions of approval for a portion of the Property is only a portion of a larger work of improvement, then a determination of whether that Improvement is "Usable" shall be made only with respect to that Improvement and not with respect to the larger work of improvement of which it is a portion.

2. Construction and Funding of Improvements by Developer.

2.1 Construction of Improvements by Developer. Developer shall commence the Improvements in accordance with the terms of the Development Agreement and the conditions of approval set forth in the individual Development Plan, including any extension thereof. Upon commencement of the Improvement(s), Developer agrees to proceed expeditiously with the construction of the Improvement(s) under the terms herein. For the purposes of this Agreement, commencement of the Improvements shall mean when Developer receives the first permit from City for grading of the Property. If Developer is unable or unwilling to proceed with, and Complete, the construction of the Improvement(s) for any reason, and subject to the provisions in Section 17 below, Developer shall be considered to be in default of this Agreement. City and Developer agree that Developer shall award, or cause to be awarded, all contracts for the construction of the Improvements and that this Agreement as necessary to assure the timely and satisfactory completion of such Improvements. The Developer shall perform all of its obligations hereunder and shall conduct all operations with respect to the construction of the Improvements in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. The Developer shall not be relieved of its obligation to construct the Improvements and cause title to the Improvements to be conveyed to the City even if the DIF Credit and DIF Reimbursement Amounts are less than the actual cost of the Improvements.

2.2 Construction of Public Infrastructure by Third Parties or Pursuant to a Cooperative Agreement with Others. City and Developer acknowledge that a portion of the Improvements are necessary for the development of surrounding properties within the Ontario Ranch and that other property owners are also obligated to construct the Improvements or portions thereof. City agrees that Developer's obligation to construct the Improvements may be satisfied by third party owners pursuant to separate cooperative written agreements between Developer and said other parties undertaking the construction of the Improvements. Nothing in this Agreement shall be construed to prohibit the coordination of the construction of the Improvements between private parties, including the allocation of costs for the construction of the Improvements. Notwithstanding anything to the contrary herein, any applicable DIF Credits may be transferred and assigned from one party to another

with respect to the construction of the Improvements and such transfer or assignment shall not require the conveyance of any real property.

3. Inspection and Acceptance of Completed Improvement by City. City shall make or shall cause to be made periodic site inspections of Developer's construction work. The Acceptance Date for each Improvement constructed by Developer shall be occur not later than twenty (20) Days following the last to occur of the following:

- (i) the City Engineer's determination the Improvement is Complete;
- (ii) the City Manager's determination that Acceptable Title with respect to the Improvement is available for acceptance;
- (iii) Developer's provision of one (1) set of "as-built" or record drawings or plans for the Improvement, certified and reflecting the condition of the Improvement as constructed; and
- (iv) Developer's provision of such evidence or proof as the City Manager shall require that all persons, firms and corporations supplying work, labor, materials, supplies and equipment to the construction of the Improvement have been paid and that no claims or liens have been recorded by or on behalf of any such person, firm or corporation. Alternatively, rather than await the expiration of the time for the recording of claims of liens, Developer may elect to provide a title insurance policy or other security acceptable to the City Manager guaranteeing that no such claims of liens will be recorded or become a lien upon any of the real property required for the Improvement.

4. Conveyance of Acceptable Title to City. Acceptable Title to all property on, in or over which, the Improvement will be located, shall, prior to and as a condition precedent to the City's acceptance of any Improvement, be conveyed to City by way of an irrevocable offer of dedication of such property on the Tract Map or by a separate recorded instrument, and such conveyance of interest has been approved by the City as being a sufficient interest therein to permit the City to properly own, operate and maintain such Improvement. Developer agrees to assist the City in obtaining such documents as are required to obtain Acceptable Title. Completion of the transfer of Acceptable Title shall be evidenced by recordation of the acceptance thereof by the City Manager or his designee.

5. Maintenance and Warranties to be provided to City. Developer shall maintain the Improvement in good and safe condition until the Acceptance Date of the Improvement. Prior to the Acceptance Date, Developer shall, at its sole cost and expense, be responsible for performing any required maintenance on the Improvement. On or before the Acceptance Date of the Improvement, Developer shall assign to the City all of Developer's rights in any warranties, guarantees, maintenance obligations or other evidence of contingent obligations of third persons with respect to such Improvement. After the Acceptance Date, City shall be solely responsible for maintenance of the Improvement. With respect to the Improvement, Developer shall warrant that the

Improvement is free from defects in materials and construction defects (and shall correct or cause to be corrected any such defects at Developer's expense) for a period of one year from the Acceptance Date thereof (the "Warranty Period") and Developer shall provide a bond reasonably acceptable in form and substance to the City for such period and such purpose to insure that such defects that appear within said period will be repaired, replaced or corrected by Developer, at its own cost and expense, to the reasonable satisfaction of the City Manager. During the Warranty Period, Developer shall continue to repair, replace or correct any such defects within thirty (30) Days after written notice thereof by the City Manager to Developer, and shall complete such repairs, replacement or correction as soon as practicable. Any warranties, guarantees or other evidences of contingent obligations of third persons with respect to the Improvement shall be delivered to the City Manager, in writing, as part of the transfer of title.

6. Issuance of DIF Credit to Developer. Developer shall receive DIF Credits based upon the verified Eligible Costs of the Improvement (or accepted portion of the Improvement). Issued DIF Credits shall specify the DIF Credit infrastructure category and whether the DIF Credit is for construction of a Regional or Local Adjacent DIF Program Improvement.

7. Limitations on the Issuance of DIF Credit to Developer upon Completion of an Improvement. The amount of DIF Credit to be issued by City shall be limited to the amount of either (i) the DIF Program Costs for the Improvement (or accepted portion of the Improvement) set forth in the City's current DIF Program ("Current Cost Estimates") or (ii) the DIF Program Costs for the Improvement set forth in future City updates to the DIF Program if higher than the Current Cost Estimates. The DIF Program Costs identified in the City's DIF Program shall be subject to change, from time to time, as part of the continuing update of the City's DIF Program. The DIF Program Costs for the Improvement (or accepted portion of the Improvement) shall be those in effect at the time the Improvement is Completed and accepted by the City.

8. Limitations on the Total Amount of DIF Credit to be Issued to Developer for a Category of DIF Infrastructure. The total amount of DIF Credit to be issued to Developer for completion of all Improvements within the Regional or Local Adjacent portion of a DIF Infrastructure Category shall be limited to the Developer's total respective Regional or Local Adjacent DIF Obligation within that DIF Infrastructure Category.

9. Issuance of a DIF Credit Certificate. When an Improvement is Complete, Developer shall submit a DIF Credit Request to City with all supporting documentation evidencing the total actual Eligible Costs of the Improvement at the time of submittal. The City Manager shall determine the completeness of the DIF Credit Request and notify Developer of whether the DIF Credit Request is considered complete or if additional information is needed from Developer. Once the DIF Credit Request is considered complete, the City Manager shall use his or her best efforts to determine the total actual Eligible Costs of the Improvements and provide Developer with a Certificate of DIF Credit within twenty (20) Days following receipt of the completed DIF Credit Request.

10. DIF Reimbursements. Developer shall only be eligible to receive DIF Reimbursement when Developer's total verified Eligible Costs for all DIF Program Improvements within the Regional or Local Adjacent DIF category exceed Developer's total DIF Obligation for the Regional or Local Adjacent portion of such DIF category. Developer's total Regional and Local Adjacent DIF Obligations shall be as defined in Exhibit 4.

If any amount of DIF Reimbursement is issued, the amount and nature of the DIF Reimbursement shall be evidenced by a Certificate of DIF Reimbursement in the form set forth in Exhibit 7. The Certificate of DIF Reimbursement that is issued by City shall specify that the DIF Reimbursement shall only apply to the Regional or Local Adjacent portion of the respective DIF category of the completed Improvement(s). Prior to issuance of a Certificate of DIF Reimbursement, the City Manager shall review and approve the total amount of the actual Eligible Costs of the completed and accepted Improvement(s). Any DIF Reimbursement amount paid to Developer is to be paid solely from the DIF Fees collected by the City and designated for the cost of construction of master planned DIF Program improvements, and the City shall not be obligated to pay the reimbursement amount except from DIF amounts collected and held by the City.

11. DIF Program Modifications. The estimated cost in the City's DIF Program for DIF Improvements (or defined portions of DIF Improvements) as listed in Exhibit 4 and Developer's total DIF Obligation amount may be modified from time to time based on modifications to the City's DIF Program.

12. Terms of Reimbursement.

12.1 Reimbursement Procedure. City shall reimburse to Developer the DIF Reimbursement amount (without interest) from the payment of DIF from development in the New Model Colony area that benefits from Developer's constructed DIF Program Improvements and only from the DIF collected within the Regional or Local Adjacent portion of the category for which the Certificate of DIF Reimbursement is issued. No DIF Reimbursement shall be available from DIF payments made by any development that does not benefit from Developer's constructed DIF Program Improvements or from DIF payments received for other DIF categories.

12.1.1 Notwithstanding the provisions of Section 12,1, above, the City agrees that the Eligible Costs for the design and construction of the DIF Program Improvements in the Local Adjacent Storm Drain Category to be constructed by Developer are projected to exceed the Developer's DIF Obligation in the Local Adjacent Storm Drain DIF Category and that Developer is projected to receive DIF Reimbursement in the Local Adjacent Storm Drain Category in an amount of approximately eight million five hundred twenty nine thousand (\$8,529,000). Upon completion of and acceptance of Developer's Local Adjacent Storm Drain improvement as required by this Agreement, Developer may request that City pay any DIF previously paid to City by others within the Merrill Street Storm Drain Service Area and any additional amounts

of DIF paid from properties or parcels within the Merrill Street Storm Drain Service Area (**Exhibit 8**). City shall pay the above amount to Developer within Twenty (20) business days of receipt of Developer's request.

12.1.2 In addition to any additional reimbursements as provided for in the above Section 12.1.1, the City agrees that Developer (or its successors or assigns) may submit a written request that City conduct a review to determine the availability of funds, if any, for reimbursement to Developer from DIF paid to City in the Local Adjacent Storm Drain category by others for the DIF Obligations of other properties within the Merrill Street Storm Drain Service Area (Exhibit 8). Upon receipt of the written request of Developer, City shall conduct such review within Twenty (20) business days and if City determines that funds are available from DIF paid by others, City shall pay to Developer (or its successors or assigns) the amount determined to be eligible for reimbursement within Twenty (20) business days following such determination. Developer shall not submit such determination requests to City more often than every One-Hundred Twenty (120) calendar days.

12.2 Review and Determination of Availability of Funds for Additional Reimbursements. Notwithstanding the provisions of Sections 12.1.1 and 12.1.2 above, on the first July 1st that is at least one year after the Effective Date of this Agreement, the City shall conduct a review to determine the availability of funds, if any, for any additional reimbursement. The City will perform a review of the amount of DIF that have been received for the applicable Regional or Local Adjacent portion of the DIF category. The City's review will determine if DIF has been received from other developments that are also served by the Improvement(s) for which the DIF Reimbursement was issued. No interest will be credited on any outstanding DIF Reimbursement amounts. Thereafter, on each July 1st and upon written request from Developer, City shall conduct a review to determine the availability of funds, if any, for reimbursement. Developer (or its successors or assignees) is entitled to receive reimbursement for a period not to exceed ten (10) years from the date of Completion of all of the Improvements identified in Exhibit 3, up to the total DIF Reimbursement amount, less all amounts previously paid to Developer in recognition Developers DIF Reimbursements in the Local Adjacent Storm Drain category from properties within the Merrill Street Storm Drain Services Area.

12.3 Requirement for DIF Program Reserves. City and Developer agree and acknowledge that in the Regional DIF category of "Sewer Collection Facilities" a reserve has been established based on the requirement to repay the Inland Empire Utility Agency (I.E.U.A.) for capacity in the Eastern Trunk Sewer and no DIF Reimbursement shall be available from DIF payments until the City's obligations to repay I.E.U.A. have been met.

12.4 Order of Priority for Reimbursement. When it is determined by the City that funds are available for reimbursement under Section 12.2, the priority for reimbursement shall be based upon the date of issuance of the Certificate of DIF

Reimbursement with the Certificate of DIF Reimbursement with the earliest date of issuance being reimbursed in full first before the next Certificate of DIF Reimbursement is paid.

13. Assignment of DIF Credits and Reimbursements. Developer shall have the right to transfer or assign DIF Credits and DIF Reimbursements provided for herein, to any person, partnership, limited liability company, joint venture, firm or corporation; provided, however, that any such sale, transfer or assignment shall only be made in strict compliance with the following:

(a) Concurrent with any such sale, transfer or assignment of DIF Credit or DIF Reimbursement, or within fifteen (15) business days thereafter, Developer (i) shall notify the City Manager, in writing, of such sale, transfer or assignment and (ii) shall provide the City with: (1) an executed agreement, as provided for in Exhibit 8 of this Agreement, by purchaser, transferee or assignee that identifies that portion of the Property transferred, if any, and the amount of DIF Credits and DIF Reimbursements transferred.

(b) Except for the limited assignment above of DIF Credits or DIF Reimbursements, any assignment by Developer of any of the obligations of Developer under this Agreement (a "**DIF Improvement Assignment**") with regards to the Improvements listed in Exhibit 4, shall identify the Improvements that are the subject of the Assignment Agreement and require the written approval of the City Manager, which approval shall not be unreasonably withheld so long as adequate security as determined by City in its sole discretion, is in place to secure the Completion of the subject Improvements and any DIF Improvement Assignment not made in strict compliance with the foregoing conditions (other than a transfer under Section 26 below) shall, unless such obligations are performed by Developer when required by this Agreement notwithstanding such assignment, constitute a default by Developer and City shall have no further obligations with regard to acceptance of Certificates of DIF Credit or DIF Reimbursement issued to Developer, including any DIF Credit or DIF Reimbursement assigned or transferred by Developer.

14. Additional Documents/Actions. The City Manager is authorized to approve and execute any documents and to take any actions necessary to effectuate the purposes of this Agreement.

15. Integration. This Agreement reflects the complete understanding of the parties with respect to the subject matter hereof. In all other respects, the parties hereto re-affirm and ratify all other provisions of the Development Agreement.

16. Prevailing Wages. Developer is aware of the requirements of California Labor Code Section 1720, et seq. (as amended by Stats 2001 ch. 938 § 2 (S.B. 975)), and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., (collectively, the "Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. The Bid Documents and each Developer's Contract shall require all contractors

for the construction of Improvements to pay prevailing wages in accordance with the applicable provisions of the Labor Code. Developer shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the services available to interested parties upon request and shall post copies at the Developer's principal place of business and at the project site. Developer shall defend, indemnify and hold the City, its officials, officers, employees, agents, contractors and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

17. Default and Force Majeure.

(a) Default. Failure or delay by Developer or City to perform any of its obligations under this Agreement constitutes a default by such party under this Agreement. The party alleged to be in default shall have thirty (30) days after the date of the written notice by the other party to commence to cure such default. The party alleged to be in default shall diligently pursue such cure to completion within a reasonable timeframe as established in the written notice provided by the party asserting the default. If the party alleged to be in default has not cured its default within the cure period set forth therein, the defaulting party shall be deemed in breach. Any failure or delay in giving such notice or in asserting any rights and remedies as to any default shall not constitute a waiver of any default, nor shall it change the time of default, nor shall it deprive the party not in default of its rights to institute and maintain any actions or proceeding which it may deem necessary to protect, assert or enforce any of its rights or remedies. If any default by Developer is not cured within the time period provided by the City, City shall be entitled to terminate this Agreement in its entirety and thereafter, the City shall be under no obligation to perform any of City's obligations hereunder, including, but not limited to, the issuance of DIF Credits and DIF Reimbursements that Developer may claim.

(b) Force Majeure. Notwithstanding the provisions contained in the foregoing paragraph, performance by either party hereunder shall not be deemed to be in default where delay or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation brought by a third party, unusually severe weather, reasonably unforeseeable property conditions, acts of the other party, acts or failure to act, of the other party or any other public or governmental agency or entity, or any causes beyond the control or without the failure of the party claiming an extension of time to perform (a "**Force Majeure Event**"). An extension of time for any such cause (an "**Excusable Delay**") shall be for the time period of the delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of knowledge of the commencement of the cause or from the date of the notice if provided after such thirty-day period. Notwithstanding the foregoing, none of the foregoing events shall constitute an Excusable Delay unless and until the party claiming such delay and interference delivers to the other party written notice describing the event, its cause,

when and how such party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Any party claiming an Excusable Delay shall make a good faith effort to deliver such written notice within thirty (30) days after it obtains actual knowledge of the event. Times of performance under this Agreement may also be extended in writing by City and Developer. The Parties hereto expressly acknowledge and agree that changes in either general economic conditions or changes in the economic assumptions of any of them (unless such conditions were caused by a Force Majeure Event) that may have provided a basis for entering into this Agreement and that occur at any time after the execution of this Agreement, are not Force Majeure Events and do not provide any Party with grounds for asserting the existence of a delay in the performance of any covenant or undertaking that may arise under this Agreement. Each Party expressly assumes the risk that changes in general economic conditions or changes in such economic assumptions relating to the terms and covenants of this Agreement could impose an inconvenience or hardship on the continued performance of such Party under this Agreement, but that such inconvenience or hardship is not a force majeure event and does not excuse the performance by such Party of its obligations under this Agreement. Without limiting the nature of the foregoing, the parties agree that the inability of Developer to obtain a satisfactory commitment from a construction lender for the improvement of the Property or to satisfy any other condition of this Agreement relating to the development of the Property shall not be deemed to be a force majeure event or otherwise provide grounds for the assertion of the existence of a delay under this Section 17.

18. Licenses and Permits. The Developer shall secure (or shall cause to be secured) any and all permits that may be required by the City or any other governmental agency affected by the construction of the Improvements. The Developer shall be responsible for paying all applicable fees and charges to the City to obtain any land use entitlements and permits that are necessary to construct the Improvements.

19. Indemnification. The Developer agrees to protect, indemnify, defend and hold the City, and its respective officers, employees and agents, and each of them, harmless from and against any and all claims, losses, expenses, suits, actions, decrees, judgments, awards, attorney's fees, and court costs (collectively "**Damages**") that the City, or its respective officers, employees and agents, or any combination thereof, may suffer or that may be sought against or recovered or obtained from the City, or its respective officers, employees or agents, or any combination thereof, as a result of or by reason of or arising out of or in consequence of (a) the acquisition, construction, or installation of the Improvements; (b) the untruth or inaccuracy of any representation or warranty made by the Developer in this Agreement or in any certifications delivered by the Developer hereunder; or (c) any act or omission of the Developer or any of its subcontractors, or their respective officers, employees or agents, in connection with the Improvements. If the Developer fails to do so, the City shall have the right, but not the obligation, to defend the same and charge all of the direct or incidental costs of such defense, including any reasonable attorneys fees or court costs, to and recover the same from the Developer. Notwithstanding the foregoing, neither the City nor its respective officers, employees, or agents shall be indemnified, defended or held harmless against such Damages to the

extent that such Damages have been caused by their sole active negligence or sole willful misconduct. The parties acknowledge and agree that the Developer shall be released from the indemnity, defense and hold harmless obligations set forth herein upon the acceptance of the Improvements by the City and completion of the Warranty Period for such Improvements.

20. Developer as a Private Developer. In performing under this Agreement, it is mutually understood that the Developer is acting as a private developer, and not as an agent of the City. The City shall have no responsibility for payment to any contractor, subcontractor or supplier of the Developer. Accordingly, this Agreement does not constitute a debt or liability of the City. The City shall not be obligated to advance any of its own funds or any other costs incurred in connection with the Project. No member, official or employee of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Developer or its successors, or on any obligations under the terms of this Agreement.

21. Other Obligations. Nothing contained herein shall be construed as affecting the Developer's respective duty to perform its respective obligations under other agreements, land use regulations or subdivision requirements relating to the development of the Property, which obligations are and shall remain independent of the Developer's rights and obligations, and the City's rights and obligations, under this Agreement; provided, however, that the Developer shall use its reasonable and diligent efforts to perform each and every covenant to be performed by it under any lien or encumbrance, instrument, declaration, covenant, condition, restriction, license, order, or other agreement, the nonperformance of which could reasonably be expected to materially and adversely affect the design, acquisition, construction and installation of the Improvements. This Agreement is not, and shall not be construed as, a statutory development agreement as authorized by Government Code sections 65864 et seq., and this Agreement shall not be interpreted as limiting the authority of the City to adopt and amend regulations concerning permitted uses of property, the density or intensity of use, the maximum height and size of proposed buildings, provisions for the reservation or dedication of land or the payment of impact fees for public purposes.

22. Binding on Successors and Assigns. Except as set forth in Section 13 or Section 26 hereof, neither this Agreement nor the duties and obligations of the Developer hereunder may be assigned to any person or legal entity other than an affiliate of the Developer without the written consent of the City, which consent shall not be unreasonably withheld or delayed. Neither this Agreement nor the duties and obligations of the City hereunder may be assigned to any person or legal entity, without the written consent of the Developer, which consent shall not be unreasonably withheld or delayed. The agreements and covenants included herein shall be binding on and inure to the benefit of any partners, permitted and accepted assigns, and successors-in-interest of the parties hereto.

23. Amendments. This Agreement can only be amended by an instrument in writing executed and delivered by the City and the Developer.

24. Waivers. No waiver of, or consent with respect to, any provision of this Agreement by a party hereto shall in any event be effective unless the same shall be in writing and signed by such party, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

25. No Third Party Beneficiaries. No person or entity, other than the City, shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City and the Developer (and their respective successors and assigns), any rights, remedies, obligations or liabilities under or by reason of this Agreement.

26. Mortgagee Protection. The parties hereto agree that this Agreement shall not prevent or limit Developer, at Developer's sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. Developer shall have the right to encumber and assign its rights and interests hereunder to the lenders providing such financing as security for such financing without the consent of the City and without complying with Section 13 hereof. City acknowledges that the lenders providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Developer and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. A mortgagee of the Property shall be entitled to the following rights and privileges:

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

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

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

(d) Any mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no mortgagee shall have an obligation or duty under this Agreement to perform any of Developer's obligations or other affirmative covenants of Developer hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by Developer is a condition precedent to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder, and further provided that any sale, transfer or assignment by any mortgagee in possession shall be subject to the provisions of Section 13 of this Agreement.

27. Notices. Any written notice, statement, demand, consent approval, authorization, offer, designation, request or other communication to be given hereunder shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely:

Developer:

Colony Commerce Center LLC
C/O Prologis Attn: Damon Austin
Email: daustin@prologis.com
Phone: 562-354-9221
Fax: n/a

with a copy to:

Attn: John A. Ramirez
Email: jramirez@rutan.com
Phone: 714-662-4610
Fax: n/a

City:

City of Ontario
Attn: City Manager
303 East "B" Street
Ontario, CA 91764
Facsimile: (909) 395-2189
with a copy to:

John Brown, City Attorney
Best Best & Krieger
3500 Porsche Way, Suite 200
Ontario CA, 91764

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, or telecopy, upon the sender's receipt of an appropriate answerback or other written acknowledgment, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with courier charges prepaid, 24 hours after delivery to said overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

28. Jurisdiction and Venue. City and the Developer (a) agrees that any suit action or other legal proceeding arising out of or relating to this Agreement shall be brought in state or local court in the County of San Bernardino or in the Courts of the United States of America in the district in which the City is located, (b) consents to the jurisdiction of each such court in any suit, action or proceeding, and (c) waives any objection that it may have to the laying of venue or any suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Each of the City and the Developer agrees that a final and non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

29. Attorneys' Fees. If any action is instituted to interpret or enforce any of the provisions of this Agreement, the prevailing party in such action shall be entitled to recover from the other party thereto reasonable attorney's fees and costs of such suit (including both pre-judgment and post-judgment fees and costs) as determined by the court as part of the judgment.

30. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

31. Usage of Words. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

32. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

33. Incorporation by Reference. The following Exhibits attached hereto and the Recitals of this Agreement are hereby incorporated by reference as though fully set forth herein:

- Exhibit 1 – Legal Description of Property
- Exhibit 2 – Map of Property
- Exhibit 3 – Description of Improvements

- Exhibit 4 – Estimated Costs of Improvements
- Exhibit 5 – Certificate of DIF Credit
- Exhibit 6 - DIF Credit Request
- Exhibit 7 - Certificate of DIF Reimbursement
- Exhibit 8 - Map of Merrill Street Storm Drain Service Area

[Signatures On Next Page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the respective dates set forth below.

“CITY”

CITY OF ONTARIO, a California municipal corporation

Dated: _____, 2018 By: _____
Scott Ochoa, City Manager

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:
BEST BEST & KRIEGER LLP

By: _____
City Attorney

Colony Commerce Center LLC
a Delaware limited liability company

By:

Dated: _____, 2018

Name:
Its:

Exhibit 1

Legal Description of Property

APN'S: 218-292-05 & 218-311-11

The land referred to herein below is situated in the City of Ontario, County of San Bernardino, State Of California, and is described as follows:

That portion of Government Lot 3 and the Northwest 1/4 of the Southeast 1/4 of Section 22, Township 2 South, Range 7 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to Government Township Plat thereof described as follows:

Commencing at the Northwesterly corner of said Government Lot 3;

Thence South $89^{\circ}46'36''$ East 30.00 feet along the northerly line of said Government Lot 3, to the easterly line of Carpenter Street as established by San Bernardino Board of Supervisors Resolution 96-37, recorded March 5, 1996 as Instrument No. 19960076690 Official Records of said County and the **Point of Beginning**;

Thence South $00^{\circ}01'47''$ West 25.00 feet, parallel with the westerly line of said Government Lot 3;

Thence North $89^{\circ}46'36''$ West 5.00 feet to the easterly line of said Carpenter Avenue, 50 feet wide, as per Record of Survey filed in Book 3 of Records of Survey, Page 71 in said County;

Thence South $00^{\circ}01'47''$ West 1165.32 feet, along said easterly line to a line that is 129.75 feet northerly of and parallel with the southerly line of said Government Lot 3;

Thence South $89^{\circ}46'24''$ East 2020.61 feet along said parallel line to the westerly line of the property conveyed to San Bernardino County Flood Control District by Grant Deed Recorded September 27, 1977 in Book 9271 Page 539 Official Records, being on a 7900.00 foot radius non-tangent curve, concave northwesterly, to which a radial line bears South $82^{\circ}32'52''$ East;

Thence Northeasterly 185.93 feet along the arc of said curve and said westerly line through a central angle of $01^{\circ}20'55''$;

Thence North $06^{\circ}06'13''$ East 462.37 feet to the beginning of a 11900.00 foot radius curve, concave northwesterly;

Thence Northeasterly 422.89 feet along the arc of said curve through a central angle of $02^{\circ}02'10''$;

Thence North $22^{\circ}34'01''$ West 86.35 feet;

Thence North $55^{\circ}16'51''$ West 35.01 feet to the southerly line of Merrill Avenue, 50 feet wide, as per said Record of Survey filed in Book 3 of Records of Survey, Page 71;

Legal Description of Property (continued)

Thence North $89^{\circ}46'36''$ West 1453.21 feet, leaving said westerly line and along said southerly line, to the beginning of a 1044.00 foot radius non-tangent curve, concave northeasterly, to which a radial line bears South $11^{\circ}10'16''$ West, said curve being concentric with and 69.00 feet distant southerly of that certain reverse curve having a radius of 975 feet as described in a Deed to said County recorded on August 17, 1943, in Book 1631, Page 7, Official Records of said County;

Thence Northwesterly 104.70 feet along the arc of said curve and said southerly line through a central angle of $05^{\circ}44'45''$ to the northerly line said Government Lot 3;

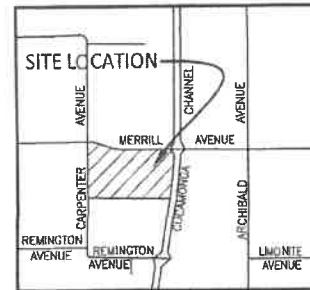
Thence North $89^{\circ}46'36''$ West 506.94, along said northerly line to the **Point of Beginning**.

The above described Parcel having an area of 2,438,678 square feet (55.984 AC), more or less.

Exhibit 2 Map of Property

Line Table		
Line #	Length	Direction
L1	30.00'	S89°46'36"E
L2	25.00'	S00°01'47"W
L3	5.00'	N89°46'36"W
L4	86.35'	N22°34'01"W
L5	35.01'	N55°16'51"W

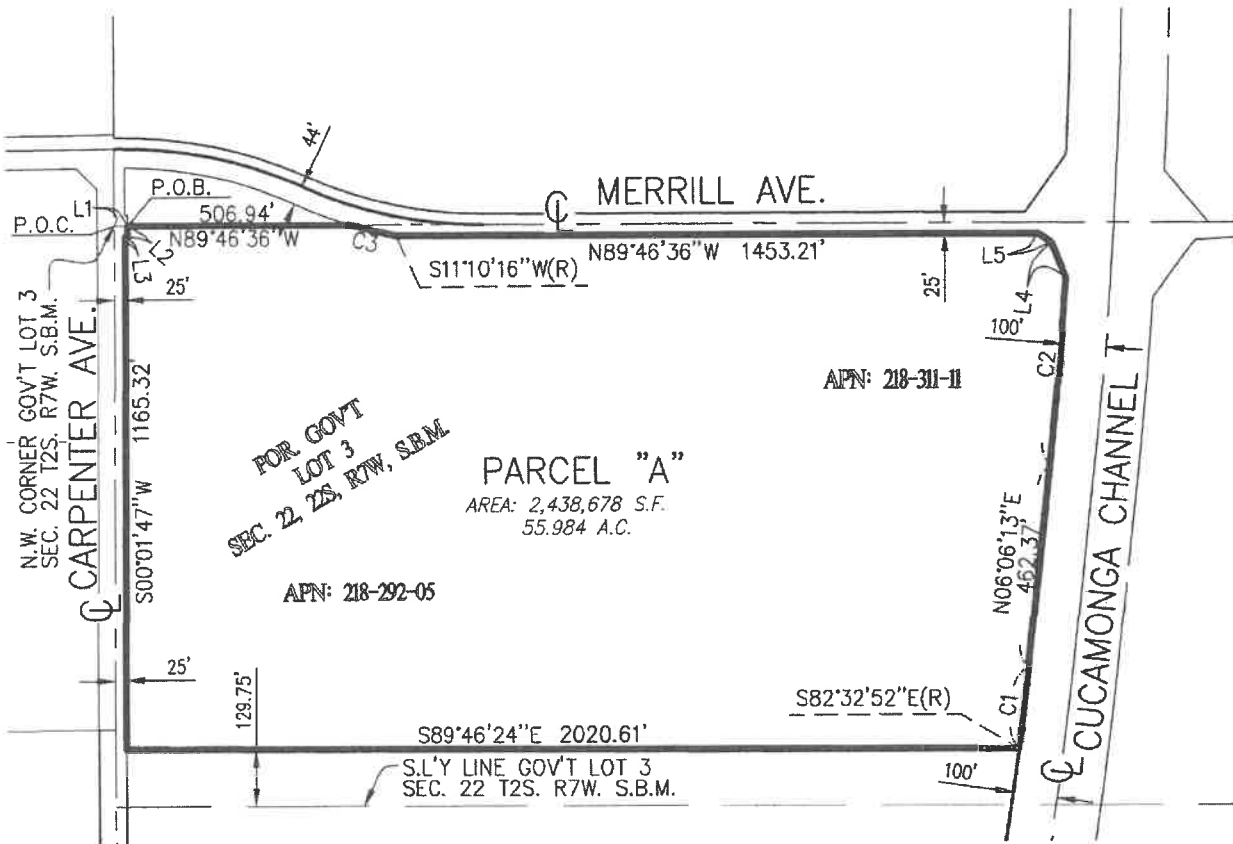
Curve Table			
Curve #	Radius	Length	Direction
C1	7900.00'	185.93'	01°20'55"
C2	11900.00'	422.89'	02°02'10"
C3	1044.00'	104.70'	05°44'45"



VICINITY MAP
N.T.S.

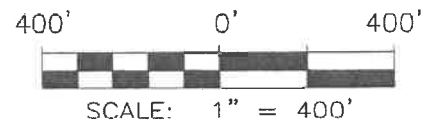
NOTE: BEARINGS AND DISTANCE SHOWN HEREON ARE BASED ON A FIELD SURVEY PERFORMED IN NOVEMBER, 2017.

THE CENTERLINE OF CARPENTER ST. BEING S 00°01'47"W PER PARCEL MAP NO. 19633 P.M.B. 249/14-22 WAS TAKEN AS THE BASIS OF BEARING FOR THIS PLAT.



LEGEND

- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- PARCEL LINE



WestLAND Group, Inc.
Land Surveyors • Civil Engineers • GIS
4150 CONCOURS, SUITE 100
ONTARIO, CA 91730
PHONE: (909) 989-9789
FAX: (909) 989-9660

PLAT TO ACCOMPANY LEGAL DESCRIPTION

DRAWN BY M2 DATE 05-23-18

APPROVED BY Mark A. Monroe PDEV17-052

PROJECT No. 2017-258

SHEET 1 OF 1

P:\Year_2017\2017-258_Blanca 1 - Prologis\04_Survey\01_Mapping\Legals & Exhibits\Cert of Compliance\2017-258_EX 01.dwg

Exhibit 3

Description of Improvements

DIF Eligible Facilities: The DIF Eligible Facilities consist of the following DIF Eligible Segments; provided, however, that each such Segment described below shall constitute a Segment for purposes of this Agreement and only if such Segment was constructed by or on behalf of the Developer

Local Adjacent Water and Recycled Water System Facilities.					
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/ length
Development Plan No.17-052	Local Adjacent Water	WT-016	Recycled Water System	Recycled Water Main along Merrill from Archibald to Carpenter Avenue	4,116 linear feet
Development Plan No.17-052	Local Adjacent Water	WT-011	Francis Zone 925' Distribution Mains	12 inch Water Main along Merrill Avenue from Archibald Avenue to Carpenter Avenue including channel crossing of Cucamonga Creek Channel	4,049 linear feet
Development Plan No.17-052	Local Adjacent Water	WT-011	Francis Zone 925' Distribution Mains	12 inch Water Main along Remington Avenue from Carpenter Avenue to Countyline and continuing to Archibald Avenue	4,226 linear feet
Development Plan No.17-052	Local Adjacent Water	WT-011	Francis Zone 925' Distribution Mains	12 inch Water Main along Carpenter Avenue from Merrill Avenue to Remington Avenue	2,900 linear feet

Exhibit 3 (Continued)

Local Adjacent Sewer Facilities					
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/length
Development Plan No.17-052	Local Adjacent Sewer	SW-029	Carpenter Trunk Sewer	2,948 Linear Feet of 24 inch Sewer main along Carpenter Avenue to Remington Avenue and continuing along Remington and Moon Pl. to existing IEUA Trunk sewer	2,948 linear feet
Development Plan No.17-052	Local Adjacent Sewer	SW-029	Carpenter Trunk Sewer	1,400 Linear Feet of 24 inch Sewer main along Carpenter Avenue	1,400 linear feet

Local Adjacent Storm Drain Facilities					
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/length
Development Plan No.17-052	Local Adjacent Storm Drain Facilities	SD-41	Merrill Avenue SD-Hellman to Cucamonga Creek	2,340 LF - DBL 12'x10' RCB within Merrill from Cucamonga Channel to Carpenter, including connection to Cucamonga Creek Channel	2,340 linear feet

Exhibit 3 (Continued)

Local Adjacent Street Facilities					
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/length
Development Plan No.17-052	Local Adjacent Streets	ST-015	Merrill Avenue from Euclid to Archibald	Half-width improvements to Merrill Avenue from Carpenter to Cucamonga Channel	2,340 linear feet

Regional Street Facilities					
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/length
Development Plan No.17-052	Regional Streets	ST-125	Merrill Avenue Bridge over Cucamonga Creek	Half of Merrill Avenue Bridge over Cucamonga Creek Channel	One half of Bridge

Fiber Optic Communications Facilities					
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/length
Development Plan No.17-052	Local Adjacent Fiber Optic Communications	FO-04	Fiber Optic System Distribution Network	Fiber optic system conduit in Merrill Avenue from Carpenter to Archibald	4,116 linear feet

Exhibit 4
Estimated Costs of Remaining Improvements

Local Adjacent Water and Recycled Water System Facilities.						
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/Length	Maximum Eligible Costs
Development Plan No.17-052	Local Adjacent Water	WT-016	Recycled Water System	Recycled Water Main along Merrill from Archibald to Carpenter Avenue	4,116 linear feet	\$ 781,875
Development Plan No.17-052	Local Adjacent Water	WT-011	Francis Zone 925' Distribution Mains	12 inch Water Main Along Merrill Avenue from Archibald Avenue to Carpenter Avenue including channel crossing of Cucamonga Creek Channel	4,049 linear feet	\$ 737,566
Development Plan No.17-052	Local Adjacent Water	WT-011	Francis Zone 925' Distribution Mains	12 inch Water Main along Remington Avenue from Carpenter Avenue to Countyline and continuing to Archibald Avenue	4,226 linear feet	\$ 769,808
Development Plan No.17-052	Local Adjacent Water	WT-011	Francis Zone 925' Distribution Mains	12 inch Water Main along Carpenter Avenue from Merrill Avenue to Remington Avenue	2,900 linear feet	\$ 495,475
Total Local Adjacent Water and Recycled Water Facilities						\$ 2,784,724

Exhibit 4 (Continued)

Local Adjacent Sewer Facilities.						
Project	DIF Category	DIF Program Project No	DIF Project Description	DIF Segment Description	Project Scope/Length	Maximum Eligible Costs
Development Plan No.17-052	Local Adjacent Sewer	SW-029	Carpenter Trunk Sewer	2,948 Linear Feet of 24 inch Sewer main along Carpenter Avenue to Remington Avenue and continuing along Remington and Moon Pl. to existing IEUA Trunk sewer	2,948 linear feet	\$ 988,995
Development Plan No.17-052	Local Adjacent Sewer	SW-029	Carpenter Trunk Sewer	1,400 Linear Feet of 24 inch Sewer main along Carpenter Avenue	1,400 linear feet	\$ 469,672
Total Local Adjacent Sewer Facilities						\$1,458,667

Local Adjacent Storm Drain Facilities.						
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/length	Maximum Eligible Costs
Development Plan No.17-052	Local Adjacent Storm Drain Facilities	SD-41	Merrill Avenue SD-Hellman to Cucamonga Creek	2,340 LF - DBL 12'x10' RCB within Merrill Avenue from Cucamonga Channel to Carpenter, including connection to Cucamonga Creek Channel	2,340 linear feet	\$10,198,051
Total Local Adjacent Storm Drain Facilities						\$10,198,051

Exhibit 4 (Continued)

Local Adjacent Street Facilities						
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/Length	Maximum Eligible Costs
Development Plan No.17-052	Local Adjacent Streets	ST-015	Merrill Avenue from Euclid to Archibald	Half-width improvements to Merrill Avenue from Carpenter to Cucamonga Channel	2,340 linear feet	\$ 349,999
Total Local Adjacent Street Facilities						\$ 349,999

Regional Street Facilities						
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/length	Maximum Eligible Costs
Development Plan No.17-052	Regional Streets	ST-125	Merrill Avenue Bridge over Cucamonga Creek	Half of Merrill Avenue Bridge over Cucamonga Creek Channel	One half of Bridge	\$ 6,630,624
Total Regional Street Facilities						\$ 6,630,624

Exhibit 4 (Continued)

Local Adjacent Fiber Optic Communications Facilities						
Project	DIF Category	DIF Program Project No.	DIF Project Description	DIF Segment Description	Project Scope/Length	Maximum Eligible Costs
Development Plan No.17-052	Local Adjacent Fiber Optic Communications	FO-04	Fiber Optic System Distribution Network	Fiber optic system conduit in Merrill Avenue from Carpenter to Archibald	4,116 linear feet	\$ 148,176
Total Local Adjacent Fiber Optic Facilities						\$ 148,176

Total Estimated Cost of DIF Eligible Facilities:	\$ 21,570,241
---	----------------------

Total DIF Eligible Facilities - Borba-ProLogis			
	DIF Eligible Improvements to be Constructed or Funded		
Infrastructure Category	Total DIF Eligible Costs	DIF Obligations Maximum DIF Credit	DIF Reimbursement
Local Adjacent Water and Recycled Water Facilities	\$ 2,784,724	\$ 712,436	\$ 2,072,289
Regional Water and Recycled Water Facilities	\$ -	\$ 1,662,769	\$ -
Local Adjacent Sewer System Facilities	\$ 1,458,667	\$ 151,046	\$ 1,307,621
Regional Storm Drain Facilities	\$ -	\$ 556,351	\$ -
Local Adjacent Storm Drain Facilities	\$10,198,051	\$ 1,668,939	\$ 8,529,111
Local Adjacent Streets and Bridges Facilities	\$ 349,999	\$ 2,207,795	\$ -
Regional Streets and Bridges Facilities	\$ 6,630,624	\$ 1,471,444	\$ 5,159,180
Local Adjacent Fiber Optic Facilities	\$ 148,176	\$ 156,081	\$ -
<u>Totals</u>	<u>\$ 21,570,241</u>	<u>\$ 8,586,861</u>	<u>\$17,068,201</u>

Exhibit 5

FORM OF CERTIFICATE OF REGIONAL OR LOCAL ADJACENT DIF CREDIT

Pursuant to Section 6 of the Development Impact Fee Credit and Reimbursement Agreement for Facility Construction by and between the City of Ontario and Colony Commerce Center LLC dated _____, 2018, the terms and definitions of which are hereby incorporated herein by this reference and hereinafter called the "Fee Credit Agreement" , the City of Ontario hereby certifies that Developer is entitled to the following amount and nature of DIF Credits:

Amount of Credit: \$ _____
Infrastructure Category of DIF: _____
Local Adjacent or Regional Category of DIF: _____

Scott Ochoa, City Manager

Dated: _____

Exhibit 6

FORM OF DIF CREDIT REQUEST

The undersigned (the "Developer"), hereby requests DIF Credits in the DIF categories and amounts specified in Attachment 1 hereto. In connection with this Credit Request, the undersigned hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized officer or representative of the Developer, qualified to execute this Credit Request on behalf of the Developer and is knowledgeable as to the matters set forth herein.

2. All costs of the Improvements for which credit is requested hereby are Eligible Costs (as defined in the Fee Credit Agreement) and have not been inflated in any respect. The Eligible Costs for which credit is requested have not been the subject of any prior credit request submitted to the City.

3. Supporting documentation (such as the applicable Developer Contract, third party invoices, lien releases and cancelled checks or other evidence of payment) is attached with respect to each cost for which credit is requested.

4. The Improvement for which credit is requested was constructed in accordance with the requirements of the Fee Credit Agreement.

5. Please issue a Certificate of DIF Credit to the Developer in the amount requested.

I declare under penalty of perjury that the above representations and warranties are true and connect.

DEVELOPER:

CITY:

Colony Commerce Center LLC

Credit Request Approved

By: _____
Authorized Representative of Developer
Date: _____

Scott Ochoa, City Manager
Date: _____

ATTACHMENT 1

SUMMARY OF IMPROVEMENTS AND REQUESTED DIF CREDITS

Improvement Requested	Eligible Costs/Contract Amount	DIF	Credit
-----------------------	--------------------------------	-----	--------

[List here all Improvements for which credit is requested, and attach support documentation]

Exhibit 7

FORM OF CERTIFICATE OF DIF REIMBURSEMENT

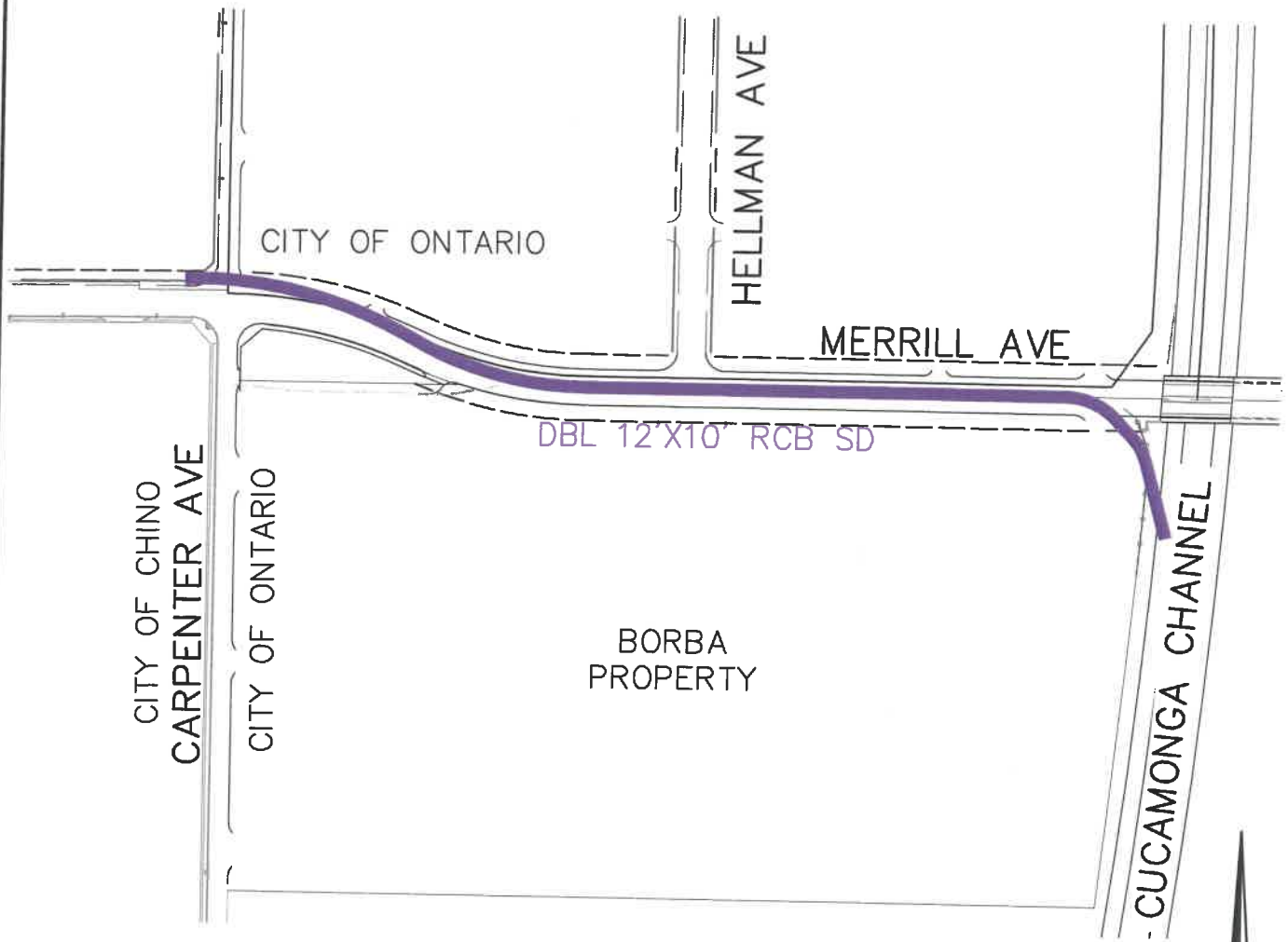
Pursuant to Section 6 of the Development Impact Fee Credit and Reimbursement Agreement for Facility Construction by and between the City of Ontario and Colony Commerce Center LLC dated _____, 2018 the terms and definitions of which are hereby incorporated herein by this reference and hereinafter called the "Fee Credit Agreement", the City of Ontario hereby certifies that Developer is entitled to the following amount and nature of DIF Reimbursement:

Amount of Reimbursement: \$ _____
Infrastructure Category of DIF: _____
Local Adjacent or Regional Category of DIF: _____


Scott Ochoa, City Manager
Dated: _____

EXHIBIT 8

MAP OF MERRILL STREET STORM DRAIN SERVICE AREA



LEGEND:

 NEW PUBLIC STORM DRAIN (CITY OF ONTARIO)

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE AMENDING TITLE 2, CHAPTER 6, ENTITLED PURCHASING SYSTEM, OF THE ONTARIO MUNICIPAL CODE AND IMPLEMENTING THE UNIFORM GUIDANCE PROCUREMENT STANDARDS PURSUANT TO SECTIONS 200.317 THROUGH 200.326 OF THE CODE OF FEDERAL REGULATIONS; AND AUTHORIZING ACCEPTANCE OF ELECTRONIC BID BONDS

RECOMMENDATION: That the City Council consider and adopt an ordinance:

- (A) Amending Chapter 6 of Title 2 of the Ontario Municipal Code and establishing the rules and regulations of the City's current Purchasing System;
- (B) Implementing the Uniform Guidance pursuant to Sections 200.317 through 200.326 of the Code of Federal Regulations; and
- (C) Authorizing acceptance of electronic bid bonds.

COUNCIL GOALS: Operate in a Businesslike Manner

FISCAL IMPACT: None.

BACKGROUND: The Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called "Uniform Guidance", was officially implemented on December 26, 2014 by the Council on Financial Assistance Reform. The Uniform Guidance is a "government-wide framework for grants management" and is an authoritative set of rules and requirements for Federal awards that synthesizes and supersedes guidance from earlier OMB circulars. It is aimed to reduce the administrative burden on award recipients and guard against the risk of waste and misuse of Federal funds. Among other things, the OMB's Uniform Guidance does the following:

STAFF MEMBER PRESENTING: Grant D. Yee, Executive Director of Finance

Prepared by: Amy Chang
Department: Management Services
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

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- Removes previous guidance that is conflicting and establishes standard language;
- Directs the focus of audits on areas that have been identified as at risk for waste, fraud and abuse;
- Lays the groundwork for Federal agencies to standardize the processing of data;
- Clarifies and updates cost reporting guidelines for award recipients; and
- Establishes a method of procurement to be followed:
 - “Micro-purchase” procurement threshold is for any purchases \$3,500 and under, which may be procured without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.
 - “Small purchase” procurement threshold is for any purchases \$3,501 to \$150,000, which may be procured by price or rate quotations obtained from an adequate number of qualified sources.
 - “Sealed bid” procurement threshold is for any purchases over \$150,000, which may be procured by formal sealed bidding with formal advertising. Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The “sealed bid” method is the preferred method for procuring construction.

The City of Ontario receives Federal funding through various grant programs. As a result, the City of Ontario is subject to the requirements of the Uniform Guidance procurement standards pursuant to Sections 200.317 through 200.326 of the Code of Federal Regulations, which became effective for Federal grants awarded after December 26, 2014, with award recipients expected to be in full compliance by July 1, 2018. Grant award recipient entities that do not conform to the Uniform Guidance could be subject to audits, cost disallowances and high-risk classifications.

On July 3, 2018, the City Council introduced and waived further reading of the ordinance. Adoption of the ordinance will conclude the process of amending Chapter 6 of Title 2 of the Ontario Municipal Code, implementing the Uniform Guidance procurement standards and to accept electronic bid bonds.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING SECTIONS 2-6.07, 2-6.13, AND 2-6.22 OF THE ONTARIO MUNICIPAL CODE CONCERNING THE PURCHASE OF GOODS, SERVICES AND PUBLIC PROJECTS

WHEREAS, Article XI, Section 7, of the California Constitution authorizes the City of Ontario to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, California Public Contract Code authorizes the use of internet based bidding, and in particular, Public Contract Code Section 1600 states, "Notwithstanding any other provision of law, counties, a city and county, and state agencies may enter into and make payment on contracts by way of electronic transmission, including, but not limited to, the issuance of solicitation documents, and the receipt of responses thereto"; and

WHEREAS, Public Contract Code section 1601 further provides that any public entity may adopt methods and procedures to do any of the following:

- (1) Receive bids on public works or other contracts over the internet, but only if no bid can be opened before the bid deadline and all bids can be verified as authentic.
- (2) Receive supporting materials submitted pursuant to a public works contract over the internet. For purposes of this section, "supporting materials" includes, but is not limited to, payment requests, shop drawings, schedules, notices of claims, and certified payrolls; and

WHEREAS, the City wishes to provide for the flexibility to allow for the submission of electronic security bonds as part of public works contracts entered into with the City; and

WHEREAS, the federal Office of Management and Budget ("OMB") provides guidance regarding the procurement procedures for local agencies that receive federal funds. Among other things, OMB requires local agencies that receive federal funding to adopt certain procurement policies that reflect federal regulations by June 30, 2018 for implementation beginning July 1, 2018; and

WHEREAS, the City Council desires to make certain changes to its Municipal Code to comply with federal regulations; and

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

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

SECTION 1. Section 2-6.07 of Chapter 6 of Title 2 of the Ontario Municipal Code is hereby amended to read as follows:

“Section 2-6.07. Use of Electronic Means.

- (a) Consistent with the stated policy of promoting efficient public contract law, consistent with the best of modern practice and research, and pursuant to the authority granted by Public Contract Code Section 1600 and 1601, the City shall be authorized to utilize electronic means in the procurement and administration of contracts, so long as the purpose and intent of applicable state law, this Chapter, and any supplemental rules or regulations are met.
- (b) Without limiting the nature of the foregoing, the City may utilize online bidding and selling methods, electronic signatures in accordance with applicable state, local and federal law, and electronic mail for delivery of notices when “mailed” notice is required herein. For purposes of this Chapter, “supporting materials”, as that term is used in Public Contract Code section 1601 shall be deemed to include security bonds, which the City may, in its sole and absolute discretion, allow to be submitted electronically, consistent with any supplemental regulations, adopted in accordance with Section 2-6.06, implementing the submission of electronic security bonds. Whenever “sealed” bids or proposals are called for, any electronic means may be used so long as such electronic means provide for the secured submission of the required data. Whenever bids are required to be “opened”, such bids shall be deemed “opened” if and when they are made available to both the City and the public simultaneously, in a public setting, including, without limitation, by way of making such bids available in an electronic format that is readable by the public. If provisions of this section are in conflict with any other resolution or ordinance of the City, this section shall prevail.”

SECTION 2. Section 2-6.13 of Chapter 6 of Title 2 of the Ontario Municipal Code is hereby amended to read as follows:

“Section 2-6.13. Public Projects.

- (a) Small. Public projects of forty-five thousand dollars (\$45,000) or less may be performed by the employees of the City by force account, by negotiated contract, a contract obtained by way of an alternative procedure, or by purchase order. In addition, the City may, but shall not be legally required, unless the project is subject to federal funding requirements, to use one of the procurement methods set forth in subdivisions (b) or (c) hereof.
- (b) Medium. Public projects of one hundred seventy-five thousand dollars (\$175,000) or less shall be let to contract by informal procedures as set forth in this Chapter. In addition, the City may, but shall not be legally required to, use the procurement method set forth in subdivision (c) hereof.

- (c) Large. Public projects of more than one hundred seventy-five thousand dollars (\$175,000) shall, except as otherwise provided in this Chapter, be let to contract by formal bidding procedure.
- (d) If, as, and when the amounts set forth above are amended by the State, this ordinance shall be deemed to have been amended to reflect such changes, without the need for further action on the part of the City. Such changes by the State shall be deemed to be incorporated by reference herein.”

SECTION 3. Section 2-6.22 of Chapter 6 of Title 2 of the Ontario Municipal Code is hereby amended to read as follows:

“Section 2-6.22. Local Preference.

The City has established a local preference in order to promote the community’s economic health and to encourage local participation in the procurement process. For the purchase of goods, with the exception of materials for public works projects, the City may grant to vendors located within the City limits of Ontario a 1¾% advantage in the City’s determination of low bid due to the ultimate receipt by the City and County of a proportionate amount of the sales tax associated with the purchase of the goods solicited. A vendor whose sales tax is reportable outside of the City but within the County of San Bernardino will receive a ¾% advantage in low bid determination. This section shall not apply to procurements subject to federal funding requirements.

SECTION 4. The City Council hereby finds that this Ordinance is categorically exempt from further environmental review pursuant to the California Environmental Quality Act (Pub. Resources Code, §§ 21000 et seq.) (“CEQA”) because it constitutes continuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, general policy and procedure making, pursuant to State CEQA Guidelines Section 15378(b)(2). Therefore, City staff is hereby directed to file a Notice of Exemption with the County Clerk within three (3) days following the adoption of this Ordinance.

SECTION 5. If any Section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. This Ordinance shall become effective thirty (30) days following its passage.

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

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

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. 3110 was duly introduced at a regular meeting of the City Council of the City of Ontario held July 3, 2018 and adopted at the regular meeting held July 17, 2018 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. 3110 duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018 and that Summaries of the Ordinance were published on July 10, 2018 and July 24, 2018, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: ACCEPT A WRITTEN PETITION TO CREATE A COMMUNITY FACILITIES DISTRICT; ADOPT A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 42 (WEST HAVEN) AND TO AUTHORIZE THE ASSOCIATED LEVY OF SPECIAL TAXES; AND ADOPT A RESOLUTION TO INCUR BONDED INDEBTEDNESS

RECOMMENDATION: That the City Council consider and:

- (A) Accept a written petition (on file with the Records Management Department) from STG Communities II, LLC, located in Irvine, CA to create a Community Facilities District, and to waive certain procedural matters under the Mello-Roos Community Facilities Act of 1982;
- (B) Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 42 (West Haven) (the "CFD"), authorize the associated levy of special taxes therein, and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, August 21, 2018; and
- (C) Adopt a Resolution to Incur Bonded Indebtedness for proposed Community Facilities District No. 42 (West Haven).

COUNCIL GOALS: Operate in a Businesslike Manner


Focus Resources in Ontario's Commercial and Residential Neighborhoods

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

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

FISCAL IMPACT: The use of Mello-Roos financing in the residential development of the proposed CFD for the West Haven project is estimated to generate approximately \$8.6 million, which will be used to help fund a portion of the public infrastructure improvements that will serve the project, and approximately \$318,000 per year, at build out, to fund City services. As proposed, the services

STAFF MEMBER PRESENTING: Grant D. Yee, Executive Director of Finance

Prepared by: Bob Chandler
Department: Management Services
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

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maximum annual tax rate on each of the detached residential units is \$1,622. Since Mello-Roos bonds are not a direct obligation of the City, and are paid from special taxes levied on each taxable parcel in the district, there is no General Fund impact from the issuance of Mello-Roos bonds.

BACKGROUND: The Mello-Roos Community Facilities Act of 1982 provides local government, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to fund governmental services and to finance various kinds of public infrastructure facilities. Under the Mello-Roos Act, the initial steps in the formation of a community facilities district to finance public improvements are adopting resolutions declaring the intention to establish a community facilities district, authorizing the levy of special taxes, and to issue bonds.

In the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony (“First Amended and Restated Construction Agreement”) between the City and NMC Builders, LLC, the City agreed to cooperate with the members of NMC Builders, LLC in the formation of community facilities districts. STG Communities II, LLC, an entity of Stratham Homes, a member of NMC Builders LLC, has provided a written petition to the City requesting formation of a community facilities district for the West Haven project in Ontario Ranch. The West Haven project addresses the development of approximately 46 gross acres located generally east of Turner Avenue, west of Haven Avenue, south of Riverside Drive, and north of Schaefer Avenue. At build out, the development is projected to include 196 detached units.

Included, as part of the Resolution of Intention for the proposed district, is the proposed Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 42 (West Haven). Under the proposed Rate and Method of Apportionment, **the portion of the maximum annual special tax rates which will be used to fund debt service payments on the bonds is fixed and will not increase over time.** The amount of bonds authorized (\$30 million) under the resolution is set intentionally higher than the current proposed bond amount (approximately \$8.6 million) in order to allow future City Councils the option, without increasing the amount of the annual special taxes, to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund City services. The term and structure of the Rate and Method of Apportionment of Special Tax for the West Haven project comply with the City Council’s adopted Mello-Roos Local Goals and Policies in all respects, and are consistent with those of the previously adopted Rates and Methods of Apportionment for Ontario Ranch community facilities districts. This will ensure that the special tax rates levied on all residential property owners in community facilities districts in Ontario Ranch are developed in a consistent and equivalent manner. In addition, under the provisions of the Mello-Roos Act, to ensure that home buyers are making informed decisions, all residential builders in Ontario Ranch community facilities districts will be required to disclose the maximum annual special tax amounts to each homeowner before entering into a sales contract.

City staff members have discussed the proposed Rate and Method of Apportionment of Special Tax with the landowner. As proposed, the resolution of intention to establish the district and to levy special taxes will set the public hearing date on the formation of the community facilities district for the regularly scheduled City Council meeting on Tuesday, August 21, 2018, to consider the matter.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT, PROPOSED TO BE NAMED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 42 (WEST HAVEN), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

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

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

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") has received a written petition (the "Petition") from STG Communities II, LLC, a California limited liability company (the "Landowner") requesting the institution of proceedings for the establishment of a community facilities district (the "Community Facilities District"), describing the boundaries of the territory that is proposed for inclusion in the Community Facilities District and specifying the types of facilities and services to be financed by the Community Facilities District; and

WHEREAS, the Landowner has represented and warranted to the City Council that the Landowner is the owner of 100% of the area of land proposed to be included within the Community Facilities District and not proposed to be exempt from the special tax; and

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

WHEREAS, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative

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

WHEREAS, the City and the Landowner have entered into a Deposit and Reimbursement Agreement, dated as of July 1, 2018 (the "Deposit Agreement"), relating to the Community Facilities District, that provides for the advancement of funds by the Landowner to be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby, and provides for the reimbursement to the Landowner of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

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

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

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

SECTION 2. The City Council hereby finds that the Petition is signed by the owner of the requisite amount of land proposed to be included in the Community Facilities District.

SECTION 3. The City Council proposes to establish a community facilities district under the terms of the Act. The boundaries of the territory proposed for inclusion in the Community Facilities District are described in the map showing the proposed Community Facilities District (the "Boundary Map") on file with the City Clerk of the City (the "City Clerk"), which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to sign the original Boundary Map and record, or cause to be recorded, the Boundary Map with all proper endorsements thereon in the office of the San Bernardino County Recorder within 15 days of the date of adoption of this Resolution, all as required by Section 3111 of the California Streets and Highways Code.

SECTION 4. The name proposed for the Community Facilities District is "City of Ontario Community Facilities District No. 42 (West Haven)."

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

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

SECTION 7. The special tax may only finance the Services to the extent that they are in addition to those provided in the territory of the Community Facilities District before the Community Facilities District is created. The Services may not supplant services already available within that territory when the Community Facilities District is created.

SECTION 8. The tax year after which no further special tax to pay for Facilities will be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the special tax to pay for Facilities in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the Community Facilities District by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For purposes of this paragraph, a parcel shall be considered "used for private residential purposes" not later than the date on which an occupancy permit for private residential use is issued.

SECTION 9. Pursuant to Section 53344.1 of the Act, the City Council hereby reserves to itself the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the Community Facilities District treasurer in full payment or part payment of any

installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

SECTION 10. The City Council hereby fixes Tuesday, August 21, 2018, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the establishment of the Community Facilities District.

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

SECTION 12. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the Community Facilities District, with each owner having one vote for each acre or portion of an acre such owner owns in the Community Facilities District.

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

SECTION 14. The Landowner has heretofore advanced certain funds, and may advance additional funds, which have been or may be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby. The City Council proposes to repay all or a portion of such funds expended for such purpose, solely from the proceeds of such bonds, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

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

SECTION 16. 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 17th day of July 2018.

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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

FACILITIES AND INCIDENTAL EXPENSES

Facilities

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

Facilities to be Purchased

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

Services

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

Incidental Expenses

The incidental expenses proposed to be incurred include the following:

- (a) the cost of planning and designing public facilities to be financed, including the cost of environmental evaluations of those facilities;
- (b) the costs associated with the creation of the Community Facilities District, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District; and
- (c) any other expenses incidental to the construction, completion, and inspection of the authorized work.

EXHIBIT B

PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT B

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 42 (WEST HAVEN)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 42 (West Haven) ("CFD No. 42") and collected each Fiscal Year, commencing in Fiscal Year 2018-19, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 42, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

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

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

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 42: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 42 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City or CFD No. 42 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 42 of complying with City, CFD No. 42, or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 42 related to the analysis and reduction, if any, of the Special Tax on Single Family Property in accordance with Section C.1 herein; the costs of the City or CFD No. 42 related to an appeal of the Special Tax; the costs associated with the release of funds from any escrow account; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead relating to CFD No. 42; and amounts estimated or advanced by the City or CFD No. 42 for any other

administrative purposes of the CFD, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

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

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

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

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

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

"Bonds" means any bonds or other debt (as defined in Section 53317(d) of the Act) issued by CFD No. 42 under the Act and payable from Special Taxes.

"Buildable Lot" means an individual lot, within a Final Subdivision Map or an area expected by CFD No. 42 to become Final Mapped Property, such as the area within a Tentative Tract Map, for which a building permit may be issued without further subdivision of such lot.

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

"CFD No. 42" means City of Ontario Community Facilities District No. 42 (West Haven).

"City" means the City of Ontario, California.

"City Council" means the City Council of the City, acting as the legislative body of CFD No. 42.

"County" means the County of San Bernardino.

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

"Developed Property" means for each Fiscal Year, all Taxable Property, exclusive of Final Mapped Property, Taxable Property Owner Association Property, and Taxable Public Property, for which a building permit or other applicable permit for new construction was issued after January 1, 2017, and before May 1 of the prior Fiscal Year.

“Expected Residential Lot Count” means 196 Buildable Lots of Single Family Property or, as determined by the CFD Administrator, the number of Buildable Lots of Single Family Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

“Facilities” means the public facilities authorized to be financed, in whole or in part, by CFD No. 42.

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

“Final Subdivision Map” means a final tract map, parcel map, or lot line adjustment approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or a condominium plan recorded pursuant to California Civil Code 1352 that, in either case, creates individual lots for which building permits may be issued without further subdivision.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

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

“Land Use Class” means any of the classes listed in Table 1 below.

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

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

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

“Other Residential Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued by the City for purposes of constructing Units, excluding Single Family Attached Property and Single Family Detached Property.

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

“PACE Charges” means a contractual assessment or special tax as established by a public agency pursuant to AB 811 or SB 555, respectively, levied on an Assessor’s Parcel to fund eligible improvements to private property and entered into voluntarily by the property owner.

“Price Point Consultant” means any consultant or firm of such consultants selected by CFD No. 42 that (a) has substantial experience in performing price point studies for residential units within community facilities districts established under the Act or otherwise estimating or confirming pricing for residential units in such community facilities districts, (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of residential units in such community facilities districts, (c) is in fact independent and not under the control of CFD No. 42 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 42, (ii) the City, (iii) any owner of real property in CFD No. 42, or (iv) any real property in CFD No. 42, and (e) is not connected with CFD No. 42 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 42 or the City.

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

“Property Owner Association Property” means, for each Fiscal Year, any property within the boundaries of CFD No. 42 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

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

“Public Property” means, for each Fiscal Year, property within the boundaries of CFD No. 42 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public or utility right-of-way

that makes impractical its use for any purpose other than that set forth in such easement, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

“Rate and Method of Apportionment” means this Rate and Method of Apportionment of Special Tax.

“Residential Floor Area” means all of the Square Footage of living area within the perimeter of a Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor’s Parcel, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 42. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor’s Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

“Services” means the services authorized to be financed, in whole or in part, by CFD No. 42.

“Single Family Attached Property” means all Assessor’s Parcels of Developed Property for which a building permit or use permit was issued for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor’s Parcel Numbers assigned to them (except for a duplex unit, which may share an Assessor’s Parcel with another duplex unit), and may be purchased by individual homebuyers (which shall still be the case even if the Units are purchased and subsequently offered for rent by the owner of the Unit), including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

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

“Single Family Property” means all Assessor’s Parcels of Single Family Attached Property and Single Family Detached Property.

“Special Tax” means the special tax authorized by the qualified electors of CFD No. 42 to be levied within the boundaries of CFD No. 42.

“Special Tax Requirement” means for any Fiscal Year that amount required, after taking into account available amounts held in the funds and accounts established under the Indenture, for CFD No. 42 to: (i) pay debt service on all Outstanding Bonds which is due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or

construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax levy on Final Mapped Property or Undeveloped Property; (vi) provide an amount equal to Special Tax delinquencies based on the historical delinquency rate for the Special Tax as determined by the CFD Administrator.

“Square Footage” or **“Sq. Ft.”** means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 42, issued for construction of Single Family Property, Other Residential Property, or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

“State” means the State of California.

“Taxable Property” means, for each Fiscal Year, all of the Assessor’s Parcels within the boundaries of CFD No. 42 that are not exempt from the Special Tax pursuant to law or Section E below.

“Taxable Property Owner Association Property” means, for each Fiscal Year, all Assessor’s Parcels of Property Owner Association Property that are not exempt from the Special Tax pursuant to Section E below.

“Taxable Public Property” means, for each Fiscal Year, all Assessor’s Parcels of Public Property that are not exempt from the Special Tax pursuant to law or Section E below.

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

“Total Tax Burden” means for any Unit, the annual Special Tax, together with *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities district, and any other taxes, fees, and charges which are levied and imposed on such Unit and the real property on which it is located and collected by the County on *ad valorem* tax bills and which are secured by such Unit and the real property on which it is located, assuming such Unit had been completed, sold, and subject to such levies and impositions, excluding service charges such as those related to sewer and trash and excluding PACE Charges levied on individual Assessor’s Parcels.

“Trustee” means the trustee or fiscal agent under the Indenture.

“TTM 18026” means Tentative Tract Map No. 18026, the area of which is located within CFD No. 42.

“TTM 18027” means Tentative Tract Map No. 18027, the area of which is located within CFD No. 42.

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

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

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2018-19, all Taxable Property within CFD No. 42 shall be classified as Developed Property, Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below. Assessor’s Parcels of Single Family Property shall be assigned to Land Use Classes 1 through 10, as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Other Residential Property shall be assigned to Land Use Class 11, and Non-Residential Property shall be assigned to Land Use Class 12.

C. MAXIMUM SPECIAL TAX

1. Special Tax

At least 30 days prior to the issuance of Bonds, the Assigned Special Tax on Developed Property (set forth in Table 1 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At such time, CFD No. 42 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Single Family Property to be constructed within CFD No. 42 exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax shall be reduced to the extent necessary to cause the Total Tax Burden that shall apply to Units within such Land Use Class(es) not to exceed 1.95% of the Minimum Sale Price of such Units.

Each Assigned Special Tax reduction for a Land Use Class shall be calculated by the CFD Administrator separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Special Tax, the Backup Special Tax shall also be reduced by the CFD Administrator based on the percentage reduction in Maximum Special Tax revenues within the Tentative Tract Map area(s) where the Assigned Special Tax reductions occurred. Upon determining the reductions, if any, in the Assigned Special Tax and Backup Special Tax required pursuant to this Section C, the CFD Administrator shall complete the Certificate of Modification of Special Tax substantially in the form attached hereto as Exhibit A (the “Certificate of

Modification”), shall execute such completed Certificate of Modification, and shall deliver such executed Certificate of Modification to CFD No. 42. Upon receipt thereof, if in satisfactory form, CFD No. 42 shall execute such Certificate of Modification. The reduced Assigned Special Tax and Backup Special Tax specified in such Certificate of Modification shall become effective upon the execution of such Certificate of Modification by CFD No. 42.

The Special Tax reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien, which CFD No. 42 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 42. The reductions in this section apply to Single Family Property, but not to Other Residential Property or Non-Residential Property.

a. Developed Property

1) *Maximum Special Tax*

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

2) *Assigned Special Tax*

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

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

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Property	< 1,901	\$2,453 per Unit
2	Single Family Property	1,901 – 2,100	\$2,542 per Unit
3	Single Family Property	2,101 – 2,300	\$2,709 per Unit
4	Single Family Property	2,301 – 2,500	\$2,886 per Unit
5	Single Family Property	2,501 – 2,700	\$3,063 per Unit
6	Single Family Property	2,701 – 2,900	\$3,237 per Unit
7	Single Family Property	2,901 – 3,100	\$3,411 per Unit

8	Single Family Property	3,101 – 3,300	\$3,584 per Unit
9	Single Family Property	3,301 – 3,500	\$3,758 per Unit
10	Single Family Property	> 3,500	\$3,832 per Unit
11	Other Residential Property		\$33,755 per Acre
12	Non-Residential Property		\$33,755 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be \$3,430 per Unit for Single Family Property. However, if the Expected Residential Lot Count does not equal 196 for Single Family Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated according to the following formula:

$$\text{Backup Special Tax} = \$672,303 \div \text{Expected Residential Lot Count for Single Family Property}$$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 42 to become Final Mapped Property, such as the area within TTM 18026, TTM 18027, or any other Tentative Tract Map, changes any time after the City has issued Bonds, causing an adjustment to the number of Designated Buildable Lots, then the Backup Special Tax for all Designated Buildable Lots of Single Family Property subject to the change shall be calculated according to the following steps:

Step 1: Determine the total Backup Special Taxes that could have been collected from Designated Buildable Lots of Single Family Property prior to the Final Subdivision Map or expected Final Mapped Property change.

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

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

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

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

The Maximum Special Tax for Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property shall be \$33,755 per Acre, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

2. Multiple Land Use Classes on an Assessor's Parcel

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

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 2018-19, the CFD Administrator shall determine the Special Tax Requirement for such Fiscal Year. The Special Tax shall then be levied as follows:

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

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

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

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

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

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

Notwithstanding the above, under no circumstances shall the Special Tax levied in any Fiscal Year on any Assessor's Parcel of Single Family Property or Other Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 42 by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults.

E. EXEMPTIONS

No Special Tax shall be levied on up to 22.90 Acres of Public Property and up to 1.77 Acres of Property Owner Association Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property.

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

F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 42 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

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

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent

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

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

G. MANNER OF COLLECTION

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

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

“CFD Public Facilities” means \$8,674,000 each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 42.

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

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

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

“Prepayment Period 1” means July 1, 2018, through June 30, 2052.

“Prepayment Period 2” means July 1, 2052, through June 30, 2085.

“Prepayment Period 3” means July 1, 2085, through June 30, 2119.

1. Prepayment in Full

The obligation of an Assessor's Parcel to pay the Special Tax may be prepaid as described herein, provided that a prepayment may be made only for Assessor's Parcels for which a building permit for new construction was issued after January 1, 2017, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge a fee for providing this service. Prepayment in any six month period must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

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

	Bond Redemption Amount
plus	Redemption Premium
plus	Future Facilities Amount
plus	Defeasance Amount
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
Total	Prepayment Amount

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

Paragraph No.

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel, and determine the Prepayment Period for the proposed prepayment.
2. Compute the Assigned Special Tax and Backup Special Tax for the Assessor's Parcel to be prepaid based on the Developed Property Special Tax which is, or could be, charged in the current Fiscal Year. For Assessor's Parcels of Final Mapped Property (for which a building permit has been issued but which is not yet classified as Developed Property) to be prepaid, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to Paragraph 2 by the total estimated Assigned Special Tax for CFD No. 42 based on the Developed Property Special Tax which could be charged in the current Fiscal Year on all

expected development through buildout of CFD No. 42, excluding any Assessor's Parcels which have been prepaid, and

(b) Divide the Backup Special Tax computed pursuant to Paragraph 2 by the estimated total Backup Special Tax at buildout of CFD No. 42, excluding any Assessor's Parcels which have been prepaid.

4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Compute the Future Facilities Costs for the applicable Prepayment Period.
7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.
10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".
11. Verify the administrative fees and expenses of CFD No. 42, including the costs to compute the prepayment, the costs to invest the prepayment proceeds, the costs to redeem Bonds, and the costs to record any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").
12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement on the prepayment date or the redemption date.
13. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to Paragraphs 4, 5, 7, 10, and 11, less the amount computed pursuant to Paragraph 12 (the "Prepayment Amount").

14. From the Prepayment Amount, the amounts computed pursuant to Paragraphs 4, 5, 10, and 12 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to Paragraph 7 shall be deposited into the Expenditures Fund. The amount computed pursuant to Paragraph 11 shall be retained by CFD No. 42.

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

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

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

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Special Tax that may be levied on Taxable Property within CFD No. 42 (after excluding 22.90 Acres of Public Property and 1.77 acres of Property Owner Association Property) both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

2. Prepayment in Part

The Special Tax on an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2017, may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1, except that a partial prepayment shall be calculated by the CFD Administrator according to the following formula:

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

The terms above have the following meaning:

PP = the partial prepayment

PF = the Prepayment Amount (full prepayment) for the Special Tax calculated according to Section H.1

AE = the Administrative Fees and Expenses determined pursuant to paragraph 11 above

% = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax

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

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay the Special Tax and the percentage by which the Special Tax shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute the remitted prepayment funds according to Section H.1, and (ii) indicate in the records of CFD No. 42 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (100% - "%", as defined above) of the Maximum Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D during the Prepayment Period in which the partial prepayment is made.

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

I. TERM OF SPECIAL TAX

The Fiscal Year after which no further Special Tax shall be levied or collected is Fiscal Year 2118-2119, except that the Special Tax that was lawfully levied in or before such Fiscal Year and that remains delinquent may be collected in subsequent years.

EXHIBIT A

**CERTIFICATE OF MODIFICATION OF SPECIAL TAX
(PAGE 1 OF 2)**

CFD No. 42 CERTIFICATE

1. Pursuant to Section C.1 of the Rate and Method of Apportionment of Special Tax (the “Rate and Method”) for City of Ontario Community Facilities District No. 42 (West Haven) (“CFD No. 42”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 42 has been modified.
 - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 42, as stated in Section C.1.a.2 of the Rate and Method of Apportionment, has been modified as follows:

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

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Property	< 1,901	[\$] per Unit
2	Single Family Property	1,901 – 2,100	[\$] per Unit
3	Single Family Property	2,101 – 2,300	[\$] per Unit
4	Single Family Property	2,301 – 2,500	[\$] per Unit
5	Single Family Property	2,501 – 2,700	[\$] per Unit
6	Single Family Property	2,701 – 2,900	[\$] per Unit
7	Single Family Property	2,901 – 3,100	[\$] per Unit
8	Single Family Property	3,101 – 3,300	[\$] per Unit
9	Single Family Property	3,301 – 3,500	[\$] per Unit
10	Single Family Property	> 3,500	[\$] per Unit
11	Other Residential Property		[\$] per Acre
12	Non-Residential Property		[\$] per Acre

EXHIBIT A

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

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

The Backup Special Tax shall be \$[_____] per Unit for Single Family Property. However, if the Expected Residential Lot Count does not equal 196 for Single Family Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated according to the following formula:

$$\text{Backup Special Tax} = \$[_____] \div \text{Expected Residential Lot Count for Single Family Property}$$

- 2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 42 Bonds.
- 3. Upon execution of this Certificate by CFD No. 42, CFD No. 42 shall cause an amended notice of Special Tax lien for CFD No. 42 to be recorded reflecting the modifications set forth herein.

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

GOODWIN CONSULTING GROUP, INC.
CFD ADMINISTRATOR

By: _____ Date: _____

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

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 42
(WEST HAVEN)

By: _____ Date: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO INCUR BONDED INDEBTEDNESS OF THE PROPOSED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 42 (WEST HAVEN).

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), has this date adopted its Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 42 (West Haven), and to Authorize the Levy of Special Taxes," stating its intention to establish City of Ontario Community Facilities District No. 42 (West Haven) (the "Community Facilities District") for the purpose of financing certain public facilities (the "Facilities") and services, as further provided in said Resolution; and

WHEREAS, in order to finance the Facilities it is necessary to incur bonded indebtedness in the amount of up to \$30,000,000;

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

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

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

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

SECTION 4. The maximum amount of the proposed debt is \$30,000,000.

SECTION 5. The City Council hereby fixes Tuesday, August 21, 2018, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the proposed debt authorization.

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

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

SECTION 8. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report

July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: ACCEPT WRITTEN PETITIONS TO CREATE A COMMUNITY FACILITIES DISTRICT, ADOPT A RESOLUTION OF INTENTION TO ESTABLISH CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 43 (PARK PLACE FACILITIES PHASE IV) AND AUTHORIZE THE ASSOCIATED LEVY OF SPECIAL TAXES, AND ADOPT A RESOLUTION TO INCUR BONDED INDEBTEDNESS

RECOMMENDATION: That the City Council:

- (A) Accept written petitions (on file with the Records Management Department) from SL Ontario Development Company, LLC, a Delaware limited liability company located in Upland, California, TRI Pointe Homes, Inc. a Delaware corporation located in Irvine, California, and KB HOME Coastal Inc., a California corporation located in Wildomar, California, to create a community facilities district, and to waive certain procedural matters, under the Mello-Roos Community Facilities Act of 1982;
- (B) Adopt a Resolution of Intention to establish City of Ontario Community Facilities District No. 43 (Park Place Facilities Phase IV) (the "CFD"), authorize the associated levy of special taxes therein; and set a public hearing for the formation of the CFD as part of the regularly scheduled City Council meeting on Tuesday, August 21, 2018; and
- (C) Adopt a Resolution to Incur Bonded Indebtedness of proposed Community Facilities District No. 43 (Park Place Facilities Phase IV).

COUNCIL GOALS: Operate in a Businesslike Manner

Focus Resources in Ontario's Commercial and Residential Neighborhoods

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

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

STAFF MEMBER PRESENTING: Grant D. Yee, Executive Director of Finance

Prepared by: Bob Chandler
Department: Management Services
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

10

FISCAL IMPACT: The use of Mello-Roos financing for facilities in the residential development of the Park Place Phase IV project is estimated to generate approximately \$13 million, which will be used to help fund a portion of the public infrastructure improvements that will serve the project. Since Mello-Roos bonds are not a direct obligation of the City, and are paid from special taxes levied on each taxable parcel in the district, there is no General Fund impact from the issuance of Mello-Roos bonds.

BACKGROUND: The Mello-Roos Community Facilities Act of 1982 provides local government, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to fund governmental services and to finance various kinds of public infrastructure facilities. With the adoption of Resolution 2014-019 on March 18, 2014, the City Council authorized the levy of special taxes to fund various city services for the district. Under the Mello-Roos Act, the initial steps in the formation of a community facilities district to finance public improvements are adopting resolutions declaring the City's intention to establish a community facilities district and levy special taxes, and to issue bonds.

In the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony ("First Amended and Restated Construction Agreement") between the City and NMC Builders, LLC, the City agreed to cooperate with the members of NMC Builders, LLC in the formation of community facilities district to assist in the financing in the public improvements included in the agreement. SL Ontario Development, a member of NMC Builders, LLC; TRI Pointe Homes, Inc., and KB HOME Coastal Inc. a guest builder of NMC Builders, LLC - have provided written petitions to the City requesting formation of a community facilities district for the Park Place Phase IV project in Ontario Ranch. The Park Place Phase IV project addresses the development of approximately 60 taxable acres located generally east of Parkplace Avenue, generally west of Haven Avenue, south of Eucalyptus Avenue and north of Parkview Street. At build out, the development is projected to include 335 detached single-family units.

Included, as part of the resolution of intention for the proposed district, is the proposed Rate and Method of Apportionment of Special Tax for the District. The terms of the Rate and Method of Apportionment of Special Tax are consistent with the City Council's adopted Mello-Roos Local Goals and Policies in all aspects, except that the percentage of assessed value of the total annual tax obligation plus the annual Homeowners Association (HOA) fee exceeds the adopted policy thresholds, in aggregate, by .01% for each detached unit. However, as was previously authorized for previous developers in the Ontario Ranch, and as is consistent with the "enhanced level of amenities" provisions of the Memorandum of Understanding executed between the City and NMC Builders on July 21, 2015 (the MOU), it is recommended that the policy threshold limitations be waived in this instance in recognition of the enhanced level of amenities and services to be provided by the project's HOA, which are of the type contemplated by the MOU. The community facilities district is being formed pursuant to the provisions of the SL Ontario Development Company LLC's Development Agreement, and the First Amended and Restated Construction Agreement between the City and NMC Builders.

Under the proposed Rate and Method of Apportionment, **the portion of the maximum annual special tax rates which will be used to fund debt service payments on the bonds is fixed and will not increase over time.** The amount of bonds authorized under the resolution is \$46 million, set intentionally higher than the current proposed bond amount approximately by \$13 million in order to allow future City Councils the option, without increasing the amount of the annual special taxes, to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund City services. The term and structure of the Rate and Method of Apportionment of Special Tax for the Park Place Phase IV project is consistent with those of the previously adopted Rates and Methods of

Apportionment for Ontario Ranch community facilities districts. This will ensure that the special tax rates levied on all residential property owners in community facilities districts in Ontario Ranch be developed in a consistent and equivalent manner. In addition, under the provisions of the Mello-Roos Act, to ensure that home buyers are making informed decisions, all residential builders in Ontario Ranch community facilities districts will be required to disclose the maximum annual special tax amount to each homeowner before entering into a sales contract.

City staff members have discussed the proposed Rate and Method of Apportionment of Special Tax with the landowners. As proposed, the resolution of intention to establish the district and to levy special taxes will set the public hearing date on the formation of the community facilities district for the regularly scheduled City Council meeting on Tuesday, August 21, 2018 to consider the matter.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT, PROPOSED TO BE NAMED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 43 (PARK PLACE FACILITIES PHASE IV), AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES.

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

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

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") has received written petitions (the "Petitions") from each of SL Ontario Development Company, LLC, a Delaware limited liability company ("SL Ontario"), TRI Pointe Homes, Inc., a Delaware corporation, and KB HOME Coastal Inc., a California corporation (collectively, the "Landowners") requesting the institution of proceedings for the establishment of a community facilities district (the "Community Facilities District"), describing the boundaries of the territory that is proposed for inclusion in the Community Facilities District and specifying the types of facilities and services to be financed by the Community Facilities District; and

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

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

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

WHEREAS, the City and SL Ontario have entered into a Deposit and Reimbursement Agreement, dated as of July 1, 2018 (the "Deposit Agreement"), relating to the Community Facilities District, that provides for the advancement of funds by SL Ontario to be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby, and provides for the reimbursement to SL Ontario of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

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

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

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

SECTION 2. The City Council hereby finds that the Petitions are signed by the owners of the requisite amount of land proposed to be included in the Community Facilities District.

SECTION 3. The City Council proposes to establish a community facilities district under the terms of the Act. The boundaries of the territory proposed for inclusion in the Community Facilities District are described in the map showing the proposed Community Facilities District (the "Boundary Map") on file with the City Clerk of the City (the "City Clerk"), which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to sign the original Boundary Map and record, or cause to be recorded, the Boundary Map with all proper endorsements thereon in the office of the San Bernardino County Recorder within 15 days of the date of adoption of this Resolution, all as required by Section 3111 of the California Streets and Highways Code.

SECTION 4. The name proposed for the Community Facilities District is "City of Ontario Community Facilities District No. 43 (Park Place Facilities Phase IV)."

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

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

SECTION 7. The special tax may only finance the Services to the extent that they are in addition to those provided in the territory of the Community Facilities District before the Community Facilities District is created. The Services may not supplant services already available within that territory when the Community Facilities District is created.

SECTION 8. The tax year after which no further special tax to pay for Facilities will be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the special tax to pay for Facilities in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the Community Facilities District by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For purposes of this paragraph, a parcel shall be considered "used for private residential purposes" not later than the date on which an occupancy permit for private residential use is issued.

SECTION 9. Pursuant to Section 53344.1 of the Act, the City Council hereby reserves to itself the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the Community Facilities District treasurer in full payment or part payment of any

installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

SECTION 10. The City Council hereby fixes Tuesday, August 21, 2018, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the establishment of the Community Facilities District.

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

SECTION 12. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the Community Facilities District, with each owner having one vote for each acre or portion of an acre such owner owns in the Community Facilities District.

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

SECTION 14. SL Ontario has heretofore advanced certain funds, and may advance additional funds, which have been or may be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby. The City Council proposes to repay all or a portion of such funds expended for such purpose, solely from the proceeds of such bonds, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

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

SECTION 16. 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 17th day of July 2018.

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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

EXHIBIT A

FACILITIES AND INCIDENTAL EXPENSES

Facilities

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

Facilities to be Purchased

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

Services

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

Incidental Expenses

The incidental expenses proposed to be incurred include the following:

- (a) the cost of planning and designing public facilities to be financed, including the cost of environmental evaluations of those facilities;
- (b) the costs associated with the creation of the Community Facilities District, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District; and
- (c) any other expenses incidental to the construction, completion, and inspection of the authorized work.

EXHIBIT B

PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT B

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 43 (PARK PLACE FACILITIES PHASE IV)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 43 (Park Place Facilities Phase IV) ("CFD No. 43") and collected each Fiscal Year, commencing in Fiscal Year 2018-19, in an amount determined by the City Council of the City of Ontario through the application of the Rate and Method of Apportionment, as described below. All of the real property in CFD No. 43, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

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

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

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 43: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 43 or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City or CFD No. 43 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 43 of complying with City, CFD No. 43, or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or CFD No. 43 related to the analysis and reduction, if any, of the Special Tax on Residential Property in accordance with Section C.1 herein; the costs of the City or CFD No. 43 related to an appeal of the Special Tax; the costs associated with the release of funds from any escrow account; the City's administration fees and third party expenses; the costs of City staff time and reasonable overhead relating to CFD No. 43; and amounts estimated or advanced by the City or CFD No. 43 for any other administrative purposes

of the CFD, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

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

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

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

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

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

"Bonds" means any bonds or other debt (as defined in Section 53317(d) of the Act) issued by CFD No. 43 under the Act and payable from Special Taxes.

"Buildable Lot" means an individual lot, within a Final Subdivision Map or an area expected by CFD No. 43 to become Final Mapped Property, such as the area within a Tentative Tract Map, for which a building permit may be issued without further subdivision of such lot.

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

"CFD No. 43" means City of Ontario Community Facilities District No. 43 (Park Place Facilities Phase IV).

"City" means the City of Ontario, California.

"City Council" means the City Council of the City, acting as the legislative body of CFD No. 43.

"County" means the County of San Bernardino.

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

"Developed Property" means for each Fiscal Year, all Taxable Property, exclusive of Final Mapped Property, Taxable Property Owner Association Property, and Taxable Public Property, for which a building permit or other applicable permit for new construction was issued after January 1, 2017, and before May 1 of the prior Fiscal Year.

“Expected Residential Lot Count” means 335 Buildable Lots of Residential Property or, as determined by the CFD Administrator, the number of Buildable Lots of Residential Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

“Facilities” means the public facilities authorized to be financed, in whole or in part, by CFD No. 43.

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

“Final Subdivision Map” means a final tract map, parcel map, or lot line adjustment approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or a condominium plan recorded pursuant to California Civil Code 1352 that, in either case, creates individual lots for which building permits may be issued without further subdivision.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

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

“Land Use Class” means any of the classes listed in Table 1 below.

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

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

“Other Property” means all Assessor’s Parcels of Developed Property for which a building permit was issued by the City for purposes of constructing Units, excluding Single Family Detached One Story Property and Single Family Detached Property, or for purposes of constructing one or more non-residential structures or facilities.

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

“PACE Charges” means a contractual assessment or special tax as established by a public agency pursuant to AB 811 or SB 555, respectively, levied on an Assessor’s Parcel to fund eligible improvements to private property and entered into voluntarily by the property owner.

“Price Point Consultant” means any consultant or firm of such consultants selected by CFD No. 43 that (a) has substantial experience in performing price point studies for residential units within community facilities districts established under the Act or otherwise estimating or confirming pricing for residential units in such community facilities districts, (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of residential units in such community facilities districts, (c) is in fact independent and not under the control of CFD No. 43 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 43, (ii) the City, (iii) any owner of real property in CFD No. 43, or (iv) any real property in CFD No. 43, and (e) is not connected with CFD No. 43 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 43 or the City.

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

“Property Owner Association Property” means, for each Fiscal Year, any property within the boundaries of CFD No. 43 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

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

“Public Property” means, for each Fiscal Year, property within the boundaries of CFD No. 43 that is (a) owned by, irrevocably offered to, or dedicated to the federal government, the State, the County, the City, or any local government or other public agency or (b) encumbered by an easement for purposes of public or utility right-of-way that makes impractical its use for any purpose other than that set forth in such easement, provided that any property leased by a public agency to a private entity and subject to

taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

“Rate and Method of Apportionment” means this Rate and Method of Apportionment of Special Tax.

“Residential Floor Area” means all of the Square Footage of living area within the perimeter of a residential Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor’s Parcel, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 43. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor’s Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

“Residential Property” means all Assessor’s Parcels of Taxable Property for which a building permit may be issued for purposes of constructing one or more Units.

“Services” means the services authorized to be financed, in whole or in part, by CFD No. 43.

“Single Family Detached One Story Property” means all Assessor’s Parcels of Residential Property for which a building permit was issued for construction of a Unit, on one legal lot, that does not share a common wall with another Unit, contains one floor of living area at the time the Unit is constructed, and is located within TTM 18067.

“Single Family Detached Property” means all Assessor’s Parcels of Residential Property for which a building permit was issued for construction of a Unit, on one legal lot, that does not share a common wall with another Unit, and is not Single Family Detached One Story Property.

“Special Tax” means the special tax authorized by the qualified electors of CFD No. 43 to be levied within the boundaries of CFD No. 43.

“Special Tax Requirement” means for any Fiscal Year that amount required, after taking into account available amounts held in the funds and accounts established under the Indenture, for CFD No. 43 to: (i) pay debt service on all Outstanding Bonds which is due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax levy on Final Mapped Property or Undeveloped Property; (vi) provide an amount equal to Special Tax delinquencies based on the historical delinquency rate for the Special Tax as determined by the CFD Administrator.

“Square Footage” or **“Sq. Ft.”** means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 43, issued for construction of Residential Property or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

“State” means the State of California.

“Taxable Property” means, for each Fiscal Year, all of the Assessor’s Parcels within the boundaries of CFD No. 43 that are not exempt from the Special Tax pursuant to law or Section E below.

“Taxable Property Owner Association Property” means, for each Fiscal Year, all Assessor’s Parcels of Property Owner Association Property that are not exempt from the Special Tax pursuant to Section E below.

“Taxable Public Property” means, for each Fiscal Year, all Assessor’s Parcels of Public Property that are not exempt from the Special Tax pursuant to law or Section E below.

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

“Total Tax Burden” means for any Unit, the annual Special Tax, together with *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities district, and any other taxes, fees, and charges which are levied and imposed on such Unit and the real property on which it is located and collected by the County on *ad valorem* tax bills and which are secured by such Unit and the real property on which it is located, assuming such Unit had been completed, sold, and subject to such levies and impositions, excluding service charges such as those related to sewer and trash and excluding PACE Charges levied on individual Assessor’s Parcels.

“Trustee” means the trustee or fiscal agent under the Indenture.

“TTM 18065” means Tentative Tract Map No. 18065, the area of which is located within CFD No. 43.

“TTM 18066” means Tentative Tract Map No. 18066, the area of which is located within CFD No. 43.

“TTM 18067” means Tentative Tract Map No. 18067, the area of which is located within CFD No. 43.

“TTM 18068” means Tentative Tract Map No. 18068, the area of which is located within CFD No. 43.

“**TTM 18081**” means Tentative Tract Map No. 18081, the area of which is located within CFD No. 43.

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

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

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, beginning with Fiscal Year 2018-19, all Taxable Property within CFD No. 43 shall be classified as Developed Property, Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below. Assessor’s Parcels of Single Family Detached Property shall be assigned to Land Use Classes 1 through 19, and Assessor’s Parcels of Single Family Detached One Story Property shall be assigned to Land Use Classes 20 through 26, as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Other Property shall be assigned to Land Use Classes 27 through 31.

C. MAXIMUM SPECIAL TAX

1. Special Tax

At least 30 days prior to the issuance of Bonds, the Assigned Special Tax on Developed Property (set forth in Table 1 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At such time, CFD No. 43 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Residential Property to be constructed within CFD No. 43 exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax shall be reduced to the extent necessary to cause the Total Tax Burden that shall apply to Units within such Land Use Class(es) not to exceed 1.95% of the Minimum Sale Price of such Units.

Each Assigned Special Tax reduction for a Land Use Class shall be calculated by the CFD Administrator separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Special Tax, the Backup Special Tax shall also be reduced by the CFD Administrator based on the percentage reduction in Maximum Special Tax revenues within the Tentative Tract Map area(s) where the Assigned Special Tax

reductions occurred. Upon determining the reductions, if any, in the Assigned Special Tax and Backup Special Tax required pursuant to this Section C, the CFD Administrator shall complete the Certificate of Modification of Special Tax substantially in the form attached hereto as Exhibit A (the “Certificate of Modification”), shall execute such completed Certificate of Modification, and shall deliver such executed Certificate of Modification to CFD No. 43. Upon receipt thereof, if in satisfactory form, CFD No. 43 shall execute such Certificate of Modification. The reduced Assigned Special Tax and Backup Special Tax specified in such Certificate of Modification shall become effective upon the execution of such Certificate of Modification by CFD No. 43.

The Special Tax reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien which CFD No. 43 shall cause to be recorded with the County Recorded as soon as practicable after execution of the Certificate of Modification by CFD No. 43. The reductions in this section apply to Residential Property, but not to Non-Residential Property.

a. Developed Property

1) *Maximum Special Tax*

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

2) *Assigned Special Tax*

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

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

Land Use Class	Description	Residential Floor Area: Square Footage	Assigned Special Tax
1	Single Family Detached Property	< 1,701	\$2,282 per Unit
2	Single Family Detached Property	1,701 – 1,800	\$2,366 per Unit
3	Single Family Detached Property	1,801 – 1,900	\$2,449 per Unit
4	Single Family Detached Property	1,901 – 2,000	\$2,502 per Unit
5	Single Family Detached Property	2,001 – 2,100	\$2,616 per Unit

6	Single Family Detached Property	2,101 – 2,200	\$2,666 per Unit
7	Single Family Detached Property	2,201 – 2,300	\$2,823 per Unit
8	Single Family Detached Property	2,301 – 2,400	\$2,830 per Unit
9	Single Family Detached Property	2,401 – 2,500	\$2,990 per Unit
10	Single Family Detached Property	2,501 – 2,600	\$3,073 per Unit
11	Single Family Detached Property	2,601 – 2,700	\$3,156 per Unit
12	Single Family Detached Property	2,701 – 2,800	\$3,240 per Unit
13	Single Family Detached Property	2,801 – 2,900	\$3,282 per Unit
14	Single Family Detached Property	2,901 – 3,000	\$3,406 per Unit
15	Single Family Detached Property	3,001 – 3,100	\$3,448 per Unit
16	Single Family Detached Property	3,101 – 3,200	\$3,573 per Unit
17	Single Family Detached Property	3,201 – 3,300	\$3,615 per Unit
18	Single Family Detached Property	3,301 – 3,400	\$3,739 per Unit
19	Single Family Detached Property	> 3,400	\$3,782 per Unit
	Single Family Detached:		
20	One Story Property	< 2,301	\$3,185 per Unit
21	One Story Property	2,301 – 2,400	\$3,252 per Unit
22	One Story Property	2,401 – 2,500	\$3,346 per Unit
23	One Story Property	2,501 – 2,600	\$3,389 per Unit
24	One Story Property	2,601 – 2,700	\$3,442 per Unit
25	One Story Property	2,701 – 2,800	\$3,521 per Unit
26	One Story Property	> 2,800	\$3,588 per Unit
	Other Property		
27	TTM 18065		\$34,777 per Acre
28	TTM 18066		\$30,226 per Acre
29	TTM 18067		\$24,095 per Acre
30	TTM 18068		\$35,974 per Acre
31	TTM 18081		\$35,386 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be \$3,279 per Unit for Residential Property in TTM 18065, \$3,612 per Unit for Residential Property in TTM 18066, \$3,404 per Unit for Residential Property in TTM 18067, \$3,032 per Unit for Residential Property in TTM 18068, and \$2,707 per Unit for Residential Property in TTM 18081. However, if the Expected Residential Lot Count does not equal 67 for TTM 18065, 47 for TTM 18066, 79 for TTM 18067, 82 for TTM 18068, or 60 for TTM 18081, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Residential Property shall be calculated separately for each Tentative Tract Map area according to the following formula:

Backup Special Tax = \$34,777 for TTM 18065 or
\$30,226 for TTM 18066 or
\$24,095 for TTM 18067 or
\$35,974 for TTM 18068 or
\$35,386 for TTM 18081

× Acreage of Designated Buildable Lots
of Residential Property within the
applicable Tentative Tract Map

÷ Expected Residential Lot Count for
Residential Property within the
applicable Tentative Tract Map

If any portion of a Final Subdivision Map, or any area expected by CFD No. 43 to become Final Mapped Property, such as the area within TTM 18065, TTM 18066, TTM 18067, TTM 18068, TTM 18081, or any other Tentative Tract Map, changes any time after the City has issued Bonds, causing an adjustment to the number of Designated Buildable Lots, then the Backup Special Tax for all Designated Buildable Lots of Residential Property subject to the change shall be calculated according to the following steps:

Step 1: Determine the total Backup Special Taxes that could have been collected from Designated Buildable Lots, separately for each Tentative Tract Map, prior to the Final Subdivision Map or expected Final Mapped Property change.

Step 2: Divide the amount(s) determined in Step 1 by the number of Designated Buildable Lots, separately for each Tentative Tract Map, that exists after the Final Subdivision Map or expected Final Mapped Property change.

Step 3: Apply the amount(s) determined in Step 2 as the Backup Special Tax per Unit for Residential Property for each Tentative Tract Map.

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

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

The Maximum Special Tax for Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, and Undeveloped Property shall be \$34,777 per Acre for such property in TTM 18065, \$30,226 per Acre for such property in TTM 18066, \$24,095 per Acre for such property in TTM 18067, \$35,974 per Acre for such property in TTM 18068, and \$35,386 per Acre for such property in TTM 18081, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

2. Multiple Land Use Classes on an Assessor's Parcel

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax levied on such Assessor's Parcel shall be the sum of the Maximum Special Tax for all Units of Residential Property and Acres of Non-Residential Property (based on the applicable building permits, Final Subdivision Map, parcel map, condominium plan, or other recorded County map) located on that Assessor's Parcel.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 2018-19, the CFD Administrator shall determine the Special Tax Requirement for such Fiscal Year. The Special Tax shall then be levied as follows:

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

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

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

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

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

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

Notwithstanding the above, under no circumstances shall the Special Tax levied in any Fiscal Year on any Assessor's Parcel of Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 43 by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults.

E. EXEMPTIONS

No Special Tax shall be levied on up to 16.00 Acres of Public Property and up to 6.93 Acres of Property Owner Association Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property.

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

F. APPEALS

Any property owner may file a written appeal of the Special Tax with CFD No. 43 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

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

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent decision shall be final and binding on all interested parties. If the decision of the CFD Administrator or subsequent decision by the City Council requires the Special Tax to be modified or changed in favor of the property owner, then the CFD Administrator shall determine if sufficient Special Tax revenue is available to make a cash refund. If a cash

refund cannot be made, then an adjustment shall be made to credit future Special Tax levy(ies).

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

G. MANNER OF COLLECTION

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

H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

“CFD Public Facilities” means \$14,200,000 each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 43.

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

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

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

“Prepayment Period 1” means July 1, 2018, through June 30, 2052.

“Prepayment Period 2” means July 1, 2052, through June 30, 2085.

“Prepayment Period 3” means July 1, 2085, through June 30, 2119.

1. Prepayment in Full

The obligation of an Assessor's Parcel to pay the Special Tax may be prepaid as described herein, provided that a prepayment may be made only for Assessor's Parcels for which a building permit for new construction was issued after January 1, 2017, and only if there are no delinquent Special Taxes with respect to such

Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge a fee for providing this service. Prepayment in any six month period must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

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

	Bond Redemption Amount
plus	Redemption Premium
plus	Future Facilities Amount
plus	Defeasance Amount
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
Total	Prepayment Amount

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

Paragraph No.

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel, and determine the Prepayment Period for the proposed prepayment.
2. Compute the Assigned Special Tax and Backup Special Tax for the Assessor's Parcel to be prepaid based on the Developed Property Special Tax which is, or could be, charged in the current Fiscal Year. For Assessor's Parcels of Final Mapped Property (for which a building permit has been issued but which is not yet classified as Developed Property) to be prepaid, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to Paragraph 2 by the total estimated Assigned Special Tax for CFD No. 43 based on the Developed Property Special Tax which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 43, excluding any Assessor's Parcels which have been prepaid, and

(b) Divide the Backup Special Tax computed pursuant to Paragraph 2 by the estimated total Backup Special Tax at buildout of CFD No. 43, excluding any Assessor's Parcels which have been prepaid.

4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Compute the current Future Facilities Costs.
7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.
10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".
11. Verify the administrative fees and expenses of CFD No. 43, including the costs to compute the prepayment, the costs to invest the prepayment proceeds, the costs to redeem Bonds, and the costs to record any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").
12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement on the prepayment date or the redemption date.
13. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to Paragraphs 4, 5, 7, 10, and 11, less the amount computed pursuant to Paragraph 12 (the "Prepayment Amount").
14. From the Prepayment Amount, the amounts computed pursuant to Paragraphs 4, 5, 10, and 12 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to Paragraph 7 shall be deposited into the Expenditures Fund. The amount computed pursuant to Paragraph 11 shall be retained by CFD No. 43.

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

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

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

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Special Tax that may be levied on Taxable Property within CFD No. 43 (after excluding 16.00 Acres of Public Property and 6.93 acres of Property Owner Association Property) both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

2. Prepayment in Part

The Special Tax on an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2017, may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1, except that a partial prepayment shall be calculated by the CFD Administrator according to the following formula:

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

The terms above have the following meaning:

PP = the partial prepayment

PF = the Prepayment Amount (full prepayment) for the Special Tax calculated according to Section H.1

AE = the Administrative Fees and Expenses determined pursuant to paragraph 11 above

% = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax

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

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay the Special Tax and the percentage by which the Special Tax shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute the remitted prepayment funds according to Section H.1, and (ii) indicate in the records of CFD No. 43 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (100% - "%", as defined above) of the Maximum Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D during the Prepayment Period in which the partial prepayment is made.

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

I. TERM OF SPECIAL TAX

The Fiscal Year after which no further Special Tax shall be levied or collected is Fiscal Year 2118-2119, except that the Special Tax that was lawfully levied in or before such Fiscal Year and that remains delinquent may be collected in subsequent years.

EXHIBIT A

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

CFD NO. 43 CERTIFICATE

1. Pursuant to Section C.1 of the Rate and Method of Apportionment of Special Tax (the “Rate and Method”) for City of Ontario Community Facilities District No. 43 (Park Place Facilities Phase IV) (“CFD No. 43”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 43 has been modified.
 - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 43, as stated in Section C.1.a.2 of the Rate and Method of Apportionment, has been modified as follows:

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

Land Use Class	Description	Residential Floor Area: Square Footage	Assigned Special Tax
1	Single Family Detached Property	< 1,701	\$[] per Unit
2	Single Family Detached Property	1,701 – 1,800	\$[] per Unit
3	Single Family Detached Property	1,801 – 1,900	\$[] per Unit
4	Single Family Detached Property	1,901 – 2,000	\$[] per Unit
5	Single Family Detached Property	2,001 – 2,100	\$[] per Unit
6	Single Family Detached Property	2,101 – 2,200	\$[] per Unit
7	Single Family Detached Property	2,201 – 2,300	\$[] per Unit
8	Single Family Detached Property	2,301 – 2,400	\$[] per Unit
9	Single Family Detached Property	2,401 – 2,500	\$[] per Unit
10	Single Family Detached Property	2,501 – 2,600	\$[] per Unit
11	Single Family Detached Property	2,601 – 2,700	\$[] per Unit
12	Single Family Detached Property	2,701 – 2,800	\$[] per Unit
13	Single Family Detached Property	2,801 – 2,900	\$[] per Unit
14	Single Family Detached Property	2,901 – 3,000	\$[] per Unit
15	Single Family Detached Property	3,001 – 3,100	\$[] per Unit
16	Single Family Detached Property	3,101 – 3,200	\$[] per Unit
17	Single Family Detached Property	3,201 – 3,300	\$[] per Unit

EXHIBIT A

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

18	Single Family Detached Property	3,301 – 3,400	\$[] per Unit
19	Single Family Detached Property	> 3,400	\$[] per Unit
	Single Family Detached:		
20	One Story Property	< 2,301	\$[] per Unit
21	One Story Property	2,301 – 2,400	\$[] per Unit
22	One Story Property	2,401 – 2,500	\$[] per Unit
23	One Story Property	2,501 – 2,600	\$[] per Unit
24	One Story Property	2,601 – 2,700	\$[] per Unit
25	One Story Property	2,701 – 2,800	\$[] per Unit
26	One Story Property	> 2,800	\$[] per Unit
	Other Property		
27	TTM 18065		\$[] per Acre
28	TTM 18066		\$[] per Acre
29	TTM 18067		\$[] per Acre
30	TTM 18068		\$[] per Acre
31	TTM 18081		\$[] per Acre

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

The Backup Special Tax shall be \$[] per Unit for Residential Property in TTM 18065, \$[] per Unit for Residential Property in TTM 18066, \$[] per Unit for Residential Property in TTM 18067, \$[] per Unit for Residential Property in TTM 18068, and \$[] per Unit for Residential Property in TTM 18081. However, if the Expected Residential Lot Count does not equal 67 for TTM 18065, 47 for TTM 18066, 79 for TTM 18067, 82 for TTM 18068, or 60 for TTM 18081, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Residential Property shall be calculated according to the following formula:

$$\text{Backup Special Tax} = \begin{matrix} \$[] \text{ for TTM 18065 or} \\ \$[] \text{ for TTM 18066 or} \\ \$[] \text{ for TTM 18067 or} \\ \$[] \text{ for TTM 18068 or} \\ \$[] \text{ for TTM 18081} \end{matrix}$$

EXHIBIT A

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

- × Acreage of Designated Buildable Lots of Residential Property within the applicable Tentative Tract Map
- ÷ Expected Residential Lot Count for Residential Property within the applicable Tentative Tract Map

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 43 Bonds.
3. Upon execution of this Certificate by CFD No. 43, CFD No. 43 shall cause an amended notice of Special Tax lien for CFD No. 43 to be recorded reflecting the modifications set forth herein.

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

GOODWIN CONSULTING GROUP, INC.
CFD ADMINISTRATOR

By: _____ Date: _____

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

CITY OF ONTARIO
COMMUNITY FACILITIES DISTRICT NO. 43
(PARK PLACE FACILITIES PHASE IV)

By: _____ Date: _____

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, TO INCUR BONDED INDEBTEDNESS OF THE PROPOSED CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 43 (PARK PLACE FACILITIES PHASE IV).

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City"), pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), has this date adopted its Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 43 (Park Place Facilities Phase IV) and to Authorize the Levy of Special Taxes," stating its intention to establish City of Ontario Community Facilities District No. 43 (Park Place Facilities Phase IV) (the "Community Facilities District") for the purpose of financing certain public facilities (the "Facilities") and services, as further provided in said Resolution; and

WHEREAS, in order to finance the Facilities it is necessary to incur bonded indebtedness in the amount of up to \$46,000,000;

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

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

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

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

SECTION 4. The maximum amount of the proposed debt is \$46,000,000.

SECTION 5. The City Council hereby fixes Tuesday, August 21, 2018, at 6:30 p.m., or as soon thereafter as the City Council may reach the matter, at 303 East B Street, Ontario, California, as the time and place when and where the City Council will conduct a public hearing on the proposed debt authorization.

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

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

SECTION 8. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT (FILE NO. PDA17-004) BETWEEN THE CITY OF ONTARIO AND COLONY COMMERCE CENTER LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR THE POTENTIAL DEVELOPMENT OF UP TO 1,379,501 SQUARE FEET OF INDUSTRIAL DEVELOPMENT ON 57.58 ACRES OF LAND GENERALLY LOCATED ON THE SOUTHEAST CORNER OF MERRILL AVENUE AND CARPENTER AVENUE AT 9467 EAST MERRILL AVENUE, WITHIN PLANNING AREA 1 OF THE COLONY COMMERCE CENTER WEST SPECIFIC PLAN (APNS: 0218-292-05 AND 0218-311-11)

RECOMMENDATION: That the City Council consider and adopt an ordinance approving a Development Agreement (File No. PDA17-004, on file with the Records Management Department) between the City of Ontario and Colony Commerce Center LLC, to establish the terms for the development of Planning Area 1 of the Colony Commerce Center West Specific Plan.

COUNCIL GOALS: 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 will provide funding from a community facilities district for additional City services required to support the Colony Commerce Center West Specific Plan development, thereby mitigating the increased associated cost with such services. In addition, the City will receive public service funding fees plus development impact, compliance processing, licensing, and permitting fees. No Original Model Colony revenue will be used to support the Ontario Ranch development.

STAFF MEMBER PRESENTING: Scott Murphy, AICP, Executive Director, Development Agency

Prepared by: Rudy Zeledon
Department: Planning

City Manager Approval:  _____

Submitted to Council/O.H.A. 07/17/2018

Approved: _____

Continued to: _____

Denied: _____

11

BACKGROUND: On July 3, 2018, the City Council introduced and waived further reading of an ordinance approving the Development Agreement. On October 3, 2017, the City Council approved the Colony Commerce Center West Specific Plan (File No. PSP15-001) and certified the Environmental Impact Report (EIR) for the Specific Plan. The Specific Plan establishes the land use designations, development standards, design guidelines and infrastructure improvements for 123.17 acres of land, which includes the potential development of 2,951,146 square feet of industrial development. The applicant, Colony Commerce Center LLC, has submitted a Development Plan (File No. PDEV17-052) to construct a 1,255,517 square foot industrial building within Planning Area 1 of the Specific Plan. The Development Plan entitlement will be going forth to the Planning Commission for review and approval at a future date. The applicant has requested to go forward with the Development Agreement, prior to the development entitlement approval to establish the terms for the development of Planning Area 1 of the Colony Commerce Center West Specific Plan.

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, Colony Commerce Center LLC, has requested that the City enter into negotiations to create a Development Agreement (“Agreement”).

The Agreement proposes to include 57.58 acres of land within Planning Area 1 of the Colony Commerce Center West Specific Plan as shown in the attached Exhibit “A”. The Agreement grants Colony Commerce Center LLC, a vested right to develop Planning Area 1 of the Specific Plan, as long as Colony Commerce Center LLC, complies with the terms and conditions of the Colony Commerce Center West Specific Plan and Environmental Impact Report.

The term of the Agreement is for ten years with a five-year option. The main points of the Agreement address funding for all new City expenses created by the project which includes: Development Impact Fees for construction of public improvements (i.e. streets and bridges, police, and fire, etc.); Public Service Funding to ensure adequate provisions of public services (police, fire and other public services); the creation of a Community Facilities District for reimbursement of public improvements and maintenance of public facilities.

In considering the application at their meeting of May 22, 2018, the Planning Commission found that the Agreement was consistent with State law, The Ontario Plan, the City’s Development Agreement policies, and other Development Agreements previously approved for Ontario Ranch developments and, with a 6 to 0 vote (Resolution No. PC18-063), recommended approval of the Development Agreement to the City Council.

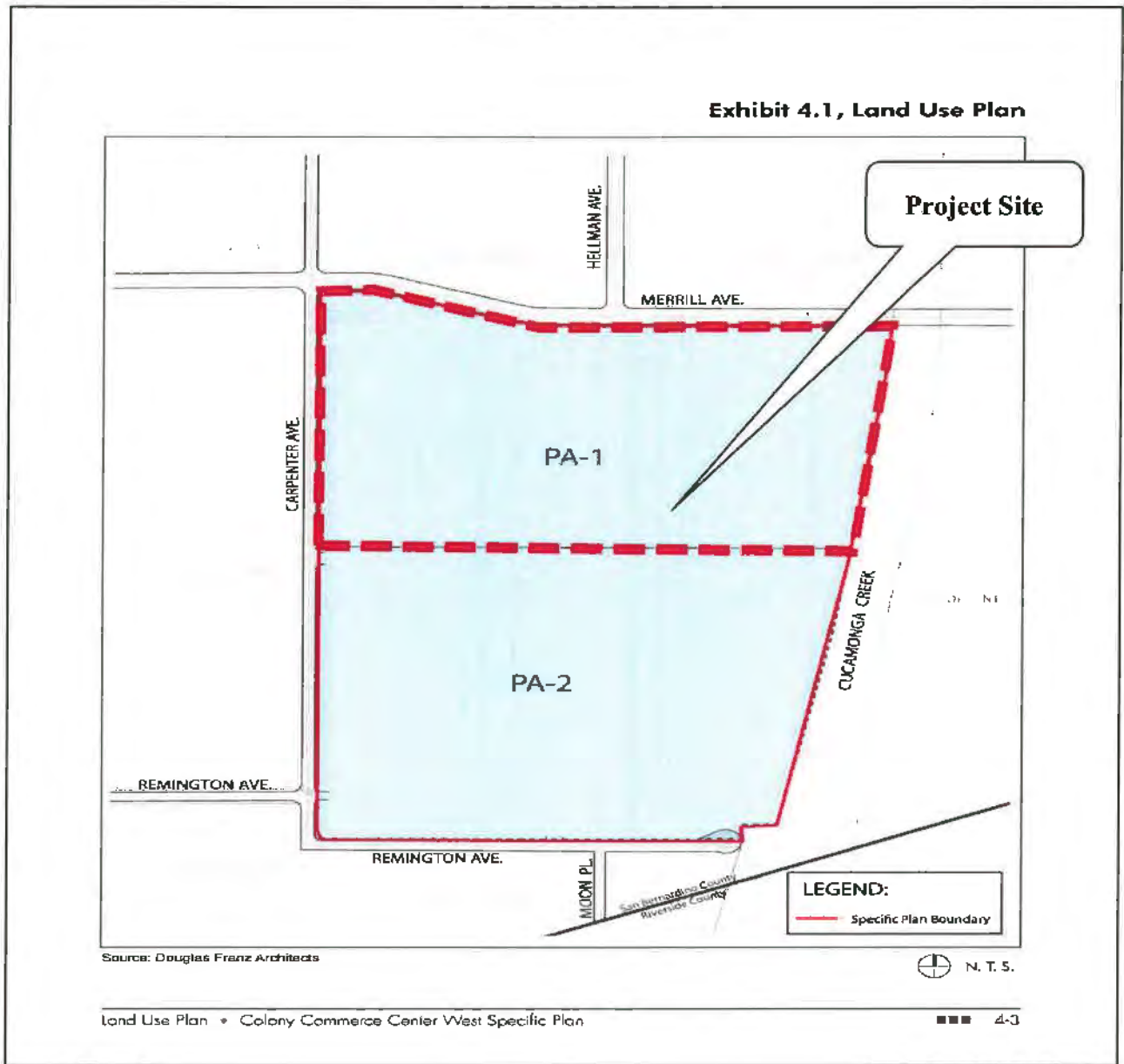
HOUSING ELEMENT COMPLIANCE: The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element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

AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE: The project site is located within the Airport Influence Area of the Ontario International Airport (ONT) and has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT. The project site is also located within the Airport Influence Area of Chino Airport and is consistent with policies and criteria

set forth within the 2011 California Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were analyzed in the EIR (SCH# 2015061023) prepared for the Colony Commerce Center West Specific Plan (File No. PSP15-001) that was certified by the City Council on October 3, 2017. This application is consistent with the EIR and introduces no new significant environmental impacts. All adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference.

EXHIBIT "A"
COLONY COMMERCE CENTER WEST SPECIFIC PLAN



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT (FILE NO. PDA17-004) BETWEEN THE CITY OF ONTARIO AND COLONY COMMERCE CENTER LLC, TO ESTABLISH THE TERMS AND CONDITIONS FOR THE POTENTIAL DEVELOPMENT OF UP TO 1,379,501 SQUARE FEET OF INDUSTRIAL DEVELOPMENT ON 57.58 ACRES OF LAND GENERALLY LOCATED ON THE SOUTHEAST CORNER OF MERRILL AVENUE AND CARPENTER AVENUE AT 9467 EAST MERRILL AVENUE, WITHIN PLANNING AREA 1 OF THE COLONY COMMERCE CENTER WEST SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF (APNS: 0218-292-05 AND 0218-311-11).

WHEREAS, California Government Code Section 65864 now provides, in pertinent part, as follows:

"The Legislature finds and declares that:

(a) The lack of certainty in the approval process of development projects can result in a waste of resources, escalate the cost of housing and other developments to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the Applicant for a development project that upon approval of the project, the Applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development."

WHEREAS, California Government Code Section 65865 provides, in pertinent part, as follows:

"Any 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 as provided in this article ..."

WHEREAS, California Government Code Section 65865.2. provides, in part, as follows:

"A Development Agreement shall specify the duration of the Agreement, the permitted uses of the property, the density of intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The Development Agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms,

restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density of intensity of development set forth in this Agreement ...”

WHEREAS, on April 4, 1995, the City Council of the City of Ontario adopted Resolution No. 95-22 establishing procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, on September 10, 2002, the City Council of the City of Ontario adopted Resolution No. 2002-100 which revised the procedures and requirements whereby the City of Ontario may consider Development Agreements; and

WHEREAS, attached to this Ordinance, marked Exhibit “A” and incorporated herein by this reference, is the proposed Development Agreement between Colony Commerce Center LLC and the City of Ontario, File No. PDA17-004, concerning 57.58 acres of land generally located on the southeast corner of Merrill Avenue and Carpenter Avenue at 9467 East Merrill Avenue, within Planning Area 1 of the Colony Commerce Center West Specific Plan and as legally described in the attached Development Agreement. Hereinafter in this Ordinance, the Development Agreement is referred to as the “Development Agreement” or “Agreement”; and

WHEREAS, on August 22, 2017, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution PC17-054 recommending City Council certification of the Colony Commerce Center West Specific Plan EIR (SCH# 2015061023) and issued Resolution PC17-055 recommending to City Council approval of the Colony Commerce Center West Specific Plan (File No. PSP15-001); and

WHEREAS, on October 3, 2017, the City Council of the City of Ontario conducted a duly noticed public hearing and adopted Resolution No. 2017-118 for the certification of the Colony Commerce Center West Specific Plan EIR (SCH# 2015061023) and issued Ordinance No. 3080 approving the Colony Commerce Center West Specific Plan (File No. PSP15-001); and

WHEREAS, the environmental impacts of this project were analyzed in the Colony Commerce Center West Specific Plan (File No. PSP15-001) EIR (SCH# 2015061023), which was certified by the City Council on October 3, 2017. This application is consistent with the EIR and introduces no new significant environmental impacts. All mitigation measures shall be a condition of project approval and are incorporated herein by reference; and

WHEREAS, the project is contingent upon City Council approval of the Colony Commerce Center West Specific Plan and certification and adoption of EIR (SCH# 2015061023); and

WHEREAS, on May 22, 2018, the Planning Commission of the City of Ontario conducted a hearing to consider the Agreement and concluded said hearing on that date. After considering the public testimony, the Planning Commission voted 6 to 0 to recommend approval (Resolution No. 18-063) of the Development Agreement to the City Council; and

WHEREAS, on July 3, 2018, the City Council of the City of Ontario conducted a public hearing to consider the Agreement and concluded said hearing on that date; and

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

NOW, THEREFORE, it is hereby found, determined, and ordained by the City Council of the City of Ontario as follows:

SECTION 1. *Environmental Determination and Findings.* As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the previously adopted Colony Commerce Center West Specific Plan EIR (SCH# 2015061023) and supporting documentation. Based upon the facts and information contained in the Colony Commerce Center West Specific Plan EIR (SCH# 2006051081) and supporting documentation, the City Council finds as follows:

a. The previous Colony Commerce Center West Specific Plan EIR (SCH# 2015061023) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The previous Colony Commerce Center West Specific Plan EIR (SCH# 2015061023) was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

c. The previous Colony Commerce Center West Specific Plan EIR (SCH# 2015061023) reflects the independent judgment of the City Council; and

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by 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 EIR is not required for the Project, as the Project:

(1) Does not constitute substantial changes to the EIR that will require major revisions to the 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 EIR was prepared, that will require major revisions to the 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 EIR was reviewed, that shows any of the following:

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

(b) Significant effects examined will be substantially more severe than shown in the 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 EIR would substantially reduce one or more significant effects on the environment, but which the City declined to adopt.

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

SECTION 4. *Airport Land Use Compatibility Plan (ALUCP) Consistency.* 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, and finds that, at the time of Project implementation, the Project will be consistent with the policies and criteria set forth within the ONT ALUCP and the Airport Land Use Planning Handbook published by the California Department of Transportation, Division of Aeronautics for Chino Airport.

SECTION 5. *Concluding Facts and Reasons.* Based upon substantial evidence presented to the City Council during the above-referenced hearing on July 3, 2018, including written and oral staff reports, together with public testimony, the City Council hereby specifically finds as follows:

a. The Development Agreement applies to of 57.58 acres of land generally located on the southeast corner of Merrill Avenue and Carpenter Avenue at 9467 East Merrill Avenue, within Planning Area 1 of the Colony Commerce Center West Specific Plan, and is presently vacant and previously used for dairy and agricultural uses; and

b. The property to the north of the Project Site is zoned SP/AG (Specific Plan/ Agriculture Preserve), and is presently used for agricultural purposes. The property to the east is developed with the Cucamonga Creek Flood Control Channel. The property to the south is within Planning 2 (Industrial zone) of the Colony Commerce Center West Specific Plan and developed with agriculture uses. The property to the west is within the City of Chino and currently under construction with industrial buildings; and

c. The Development Agreement establishes parameters for the development Planning Area 1 of the Colony Commerce Center West Specific Plan for industrial development. The Development Agreement also grants Colony Commerce Center LLC, 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 Colony Commerce Center West Specific Plan.

d. The Development Agreement focuses 57.58 acres of land generally located on the southeast corner of Merrill Avenue and Carpenter Avenue at 9467 East Merrill Avenue, within Planning Area 1 of the Colony Commerce Center West Specific Plan; and

e. The Development Agreement will provide for the development of up to 1,379,501 square feet of industrial uses as established for Planning Area 1 of the Colony Commerce Center West Specific Plan; and

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

g. 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

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

i. 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 analyzed in the EIR (SCH# 2015061023) prepared for the Colony Commerce Center West Specific Plan (File No. PSP15-001) and certified by the City Council on October 3, 2017. All adopted mitigation measures of the related EIR shall be a condition of project approval and are incorporated herein by reference.

SECTION 6. City Council Action. Based upon the findings and conclusions set forth in paragraphs 1, 2, 3 and 4 above, the City Council hereby APPROVES the Development Agreement to the City Council subject to each and every condition set forth in the Colony Commerce Center West Specific Plan and EIR, incorporated 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 17th day of July 2018.

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. 3111 was duly introduced at a regular meeting of the City Council of the City of Ontario held July 3, 2018 and adopted at the regular meeting held July 17, 2018, 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. 3111 duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018 and that Summaries of the Ordinance were published on July 10, 2018 and July 24, 2018, in the Inland Valley Daily Bulletin newspaper.

SHEILA MAUTZ, CITY CLERK

(SEAL)

ATTACHMENT A:

**Development Agreement
Between
The City of Ontario and Colony Commerce Center LLC
File No. PDA17-004
(Document follows this page)**

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

City of Ontario
303 East "B" Street
Ontario California, California 91764
Attn: City Clerk

Exempt from Fees Per Gov. Code § 6301

Space above this line for Recorder's Use Only

DEVELOPMENT AGREEMENT

By and Between

City of Ontario, a California municipal corporation,

and

COLONY COMMERCE CENTER LLC

a Delaware limited liability company

_____, 2018

San Bernardino County, California

DEVELOPMENT AGREEMENT NO. PDA17-004

This Development Agreement (hereinafter "Agreement") is entered into effective as of the ____ day of _____, 2018 by and among the City of Ontario, a California municipal corporation (hereinafter "CITY"), and Colony Commerce Center LLC, a Delaware limited liability company (hereinafter "OWNER"):

RECITALS

WHEREAS, CITY is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, *et seq.* of the Government Code and Section 4.01.015 of the Ontario Development Code; and

WHEREAS, OWNER is the lessee of the Property pursuant to the terms of a sixty nine year ground lease, but is defined herein as OWNER as a result of the fact that OWNER will construct and operate the Project contemplated herein;

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 approving the Project, the Agreement, the Colony Commerce Center Specific Plan and the Final Environmental Impact Report (State Clearinghouse No. 2015061023 (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 Colony Commerce Center 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 order to assure development of the Property in accordance with this Agreement; 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; and

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"; and

WHEREAS, Owner's Property is within the modified boundaries defined in Exhibit A of the Construction Agreement between the CITY and NMC Builders and the Property covered by this Agreement is what is known as a "Phase 2 Water Property"; as such, the OWNER shall be required to provide funding for CITY's future construction of the "Phase 2 Water Improvements" which will result in the availability of additional Net MDD Water Availability required for the development as shown on Exhibit "I-1"; and

WHEREAS, Owner is made aware of the South Archibald Trichloroethylene (TCE) Plume "Disclosure Letter" (Exhibit "J"). To the extent applicable, 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 future amendments thereto and including the 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, and that certain Amendment to the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony entered into between the CITY and NMC Builders, LLC as of the 19th day of September, 2017.

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) general plans, specific plans and specific plan amendments;
- (b) tentative and final subdivision, and parcel maps and Development Plans;
- (c) development plan review.

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 on or 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 date of the first reading of the Ordinance adopting and approving this Agreement. 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 such date.

1.1.12 "General Plan" means the The Ontario Plan adopted on January 26, 2010.

1.1.13 "Improvement" or "Improvements" means those public improvements required to support the development of the Project as described in Development Plan No.17-052 and as further described in Exhibits "F-1 through F-7" (the "Infrastructure Improvements Exhibits").

1.1.14 "Land Use Regulations" means all ordinances, resolutions, codes, rules, regulations and official policies of CITY governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and

size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards and specifications applicable to the development of the Property. "Land Use Regulations" does not include any CITY ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) the conduct of businesses, professions, and occupations;
- (b) taxes and assessments;
- (c) the control and abatement of nuisances;
- (d) the granting of encroachment permits and the conveyance of similar rights and interests that provide for the use of or the entry upon public property;
- (e) the exercise of the power of eminent domain.

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

1.1.16 "Net MDD" means net maximum daily water demand.

1.1.17 "NMC Builders" means the consortium of investors and developers responsible for the construction of infrastructure within the New Model Colony operating as NMC Builders, LLC.

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 "Phase 2 Water EDUs" means the number of equivalent dwelling units or non-residential square footage assigned to OWNER upon payment to CITY of the Phase 2 Water Participation Fee for the Project and evidenced by the issuance by CITY of a Certificate of Phase 2 Net MDD Availability in the form attached as Exhibit G.

1.1.20 "Phase 2 Water Improvements" means the future water infrastructure Improvements required for the issuance by CITY of the "Water Availability Equivalents" (WAE) for the Project.

1.1.21 "Phase 2 Water Participation Fee" means the fee paid to CITY upon CITY approval of the first Development Approval for the Project, to fund the Property's respective share of the projected costs of the design and construction of the Phase 2 Water Improvements by City. The Phase 2 Water Participation Fee shall be the calculated amount of the Regional Water DIF for the Project based upon the number of square feet, and land use category for non-residential square footage of the Project.

1.1.22 "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.

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

1.1.24 "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 3.4 of this Agreement.

1.1.25 "Amendment to the Construction Agreement" means the amendment to the Construction Agreement modifying the boundaries of the property in Exhibit A of such Construction Agreement to include the Property covered by this Agreement and to provide for the additional funds required for CITY's future construction of the "Phase 2 Water Improvements" described in a modification to Exhibit C-3 of the Construction Agreement.

1.1.26 "Specific Plan" means that certain specific plan adopted by the City Council, and entitled, "Colony Commerce Center West Specific Plan."

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

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

1.1.29 "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 approval of Development Plan No. 17-052 shall be based upon water demand factors and assumptions listed in the Construction Agreement and shown in Exhibit "I-2".

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" — (Not Used)

Exhibit "F" — Infrastructure Improvements Exhibits

Exhibit F-1 Domestic Water

Exhibit F-2 Recycled Water

- Exhibit F-3 Sewer
- Exhibit F-4 Storm Drain
- Exhibit F-5 Streets
- Exhibit F-6 Bridge Expansion
- Exhibit F-7 Fiber Optic Communications

Exhibit "G" – Form of Certificate of Net MDD to be issued by CITY

Exhibit "H" – Form of Certificate of DIF Credit to be issued by CITY

Exhibit "I-1" – Ontario Ranch Water Supply Phasing Plan

Exhibit "I-2" – Water Demand Equivalents by Land Use

Exhibit "J" - Form of 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 has a legal or equitable interest in the Property pursuant to the terms of a sixty nine year ground lease on the Property. To the extent OWNER does not own fee simple title to the Property, OWNER shall, prior to the Effective Date, 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) 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 its leasehold interest in the Property, pursuant to the terms of the sixty-nine year ground lease on the Property, 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 made pursuant to the terms of the sixty-nine year

ground lease of the Property shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement with respect to Owner's leasehold interest in the Property 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 of OWNER'S leasehold interest in the Property. OWNER may be required to provide disclosure that the Property is within the South Archibald Trichloroethylene (TCE) Plume (Exhibit "J"). OWNER may wish to provide the attached Disclosure Letter (Exhibit I) 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 OWNER'S leasehold interest in the portion of the Property so sold, transferred or assigned.

(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 made pursuant to the terms of the sixty-nine year ground lease of the Property, 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 OWNER'S leasehold interest in 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 an agreement as required under Paragraph (b) of Subsection 2.4.1 above.

(d) The purchaser, transferee or assignee of OWNER'S leasehold interest in the Property provides CITY with security equivalent to any security previously provided by

OWNER (if any) to secure performance of its obligations hereunder which are to be performed upon the OWNER'S leasehold interest in the Property sold, transferred or assigned.

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 leasehold interest in the property, but shall have no obligations with respect to the portions of the Property, if any, not transferred (the "Retained Property").

(b) The assignee's exercise, use and enjoyment of the OWNER'S leasehold interest in 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.

(a)

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.

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

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

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

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

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

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement which has occurred prior to such termination or with respect to any obligations which are specifically set forth as surviving this Agreement. Upon such termination, any public facilities, Phase 2 Water Participation Fees or services mitigation fees paid pursuant to Sections 4.2 and 4.4 of this Agreement by OWNER to CITY on which construction has not yet begun shall be refunded to OWNER by CITY within thirty (30) days.

2.7 Notices.

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

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

If to CITY:

Scott Ochoa, City Manager
City of Ontario
303 East "B" Street
Ontario California, California 91764
with a copy to:

John Brown, City Attorney
Best Best & Krieger
2855 East Guasti Road, Suite 400
Ontario CA 91761

If to OWNER:

Tyson Chave
COLONY COMMERCE CENTER LLC
a Delaware limited liability company
3546 Concours Street, Suite 100
Ontario, CA 91764
tchave@prologis.com

With a copy to:

Thomas Donahue
3546 Concours Street, Suite 100
Ontario, CA 91764
tdonahue@prologis.com

With a copy to:

John A. Ramirez
Rutan & Tucker, LLP
611 Anton Blvd.
Costa Mesa, CA 92626
jramirez@rutan.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 in Section 3.4, 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 in Section 3.4, 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 Cal. 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 Exhibits. Attached hereto as Exhibit "F-1" through "F-7" are a description of the Infrastructure Improvements needed for the development of the Property ("the Infrastructure Improvement Exhibits").

3.4 Reservations of Authority.

3.4.1 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 and the building codes in effect as of the Effective Date;

(d) Regulations that may conflict with this Agreement and the Development Plan but that are reasonably necessary to protect the occupants 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 and which do not impose additional obligations, costs, and expenses on Owner or the Project;

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

3.4.2 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 and/or the Existing Development Approvals, 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 and/or the Existing Development Approvals.

3.4.3 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).

3.4.4 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.

3.5 Public Works; Utilities. If OWNER is required by this Agreement or a condition of project approval 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 to the extent possible 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.

3.5.1 OWNER agrees that development of the Project shall require the construction of storm drain Improvements from the Property to the connection with the Cucamonga Creek Channel as described in Exhibit F-4. OWNER shall be responsible for the construction of the necessary extension of storm drain facilities, as described in Exhibit F-4. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY. OWNER agrees that OWNER shall not sublease or assign OWNER's interest in the Property or any portion thereof, nor shall OWNER request (and CITY shall not issue) a final occupancy permit for any building prior to completion of the storm drain Improvements described in Exhibit F-4. OWNER and CITY agree that OWNER shall perform the following, prior to requesting that CITY issue a temporary occupancy permit for any structures on the Property:

- a. Complete the design plans for the Storm Drain Improvements in Merrill Avenue as described in Exhibit F-4;
- b. Complete the construction of the Storm Drain Improvements in Merrill Avenue, with the exception of the final connection to the Cucamonga Creek Channel requiring permits from the County of San Bernardino County and the Army Corps of Engineers (ACOE);
- c. Submit completed applications to the County of San Bernardino and the Army Corps of Engineers for all permits required for the connection of the Storm Drain Improvements to Cucamonga Creek Channel;
- d. Make all commercially reasonable efforts to receive approval from the Army Corps of Engineers for construction plans for the connection of the Merrill Avenue Storm Drain Improvements to the Cucamonga Creek Channel;
- e. Provide to CITY, written evidence, on a bi-monthly basis, of such reasonable efforts demonstrating progress towards the issuance of the required permits from the Army Corps of Engineers. A summary of communications (email and telephone) communications requesting status updates on ACOE permit and plan check shall be deemed to demonstrate progress as described above.

Upon satisfaction of the above conditions by OWNER, CITY shall consider OWNER's request for the issuance of a temporary occupancy permit. CITY agrees that such

temporary occupancy permit may remain valid until such time that OWNER completes the construction of the final connection of the Merrill Avenue Storm Drain Improvements to the Cucamonga Creek Channel.

OWNER agrees that, upon issuance of the required permits for the construction of the Storm Drain Improvements by the County of San Bernardino and the Army Corps of Engineers, OWNER shall construct and complete the final connection of the Storm Drain Improvements to the Cucamonga Creek Channel. OWNER agrees that OWNER shall complete the construction of the final connection of the Storm Drain Improvements to the Cucamonga Creek Channel prior to the expiration of any temporary certificate of occupancy issued by CITY for any structure on the Property.

3.5.2 OWNER agrees that development of the Project shall require the construction of street improvements as described in Exhibit F-5. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings on the Property prior to Substantial Completion of the street Improvements as described in Exhibits F-5. For purposes of the foregoing, street improvements shall be deemed Substantially Complete if the final lift of pavement has not been completed (i.e., Owner may install the final lift after completion of all other construction). CITY agrees that OWNER may request that CITY issue temporary certificates of occupancy on a building-by-building basis prior to Substantial Completion of the street improvements. OWNER agrees that the street improvements shall be completed and subject to final acceptance by CITY prior to the release of any security for the construction of the street improvements.

3.5.3 OWNER agrees that development of the Project shall require the construction of the widening of the Merrill Avenue bridge over the Cucamonga Creek Channel as described in Exhibit F-6. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings prior to completion of the bridge expansion Improvements described in Exhibit F-6. OWNER and CITY agree that OWNER shall have completed the following, prior to requesting that CITY issue a temporary occupancy permit for any structures on the Property:

- a. Complete the design plans for the Merrill Avenue Bridge Improvements as described in Exhibit F-6;
- b. Submit completed applications to the County of San Bernardino and the Army Corps of Engineers (ACOE) for all permits required for the construction of the Merrill Avenue Bridge Improvements in Cucamonga Creek Channel;
- c. Make all commercially reasonable efforts to receive approval from the Army Corps of Engineers for construction plans for the Merrill Avenue Bridge Improvements;

- d. Provide to CITY written evidence, on a bi-monthly basis, of such reasonable efforts demonstrating progress towards the issuance of the required permits from the Army Corps of Engineers. A summary of communications (email and telephone) communications requesting status updates on ACOE permit and plan check shall be deemed to demonstrate progress as described above.;

Upon satisfaction of the above conditions by OWNER, then CITY shall consider OWNER's request for a temporary occupancy permit. CITY agrees that such temporary occupancy permit may remain valid until such time that OWNER completes the construction of the final Merrill Avenue Bridge Improvements can be completed over the Cucamonga Creek Channel.

OWNER agrees that, upon issuance of the required permits for the construction of the Merrill Avenue Bridge Improvements by the County of San Bernardino and the Army Corps of Engineers, OWNER shall construct and complete the Merrill Avenue Bridge Improvements. OWNER agrees that OWNER shall complete the construction of the Merrill Avenue Bridge Improvements prior to the expiration of any temporary certificate of occupancy issued by CITY for any structure on the Property.

3.5.4 OWNER agrees that development of the Property shall require the extension of permanent master planned water and recycled water utility Improvements as described in Exhibit F-1 and F-2 consisting generally of the construction of the extension of permanent master planned water and recycled water utility Improvements to serve the Property. OWNER and CITY agree that CITY may issue grading, building and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY upon completion of sufficient water and recycled water improvements to serve the Property from at least one point of connection and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings on the Property until the completion of the water and recycled water improvements described in Exhibit F-1 and F-2. CITY agrees that OWNER may request a temporary occupancy permit for a building and, if OWNER requests that a temporary certificate of occupancy be issued for a building prior to the completion of the extension of permanent master planned water utility Improvements from two (2) points of connection to serve the Property that CITY shall consider such request and may issue temporary certificates of occupancy on a building-by-building basis prior to completion of the water and recycled water improvements. OWNER agrees that OWNER shall not make such a request until there is permanent water and recycled water service from a minimum of one point of connection and sufficient water is available for fire protection purposes for any other buildings while under construction. OWNER and CITY agree that a portion of the water utility Improvements described in Exhibit F-1 may be constructed by others. If such water utility Improvements are constructed by others and completed and accepted by CITY prior to OWNER's request to CITY of the required grading, building or other required permits for OWNER to initiate construction of structures for the Property, then OWNER shall not be required to construct those water utility Improvements constructed and completed by others and accepted by CITY.

3.5.5 OWNER agrees that development of the Property shall require the construction of permanent master planned sewer Improvements as described in Exhibit F-3. OWNER and CITY agree that CITY may issue grading, building permits and other required permits for OWNER to initiate construction of structures for the Property according to plans approved by CITY and OWNER agrees that OWNER shall not request and CITY shall not issue a final occupancy permit for any buildings prior to completion of the sewer improvements described in Exhibit F. CITY agrees that OWNER may request and, if requested by OWNER, CITY shall consider and may issue temporary certificates of occupancy on a building-by-building basis prior to the completion of the sewer improvements described in Exhibit F-3. OWNER and CITY agree that a portion of the sewer Improvements described in Exhibit F-3 may be constructed by others. If sewer Improvements are constructed by others and completed and accepted by CITY prior to OWNER's request to CITY of the required grading, building or other required permits for OWNER to initiate construction of structures for the Property, then OWNER shall not be required to construct those sewer Improvements constructed and completed by others and accepted by CITY.

3.6 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 within OWNER'S CONTROL ("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 3.6 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 within OWNER's control, 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.

3.6.1 CITY Acquisition of Non-Construction Agreement Offsite Property. In the event OWNER is required to construct any public improvements on land not within OWNER's control, but such requirement is not based upon the Construction Agreement, Sections 3.6.1 and 3.6.2 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 3.6.1 The CITY and OWNER acknowledge that the timelines set forth in this Section 3.6.1 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.

3.6.2 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. If CITY is unable or unwilling to acquire Non-Construction Agreement Offsite Property, then OWNER is relieved of any condition of approval or requirements requiring the acquisition of such Non-Construction Agreement Offsite Property, and the CITY shall not refuse to issue building permits or occupancy permits based on the failure to acquire such Non-Construction Agreement Offsite Property.

3.7 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.

3.8 Tentative Parcel Maps; Extension. With respect to applications by OWNER for tentative parcel 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 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 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 building (subject to the application/use of available fee credits), 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.

4.3 Responsibility for Construction of Public Improvements.

4.3.1 Timely Construction of Public Infrastructure. The phasing of the area wide infrastructure construction within the Ontario Ranch area shall 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 Exhibits "F-1" through "F-7" and any and all Development Plan conditions. Unless otherwise specified in the Development Plan conditions, and subject to the provisions of Section 3.5 and 3.6, all other required Improvements for each Development Plan, shall be completed and operational prior to, and as a condition precedent to, OWNER requesting and CITY's granting of a final occupancy permit for any buildings to be constructed on the Property. All Infrastructure and Improvements shall be completed as required by the Subdivision Agreement/Parcel Map conditions for Development Plan 17-052.

4.3.2 Availability and Use of Recycled Water. OWNER 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

4.3.3 Construction of DIF Program Infrastructure To the extent OWNER is required to construct and completes construction of public improvements that are included in CITY's Development Impact Fee Program, CITY agrees that CITY shall issue DIF Credit and DIF Reimbursement in accordance with the provisions of a separate Fee Credit Agreement between CITY and OWNER. Limitations 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. OWNER may also be eligible to receive reimbursement from DIF collected by CITY and paid by other development that benefits from OWNER's construction of DIF Program Infrastructure. Any such DIF Reimbursement shall be subject to a Fee Credit Agreement between CITY and OWNER. 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 Public Services Funding Fee.

4.4.1 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 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.

4.4.2 Public Services Funding Fee Amount. OWNER shall pay a Public Services Funding fee in a single installment payment in the amount of Fifty-Nine Cents (\$.59) per square foot of each non-residential building. The single installment for non-residential uses shall be due and payable on a building-by-building basis 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 (Los Angeles-Anaheim-Riverside County), 1950-2001 (1982-84=100) over the preceding year on January 1st of each year, beginning on January 1, 2019. 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

4.5 Net MDD/Water Availability Equivalents.

4.5.1 Assigned Net MDD/Water Availability Equivalents. The City has agreed with NMC Builders 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 and/or OWNER. OWNER acknowledges that the provisions of the Construction Agreement Amendment require that the City shall not 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, except to the bearer of a Certificate of Net MDD Water Availability.

4.5.2 Requirement for NMC Builders LLC Membership as a Phase 2 Water Member. OWNER and CITY agree that OWNER's payment to CITY required by Section 4.5.3 below represents OWNER's contribution to the funding required for the future construction of the Phase 2 Water Improvements and the availability of additional Net MDD Water Availability required for the development of the Property described in Exhibit A of this Agreement. CITY and OWNER also agree that CITY approval of this Agreement shall be conditioned upon OWNER agreement to become a Member of NMC Builders LLC.

4.5.3 CITY Issuance of Water Availability Equivalents. Within 30 days after the effectiveness of this Development Agreement, OWNER shall pay to CITY the applicable Phase 2 Water Participation Fee. The Phase 2 Water Participation Fee shall be calculated based on the amount of the Regional Water DIF for the applicable land use category, the maximum square footage of the structures within Planning Area 1 of the Colony Commerce Center Specific Plan of 1,379,501 Square Feet. The calculated amount of the Phase 2 Water Participation Fee shall be paid to CITY within 30 days after the effectiveness of this Development Agreement or, at OWNER's option, the Phase 2 Water Participation Fee may be paid to CITY in two (2) installments. The first installment shall be fifty percent (50%) of the total Phase 2 Water Participation Fee and such first installment shall be due and payable to CITY within 30 days after the effective date of this Development Agreement. The second installment shall be the remaining amount of the Phase 2 Water Participation Fee and such second installment shall be due and payable to CITY within one (1) year after the payment of the first installment, or prior to, and as a condition precedent to the recording of any final Development Plan for the Project, whichever occurs first. Upon OWNER's complete payment to CITY of the Phase 2 Water Participation Fee CITY shall issue a Certificate of Water Availability Equivalents in the form attached hereto as Exhibit G. Such Water Availability Equivalents Certificate shall be issued by CITY within thirty (30) days of the receipt of such required payment. CITY and OWNER agree that the amount of Water Availability Equivalents issued to OWNER shall be based on the maximum projected need for Water Availability Equivalents required for the Property based upon water demand factors and assumptions listed in Exhibit C-2R of the Phase 2 Water Amendment, "Water Demand Equivalents by Land Use" for each land use category. Additionally, within thirty (30) days of CITY's receipt of OWNER's complete payment as required this Section, CITY shall issue a certificate of DIF Credit against OWNER's DIF obligations in the regional water DIF Category. The amount of the DIF Credit issued by CITY shall be equivalent to OWNER's payment to CITY of the Phase 2 Water Participation Fee. The form of the Certificate of DIF Credit shall be as described in Exhibit H, attached hereto and incorporated herein.

4.6 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 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 Compliance with Public Benefits Requirements.

4.7.1 Failure to Provide Public Benefits. In the event OWNER fails or refuses to comply with any condition referenced in Section 4.1 through 4.6, 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 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. Nothing herein shall waive Owner's right to assert a default (or failure to perform) by the City has excused Owner's performance under this Agreement.

5. FINANCING OF PUBLIC IMPROVEMENTS.

5.1 Financing Mechanism(s). OWNER agrees that, prior to the recordation of any Development Plan, the property subject to such Development Plan shall be included in a CFD to finance City services through annual special taxes that will initially be \$.30 per square foot for Non-Residential buildings for the CITY's fiscal year 2018-19. These amounts shall be subject to an automatic increase at a rate not to exceed four (4%) percent per year. Depending on the fiscal year that the CFD is formed and the CFD tax is levied, the annual special taxes may be higher. 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. The parties hereto, by this provision, shall not 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.

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:

- (a) Recommendation of the Planning staff;
- (b) Affirmative vote of at least four (4) members of the Planning Commission; or
- (c) 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 this Agreement 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. [OMITTED]

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. 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 and OWNER 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, to the extent 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, to the extent 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 during OWNER'S period of leasehold interest in the Property, including, but not limited to, soil and groundwater conditions caused by OWNER but not including any CITY liability related to South Archibald Trichloroethylene (TCE) Plume , 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.

(a)

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 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.

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.

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 requested by Owner 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**

“OWNER”

COLONY COMMERCE CENTER LLC
a Delaware limited liability company

By: _____
Name: Tyson Chave
Title: Senior Vice President

Date: _____

“CITY”

CITY OF ONTARIO

By: _____
Scott Ochoa
City Manager

Date: _____

ATTEST:

City Clerk, Ontario

APPROVED AS TO FORM:

BEST, BEST & KREIGER LLP

City Attorney

STATE OF CALIFORNIA

COUNTY OF _____)

On _____, 2018, before _____ me,
_____, Notary Public, personally appeared
_____, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

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

WITNESS my hand and official seal.

Signature: _____ (Seal)

EXHIBIT "A"
TO DEVELOPMENT AGREEMENT

Legal Description of Property

That portion of Government Lot 3 and the Northwest 1/4 of the Southeast 1/4 of Section 22, Township 2 South, Range 7 West, San Bernardino Meridian, in the County of San Bernardino, State of California, according to Government Township Plat thereof described as follows:
Commencing at the Northwesterly corner of said Government Lot 3;

Thence South 89°46'36" East 30.00 feet along the northerly line of said Government Lot 3, to the easterly line of Carpenter Street as established by Resolution 96.37, recorded March 5, 1996 as Instrument No. 96-76690 Official Records of said County and the **Point of Beginning**;

Thence South 00°01'47" West 25.00 feet, parallel with the westerly line of said Government Lot 3;

Thence North 89°46'36" West 5.00 feet to the easterly line of Carpenter Avenue, 50 feet wide, as per Record of Survey filed in Book 3 of Records of Survey, Page 71 in said County;

Thence South 00°01'47" West 1165.32 feet, along said easterly line to a line that is 129.75 feet northerly of and parallel with the southerly line of said Government Lot 3;

Thence South 89°46'24" East 2020.61 feet along said parallel line to the westerly line of the property conveyed to San Bernardino County Flood Control District by Deed Recorded September 27, 1977 in Book 9271 Page 539 Official Records, being on a 7900.00 foot radius non-tangent curve, concave northwesterly, to which a radial line bears South 82°32'52" East; Thence Northeasterly 185.93 feet along the arc of said curve and said westerly line through a central angle of 01°20'55";

Thence North 06°06'13" East 462.37 feet to the beginning of a 11900.00 foot radius curve, concave northwesterly;

Thence Northeasterly 422.89 feet along the arc of said curve through a central angle of 02°02'10";

Thence North 22°34'01" West 86.35 feet;

Thence North 55°16'51" West 35.01 feet to the southerly line of Merrill Avenue, 50 feet wide, as per said Record of Survey filed in Book 3 of Records of Survey, Page 71;

Thence North 89°46'36" West 1453.21 feet, leaving said westerly line and along said southerly line, to the beginning of a 1044.00 foot radius non-tangent curve, concave northeasterly, to which a radial line bears South 11°10'16" West, said curve being concentric with and 69.00 feet distant southerly of that certain reverse curve having a radius of 975 feet as described in Deed to said County recorded on August 17, 1943, in Book 1631, Page 7, Official Records of said County;

Thence Northwesterly 104.70 feet along the arc of said curve and said southerly line through a central angle of 05°44'45" to the northerly line said Government Lot 3;

Thence North 89°46'36" West 506.94, along said northerly line to the **Point of Beginning**.

APNS: 0218-292-05 AND 0218-311-11

**EXHIBIT "B"
TO DEVELOPMENT AGREEMENT**

Map showing Property and its location

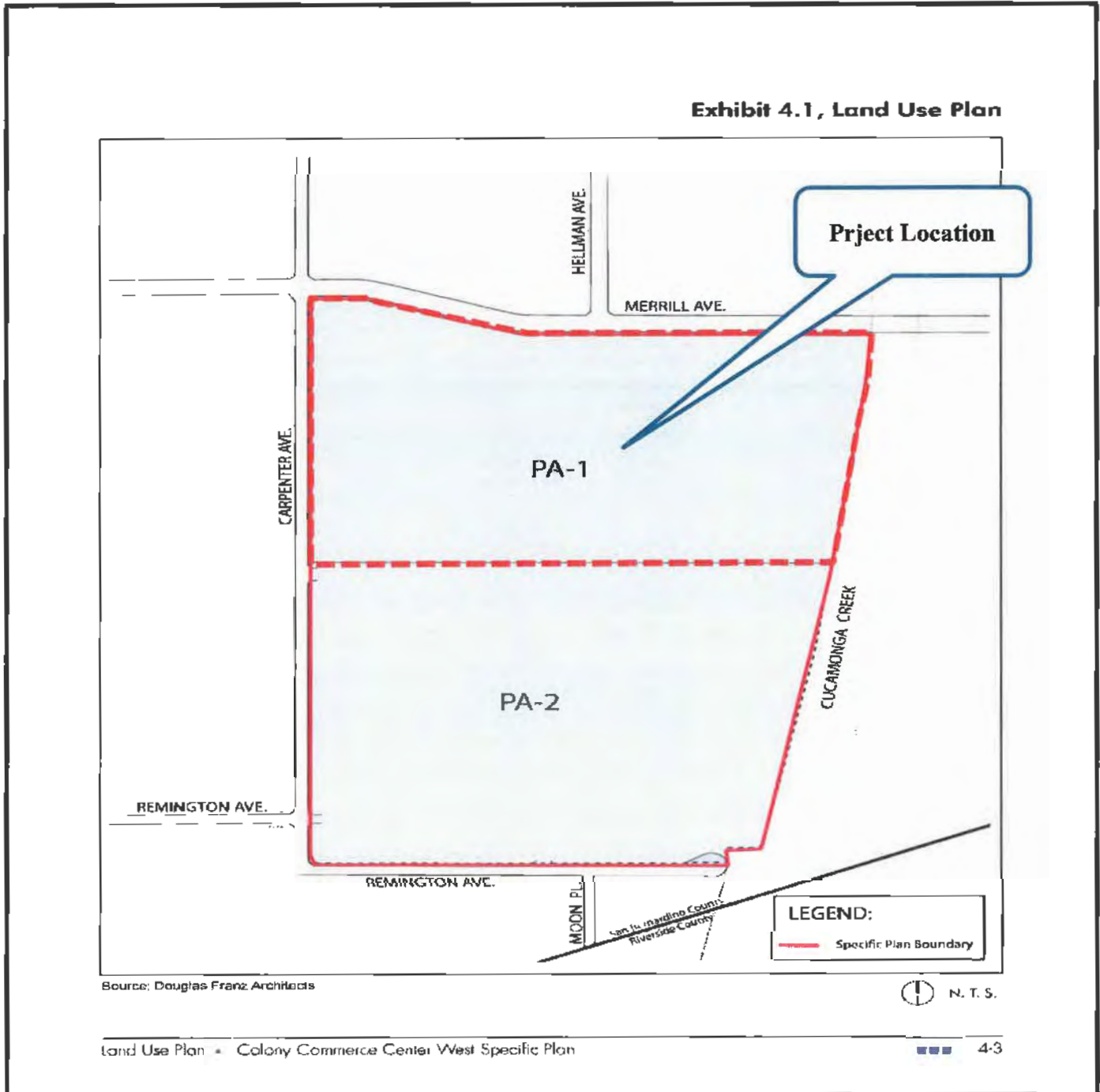


EXHIBIT "C"
TO DEVELOPMENT AGREEMENT

Existing Development Approvals

On August 22, 2017, the Planning Commission:

- a) Issued Resolution No. issued Resolution PC17-054 recommending City Council certification of the Colony Commerce Center West Specific Plan EIR.
- b) Issued Resolution PC17-055 recommending City Council approval of the Colony Commerce Center West Specific Plan (File No. PSP15-001).

On October 3, 2017, the City Council:

- a) Issued Resolution 2017-118 to certifying the Colony Commerce Center West Specific Plan EIR (SCH #2015061023).
- b) Adopted Ordinance No. 3080 approving the Colony Commerce Center West Specific Plan EIR.

On May 22, 2018, the Planning Commission:

- a) Issued Resolution No. PC18-063 recommending City Council approval of the Development Agreement (File No. PDA17-004).

EXHIBIT "D"
TO DEVELOPMENT AGREEMENT

Existing Land Use Regulations

These documents are listed for reference only:

1. The Colony Commerce Center West Specific Plan (File No. PSP15-001) Environmental Impact Report, Resolution No. 2017-118
2. The Colony Commerce Center West Specific Plan (File No. PSP15-001), Ordinance No. 3080.
3. City of Ontario Municipal Code
 - a. Six – Sanitation & Health
 - b. Seven – Public Works
 - c. Eight – Building Regulations
 - d. Nine – Development Code

EXHIBIT "F-1"

Required Infrastructure Improvements

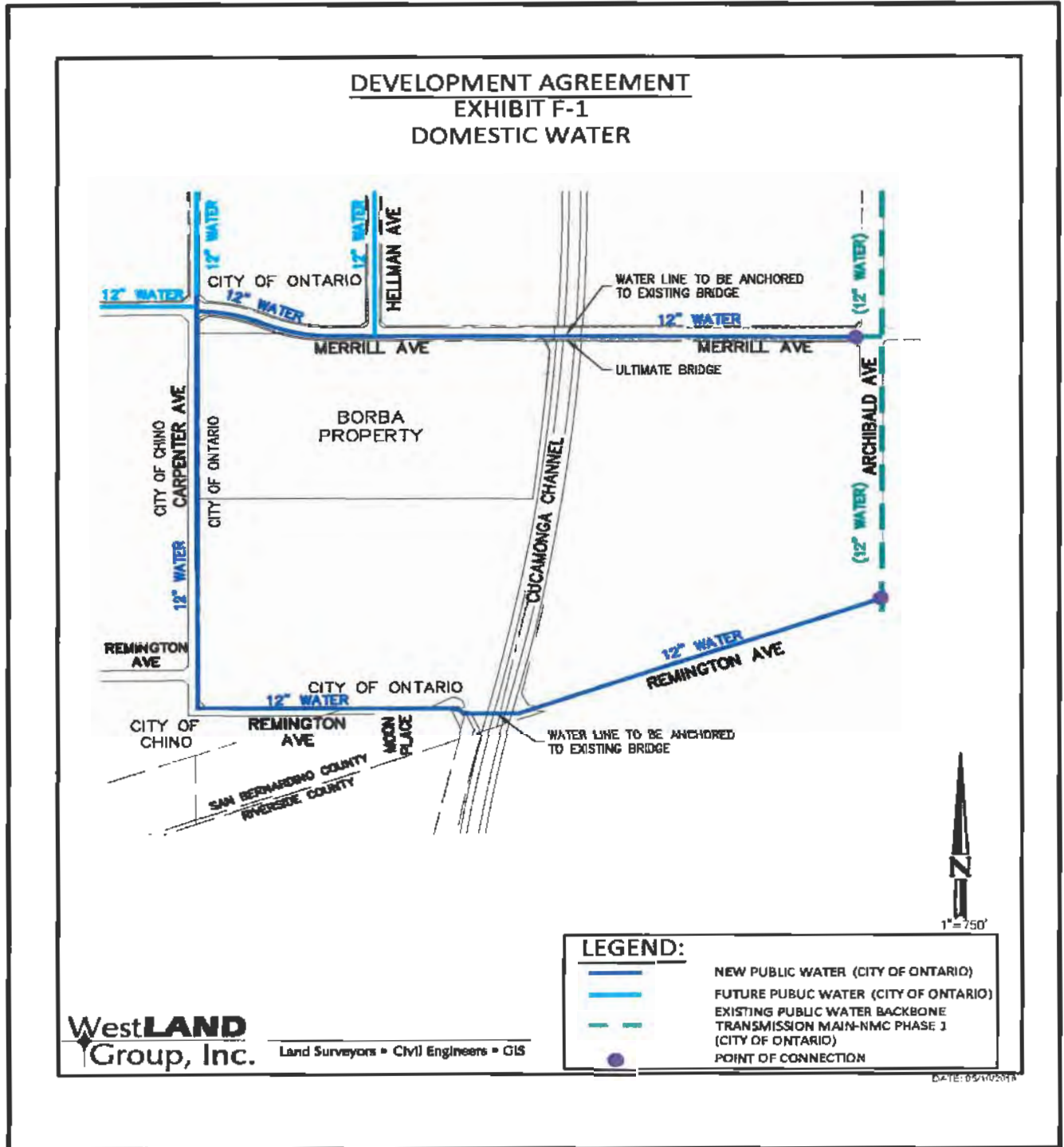


EXHIBIT "F-2"

Required Infrastructure Improvements

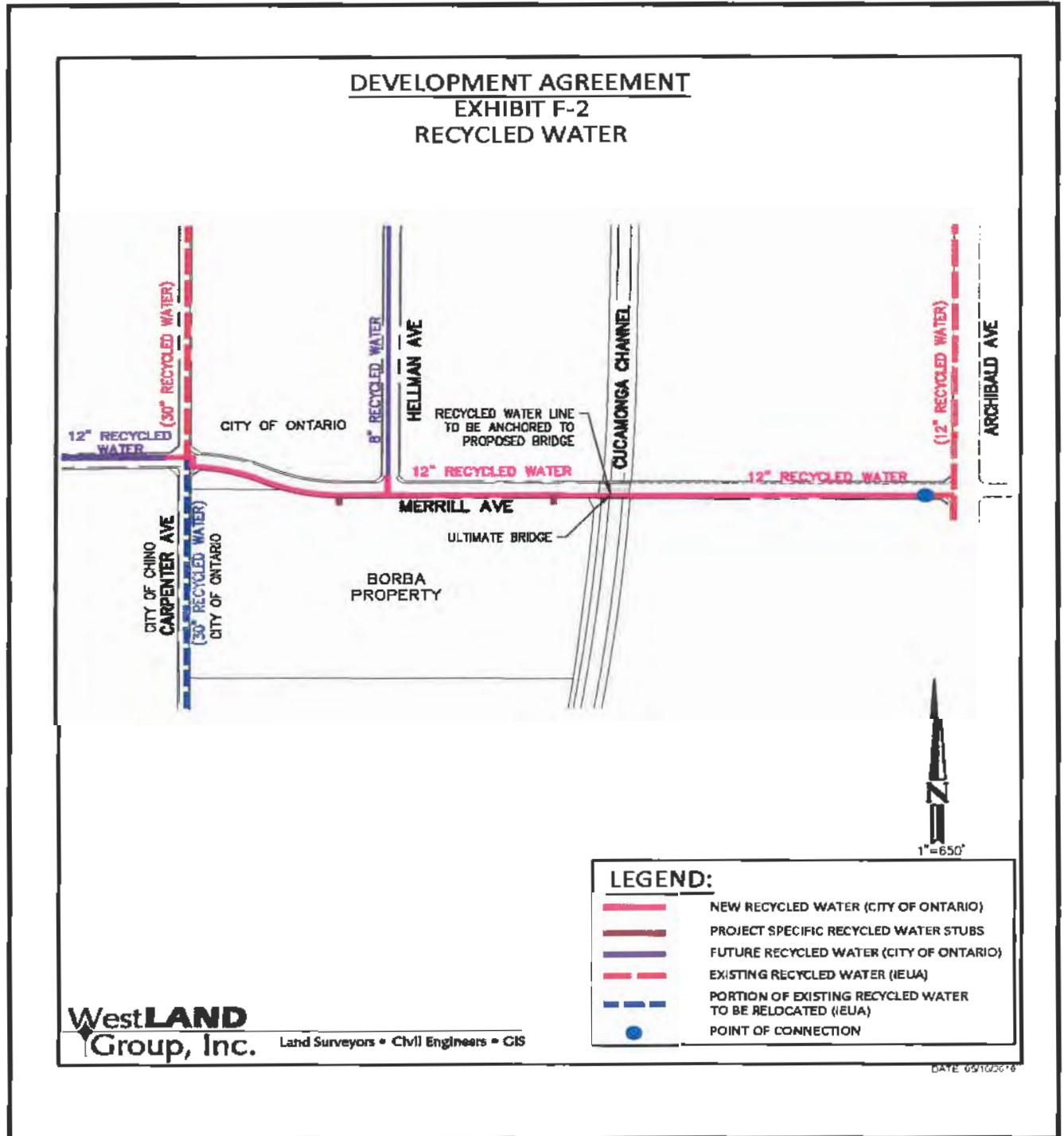


EXHIBIT "F-3"

Required Infrastructure Improvements

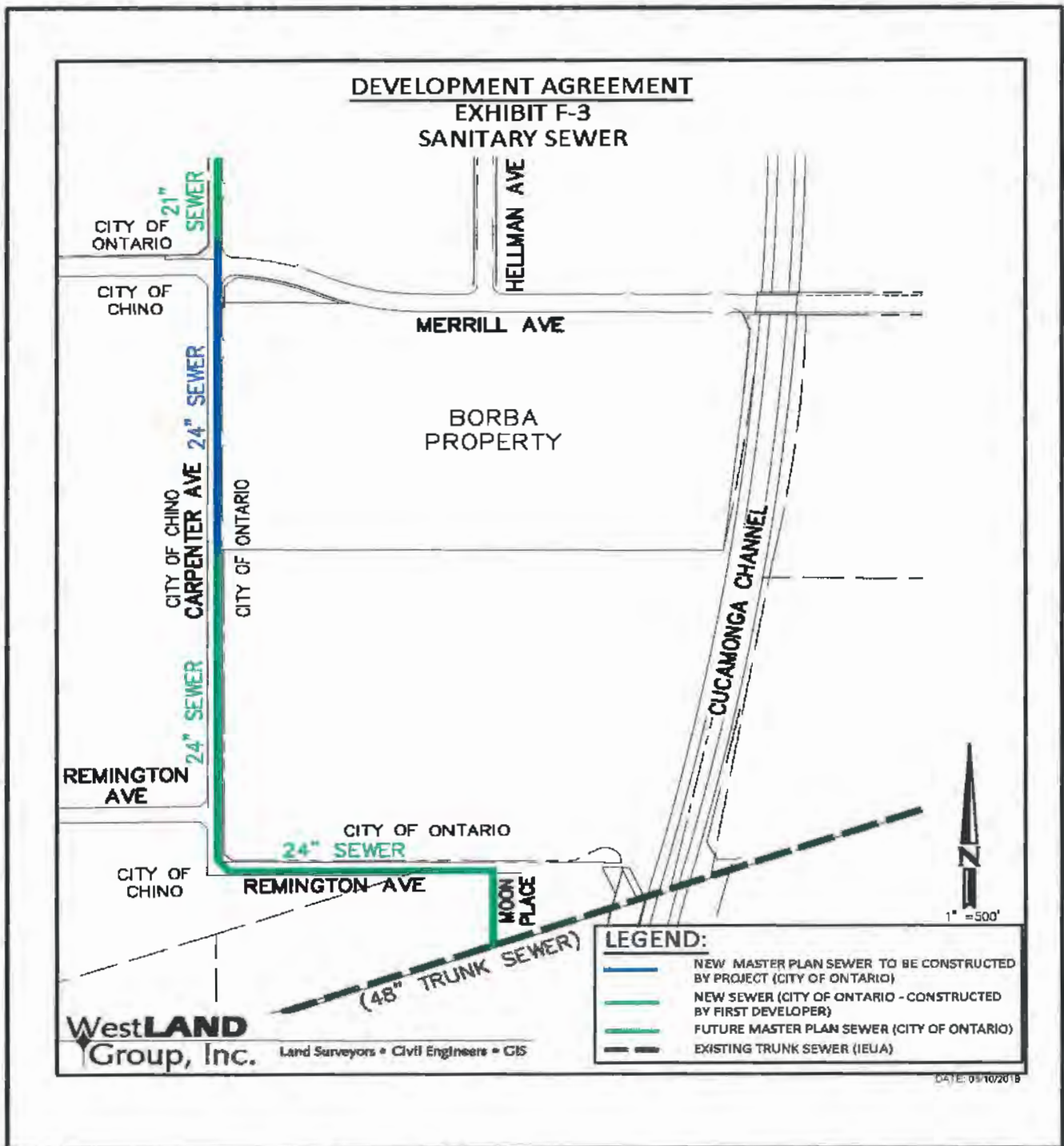


EXHIBIT "F-4"

Required Infrastructure Improvements

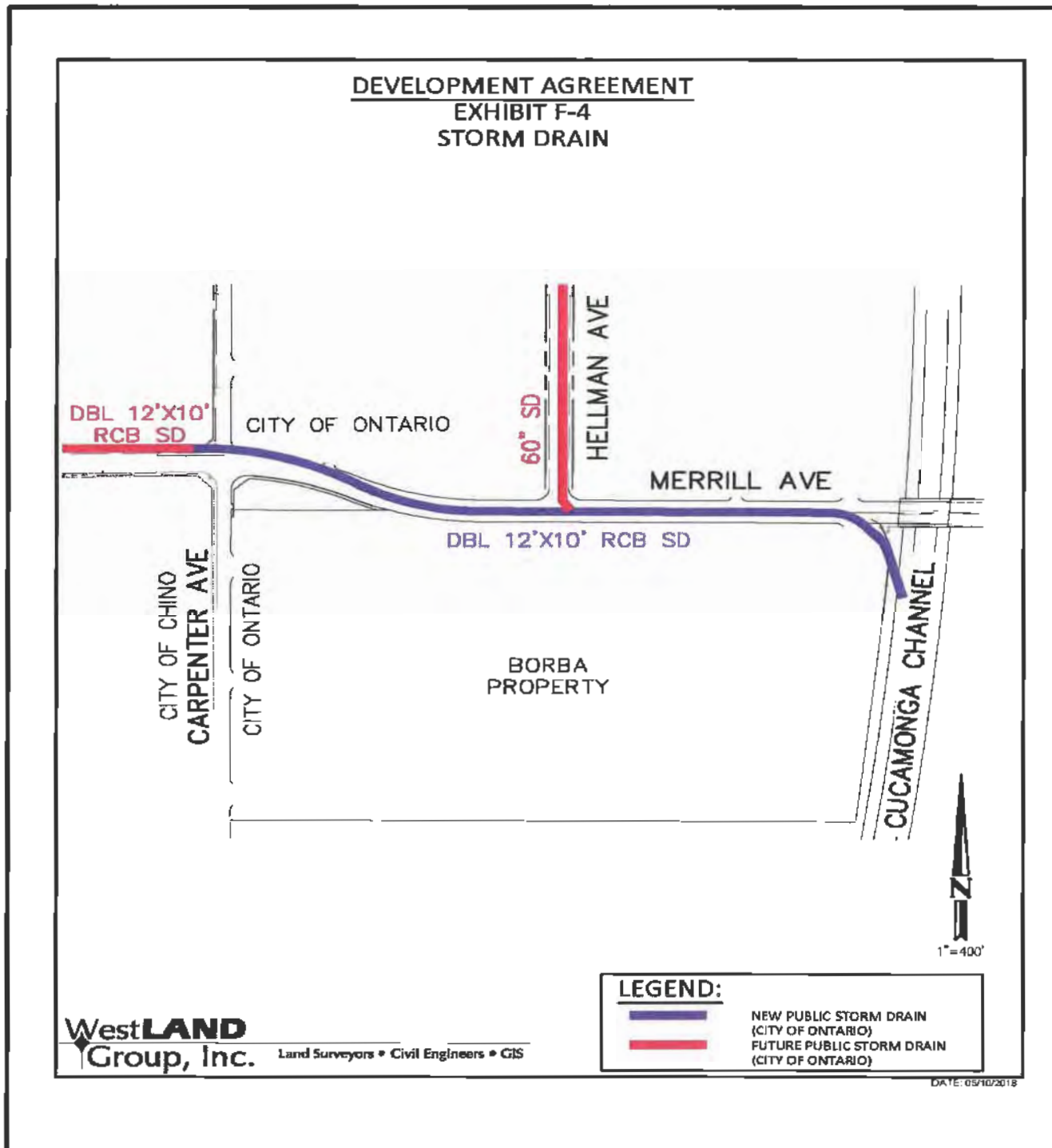


EXHIBIT "F-5"

Required Infrastructure Improvements

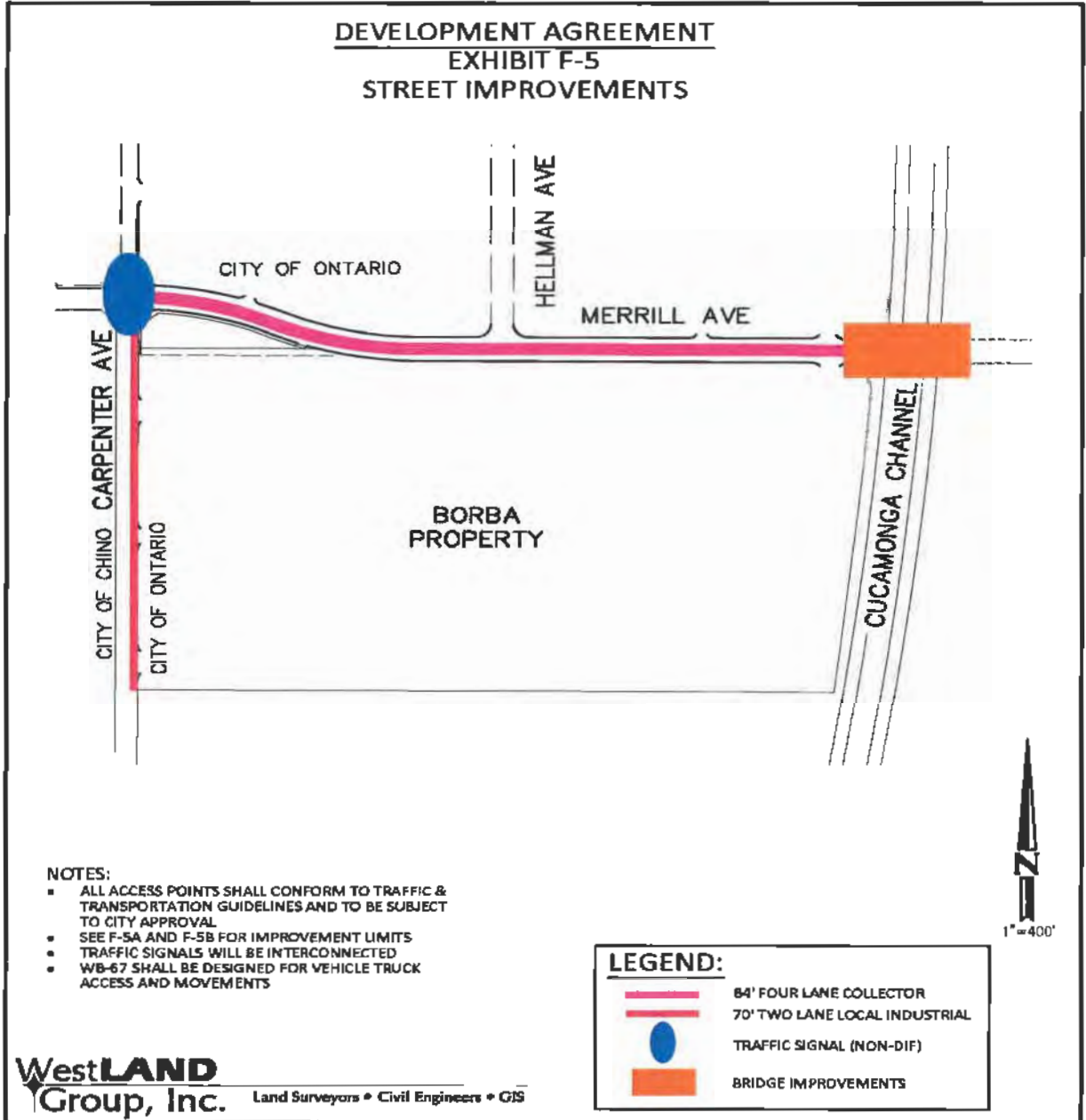
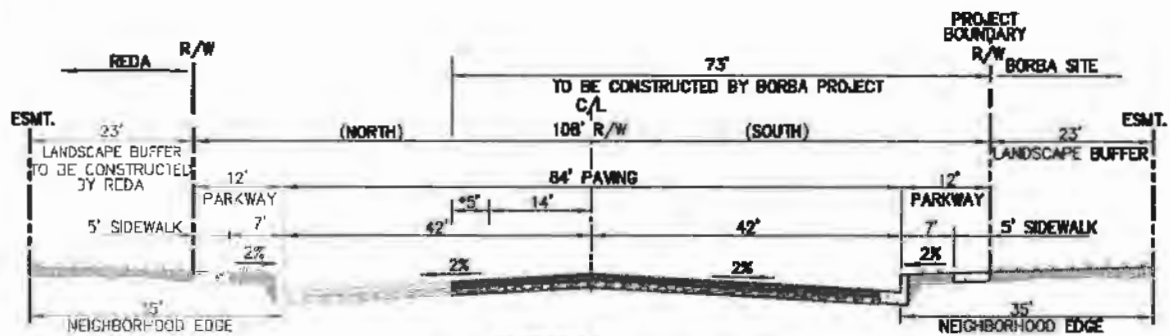


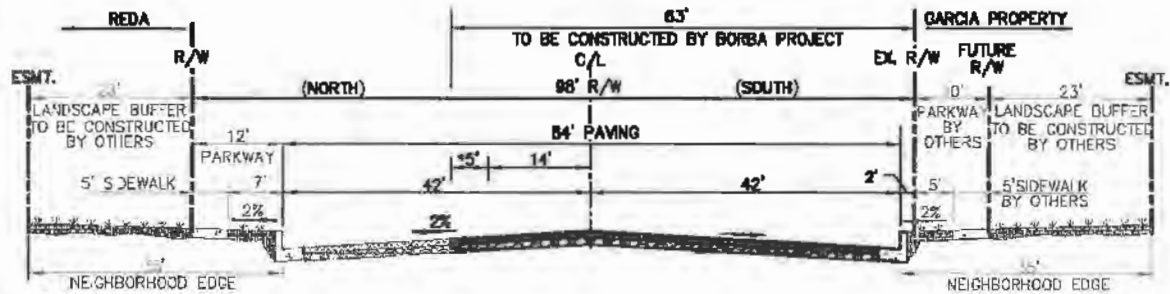
EXHIBIT "F-5A"

Required Infrastructure Improvements

DEVELOPMENT AGREEMENT
EXHIBIT F-5A
MERRILL AVENUE IMPROVEMENTS



MERRILL AVE.
108' ROW - 84' COLLECTOR



MERRILL AVE. @ GARCIA PROPERTY
108' ULTIMATE ROW - 84' COLLECTOR

WestLAND
Group, Inc.

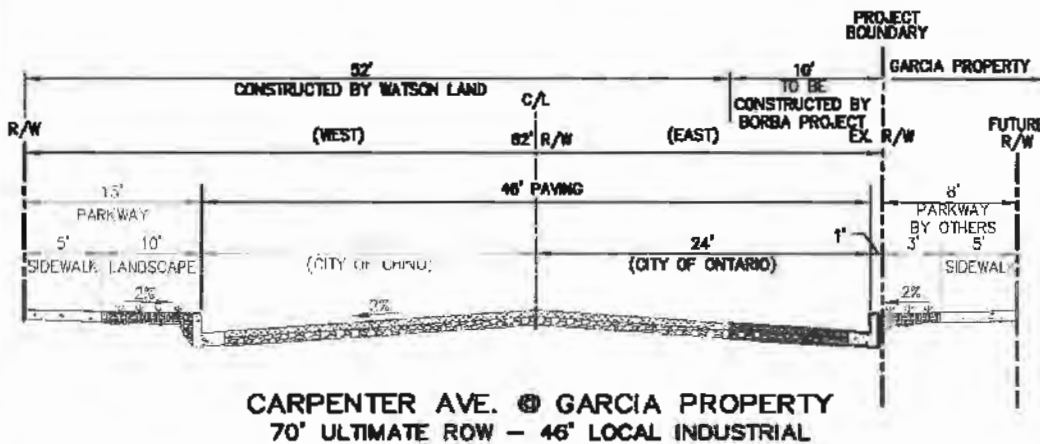
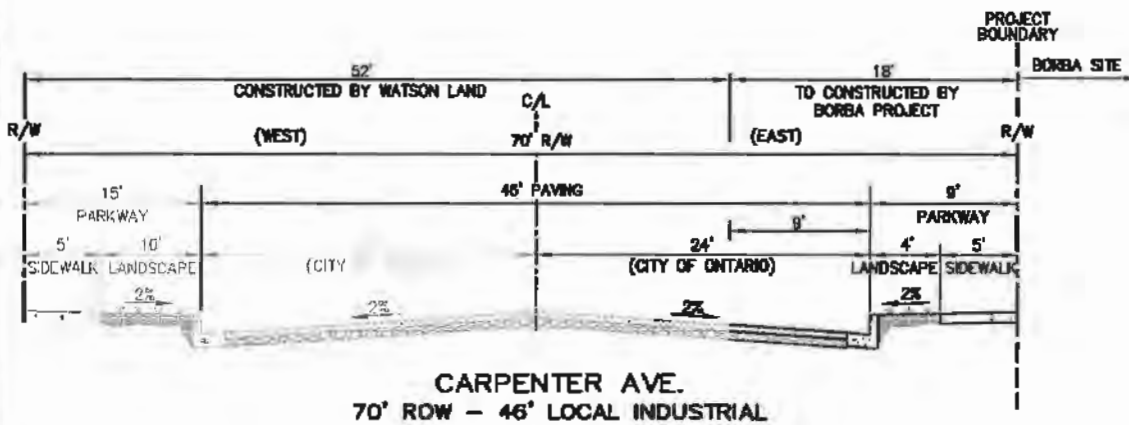
Land Surveyors • Civil Engineers • GIS

DATE 01/10/2015

EXHIBIT "F-5B"

Required Infrastructure Improvements

DEVELOPMENT AGREEMENT
EXHIBIT F-5B
CARPENTER AVENUE IMPROVEMENTS



WestLAND
Group, Inc.

Land Surveyors • Civil Engineers • GIS

DATE 05/11/21

EXHIBIT "F-6"
Required Infrastructure Improvements

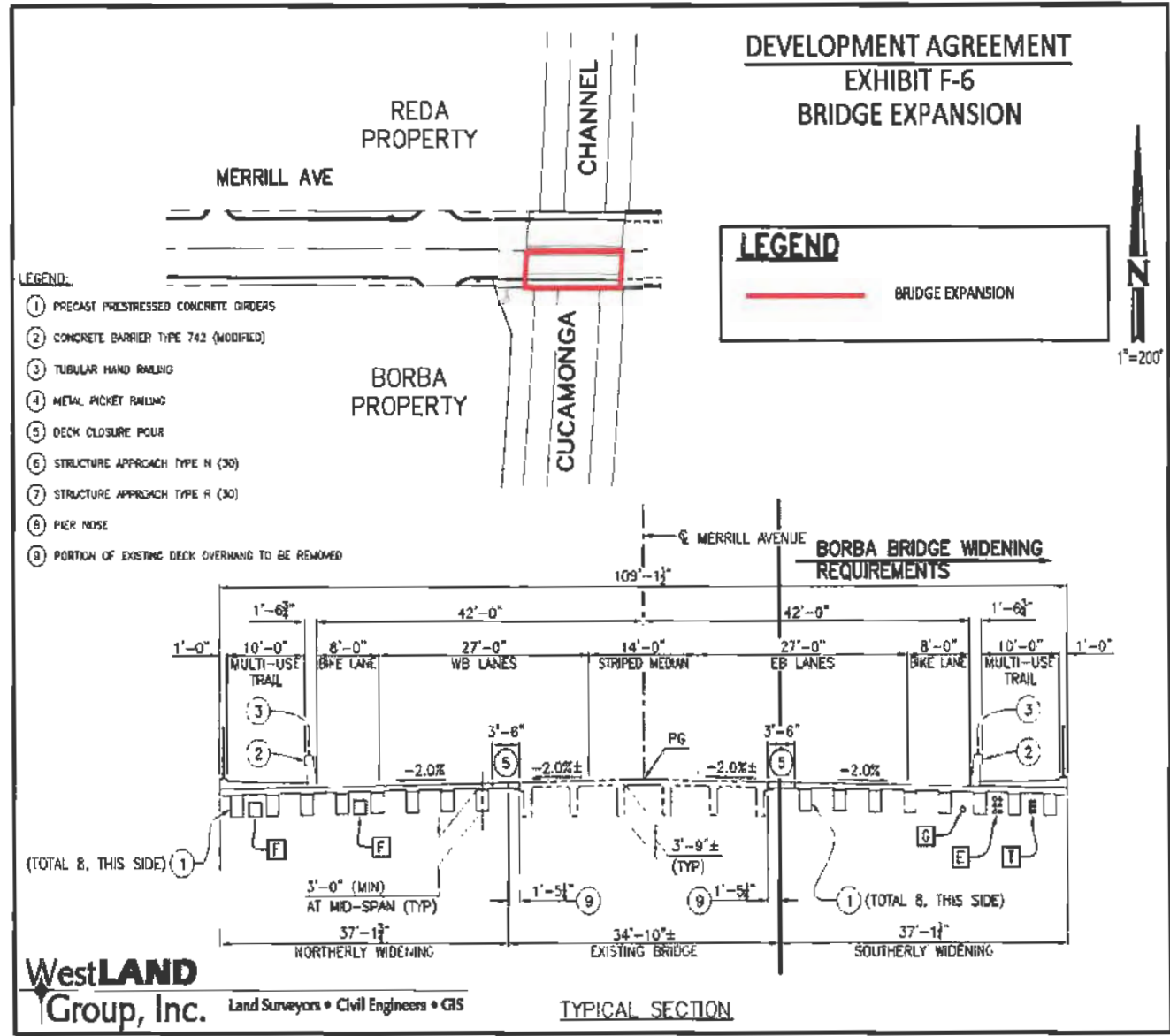


EXHIBIT "G"
TO DEVELOPMENT AGREEMENT

FORM OF CERTIFICATE OF NET MDD AVAILABILITY

Pursuant to Section ____ of this Agreement between the City of Ontario, a California municipal corporation, and Prologis , a Delaware corporation, hereinafter called "OWNER", the terms and definitions of which are hereby incorporated herein by this reference and hereinafter called "Agreement", the City of Ontario hereby certifies based on CITY receipt of payment of OWNER's share of the funding for the Phase 2 Water Improvements, that OWNER is entitled to the following Net MDD Water Availability.

Amount of Net MDD _____ gpm

Scott Ochoa, City Manager

Dated: _____

Exhibit "H"

FORM OF CERTIFICATE OF REGIONAL DIF CREDIT

Pursuant to Section 4.5.2 of this Agreement by and between the City of Ontario and Prologis , dated _____, 2018, the terms and definitions of which are hereby incorporated herein by this reference and hereinafter called the "Development Agreement", the City of Ontario hereby certifies that OWNER is entitled to the following amount and nature of DIF Credits in the Regional Water DIF Infrastructure Category:

Amount of Credit: \$ _____

Scott Ochoa, City Manager

Dated: _____

Exhibit "I-1"

ONTARIO RANCH WATER SUPPLY PHASING PLAN

<u>Phase 2</u>	<u>Water Availability Equivalency</u>	<u>Estimated Net MDD Available¹</u>
<u>Phase 2 A</u>		
<u>Supply & Storage</u>		
1. 1 - Additional Ground Water Well and Collection lines - Design and Construction	8,250 gpm ²	7,750 gpm ²
<u>Pipelines (Transmission & Distribution)²</u>		
2. 925 Zone Transmission lines – Design and Construction		
3. Temporary Pressure Reducing Station ³ – Design and Construction		
<u>Phase 2B</u>		
<u>Supply & Storage</u>		
4. 1 – Additional Ground Water Well and Collection lines – Design and Construction	10,500 gpm ²	9,860 gpm ²
5. 1 – 6 million gallon Reservoir – 925 Zone – Design and Construction		

(1) Upon Completion of the construction of all of the improvements described for each Phase a Certificate of Net MDD Availability shall be issued to Developer for the corresponding amount of Net MDD. Net MDD means the maximum daily demand on the potable water supply, net of the water requirements for public schools and parks. The Water Availability Equivalency includes the estimated requirements for public schools and parks. The amount of Net MDD specified is the cumulative amount for which building permits may be issued upon funding of the corresponding and all preceding Phases of improvements.

(2) The ability of a particular development to utilize Net MDD assigned to it by the Developer will require the completion of design and construction of Master-planned potable and recycled water transmission and distribution pipelines for the respective pressure zone. Other factors may include its location, the particular land use and Water Availability Equivalents assigned to it as specified in Exhibit C-2.

(3) Pressure reducing stations are a component of the pipeline transmission and distribution system.

EXHIBIT "I-2"

Available Water Supply - See Exhibit C-1R for Net MDD Available

Table A - Water Demand Equivalents By Land Use

The Ontario Plan Land Use	Potable Water			Recycled Water	
	Water Demand Factor (ADD)		Water Demand Equivalents (WDE) ² (gpm/unit)	Recycled Water Demand Factor ¹ (ADD) (gpd/ac)	Recycled Water Demand Of Total Water Demand (%)
	(gpd/du)	(gpd/ac)			
Detached Dwellings (less than 5 units per acre)	544		0.57	900	28%
Detached or Attached Dwellings (between 5 and 11 units per acre)	484		0.48	1,000	21%
Attached Dwellings (between 11 and 25 units per acre)	323		0.34	1,500	18%
High Density Dwellings (25+ units per acre)	152		0.16	1,500	27%
Commercial Lodging	150		0.16	1,700	50%
Retail/Services Uses		2,200	2.29	2,300	51%
Office Uses		3,400	3.54	2,300	40%
Business Park Uses		2,200	2.29	2,200	50%
Industrial Uses		2,000	2.08	2,200	52%
Institutional Use		2,200	2.29	1,600	42%
Parks		1,000	1.04	1,400	58%
Schools		3,500	3.65	1,600	31%

¹Recycled Water Demands include irrigation for right-of-way (medians and park ways), neighborhood edge, pocket parks, and common areas.

²The WDE is based on the Maximum Day Demand (MDD) with a peaking factor of 1.5 in the NMC for all land use categories.

Table B - Example Water Supply Calculation

Land Use	Acre ¹ (gross)	Residential Units	WDE Factor (gpm)	Potable MDD (gpm)	Recycled Water ADD (gpm)
Development					
Detached Dwellings (less than 5 units per acre)	1,284	5,061	0.57	2,888	803
Detached or Attached Dwellings (between 5 and 11 units per acre)	369	2,530	0.48	1,223	256
Attached Dwellings (between 11 and 25 units per acre)	194	3,410	0.34	1,147	202
Retail/Services Uses (per acre) ²	104		2.29	239	166
TOTAL	1,950	11,001		5,477	1,428

Three (3) Wells Are required to Support this example, assuming each well produces 2,000 gpm and connection to the Recycled Water System maximizing Recycled Water Use.

¹ Residential Acres are estimated based on the weighted average derived from the average number of units per land use category.

² Commercial acreage is calculated from a total square footage of 1,381,000 SF with an average Floor to Area Ratio (FAR) of 0.30 for commercial services in The Ontario Plan.

Exhibit "J"

FORM OF PLUME DISCLOSURE LETTER

CITY OF



ONTARIO

ONTARIO MUNICIPAL UTILITIES COMPANY

PAUL S. LEON
MAYOR

DEBRA DORST-PORADA
MAYOR PRO TEM

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

March 2017

AL C. BOLING
CITY MANAGER

SHEILA MAUTZ
CITY CLERK

JAMES R. MILHISER
TREASURER

SCOTT BURTON
UTILITIES GENERAL MANAGER

**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.*

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: AUTHORIZE THE PURCHASE OF FLEET VEHICLES

RECOMMENDATION: That the City Council takes the following actions:

- (A) Award Bid No. 970 and authorize the purchase and delivery of four (4) CNG Roll Off Trucks in the amount of \$1,034,476 for the Integrated Waste Department from Los Angeles Truck Centers, LLC of Whittier, California.
- (B) Award Bid No. 971 and authorize the purchase and delivery of five (5) CNG Automated Side Loading Trucks in the amount of \$1,561,682 for the Integrated Waste Department from Los Angeles Truck Centers, LLC of Whittier, California.
- (C) Award Bid No. 972 and authorize the purchase and delivery of four (4) CNG Front Loading Trucks in the amount of \$1,275,244 for the Integrated Waste Department from Los Angeles Truck Centers, LLC of Whittier, California.

COUNCIL GOALS: Maintain the Current High Level of Public Safety
Operate in a Businesslike Manner

FISCAL IMPACT: The Fiscal Year 2018-19 Adopted Budget includes appropriations in the amount of \$3,875,205 for the purchase of the replacement vehicles listed above. The total cost of the vehicles recommended for purchase is \$3,871,402.

BACKGROUND: 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 operation.

STAFF MEMBER PRESENTING: Mark Chase, Executive Director, Public Works

Prepared by: Manuel Rebolledo
Department: Fleet Services
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

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(A) Bid No. 970: Four CNG Roll Off Trucks

In June 2018, the City solicited Bids for four CNG Roll Off Trucks. Los Angeles Truck Center of Whittier, California was the only responsive bidder.

Four CNG Roll Off Trucks		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
Los Angeles Truck Center	Whittier, California	\$1,034,476

Staff recommends the purchase and delivery of four CNG Roll Off Trucks and award Bid No. 970 to Los Angeles Truck LLC, of Whittier, California, in the amount of \$1,034,476.

(B) Bid No. 971: Five CNG Automated Side Loading Trucks

In June 2018, the City solicited Bids for five CNG Automated Side Loading Trucks. Los Angeles Truck Center of Whittier, California was the only responsive bidder.

Five CNG Automated Side Loading Trucks		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
Los Angeles Truck Center	Whittier, California	\$1,561,682

Staff recommends the purchase and delivery of five CNG Automated Side Loading Trucks and award Bid No. 971 to Los Angeles Truck LLC, of Whittier, California, in the amount of \$1,561,682.

(C) Bid No. 972: Four CNG Front Loading Trucks

In June 2018, the City solicited Bids for four CNG Front Loading Trucks. Los Angeles Truck Center of Whittier, California was the only responsive bidder.

Four CNG Front Loading Trucks		
<u>Supplier</u>	<u>Location</u>	<u>Bid Amount</u>
Los Angeles Truck Center	Whittier, California	\$1,275,244

Staff recommends the purchase and delivery of four CNG Front Loading Trucks and award Bid No. 972 to Los Angeles Truck LLC, of Whittier, California, in the amount of \$1,275,244.

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: STUDENT REPRESENTATIVE AND ALTERNATE APPOINTMENTS TO THE RECREATION AND PARKS COMMISSION FOR 2018/19 AND RECOGNITION OF THE CURRENT STUDENT REPRESENTATIVE AND ALTERNATE FOR THE YEAR SERVED 2017/18

RECOMMENDATION: That the City Council confirm Brittney Zendejas of Colony High School as the Student Representative and Venus Medina of Ontario High School as the Alternate to the Recreation and Parks Commission for the term to expire June 30, 2019; and recognize Wendy Navarro Lopez of Ontario High School for serving as the Student Representative and Kayla Ton of Ontario High School for serving as the Student Representative Alternate for the past year.

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

FISCAL IMPACT: None.

BACKGROUND: The Student Representative Program was approved by the City Council on January 15, 2002. The Student Representative is a non-voting member of the Recreation and Parks Commission. Since its inception, twenty-six (26) students have participated in the program.

A recruitment process was conducted to include all local high schools and City teen programs. Candidate finalists were invited to the Recreation and Parks Commission meeting on June 25, 2018, for the final selection process before being presented to the City Council. These appointments represent the recommendation of the Recreation and Parks Commission.

STAFF MEMBER PRESENTING: Julie Dorey, Recreation & Community Services Director

Prepared by: Kathy Hickey
Department: Recreation & Community Services

City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
CONSENT CALENDAR

SUBJECT: ANNUAL CONTRACT FOR ON-CALL MAINTENANCE, REHABILITATION, INSPECTIONS AND URGENCY WELL REPAIRS

RECOMMENDATION: That the City Council award a contract for Contract No. UTOP 1819-01 (on file in the Records Management Department) to General Pump Company Inc. of San Dimas, California, for on-call maintenance, rehabilitation, inspection and urgency well repairs in the not-to exceed amount of \$730,000; and authorize the City Manager to execute a one-year maintenance contract and extend the contract for up to four additional one-year periods consistent with City Council approved budgets.


**COUNCIL GOALS: Operate in a Businesslike Manner
Invest in the City's Infrastructure (Water, Sewers, Parks, Storm Drains and Public Facilities)**

FISCAL IMPACT: The Fiscal Year 2018-19 Water Operating Fund includes appropriations for on-call maintenance, rehabilitation, inspection and urgency well repairs. The projected annual cost for the one-year term beginning July 17, 2018 is \$730,000. The contract may be renewed at the discretion of the City for up to four additional years. Pricing for each additional year will be negotiated and any proposed fee increase will not exceed 3% per year. There is no impact to the General Fund.

BACKGROUND: The City's water system utilizes twenty groundwater wells and sixteen booster pumps with motors ranging in size up to 800 horsepower, and pumps capable of producing up to 3,500 gallons per minute. These facilities are critical to the City's water supply and need to be rehabilitated periodically to ensure reliable operation and extend the useful life of the capital investment. In addition, this work keeps the facilities energy efficient resulting in lower energy usage, which is one of the largest operating costs for the City's water system.

This annual contract includes planned maintenance and rehabilitation of three wells and two booster stations, along with inspection and urgency repairs that may result from unanticipated well failure on an as-needed basis. Actual costs will be based upon the predetermined price list for labor and equipment for the services provided annually.

STAFF MEMBER PRESENTING: Scott Burton, Utilities General Manager

Prepared by: Tom O'Neill
Department: MU/Operations
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

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Bids were openly solicited on the City's electronic bid management system. A mandatory pre-bid conference was conducted with a total of four qualified contractors represented at the meeting.

On June 25, 2018, a bid in the amount of \$488,205 was received from General Pump Company Inc. through the City's electronic bid management system in response to Bid No. 961. This was the only bid received. General Pump's bid established the unit costs for labor, equipment and the markup for materials which will be used to negotiate the actual cost for maintenance, rehabilitation and repairs.

General Pump Company Inc. has been providing the City's water well rehabilitation and repair services since 2002. General Pump has extensive knowledge of the City's well and pumping facilities, and has an excellent performance record.

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN ORDINANCE ADDING CHAPTER 13A TO TITLE 6 OF THE ONTARIO MUNICIPAL CODE REGARDING SMOKE FREE PARKS

RECOMMENDATION: That the City Council consider and adopt an ordinance adding Chapter 13A to Title 6 of the Ontario Municipal Code to add provisions regarding Smoke Free Parks.

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

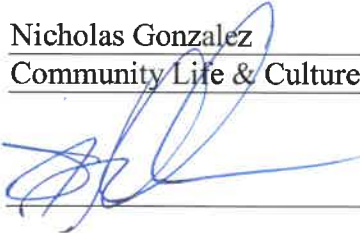
FISCAL IMPACT: There is no immediate impact to the General Fund. If approved, over the course of the next few months, staff will be installing signage to correspond with the adoption of this ordinance. Associated costs related to the new signage will remain within the City Council approved Operating Budget for Fiscal Year 2018-19.

BACKGROUND: On November 27, 2017, the Teen Action Committee (“TAC”) presented an initiative at the Recreation and Parks Commission Meeting to abolish the use of tobacco, electronic delivery devices, and marijuana in public parks throughout the City. In an effort to improve the environment, clean up public parks, and to decrease health risks, members of the TAC worked with City staff to provide additional research on communities that have passed similar initiatives on smoke free parks.

If approved, this prohibition will apply to all public parks, within the City of Ontario that are currently, or in the future, listed on the City’s website as a park. The City’s existing golf courses are excluded from the definition of public parks and are therefore not subject to this ordinance. The term “public parks” includes, but is not limited to, restrooms, spectator and concession areas, playgrounds, athletic fields, aquatic areas, in or on City-owned vehicles, and in City-owned parking lots at those public parks.

CL&C staff has worked with the Ontario Police Department to come up with penalties for enforcing this ordinance. Each incident in violation of this ordinance is a non-criminal infraction subject to a fine of

STAFF MEMBER PRESENTING: Helen McAlary, Executive Director, Community Life & Culture

Prepared by: Nicholas Gonzalez
Department: Community Life & Culture
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

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\$50 for a first violation; a fine not exceeding \$100 for a second violation within one year; and a fine not exceeding \$200 for each additional violation within one year.

If adopted City staff along with members of the TAC will be unveiling a public awareness campaign to educate the community of this new ordinance. The campaign will provide information on the harmful effects of smoking; create awareness in the community through events and materials; and will seek to identify and create healthy spaces in this the City for residents and visitors to enjoy.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING CHAPTER 13A TO TITLE 6 OF THE ONTARIO MUNICIPAL CODE REGARDING SMOKE FREE PARKS.

WHEREAS, the City Council of the City of Ontario may adopt an ordinance affecting the health, safety, and welfare of its residents; and

WHEREAS, California Health and Safety Code Section 118910 expressly permits local governments to regulate or completely ban the smoking of tobacco products; and

WHEREAS, tobacco use is the leading cause of preventable death and disease in the United States; and

WHEREAS, there is no constitutional right to smoke; and

WHEREAS, the California Air Resources Board placed secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant for which there is no safe level of exposure; and

WHEREAS, the California Environmental Protection Agency included secondhand smoke on the Proposition 65 list of chemicals known to the State of California to cause cancer, birth defects, and other reproductive harm; and

WHEREAS, studies on electronic cigarettes' vapor emissions and cartridge contents have found a number of dangerous substances including chemicals known to the State of California to cause cancers, such as formaldehyde, acetaldehyde, lead, nickel, and chromium; and

WHEREAS, secondhand marijuana smoke contains many of the same chemicals and carcinogens as secondhand tobacco smoke, and results from laboratory testing under standard conditions found that secondhand marijuana smoke contained more than twice as much tar and ammonia as tobacco smoke and more than eight times as much hydrogen cyanide; and

WHEREAS, cigarette butts are a major and persistent source of litter, and are often discarded on the ground as an environmental blight and do not biodegrade. Discarded cigarettes impose additional maintenance expenses to clean up and pose a fire risk as well as risk to human and animal health through potential ingestion and contamination of water sources.

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

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

SECTION 2. Chapter 13A is hereby added to Title 6 of the Ontario Municipal Code to read in full as set forth below.

CHAPTER 13A: SMOKE FREE PARKS

- 6-13A.01 Prohibition and Policy.
- 6-13A.02 Definitions.
- 6-13A.03 Interpretation.
- 6-13A.04 Notice.
- 6-13A.05 Penalties for Failure to Comply.

Sec. 6-13A.01. Prohibition and Policy.

(a) The use of Tobacco, Electronic Delivery Devices, and Marijuana are prohibited in all Public Parks in the City of Ontario at all times. This prohibition is enacted in order to preserve the public health, safety, and welfare of the residents of the City of Ontario, as well as the environment of the City of Ontario.

(b) The provisions of this section do not apply to publicly owned areas and places, or portions thereof, which are used by or used for events of the United States, the State of California, or any agency or instrumentality thereof.

Sec. 6-13A.02. Definitions.

(a) Use of Tobacco and/or Electronic Delivery Devices and/or Marijuana means the act of smoking, chewing, or the use of any other tobacco and/or electronic delivery devices and/or marijuana products in any form.

(b) Smoke or Smoking means inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other tobacco plant or product, or inhaling or exhaling aerosol or vapor from any electronic delivery devices. Smoking includes being in possession of a lit or heated cigar, cigarette, pipe, or any part of tobacco or plant product intended for inhalation, or an electronic delivery device that is turned on or otherwise activated.

(c) Tobacco Product means any substance made or derived from any parts of the tobacco plant, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, and smokeless tobacco, or products prepared from tobacco and designed for smoking or ingestion, or any other product name of descriptor.

(d) Electronic Delivery Device means any product containing or delivering nicotine, lobelia, or any other substance that can be used to stimulate smoking through inhalation of aerosol or vapor from the product. This term includes, but is not limited to, devices manufactured, distributed, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipes, vape pens, electronic hookah, electronic cigarillo, or any other product name or descriptor.

(e) Marijuana means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include: (1) Industrial hemp, as defined in Section 11018.5 of the California Health & Safety Code; or (2) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

(f) Public Parks means all public parks within the City of Ontario that are currently, or in the future, listed on the City of Ontario's website as a park. All City of Ontario golf courses, as they appear on the City's website now or in the future, are excluded from the definition of Public Parks and the applicability of this Ordinance. The term includes, but is not limited to, restrooms, spectator and concession areas, playgrounds, athletic fields, aquatic areas, in or on City-owned vehicles, and in City-owned parking lots at those public parks.

(g) All times means twenty-four (24) hours a day, seven (7) days a week, three hundred and sixty-five (365) days a year.

Sec. 6-13A.03. Interpretation.

(a) This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Sec. 6-13A.04. Notice.

(a) Wherever this Chapter prohibits smoking, conspicuous signs containing the words "NO SMOKING" in all capital letters not less than one inch in height on a contrasting background shall be posted. It shall be the duty of the owner, operator, manager or other persons having control of any Public Parks to clearly post such signs or cause the same to be clearly posted within ninety (90) days of the effective date of the ordinance codified in this Chapter.

(b) The "NO SMOKING" signs shall be posted in multiple languages at strategic locations to inform all persons about the policy.

(c) City of Ontario staff and volunteers shall be notified about this no smoking policy through an internal memorandum.

(d) City of Ontario staff shall communicate this policy to all event organizers.

Sec. 6-13A.05. Penalties for Failure to Comply.

(a) Each incident in violation of this Chapter is an infraction subject to:

1. A fine of \$50 for a first violation.

2. A fine not exceeding \$100 for a second violation of this Chapter within one (1) year.

3. A fine not exceeding \$200 for each additional violation of this Chapter within one (1) year.

(b) Enforcement of this Chapter shall begin one (1) year after the Effective Date of this Ordinance.

SECTION 3. SEVERABILITY. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance, which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable. This Ordinance amends, adds to, and deletes (as applicable) sections of the City of Ontario Municipal Code.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect and be in force thirty (30) days after passage.

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

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2018.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. _____ was duly introduced at a regular meeting of the City Council of the City of Ontario held July 17, 2018 and adopted at the regular meeting held _____, 2018 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

SHEILA MAUTZ, CITY CLERK

(SEAL)

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

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
PUBLIC HEARING

SUBJECT: A PUBLIC HEARING TO CONSIDER THE ISSUANCE OF QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS FOR VIRGINIA/HOLT APARTMENTS, LOCATED ON 4.18 ACRES OF LAND BORDERED BY HOLT BOULEVARD ON THE SOUTH, RESIDENTIALLY DEVELOPED PROPERTIES ON THE EAST, NOCTA STREET ON THE NORTH, AND VIRGINIA AVENUE ON THE WEST; AND AUTHORIZE EXECUTIVE DIRECTOR TO PROVIDE WRITTEN CONSENT TO ALLOW FOR APPLICATION OF THE WELFARE PROPERTY TAX EXEMPTION FOR THE PROJECT

RECOMMENDATION: That the City Council hold a public hearing to consider a resolution authorizing the issuance of qualified residential rental project bonds in one or more series (the "Bonds") in a principal amount not to exceed \$27,000,000 for the purpose of financing the acquisition and construction of Virginia/Holt Apartments, approving and authorizing the execution and delivery of any and all documents necessary to issue the Bonds and implement the resolution, and ratifying and approving any action taken in connection with the Bonds; and that the Board of the Ontario Housing Authority authorize the Executive Director to provide written consent to allow for application of the welfare property tax exemption for the project.

COUNCIL GOALS: Pursue City's Goals and Objectives by Working with Other Governmental Agencies
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: All costs and expenses related to the financing will be paid by National Community Renaissance of California (the "Developer/Borrower"). The City will have no liability for payment of the Bonds as the Bonds are payable solely by the Developer/Borrower from the revenues of the property. The City's Housing Fund will receive an issuance fee equal to 0.125% of the maximum principal amount of

STAFF MEMBER PRESENTING: Brent D. Schultz, Executive Director, Housing and Neighborhood Preservation

Prepared by: Julie Bjork
Department: Housing and Neighborhood Preservation Agency

City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____

Continued to: _____
Denied: _____

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the bonds (estimated at \$33,750), payable upon issuance of the bonds. Additionally, the Housing Fund will receive an annual monitoring fee (estimated at \$33,750) in the amount of 0.125% of the initial maximum principal amount of the bonds fixed on each annual due date, payable in advance on the issuance date and on each subsequent anniversary date.

BACKGROUND: The Virginia/Holt Apartments (the “Development”) is located on 4.18 acres of land bordered by Holt Boulevard on the south, residentially developed properties on the east, Nocta Street on the north, and Virginia Avenue on the west. The Development is shown in Exhibit A.

The Development will result in the construction of 101 rental housing units for extremely low-income, very low-income, and low-income households. All of the units in the proposed Development will remain affordable for a 55-year period. A breakdown of the current fiscal year rents and unit mix is attached as Exhibit B. Rent increases are allowed to be adjusted annually by the percentage increase in incomes established by the U.S. Department of Housing and Urban Development (“HUD”) for the San Bernardino Metropolitan Statistical Area.

The developer is National Community Renaissance of California, located in Rancho Cucamonga, California. National Community Renaissance of California (“Developer”) is one of the nation’s largest non-profit affordable housing developers with a 20-year history of building affordable housing units combined with comprehensive social services to promote self-sufficiency of residents. The company has developed over 6,000 housing units within California with a history of long-term ownership. The President and CEO of National Community Renaissance of California is Steve PonTell.

This project is a key component of Ontario’s \$35 million application for the Transformative Climate Communities (TCC) Program that was awarded to the City of Ontario in January 2018. The TCC Program is a competitive statewide grant program funded through the State’s Cap-and-Trade Program, also known as the California Climate Investments (CCT).

The Development was specifically designed to provide Ontario with a competitive advantage for TCC funding. This Development meets density requirements, affordability levels, and is strategically located on the future West Valley Connector Bus Rapid Transit route. This site is also located adjacent to Omnitrans Route 61 bus line, which has the highest ridership of any Omnitrans route. All residents of this Development will receive monthly transit passes at no cost to the household during the three-year TCC grant term. Omnitrans will also provide a training program for residents to encourage public transit ridership. In addition, residents will be provided with a robust level of social services including after school programs for children and financial literacy programs for adults on-site.

The estimated total project cost of the Development is \$36,603,047. Pursuant to this resolution, up to \$27,000,000 of multifamily revenue bonds may be issued as a funding source for the construction phase. Such bonds would be paid down from permanent funding sources. The following is the Developer/Borrower's estimated permanent funding breakdown.

Funding Breakdown:	Cost:
TCC	\$14,729,325
Tax Credit Equity – Low Income Housing Tax Credits (LIHTC)	\$13,497,407
Housing Authority Land Loan	\$1,564,315
Housing Authority Project Loan	\$2,000,000
Private Financing	\$2,557,000
Developer Equity Contribution	\$1,000,000
Deferred Developer Fee	\$265,000
Federal Home Loan Bank Affordable Housing Program (AHP)	\$990,000
TOTAL PORJECT COST:	\$36,603,047

Due to increased construction costs and Ontario's annual bond monitoring fees of approximately \$32,500, the Developer has requested that the Executive Director of the Ontario Housing Authority authorize an application for a welfare property tax exemption. The welfare property tax exemption allowed currently under existing property tax law for property owners of affordable rental properties would offset these increased costs and provide for a more stable cash flow. The Disposition and Development Agreement approved by the Ontario Housing Authority requires that the Developer obtain written consent of the Executive Director prior to any application for tax relief through the welfare property tax exemption.

If the resolution to issue Bonds is approved, the City will request that the California Debt Limit Allocation Committee ("CDLAC") grant up to \$27,000,000 of the private activity bond allocation set aside for Calendar Year 2018. The Owner/Borrower will submit a joint application to CDLAC and the California Tax Credit Allocation Committee ("CTCAC") by July 20, 2018.

It is anticipated that CDLAC staff will consider the requested bond amount at its September 19, 2018 allocation meeting. If approved by CDLAC, final Bond documents along with any required amendments to the Disposition and Development Agreement will be prepared and reviewed by City staff, financial advisors, bond counsel, and special counsel and submitted to the City Council for approval.

**EXHIBIT A
PROJECT SITE**



Not to Scale 

**EXHIBIT B
UNIT DISTRIBUTION**

Virginia/Holt Multifamily Affordability Restrictions and Net Rents			
	2BR	3BR	Total Number of Units
30% of AMI Units			
# of Units	15	6	21
Est. Net Rent	\$420	\$481	
50% of AMI Units			
# of Units	22	15	37
Est. Net Rent	\$723	\$832	
60% of AMI			
# of Units	32	10	42
Est. Net Rent	\$875	\$1,007	
Property Manager Unit		1	1
TOTAL UNITS	69	32	101

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ISSUANCE OF REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$27,000,000 TO FINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A 101-UNIT MULTIFAMILY RENTAL HOUSING FACILITY FOR THE BENEFIT OF A LIMITED PARTNERSHIP CREATED BY NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA, AND CERTAIN OTHER MATTERS RELATING THERETO.

WHEREAS, National Community Renaissance of California, a California nonprofit public benefit corporation (the "Sponsor"), has requested that the City of Ontario (the "City") participate in the issuance of one or more series of revenue bonds in an aggregate principal amount not to exceed \$27,000,000 (the "Bonds") for the acquisition, construction, and equipping of a 101-unit (including one manager's unit) affordable rental housing facility known as Virginia/Holt Apartments, to be located in the City on land bordered by Holt Boulevard to the south, Virginia Avenue to the west, Nocta Street to the north and residentially developed properties to the east (the "Project"), to be owned and operated by a limited partnership to be created by National Community Renaissance of California, a California nonprofit public benefit corporation limited partnership (the "Borrower"); and

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986 (the "Code"), the issuance of the Bonds by the City must be approved by the City because the Project is located within the territorial limits of the City; and

WHEREAS, the City Council of the City (the "City Council") is the elected legislative body of the City and is one of the "applicable elected representatives" required to approve the issuance of the Bonds under Section 147(f) of the Code; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council has, following notice duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the City;

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The City Council hereby approves the issuance of the Bonds by the City. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds by the City, for the purposes of Section 147(f) of the Code, by the applicable elected representative of the governmental unit having jurisdiction over the area in which the Project is located.

SECTION 3. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing transaction approved hereby.

SECTION 4. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
PUBLIC HEARING

SUBJECT: A PUBLIC HEARING TO CONSIDER THE ISSUANCE OF QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS FOR ONTARIO TOWNHOUSES, LOCATED AT 1360 EAST D STREET, ONTARIO, CALIFORNIA; AND AUTHORIZE CITY MANAGER TO CONSENT TO THE APPLICATION FOR WELFARE PROPERTY TAX EXEMPTION

RECOMMENDATION: That the City Council hold a public hearing to consider a resolution authorizing the issuance of qualified residential rental project bonds in one or more series (the "Bonds") in a principal amount not to exceed \$25,200,000 for the purpose of financing the acquisition and rehabilitation of Ontario Townhouses, approving and authorizing the execution and delivery of any and all documents necessary to issue the bonds and implement the resolution, and ratifying and approving any action taken in connection with the bonds; and authorize the City Manager to consent to the application for a welfare property tax exemption.

COUNCIL GOALS: Pursue City's Goals and Objectives by Working with Other Governmental Agencies
Focus Resources in Ontario's Commercial and Residential Neighborhoods

FISCAL IMPACT: All costs and expenses related to the financing will be paid by Ontario TH Renewal L.P. (the "Owner/Borrower"). The City will have no liability for payment of the bonds as the bonds are payable solely by the Owner/Borrower from the revenues of the property. The City will receive an issuance fee equal to 0.125% of the maximum principal amount of the bonds (estimated at \$31,500), payable upon issuance of the bonds. Additionally, the City will receive an annual monitoring fee in the amount of 0.125% of the initial maximum principal amount of the bonds (estimated at \$31,500) fixed on each annual due date, payable in advance on the issuance date and on each subsequent anniversary date.

BACKGROUND: The Ontario Townhouses property (the "Property") is located at 1360 East D Street, Ontario. The Property is shown on Exhibit A.

STAFF MEMBER PRESENTING: Brent D. Schultz, Executive Director, Housing and Neighborhood Preservation

Prepared by: Julie Bjork
Department: Housing and Neighborhood
Preservation Agency

City Manager
Approval:



Submitted to Council/O.H.A. 07/17/2018
Approved:

Continued to: _____
Denied: _____

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The Property is an affordable housing community that provides rental housing for very low-income and low-income households. The Property was originally built in 1972 and consists of 87 rental units spread across 16 townhouse style buildings and one single-story community building. The Property has 48 two-bedroom units and 39 three-bedroom units, including one on-site property manager’s unit. The Property receives assistance through a project-based Section 8 Housing Assistance Payment (“HAP”) contract covering 100% of the units. Through this HAP assistance, residents pay approximately 30% of their household income as rent. The existing HAP contract will expire on September 30, 2018.

The National Foundation for Affordable Housing Solutions, Inc. (“NFAHS”) originally approached Ontario Housing staff regarding their goal to acquire, rehabilitate, and preserve the affordability of the Property. NFAHS is a 501(c)(3) nonprofit organization committed to preserving existing rental housing stock nationally. NFAHS was formed in 1990 and is based in North Bethesda, Maryland. Over the last five years, NFAHS has assisted its various nonprofit supporting organizations to acquire and preserve more than 45 properties with 4,857 rental units. NFAHS and its supporting nonprofit organizations currently own two developments within California consisting of 252 rental units. The President and COO of NFAHS is Todd Travis.

NFAHS has assisted with the formation of an Owner/Borrower entity for the purpose of acquiring, rehabilitating, and preserving the Property. The Owner/Borrower is a newly formed single asset entity, with Renewal Housing, Inc., a Maryland 501(c)(3) tax-exempt nonprofit organization, in control. The Director of Renewal Housing, Inc. is Jason Goldblatt. The Owner/Borrower acquired the Property in late April 2018.

While the Property has been well-maintained throughout the years, it has never undergone a major renovation and many of the Property’s major building systems are beyond their estimated useful life. The Property will undergo a substantial renovation with an estimated budget of \$4.2 million, beginning in late fall/early winter with completion scheduled for December 2019. The proposed rehabilitation scope of work includes new energy efficient heating and cooling systems, energy efficient water heaters, updated kitchens and bathrooms, electrical upgrades, new drought-resistant landscaping, new roofing, and parking lot resurfacing.

The Property provides 26 units for very low-income households (50% of Area Median Income (AMI)) and 60 units for low-income households (60% of AMI) for 55 years. The Owner/Borrower will also renew the existing Section 8 HAP contract and extend it for an additional 20 years, the maximum permitted by HUD. The unit mix and breakdown is shown on Exhibit B.

The estimated total project cost is \$37,776,266. The following is the Owner/Borrower’s estimated funding breakdown for the Project:

Funding Breakdown:	Cost:
Tax Exempt Bond Security	\$22,850,000
Interim Income	\$1,505,208
Tax Credit Equity – Low Income Housing Tax Credits (LIHTC)	\$11,246,491
Deferred Developer Fee	\$2,074,567
CDLAC Performance Deposit	\$100,000
TOTAL PROJECT COST	\$37,776,266

Under existing property tax law, an owner of a rental property providing low-income housing is eligible for a property tax exemption. The Owner/Borrower is currently in the process of applying for a property tax welfare exemption.

If the resolution to issue bonds is approved, the City will request that the CDLAC grant up to \$25,200,000 of the private activity bond allocation set aside for Calendar Year 2018. The Owner/Borrower will submit a joint application to California Debt Limit Allocation Committee (“CDLAC”) and California Tax Credit Allocation Committee (“CTCAC”) by August 17, 2018.

It is anticipated that CDLAC staff will consider the requested bond amount at its October 17, 2018 or November 14, 2018 allocation meeting. If approved by CDLAC, final bond documents will be prepared and reviewed by City staff, financial advisors, bond counsel, and special counsel and submitted to the City Council for approval.

**EXHIBIT A
PROJECT SITE**



Not to Scale 

**EXHIBIT B
UNIT DISTRIBUTION**

Ontario Townhouses Multifamily Affordability Restrictions and Net Rents			
	2BR	3BR	Total Number of Units
50% of AMI Units			
# of Units	13	13	26
Est. Net LIHTC Rent	\$727	\$841	
60% of AMI Units			
# of Units	35	25	60
Est. Net LIHTC Rent	\$879	\$1,016	
Property Manager Unit		1	1
TOTAL UNITS	48	39	87

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ISSUANCE OF REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$25,200,000 TO FINANCE THE ACQUISITION, REHABILITATION, IMPROVEMENT AND EQUIPPING OF AN 87-UNIT MULTIFAMILY RENTAL HOUSING FACILITY FOR THE BENEFIT OF A LIMITED PARTNERSHIP CREATED BY NATIONAL FOUNDATION FOR AFFORDABLE HOUSING SOLUTIONS, INC., AND CERTAIN OTHER MATTERS RELATING THERETO.

WHEREAS, National Foundation for Affordable Housing Solutions, Inc., a nonprofit public benefit corporation (the "Sponsor"), has requested that the City of Ontario (the "City") participate in the issuance of one or more series of revenue bonds in an aggregate principal amount not to exceed \$25,200,000 (the "Bonds") for the acquisition, rehabilitation, improvement and equipping of an 87-unit multifamily rental housing facility known as Ontario Townhouses, located at 1360 East D Street in the City of Ontario, California (the "Project"), to be owned and operated by Ontario TH Renewal L.P., a California limited partnership (the "Borrower"); and

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986 (the "Code"), the issuance of the Bonds by the City must be approved by the City because the Project is located within the territorial limits of the City; and

WHEREAS, the City Council of the City (the "City Council") is the elected legislative body of the City and is one of the "applicable elected representatives" required to approve the issuance of the Bonds under Section 147(f) of the Code; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council has, following notice duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the City;

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The City Council hereby approves the issuance of the Bonds by the City. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds by the City, for the purposes of Section 147(f) of the Code, by the applicable elected representative of the governmental unit having jurisdiction over the area in which the Project is located.

SECTION 3. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing transaction approved hereby.

SECTION 4. This resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
PUBLIC HEARINGS

SUBJECT: ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NOS. 1, 2, 3 AND 4 FOR FISCAL YEAR 2018-2019


RECOMMENDATION: That the City Council take the following actions pertaining to the levy of assessments within Ontario Parkway Maintenance Assessment Districts (OPMAD) Nos. 1, 2, 3 and 4:

- (A) Conduct a combined public hearing on the levy of the annual assessments for each district;
- (B) Consider and adopt a resolution approving the Engineer's Reports relating to the levy of assessments for each district; and
- (C) Consider and adopt resolutions confirming the diagrams and assessments, and providing for the assessment levy within each district.

COUNCIL GOALS: Focus Resources in Ontario's Commercial and Residential Neighborhoods Operate in a Businesslike Manner

FISCAL IMPACT: As proposed, special assessment revenue will be generated in the amount of \$285,042 from OPMAD Nos. 1, 2 and 3, and \$321,987 from OPMAD No. 4 during Fiscal Year 2018-19. The total cost of \$638,186 for operation and maintenance within OPMAD Nos. 1, 2 and 3 will exceed the assessment revenues by \$353,129. The differential will be funded from the General Fund. If approved, the General Fund portion will be included in the City's proposed budget for Fiscal Year 2018-19. The total proposed special assessment for OPMAD No. 4 is sufficient to pay all expenses within this service area. The special assessments for OPMAD Nos. 1, 2, and 3, Zone 2000-1, are capped, so there are no proposed changes from the FY 2017-18 special assessments. The recommended special assessment rate for OPMAD No. 3, Zone 2000-2, includes an increase of 2.5% from the FY 2017-18 rate. As proposed, the average increase in the recommended special assessment rates for the six maintenance areas in OPMAD No. 4 is 2.5%.

STAFF MEMBER PRESENTING: Grant D. Yee, Executive Director of Finance

Prepared by: Bob Chandler
Department: Management Services
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

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BACKGROUND: The first of these districts was formed in 1976 pursuant to the Landscaping and Lighting Act of 1972 (the “1972 Act”). Additional territories are annexed to the districts from time to time as development proceeds. The districts were formed to help minimize the continually increasing cost of maintaining and operating the landscaping along public streets where the property owners do not have direct access to the landscaping. A special assessment is levied annually on benefiting properties for the cost of operation and maintenance of certain parkway landscaping facilities within the districts. The City’s Public Works Agency establishes the annual operation and maintenance costs and administers the maintenance of the landscaping. Annually, an Engineer’s Report for each district must be prepared which apportions these costs to each parcel within the districts. The locations of the districts are shown on the attached maps.

OPMAD Nos. 1, 2, and 3 are comprised of single-family residential developments. Due to varying characteristics, the districts are organized into benefit zones and/or maintenance areas. Each zone/maintenance area is assessed for only the operation and maintenance of the facilities from which it receives special direct benefit. The total assessment for each maintenance area is then apportioned to its constituent parcels.

Special assessment revenue will be generated in the combined amount of \$285,042 from OPMAD Nos. 1, 2 and 3. The assessed tax rates for Fiscal Year 2017-18, and the maximum and proposed tax rates for Fiscal Year 2018-19, are as follows:

	Prior Year 2017-18	Maximum 2018-19	Proposed 2018-19
OPMAD No. 1	\$ 66.32 per Lot	\$ 66.32 per Lot	\$ 66.32 per Lot
OPMAD No. 2	\$ 34.04 per Lot	\$ 34.04 per Lot	\$ 34.04 per Lot
OPMAD No. 3, Zone 2000-1	\$ 41.29 per Lot	\$ 41.29 per Lot	\$ 41.29 per Lot
OPMAD No. 3, Zone 2000-2	\$ 176.88 per Lot	\$ 226.48 per Lot	\$ 181.30 per Lot

OPMAD No. 4 is comprised of single-family residential tracts and the Ontario Mills development area. The district is organized into six Maintenance Areas (MAs). Each maintenance area is assessed for only the operation and maintenance of the facilities from which it receives direct special benefit. The total assessment for each maintenance area is then apportioned to its constituent parcels.

The assessments for OPMAD No. 4 will generate a total of \$321,987. OPMAD No. 4 will generate sufficient revenue to pay all expenses within the service area. The assessed tax rates for Fiscal Year 2017-18, and the maximum and proposed tax rates for Fiscal Year 2018-19, are as follows:

	Prior Year 2017-18	Maximum 2018-19	Proposed 2018-19
MA# 99-1	\$ 52.79 per Lot	\$ 55.11 per Lot	\$ 54.13 per Lot
MA# 99-2	\$ 334.08 per Lot	\$ 347.62 per Lot	\$ 342.41 per Lot
MA# 99-3	\$ 1,038.03 per Acre	\$ 1,248.21 per Acre	\$ 1,063.98 per Acre
MA# 00-1	\$ 251.38 per Lot	\$ 342.35 per Lot	\$ 257.62 per Lot
MA# 04-1	\$ 1,011.35 per Lot	\$ 2,180.71 per Lot	\$ 1,036.26 per Lot
MA# 05-1	\$ 1,389.07 per Lot	\$ 2,703.10 per Lot	\$ 1,423.67 per Lot

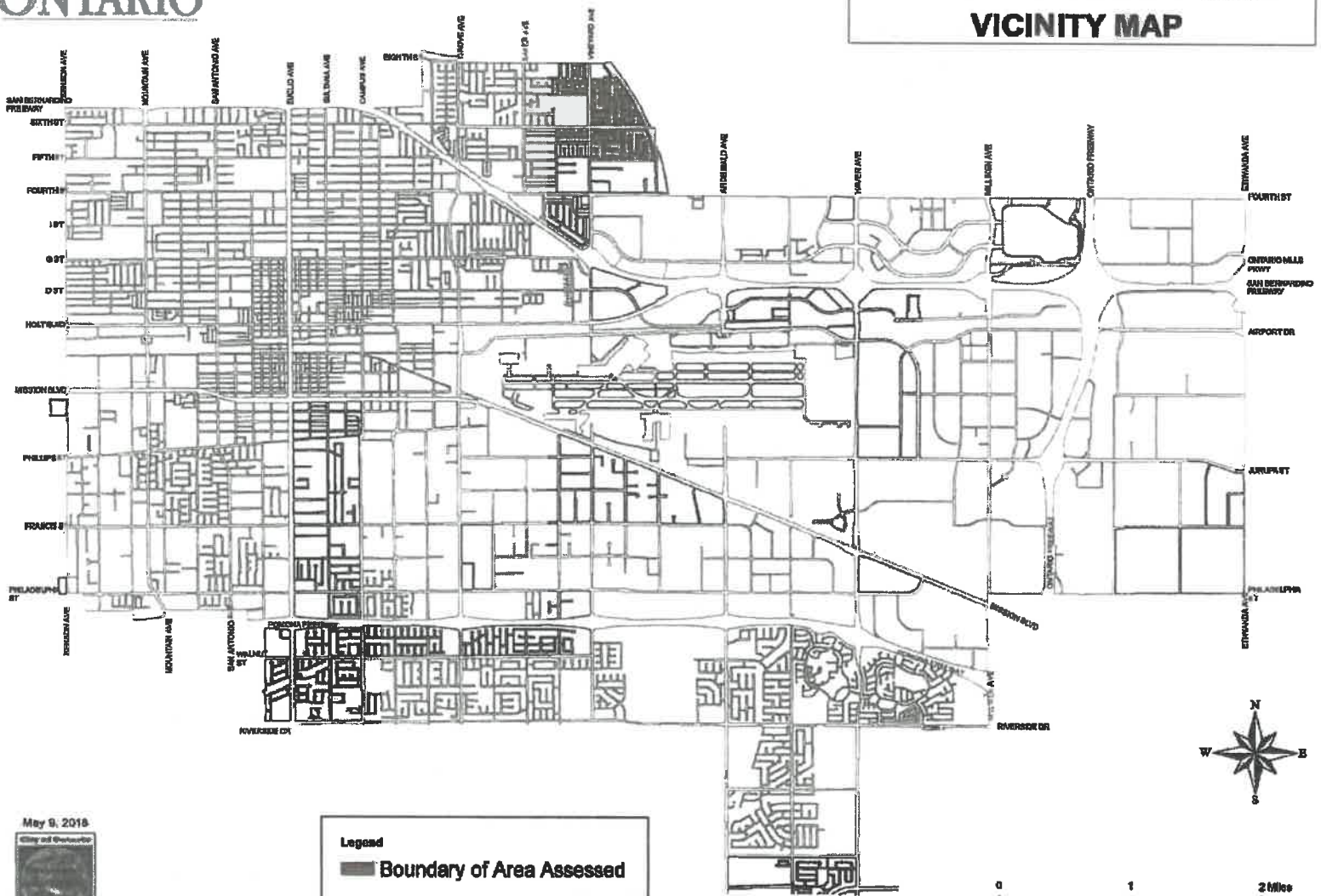
On June 19, 2018, the City Council adopted resolutions which ordered the preparation of Engineer's Reports for the annual levy of assessments within each district, preliminarily approved the Engineer's Reports, declared Council's intention to levy and collect assessments within the districts for the referenced fiscal year, and set July 17, 2018 as the date for the public hearing for each district. Notices of the public hearings have been published and proof of publication is on file in the Records Management Department.

The Engineer's Reports, which have been prepared for each district pursuant to the 1972 Act, are on file with the Records Management Department. Each report includes plans and specifications for the improvements and maintenance, an estimate of costs, a diagram of the area proposed to be assessed, and an assessment of the costs to the various parcels within each District.



Ontario Parkway Maintenance Assessment District No. 2

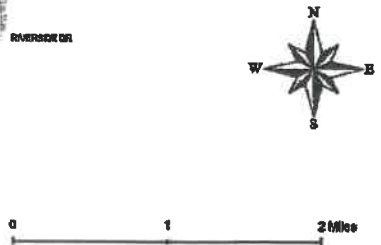
VICINITY MAP



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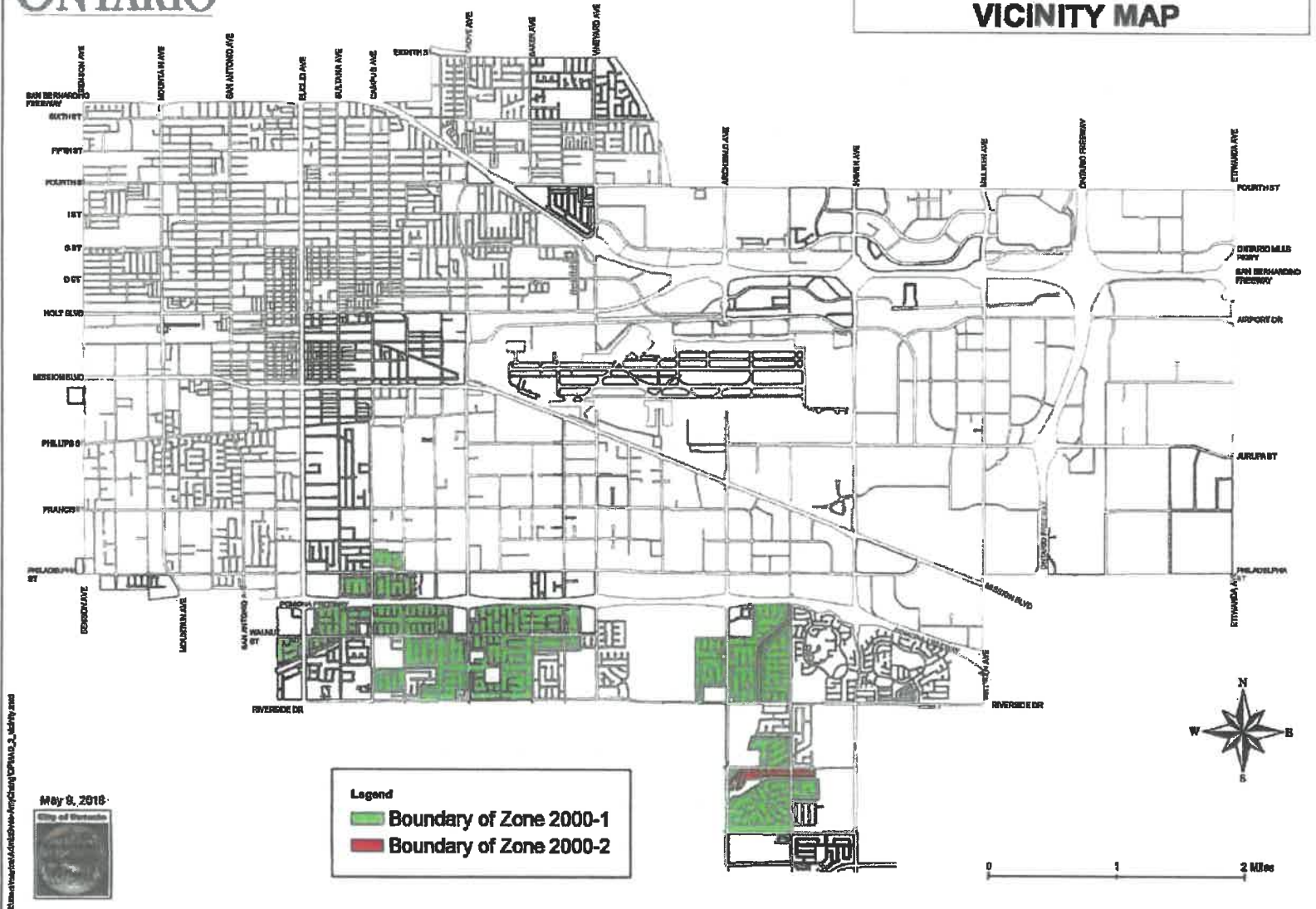


Legend
 Boundary of Area Assessed





Ontario Parkway Maintenance Assessment District No. 3 VICINITY MAP

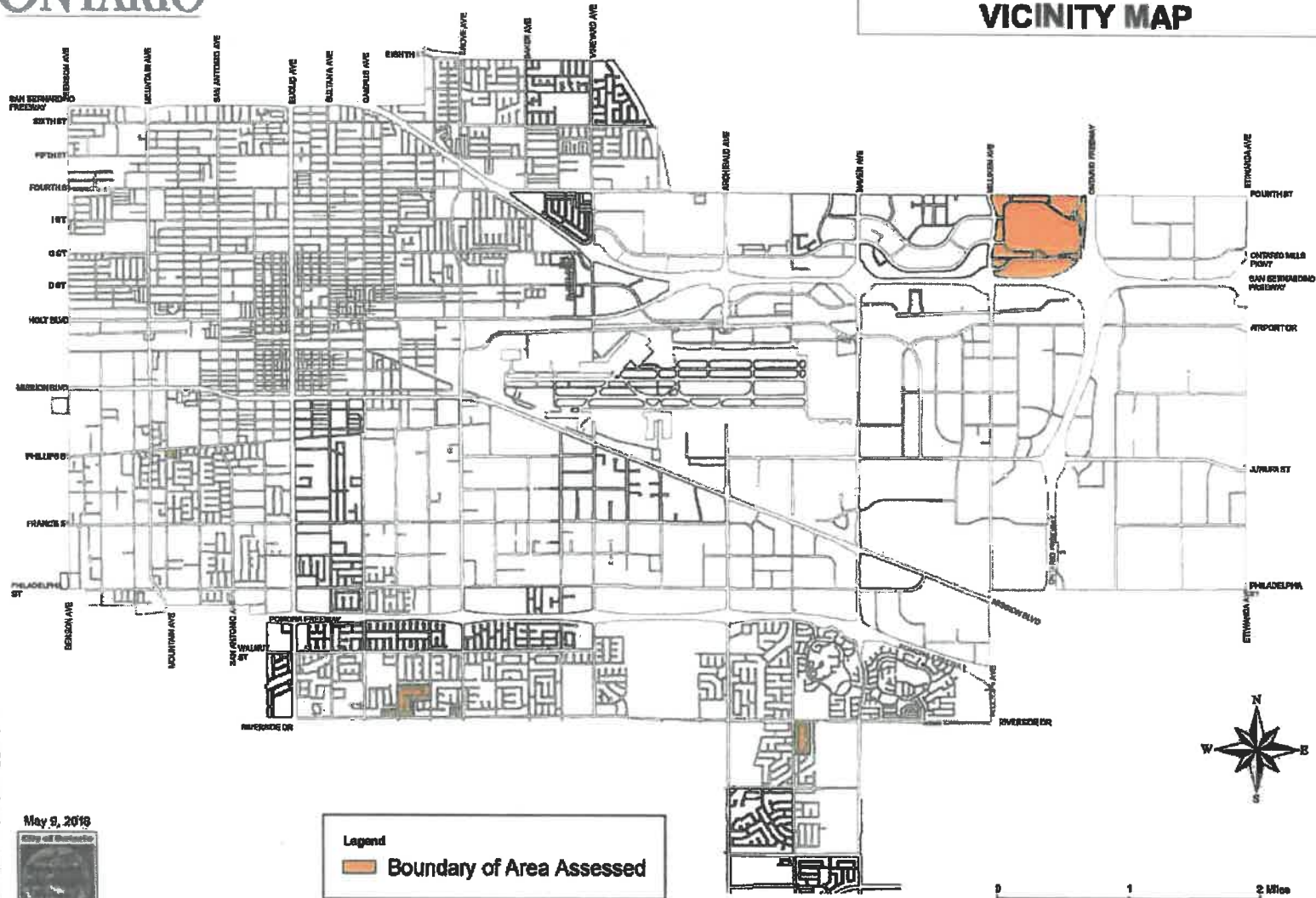


May 8, 2018
City of Ontario

Legend
■ Boundary of Zone 2000-1
■ Boundary of Zone 2000-2



Ontario Parkway Maintenance Assessment District No. 4 VICINITY MAP



Legend

 **Boundary of Area Assessed**

May 9, 2018



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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2, 3 AND 4 FOR FISCAL YEAR 2018-19.

WHEREAS, the City Council of the City of Ontario, California, pursuant to the provisions of the "Landscaping and Lighting Act of 1972," being Division 15, Part 2, of the Streets and Highways Code of the State of California, did, by previous Resolution, order the preparation of Engineer's Reports for the annual levy of assessments, consisting of plans and specifications, cost estimates, diagrams of the districts, and the assessment relating to what are now known and designated as

CITY OF ONTARIO
PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2, 3 and 4

(hereinafter referred to as the Districts); and

WHEREAS, there have now been presented to this City Council the Reports as required by said Division 15 of the Streets and Highways Code and as previously directed by Resolution; and

WHEREAS, this City Council has approved on a preliminary basis the Reports by a previous Resolution, and ordered the Reports to be filed in the Records Management Department to be open to public inspection; and

WHEREAS, this City Council has now examined and reviewed the Reports as presented, and is satisfied with each and all of the items and documents as set forth therein, and is satisfied that the assessments have been spread in accordance with the benefits received from the maintenance to be performed as set forth in said Reports.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That the Reports as presented, consisting of the following:

- A. Plans and Specifications,
- B. Estimates of cost,
- C. Diagrams of the Districts, and
- D. Assessment of the estimated cost

are hereby approved, and are ordered to be filed in the Records Management Department, as a permanent record and to remain open to public inspection.

SECTION 3. That the City Clerk shall certify the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Engineer's Reports.

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAMS AND ASSESSMENTS, AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3 FOR FISCAL YEAR 2018-19.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the annual levy of assessments in special maintenance districts pursuant to the terms and provisions of the "Landscaping and Lighting Act of 1972," being Division 15, Part 2, of the Streets and Highways Code of the State of California in what is known and designated as

CITY OF ONTARIO
PARKWAY MAINTENANCE ASSESSMENT DISTRICTS NO. 1, 2 AND 3

(hereinafter referred to as the Districts); and

WHEREAS, the City Council has ordered the preparation of the Engineer's Reports, and the Engineer's Reports have been prepared and filed with this City Council pursuant to law for its consideration, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above referenced Districts, and further did proceed to give notice of the time and place for a Public Hearing on all matters relating to said annual levy of the proposed assessments; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That the estimates of costs, the assessment diagrams, the assessments and all other matters, as set forth in the Engineer's Reports pursuant to said "Landscaping and Lighting Act of 1972," as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Engineer's Reports, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the referenced fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment, and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessments and diagrams shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

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

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN ONTARIO PARKWAY MAINTENANCE ASSESSMENT DISTRICT NO. 4 FOR FISCAL YEAR 2018-19.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the levy of the annual assessment in a special maintenance district created pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Landscaping Act"), Article XIID of the Constitution of the State of California ("Article XIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the Landscaping Act, Article XIID and the Implementation Act may be referred to collectively herein as the "Assessment Law"), in a special maintenance district known and designated as

CITY OF ONTARIO
PARKWAY MAINTENANCE ASSESSMENT DISTRICT NO. 4

(hereinafter referred to as the "District"); and

WHEREAS, the City Council has ordered the preparation of an Engineer's Report, and such a report (the "Assessment Engineer's Report") has been prepared and filed with this City Council for its consideration pursuant to Assessment Law, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above-referenced District, and further did proceed to give notice of the time and place for the Public Hearing on all matters relating to said annual levy of the proposed assessment; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That based upon the Assessment Engineer's Report and the testimony and other evidence presented at the public hearing, the City Council hereby makes the following determinations regarding the assessments proposed to be imposed for the referenced Fiscal Year:

- A. The proportionate special benefit derived by each individual parcel assessed has been determined in relationship to the entirety of the cost of the operations and maintenance expenses.
- B. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.
- C. Only the special benefits have been assessed.
- D. There are no publicly owned parcels within the District.
- E. The assessments do not exceed the maximum annual assessments previously authorized to be levied pursuant to the Assessment Law.

The estimates of costs, the assessment diagram, the assessments and all other matters, as set forth in the Assessment Engineer's Report pursuant to the Assessment Law as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Assessment Engineer's Report, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment, and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessment and diagram shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

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

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
PUBLIC HEARINGS

SUBJECT: ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICTS NOS. 1 AND 2 FOR FISCAL YEAR 2018-19

RECOMMENDATION: That the City Council take the following actions pertaining to the levy of assessments within Street Lighting Maintenance Districts (SLMD) Nos. 1 and 2:


- (A) Conduct a combined public hearing on the levy of the annual assessments for each district;
- (B) Consider and adopt a resolution approving the Engineer's Reports relating to the levy of assessments for each district; and
- (C) Consider and adopt resolutions confirming the diagrams and assessments, and providing for the assessment levy for each District.

COUNCIL GOALS: Focus Resources on Ontario's Commercial and Residential Neighborhoods Operate in a Businesslike Manner

FISCAL IMPACT: As proposed, special assessment revenue will be generated in the amount of \$410,407 from SLMD No. 1 and \$99,577 from SLMD No. 2 during Fiscal Year 2018-19. A portion of the facilities within SLMD No. 1 provide general benefit to the public at large and cannot be funded with the assessment. The amount of general benefit is \$11,082. The total of the recommended assessments is increasing by an average of 2.8% for the two Benefit Zones within SLMD No. 1, and by 2.5% for the twelve maintenance areas in SLMD No. 2.

BACKGROUND: Street Lighting Maintenance District No. 1 was formed in 1984, and Street Lighting Maintenance District No. 2 was formed in 1999, pursuant to the Landscaping and Lighting Act of 1972 (the "1972 Act"), to help minimize the continually increasing cost for maintaining and operating the City's street lighting system. A special assessment is levied annually on benefiting properties for the

STAFF MEMBER PRESENTING: Grant D. Yee, Executive Director of Finance

Prepared by: Bob Chandler
Department: Management Services
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

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cost of maintenance and operation of certain street lighting facilities within the districts. The locations of the districts are shown on the attached maps.

The City’s Municipal Services Department establishes the annual maintenance costs and maintains the street lighting system. An Engineer’s Report for each district must be prepared annually, apportioning the costs to each parcel within the districts. The districts are comprised of commercial, industrial and some multi-family residential properties. Due to varying characteristics, the districts are organized into benefit zones and/or maintenance areas. Each zone/maintenance area is assessed for only the operation and maintenance of the facilities from which it receives direct special benefit. The total assessment for each zone/maintenance area is then apportioned to its constituent parcels. Therefore, the assessments are unique and specific to each individual parcel of property.

The total assessment during tax year 2017-18 was \$399,251 in SLMD No. 1, and \$97,147 in SLMD No. 2. The proposed total assessments for tax year 2018-19 are \$410,407 in SLMD No. 1, and \$99,577 in SLMD No. 2. A portion of the facilities within SLMD No. 1 provide general benefit to the public at large and cannot be funded with the assessment. The amount of this general benefit is \$11,082 for Fiscal Year 2018-19. The assessed tax rates for Fiscal Year 2017-18, and the maximum and proposed tax rates for Fiscal Year 2018-19, are as follows:

		Prior Year 2017-18	Maximum 2018-19	Proposed 2018-19
SLMD No. 1, Zone 2000-1	per AU	\$ 140	\$ 147	\$ 143
SLMD No. 1, Zone 2000-2	per AU	\$ 70	\$ 120	\$ 72
SLMD No. 2, MA# 99-1		\$ 4,318	\$ 10,440	\$ 4,427
SLMD No. 2, MA# 99-2		\$ 2,231	\$ 5,192	\$ 2,287
SLMD No. 2, MA# 99-3		\$ 4,457	\$ 8,651	\$ 4,569
SLMD No. 2, MA# 99-4		\$ 1,492	\$ 3,465	\$ 1,530
SLMD No. 2, MA# 99-5		\$ 1,362	\$ 3,249	\$ 1,397
SLMD No. 2, MA# 99-6		\$ 13,348	\$ 30,319	\$ 13,682
SLMD No. 2, MA# 99-7		\$ 401	\$ 938	\$ 411
SLMD No. 2, MA# 99-8		\$ 2,976	\$ 6,921	\$ 3,050
SLMD No. 2, MA# 00-1		\$ 2,846	\$ 3,185	\$ 2,918
SLMD No. 2, MA# 00-2		\$ 1,492	\$ 2,124	\$ 1,530
SLMD No. 2, MA# 00-3		\$ 8,165	\$ 11,679	\$ 8,368
SLMD No. 2, MA# 00-4		\$ 54,056	\$ 66,878	\$ 55,407

AU-Assessment Unit (e.g. – Zone 2000-1: 1 vacant acre = 0.25 AU; Zone 2000-2: 1 vacant acre = 1 AU)

On June 19, 2018, the City Council adopted resolutions which ordered the preparation of Engineer's Reports for the annual levy of assessments within each district, preliminarily approved the Engineer's Reports, declared City Council's intention to levy and collect assessments within the districts for the referenced fiscal year, and set July 17, 2018 as the date for the public hearing for each district. Notices of the public hearings have been published, and proof of publication is on file in the Records Management Department.

The Engineer's Reports, which have been prepared for each district pursuant to the 1972 Act, are on file with the Records Management Department. Each report includes plans and specifications for the improvements being operated and maintained, an estimate of costs, a diagram of the area proposed to be assessed, and an assessment of the costs to the various parcels within the districts.

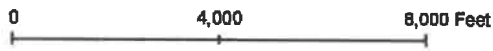


Street Lighting Maintenance District No.1 VICINITY MAP



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May 9, 2018



Legend

- ZONE 2000-1
- Zone 2000-2

Note:
Reference is hereby made to the Maps of The Assessor of the County of San Bernardino, California, for a detailed description of the lines and dimensions of the parcels shown hereon.

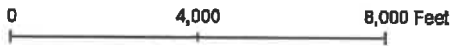


Street Lighting Maintenance District No.2 VICINITY MAP



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May 10, 2018



Legend

- Street Light Maintenance District 2

Note:
Reference is hereby made to the
Maps of The Assessor of the County of
San Bernardino, California, for a detailed
description of the lines and dimensions
of the parcels shown hereon.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING THE ENGINEER'S REPORTS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND 2 FOR FISCAL YEAR 2018-19.

WHEREAS, the City Council of the City of Ontario, California, pursuant to the provisions of the "Landscaping and Lighting Act of 1972," being Division 15, Part 2, of the Streets and Highways Code of the State of California, did, by previous Resolution, order the preparation of Engineer's Reports for the annual levy of assessments, consisting of plans and specifications, cost estimates, diagrams of the districts, and the assessments relating to what are now known and designated as

CITY OF ONTARIO
STREET LIGHTING MAINTENANCE DISTRICTS NO. 1 AND 2

(hereinafter referred to as the Districts); and

WHEREAS, there have now been presented to this City Council the Reports as required by said Division 15 of the Streets and Highways Code and as previously directed by Resolution; and

WHEREAS, this City Council has approved on a preliminary basis the Reports by a previous Resolution, and ordered the Reports to be filed in the Records Management Department to be open to public inspection; and

WHEREAS, this City Council has now examined and reviewed the Reports as presented, and is satisfied with each and all of the items and documents as set forth therein, and is satisfied that the assessments have been spread in accordance with the benefits received from the maintenance to be performed as set forth in said Reports.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That the Reports as presented, consisting of the following:

- A. Plans and Specifications,
- B. Estimates of cost,
- C. Diagrams of the Districts, and
- D. Assessment of the estimated costs

are hereby approved, and are ordered to be filed in the Records Management Department, as a permanent record and to remain open to public inspection.

SECTION 3. That the City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Engineer's Reports.

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 1 FOR FISCAL YEAR 2018-2019.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the levy of the annual assessment in a street lighting maintenance district created pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Lighting Act"), Article XIII D of the Constitution of the State of California ("Article XIII D") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the Lighting Act, Article XIII D and the Implementation Act may be referred to collectively herein as the "Assessment Law"), in a special maintenance district known and designated as

CITY OF ONTARIO
STREET LIGHTING MAINTENANCE DISTRICT NO. 1

(hereinafter referred to as the "District"); and

WHEREAS, the City Council has ordered the preparation of an Engineer's Report, and such report (the "Assessment Engineer's Report") has been prepared pursuant to the Assessment Law and filed with this City Council for its consideration, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above-referenced District, and further did proceed to give notice of the time and place for the Public Hearing on all matters relating to said annual levy of the proposed assessment; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That based upon the Assessment Engineer's Report and the testimony and other evidence presented at the public hearing, the City Council hereby makes the following determinations regarding the assessments proposed to be imposed for the referenced fiscal year:

- A. The proportionate special benefit derived by each individual parcel assessed has been determined in relationship to the entirety of the cost of the operations and maintenance expenses.
- B. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.
- C. Only the special benefits have been assessed.
- D. All parcels within the District that are owned or used either by a local government, the State of California or the United States and which specially benefit from the improvements to be maintained are being assessed.
- E. The assessments do not exceed the maximum annual assessments previously authorized to be levied pursuant to the Assessment Law.

The estimate of costs, the assessment diagram, the assessments and all other matters, as set forth in the Assessment Engineer's Report pursuant to the Assessment Law as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Assessment Engineer's Report, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment, and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessment and diagram shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

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

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CONFIRMING THE DIAGRAM AND ASSESSMENT AND PROVIDING FOR THE ANNUAL ASSESSMENT LEVY WITHIN STREET LIGHTING MAINTENANCE DISTRICT NO. 2 FOR FISCAL YEAR 2018-19.

WHEREAS, the City Council of the City of Ontario, California, has initiated proceedings for the levy of the annual assessment in a street lighting maintenance district created pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Lighting Act"), Article XIID of the Constitution of the State of California ("Article XIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the Lighting Act, Article XIID and the Implementation Act may be referred to collectively herein as the "Assessment Law"), in a special maintenance district known and designated as

CITY OF ONTARIO
STREET LIGHTING MAINTENANCE DISTRICT NO. 2

(hereinafter referred to as the "District"); and

WHEREAS, the City Council has ordered the preparation of an Engineer's Report, and such report (the "Assessment Engineer's Report") has been prepared pursuant to the Assessment Law and filed with this City Council for its consideration, and subsequently thereto this City Council did adopt its Resolution of Intention to levy and collect assessments for the referenced fiscal year relating to the above-referenced District, and further did proceed to give notice of the time and place for the Public Hearing on all matters relating to said annual levy of the proposed assessment; and

WHEREAS, at this time this City Council has heard all testimony and evidence and is desirous of proceeding with said annual levy of assessments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That upon the conclusion of the Public Hearing, written protests filed and not withdrawn are hereby overruled and denied.

SECTION 3. That based upon the Assessment Engineer's Report and the testimony and other evidence presented at the public hearing, the City Council hereby makes the following determinations regarding the assessments proposed to be imposed for the referenced fiscal year:

- A. The proportionate special benefit derived by each individual parcel assessed has been determined in relationship to the entirety of the cost of the operations and maintenance expenses.
- B. The assessments do not exceed the reasonable cost of the proportional special benefit conferred on each parcel.
- C. Only the special benefits have been assessed.
- D. All parcels within the District that are owned or used either by a local government, the State of California or the United States and which specially benefit from the improvements to be maintained are being assessed.
- E. The assessments do not exceed the maximum annual assessments previously authorized to be levied pursuant to the Assessment Law.

The estimate of costs, the assessment diagram, the assessments and all other matters, as set forth in the Assessment Engineer's Report pursuant to the Assessment Law as submitted, are hereby approved, adopted by this City Council, and hereby confirmed.

SECTION 4. That this City Council hereby confirms and orders the annual levy of the assessments for the referenced fiscal year in the amounts as set forth in the Assessment Engineer's Report, and as referred to in the Resolution of Intention as previously adopted relating to said annual assessment levy.

SECTION 5. That the adoption of this Resolution constitutes the levy of the assessments for the fiscal year.

SECTION 6. That the maintenance work of improvements contemplated by the Resolution of Intention shall be performed pursuant to law.

SECTION 7. That the County Auditor shall enter on the County Assessment Roll the amount of the Assessment, and said Assessment shall then be collected at the same time and in the same manner as the County taxes are collected. After collection by said County, the net amount of the assessment shall be paid to the City Treasurer of said City.

SECTION 8. That the City Treasurer has previously established a special fund into which the City Treasurer shall place all monies collected by the Tax Collector pursuant to the provisions of the Resolution and the law, and said transfer shall be made and accomplished as soon as said monies have been made available to said City Treasurer.

SECTION 9. That the City Manager is hereby ordered and directed to file, or cause to be filed, the assessment roll with the County Auditor, together with a certified copy of this Resolution upon its adoption.

SECTION 10. That a certified copy of the assessment and diagram shall be filed in the Office of the City Manager, with a duplicate copy on file in the Records Management Department and open for public inspection.

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

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

PAUL S. LEON, MAYOR

ATTEST:

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL 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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

CITY OF ONTARIO

Agenda Report
July 17, 2018

SECTION:
PUBLIC HEARINGS

SUBJECT: A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE ONTARIO INTERNATIONAL AIRPORT (ONT) LAND USE COMPATIBILITY PLAN (ALUCP) FILE NO. PALUI8-004 TO: 1) UPDATE AIRPORT OWNERSHIP REFERENCES FROM LOS ANGELES WORLD AIRPORTS (LAWA) TO ONTARIO INTERNATIONAL AIRPORT AUTHORITY (OIAA); 2) ELIMINATE LAWA'S PROPOSAL TO RECONFIGURE THE ONT RUNWAY SYSTEM BY SHIFTING BOTH RUNWAYS SOUTH AND EAST OF THEIR PRESENT POSITION (EXHIBIT I-6: SIMPLIFIED AIRPORT DIAGRAM) AND RELY ON THE EXISTING RUNWAY SYSTEM (CURRENT AIRPORT LAYOUT PLAN) FOR THE ONT ALUCP; AND 3) UPDATE POLICY MAPS 2-1: AIRPORT INFLUENCE AREA, 2-2: SAFETY ZONES, 2-3: NOISE IMPACT ZONES, 2-4: AIRSPACE PROTECTION ZONES, AND 2-5: OVERFLIGHT NOTIFICATION ZONES TO REFLECT IMPACTS FROM THE EXISTING RUNWAY CONFIGURATION AND ELIMINATE THE COMPOSITE APPROACH THAT PROTECTS LAWA'S PROPOSED RUNWAY RECONFIGURATIONS. THE GEOGRAPHIC SCOPE OF THE ONT ALUCP IS THE AIRPORT INFLUENCE AREA (AIA), WHICH INCLUDES PORTIONS OF THE CITIES OF ONTARIO, FONTANA, UPLAND, MONTCLAIR, RANCHO CUCAMONGA, CHINO, POMONA, CLAREMONT AND UNINCORPORATED PORTIONS OF SAN BERNARDINO, RIVERSIDE AND LOS ANGELES COUNTIES

RECOMMENDATION:

COUNCIL GOALS: Invest in the Growth and Evolution of the City's Economy
Operate in a Businesslike Manner
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

FISCAL IMPACT: While there is no quantified fiscal impact identified for the amendment, adopting land use measures and policies that are in line with future airport growth protects the viability of the airport

STAFF MEMBER PRESENTING: Scott Murphy, AICP, Executive Director, Development Agency

Prepared by: Lorena Mejia
Department: Planning Department
City Manager Approval: 

Submitted to Council/O.H.A. 07/17/2018
Approved: _____
Continued to: _____
Denied: _____

20

and the economic benefits it brings to the City and the region, in addition to preventing future incompatible development.

BACKGROUND: Ontario International Airport (ONT) is classified as a primary commercial service airport, owned and operated by the Ontario International Airport Authority (OIAA). As such, ONT is required to have an Airport Land Use Compatibility Plan (ALUCP) to promote compatibility between ONT and the land uses that surround it. The Airport Influence Area (AIA) includes areas in which current or future airport-related noise, safety, airspace protection and/or overflight factors may affect land uses or necessitate limitations, restrictions or prohibitions on those uses (see Appendix A of the ALUCP).

On April 19, 2011, the City Council adopted the Airport Land Use Compatibility Plan for Ontario International Airport (ONT ALUCP). The 2011 ONT ALUCP identified potential impacts for noise, airspace and overflight that extended beyond Ontario's city limits, including portions of Ontario, Fontana, Upland, Montclair, Rancho Cucamonga, Chino, Pomona, Claremont, Los Angeles County, and Riverside County. The ONT ALUCP outlined policies for plan preparation, adoption, amendments and mediating disputes and was implemented through a Cooperation Agreement adopted by all impacted San Bernardino County agencies.

ONT ALUCP DOCUMENT BACKGROUND: State law dictates that airport land use compatibility plans have a 20 year horizon and be based upon an Airport Master Plan or an Airport Layout Plan. The ONT ALUCP incorporated the current airport configuration and future growth forecasts based on the Airport Master Plan (AMP) contemplated by Los Angeles World Airports (LAWA), which showed the runways shifting to the south and east. LAWA's AMP was not completed and an Airport Layout Plan (ALP) drawing was prepared showing the existing and potential future runway configurations proposed by LAWA and served as the basis of the ALUCP for ONT. The ALP drawing showing both runway configurations was approved by the California Division of Aeronautics in July of 2009.

On May 30, 2018, the City of Ontario received a letter from the OIAA requesting the ONT ALUCP be based on the most recently approved Airport Layout Plan (ALP) instead of the alternative runway configurations proposed by LAWA in 2009. In response to this request, proposed changes were made and forwarded to the ONT-IAC Technical Advisory Committee (TAC) for review and a meeting was held on June 21, 2018 to review the proposed changes, at which time the TAC recommended approval of the amendment.

ONT ALUCP AMENDMENT: The proposed amendment for the ONT ALUCP does the following:

- a) Updates airport ownership references from Los Angeles World Airports (LAWA) to Ontario International Airport Authority (OIAA);
- b) Eliminates LAWA's proposal to reconfigure the ONT runway system shifting both runways south and east of their present position for the ONT ALUCP; and
- c) Updates Policy Maps 2-1: Airport Influence Area, 2-2: Safety Zones, 2-3: Noise Impact Zones, 2-4: Airspace Protection Zones, and 2-5: Overflight Notification Zones to reflect impacts from the existing runway configuration and eliminate provisions reflecting LAWA's proposed runway reconfiguration.

On June 26, 2018, the Planning Commission conducted a public hearing to consider this amendment and voted (5-0) to recommend City Council approval.

TOP (GENERAL PLAN) COMPLIANCE: General Plans and Specific Plans must be made consistent with adopted airport compatibility plans. Several sections of State law establish the relationship between Airport Land Use Compatibility Plans and county and city General and Specific Plans. In particular, Government Code Section 65302.3 requires that General Plans and any applicable Specific Plans “shall be consistent with” the Compatibility Plan. The proposed ONT ALUCP amendment maintains consistency with current principles, goals and policies contained within The Ontario Plan (TOP) Policy Plan (General Plan) and is therefore compliant with all state laws.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with File No. PADV07-008, for which a Negative Declaration (SCH# 2011011081) was adopted by the Ontario City Council on April 19, 2011. This project introduces no new significant environmental impacts.



PLANNING COMMISSION STAFF REPORT

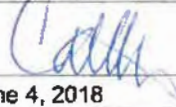
June 26, 2018

SUBJECT: An amendment (File No. PALU18-004) to the Ontario International Airport Land Use Compatibility Plan (ONT ALUCP) to: 1) Update airport ownership references from Los Angeles World Airports (LAWA) to Ontario International Airport Authority (OIAA); 2) Eliminate LAWA's proposal to reconfigure the ONT runway system by shifting both runways south and east of their present position (Exhibit 1-6: Simplified Airport Diagram) and rely on the existing runway system (current Airport Layout Plan) for the ONT ALUCP; and 3) Update Policy Maps 2-1: Airport Influence Area, 2-2: Safety Zones, 2-3: Noise Impact Zones, 2-4: Airspace Protection Zones and 2-5: Overflight Notification Zones to reflect impacts from the existing runway configuration and eliminate the composite approach that protects existing and LAWA's proposed runway reconfigurations. The geographic scope of the ONT ALUCP is the Airport Influence Area (AIA), which includes portions of the Cities of Ontario, Fontana, Upland, Montclair, Rancho Cucamonga, Chino, Pomona, Claremont and unincorporated portions of San Bernardino, Riverside and Los Angeles Counties. **Submitted by: City of Ontario, Planning Department. City Council action is required.**

RECOMMENDED ACTION: That the Planning Commission recommend approval of File No. PALU18-004 to the City Council, pursuant to the facts and reasons contained in the staff report and attached resolution.

PROJECT SETTING: Ontario International Airport (ONT) is centrally located within the City of Ontario within southwestern San Bernardino County. ONT is classified as a primary commercial service airport, owned and operated by the Ontario International Airport Authority (OIAA).

The geographic scope of the Airport Land Use Compatibility Plan (ALUCP) is the Airport Influence Area (AIA), the area in which current or future airport-related noise, safety, airspace protection and/or overflight factors may affect land uses or impose restrictions on those uses. The AIA includes portions of the Cities of Ontario, Fontana, Upland, Montclair, Rancho Cucamonga, Chino, Pomona, and Claremont, the Counties of Riverside and Los Angeles and unincorporated portions of San Bernardino County. The Airport Influence Area for ONT is depicted in Figure 1 (on page two of this report) and Policy Map 2-1 of the ONT ALUCP.

Case Planner:	Lorana Mejia	Hearing Body	Date	Decision	Action
Planning Director Approval:		DAB			
Submitter Date:	June 4, 2018	ZA			
Hearing Deadline:	n/a	PC	6/26/18	Approval	Recommend
		CC	7/17/18		

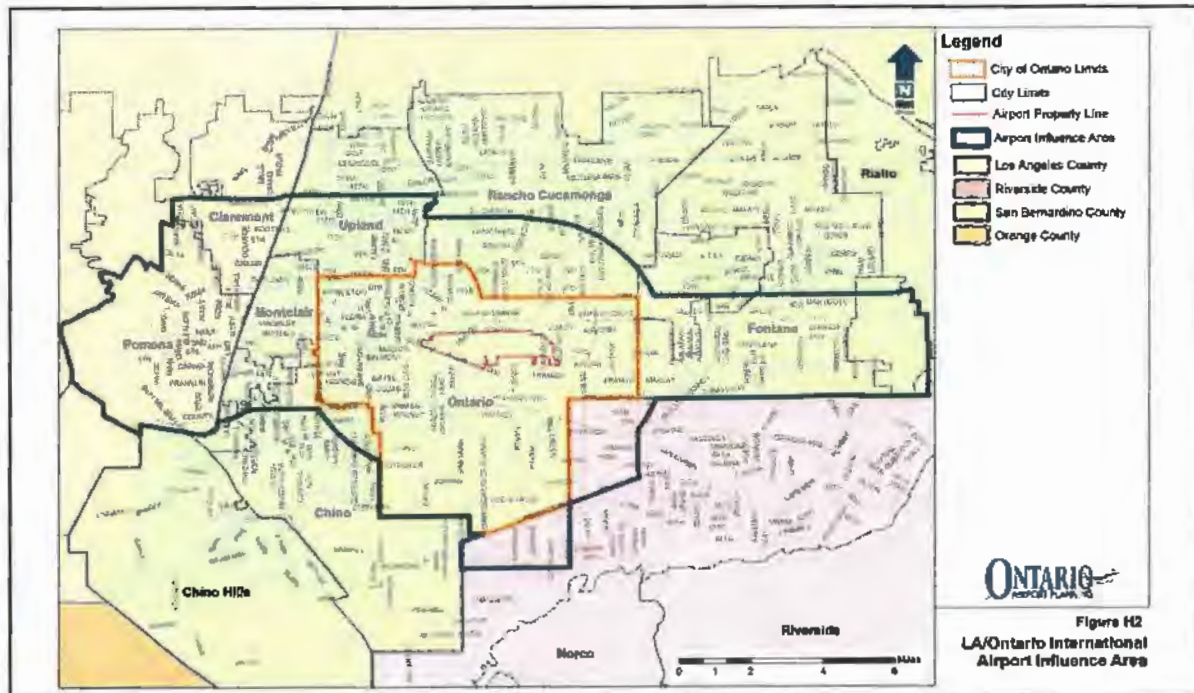


Figure 1: Project Location

PROJECT ANALYSIS:

[1] Alternative Process Background — In most counties, the responsibility for the preparation and adoption of airport land use compatibility plans falls to the county airport land use commission (ALUC). However, State law also provides for what is referred to as an “Alternative Process” wherein a county does not have to form an ALUC and the required compatibility planning responsibilities fall to local jurisdictions. The Alternative Process within San Bernardino County was established in 1995 by resolutions of the County Board of Supervisors and the city councils of cities affected by airports. Ontario City Council adopted the Alternative Process through Resolution No. 95-34 consistent with state law. The California Division of Aeronautics approved the San Bernardino County Alternative Process in 1996. The approval of the Alternative Process designated the City of Ontario as the local jurisdiction responsible for airport land use compatibility planning for ONT.

On April 19, 2011 the Ontario City Council adopted the Airport Land Use Compatibility Plan for Ontario International Airport (ONT ALUCP). The 2011 ONT ALUCP identified ONT impacts for noise, airspace and overflight that extended beyond Ontario City Limits which required processes to be established for mediating disputes with impacted jurisdictions to fulfill State Public Utilities Code Section 21670.1(c)(2). The ONT ALUCP outlined policies for plan preparation, adoption, amendments and mediating disputes and was implemented through a Cooperation Agreement. The Cooperation Agreement

established the Ontario International Airport – Inter Agency Collaborative (ONT-IAC) that was adopted by all impacted San Bernardino County agencies (City of Chino, City of Fontana, City of Montclair, City of Ontario, City of Rancho Cucamonga, City of Upland and San Bernardino County) in mid-2012.

[2] ONT ALUCP Document Background — State law dictates that airport land use compatibility plans have a 20 year horizon and be based upon an Airport Master Plan (AMP) or an Airport Layout Plan (ALP). The 2011 ONT ALUCP incorporated the future growth forecasts proposed by the previous airport owner operator, Los Angeles World Airports (LAWA) airport master plan efforts. The activity forecasts LAWA generated prior to the discontinuation of the AMP, explored the “no project” and “proposed project” scenarios, which could potentially be seen by 2030 depending upon the ultimate configuration of the airport’s runway. LAWA’s AMP efforts were not completed or adopted, and an ALP drawing was prepared showing the existing and potential future runway configurations proposed by LAWA and served as the basis of the ALUCP for ONT. The ALP drawing showing both runway configurations was approved by the California Division of Aeronautics in July of 2009.

On May 30, 2018 the City of Ontario received a letter from the OIAA requesting the ONT ALUCP be based on the most recently approved Airport Layout Plan (ALP) instead of the alternative runway configurations proposed by LAWA. In response to this request, proposed changes were made and forwarded to the ONT-IAC Technical Advisory Committee (TAC) for review and a meeting was held on June 21, 2018 to review the proposed changes.

[3] ONT ALUCP Amendment — The proposed redlined amendment of the ONT ALUCP document are included as part of “Attachment A” within this amendment’s Resolution and includes the following changes:

a) *Update airport ownership references from Los Angeles World Airports (LAWA) to Ontario International Airport Authority (OIAA).*

- The ONT transfer from LAWA to OIAA was completed in late 2016. As a result the LA/ONT name references for the airport were eliminated from the document and changed to ONT throughout the document. Language to page 1-4 of the document regarding the OIAA formation and ownership transfer were added. References of LAWA throughout the document were removed and replaced with the OIAA.

b) *Eliminate LAWA’s proposal to reconfigure the ONT runway system by shifting both runways south and east of their present position (Exhibit 1-6: Simplified Airport Diagram) and rely on the existing runway system (current Airport Layout Plan) for the ONT ALUCP.*

- Exhibit 1-6 (Simplified Airport Diagram) was removed and replaced with ONT's current Airport Layout Plan (See Figure 2: ONT Airport Layout Plan) that only shows the existing runway configurations.
- The document changes include the removal of all text referencing the reconfiguration of the runways and the "proposed project" scenario. All relevant text and visual references within Chapter 1 and 2 exhibits and maps were also removed.

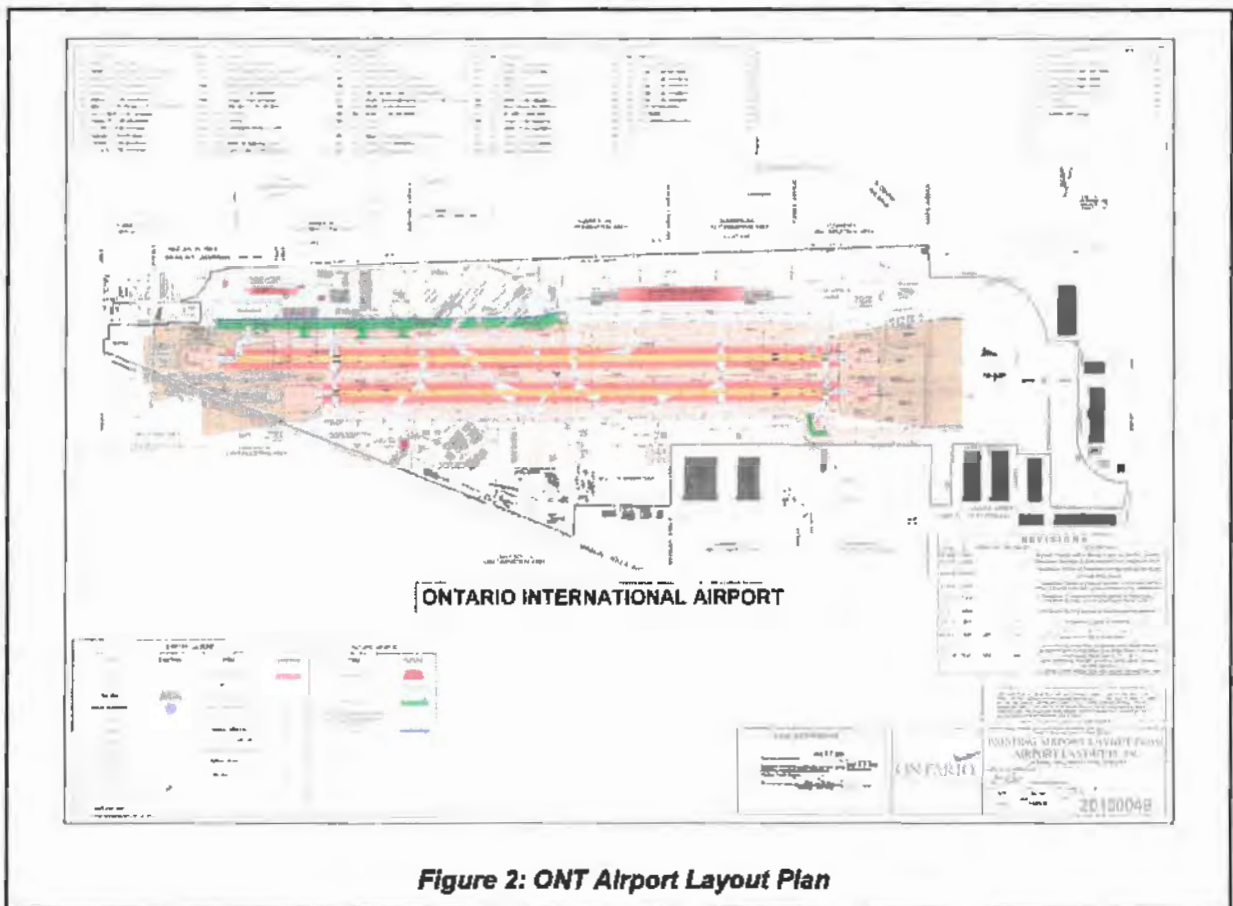


Figure 2: ONT Airport Layout Plan

c) Update Policy Maps 2-1: Airport Influence Area, 2-2: Safety Zones, 2-3: Noise Impact Zones, 2-4: Airspace Protection Zones and 2-5: Overflight Notification Zones to reflect impacts from the existing runway configuration and eliminate the composite approach that protects existing and LAWA's proposed runway reconfigurations.

- The policy maps were updated to eliminate the composite approach and will only reflect the existing runway system and “no project” scenario. As a result the Safety Zones, Noise Impact Zones, Airspace Protection Zones and Overflight Notification Zones were geographically reduced. The following is an explanation of each compatibility factor (Safety, Noise, Airspace Protection and Overflight) that is followed by its corresponding existing and proposed policy map.

[4] **Safety Zones** — The safety compatibility policies of the ALUCP apply only to the City of Ontario since the safety zones are located solely within Ontario’s city limits. The five safety zones around ONT affect both the intensity of development (i.e., number of people allowed per acre of land) and total permissible floor area of any future building developed. The safety zones also place restrictions on new residential land uses from being developed within the affected areas along with special land uses, such as schools. The existing and proposed five safety zones are depicted Figures 3 and 4 below and can be found in Chapter 2 of ALUCP (Map 2-2: Safety Zones). The proposed amendment will reduce the footprint of the safety zones on the east, west and south side of ONT.

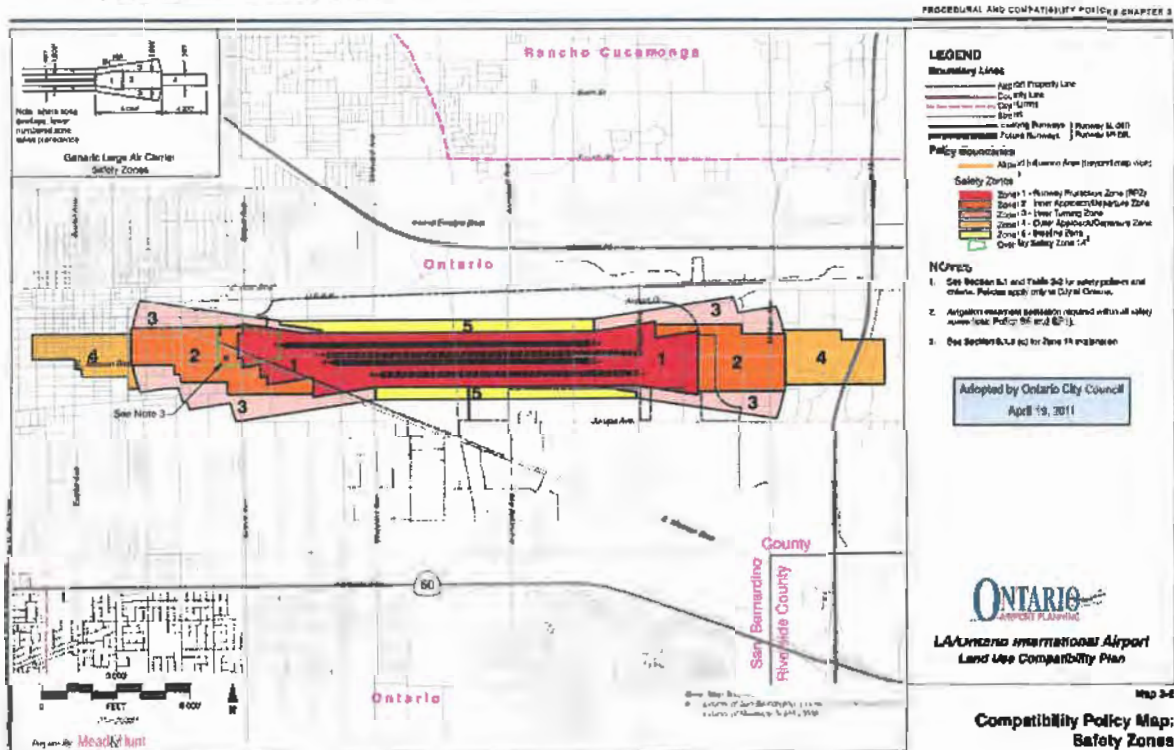


Figure 3: Existing Safety Zone Policy Map

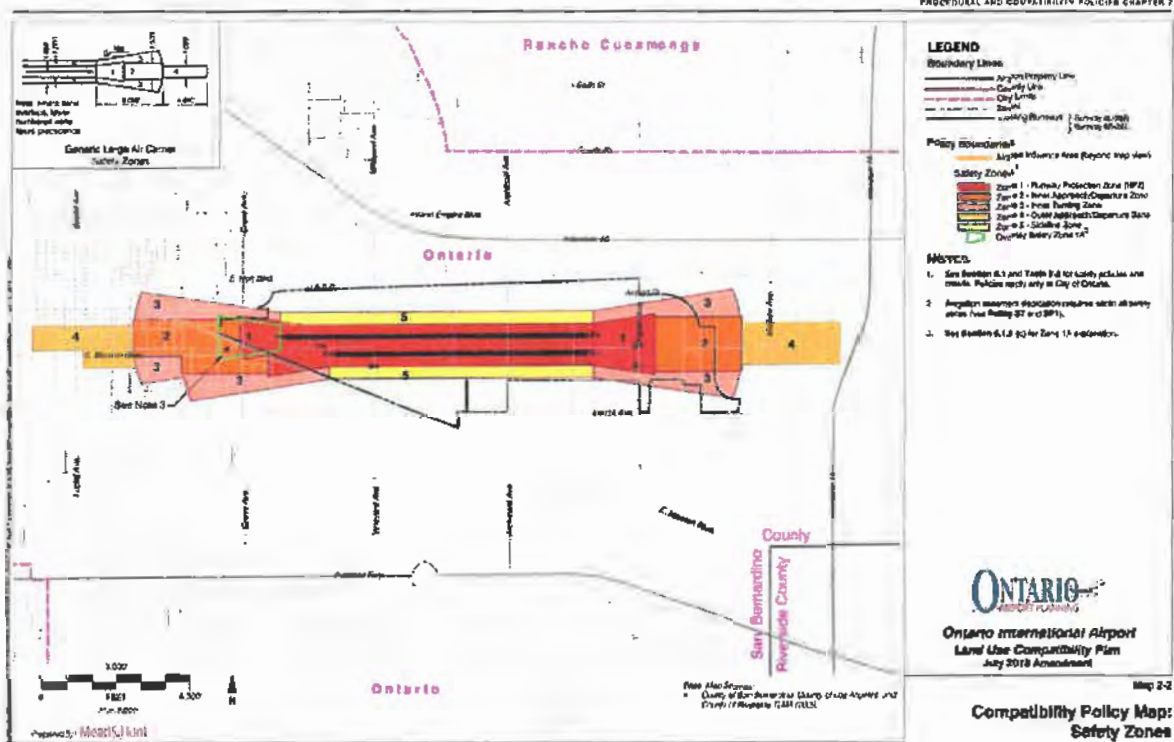


Figure 4: Proposed Safety Zone Policy Map

[5] **Noise Impact Zones** — The purpose of noise compatibility policies is to avoid the establishment of new noise-sensitive land uses within portions of the ONT AIA that will be exposed to significant levels of aircraft noise. The noise impact zones depicted on the following page represent the “no project” scenario reflecting the existing runway configuration with a 2030 forecast. The “proposed project” scenario reflecting the ultimate runway configuration with a 2030 forecast were removed as part of this update. To minimize noise-sensitive development in noisy areas around ONT, new development will be evaluated in accordance with the policies set forth in the ALUCP. Land uses that are considered to be noise-sensitive are detailed within the ALUCP but the general plan land use designation of most concern is the development of new residential land uses within the 65 CNEL noise contour, which the ALUCP places restrictions on and prohibits in some areas. The existing and proposed noise impact zones are depicted in Figures 5 and 6 on the following page and can be found in Chapter 2 of the ALUCP (Map 2-3: Noise Impact Zones). The proposed amendment will reduce the footprint of the noise impact zones on the east, west north and south side of ONT.

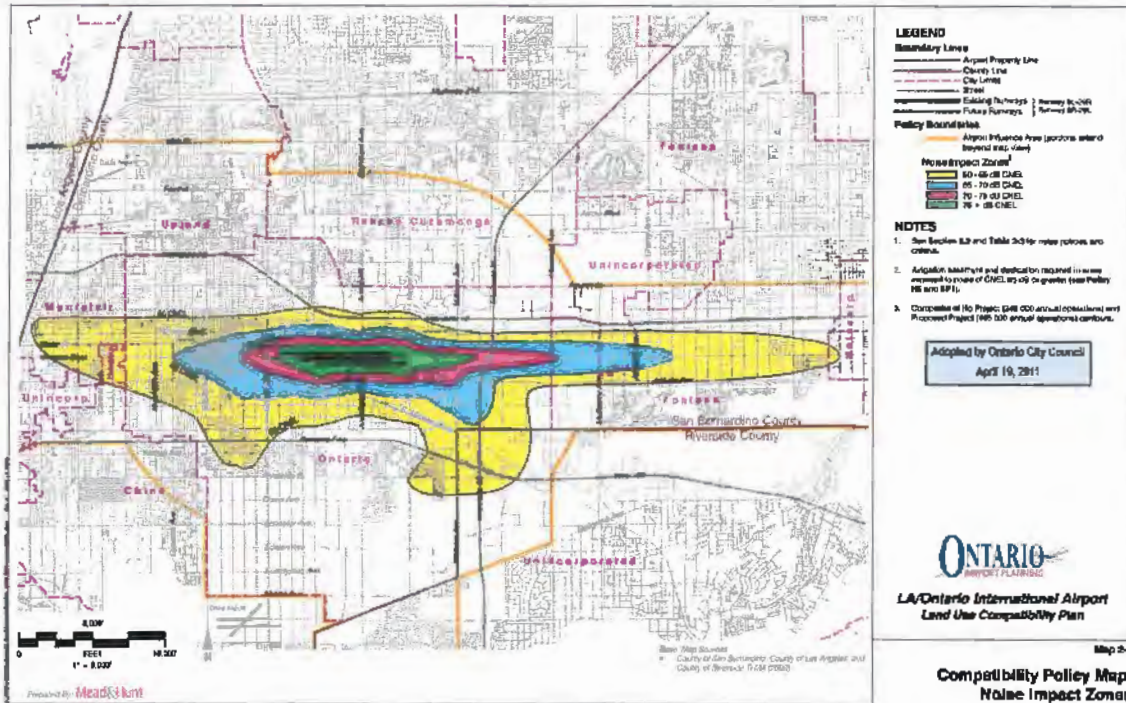


Figure 5: Existing Noise Impact Zones Policy Map

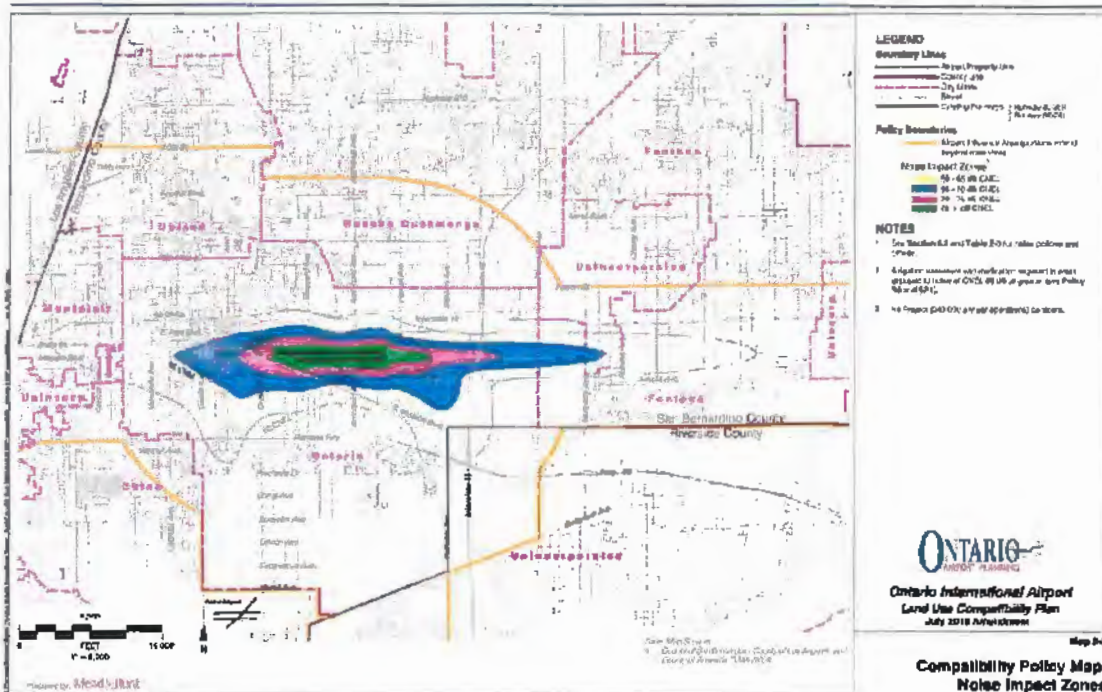


Figure 6: Proposed Noise Impact Zones Policy Map

[6] **Airspace Protection** — Airspace protection compatibility policies seek to prevent creation of land use features that can be hazards to aircraft in flight and have the potential for causing an aircraft accident to occur. Such hazards may be physical such as a building being built to high or lands uses on the ground that may cause visual or electronic hazards. The factors considered in setting airspace protection policies include: Federal Aviation Regulations (FAR) Part 77; the United States Standard for Terminal Instrument Procedures (TERPS); the One-Engine Inoperative (OEI) obstacle identification surface; and local topography which are detailed further within the ALUCP.

To determine the allowable heights of future objects, the underlying ground elevation is compared with the elevation of the controlling portions of the FAR Part 77, TERPS, and OEI surfaces. The existing and proposed policy maps are depicted below in Figures 7 and 8 and can be found in Chapter 2 of the ALUCP (Map 2-4: Airspace Protection Zones). The proposed amendment will not further reduce the footprint of the airspace protection zone areas but may affect allowable heights that are calculated on a project location basis.

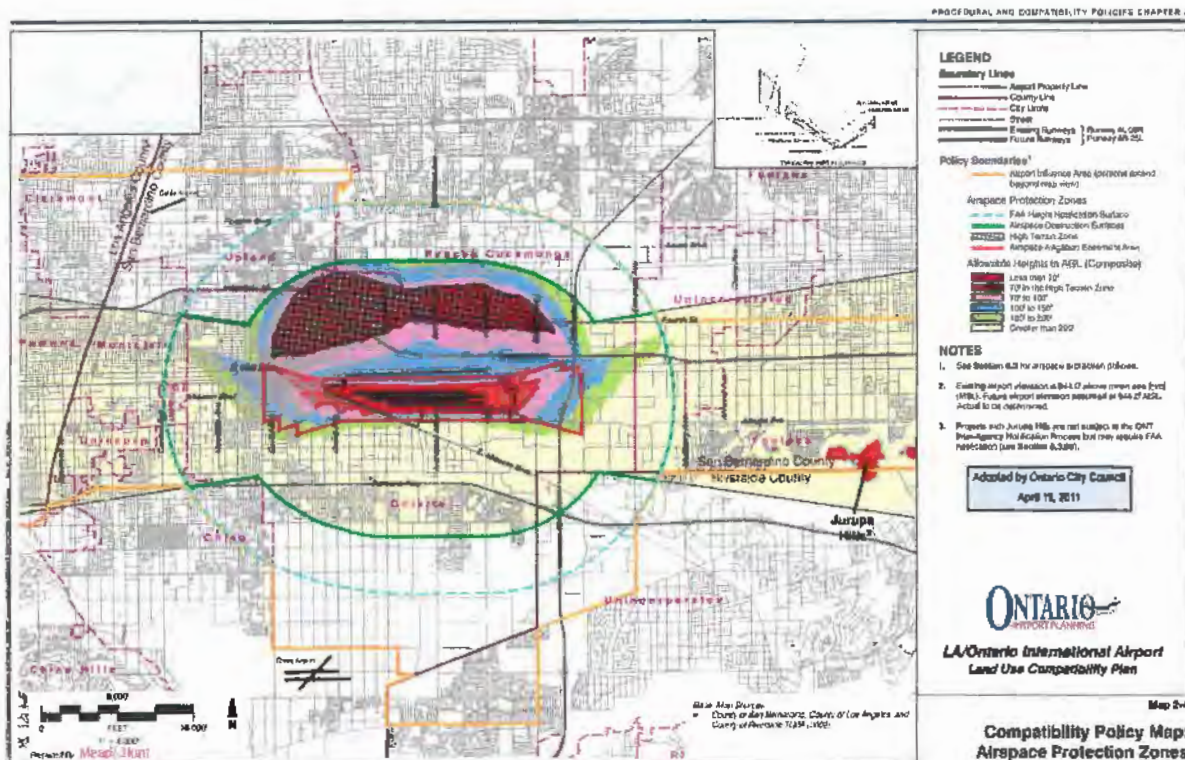


Figure 7: Existing Airspace Protection Policy Map

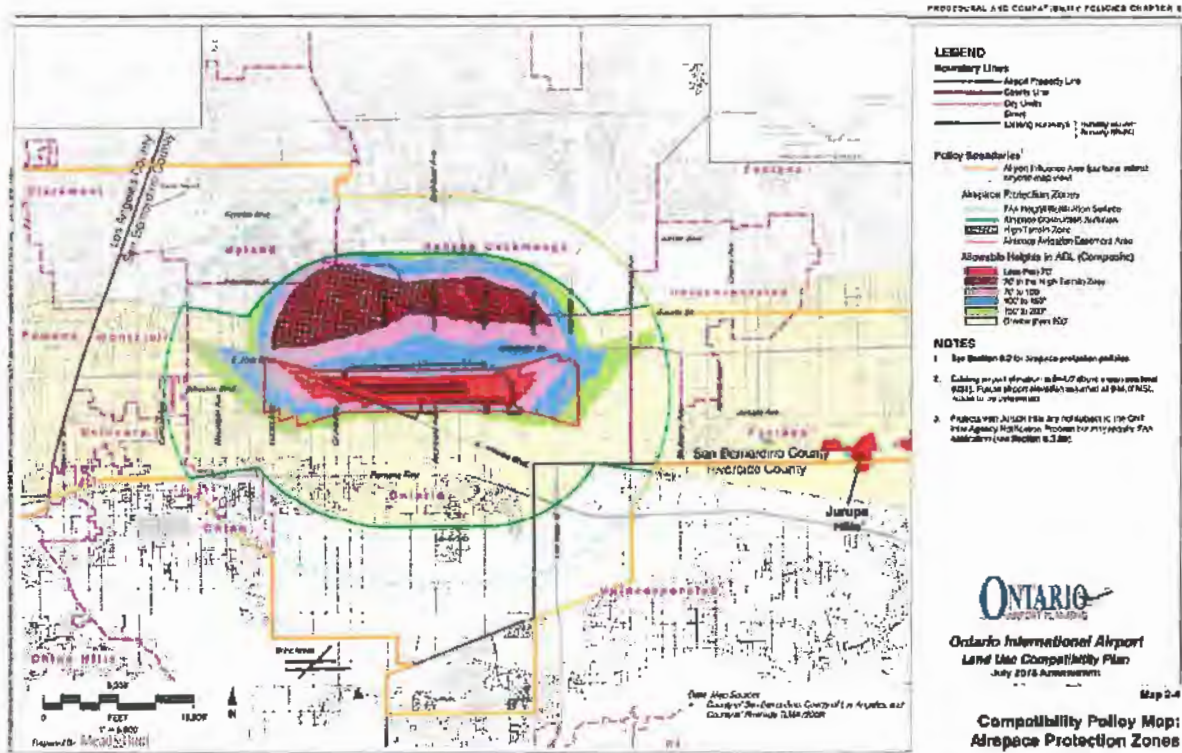


Figure 8: Proposed Airspace Protection Policy Map

[7] **Overflight** — Noise from individual aircraft operations, can be intrusive and annoying in locations beyond the limits of the noise impacts zones. Sensitivity to aircraft overflights varies from one person to another. The purpose of overflight compatibility policies is to help notify people about the presence of overflights near airports so that they can make more informed decisions regarding acquisition or lease of property in the affected areas. Overflight compatibility is particularly important with regard to residential land uses.

The loudness of individual aircraft noise events is a key determinant of where airport proximity and aircraft overflight notification is warranted. The FAA has determined that overflight exposure is not significant where aircraft are flying at an altitude of 3,000 feet or more above ground level. The existing and proposed boundary of the overflight area for ONT, is depicted Figures 9 and 10 on the following page and can be found in Chapter 2 of the ALUCP (Map 2-5: Overflight Notification Zones). The map is drawn to encompass locations where aircraft approaching and departing the airport typically fly at an altitude of 3,000 feet or less, together with locations underlying the airspace protection and height notification surfaces. The proposed amendment will reduce the footprints of the Aviation Easement and Recorded Overflight Notification Zones.

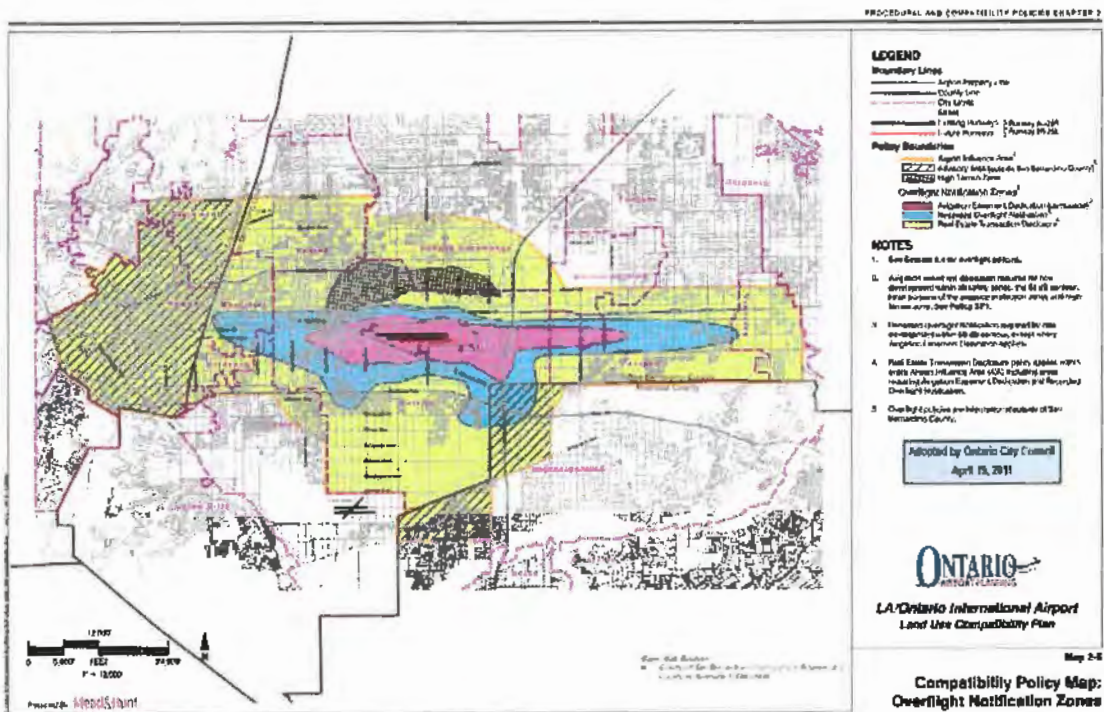


Figure 9: Existing Overflight Policy Map

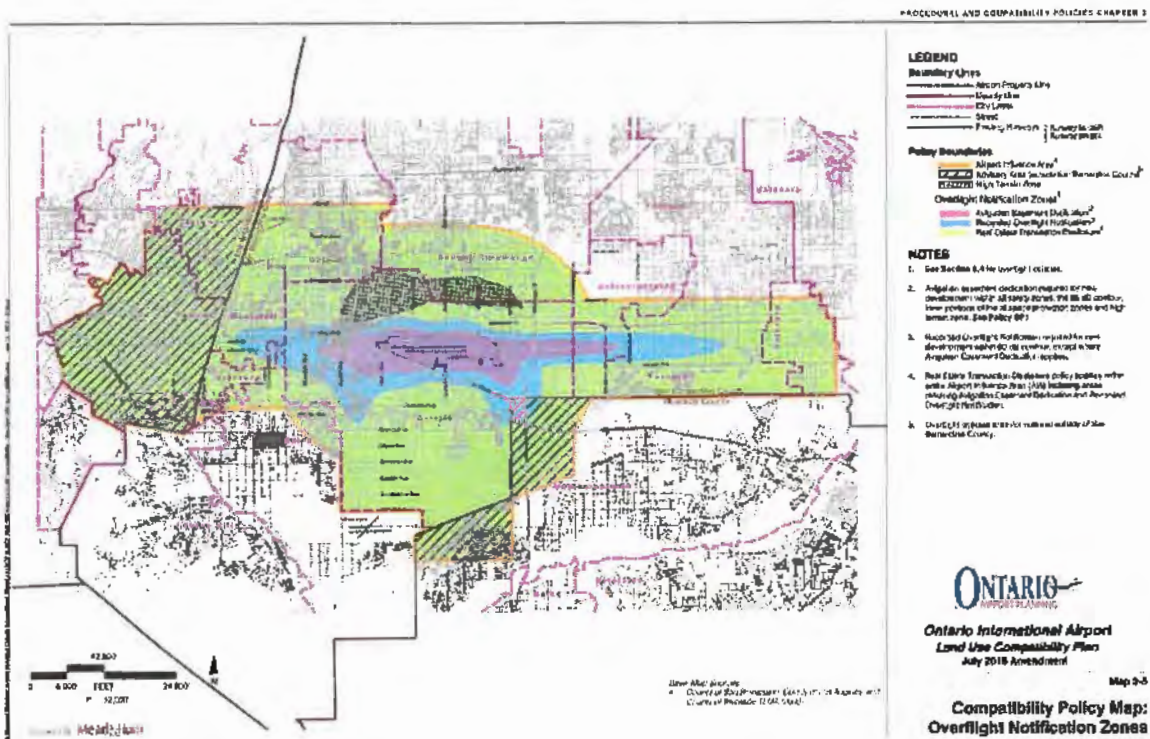


Figure 10: Proposed Overflight Policy Map

ALUCP AND GENERAL PLAN LAND USE CONSISTENCY: State Law requires General Plans and Specific Plans must be made consistent with adopted airport compatibility plans. Government Code Section 65302.3 requires that General Plans and any applicable Specific Plans “shall be consistent with” the Compatibility Plan and is reiterated in local agencies’ obligations under the Alternative Process (Public Utilities Code Section 21670.1(c)(2)(D)). General Plans do not need to be identical with the ALUCP in order to achieve consistency. Affected jurisdictions’ General Plans must do the following: (1) address compatibility planning issues, either directly or through reference to a zoning ordinance or other policy document; and (2) must avoid direct conflicts with the (ALUCP) development policies and criteria.

The consistency requirement pertains only to future land use development. Nothing in state law or the ALUCP requires that already existing development be removed or modified to eliminate incompatibilities that may already exist. Furthermore, General Plans and Specific Plans can show such land uses as continuing even though they would be nonconforming with the ALUCP criteria. Conflicts of this type do not constitute inconsistencies between a General Plan or Specific Plan and the ALUCP.

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

[1] City Council Goals.

- Invest in the Growth and Evolution of the City’s Economy
- Pursue City’s Goals and Objectives by Working with Other Governmental Agencies

[2] Policy Plan (General Plan)

Land Use Element:

- Goal LU5: Integrated airport systems and facilities that minimize negative impacts to the community and maximize economic benefits.

➤ LU5-1 Coordination with Airport Authorities: We collaborate with FAA, Caltrans Division of Aeronautics, airport owners, neighboring jurisdictions, and other shareholders in the preparation, update and maintenance of airport-related plans.

➤ LU5-2 Airport Planning Consistency: We coordinate with airport authorities to ensure The Ontario Plan is consistent with state law, federal regulations and/or adopted master plans and land use compatibility plans for the ONT and Chino Airport.

➤ LU5-3 Airport Compatibility Planning for ONT: We create and maintain the Airport Land Use Compatibility Plan for ONT.

ENVIRONMENTAL REVIEW: The environmental impacts of this project were previously reviewed in conjunction with File No. PADV07-008, for which a Negative Declaration (State Clearinghouse No. 2011011081) was adopted by the Ontario City Council on April 19, 2011. This project introduces no new significant environmental impacts.

RESOLUTION NO. PC18-068

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVE FILE NO. PALU18-004, AN AMENDMENT TO THE ONTARIO INTERNATIONAL AIRPORT LAND USE COMPATIBILITY PLAN (ONT ALUCP) TO: 1) UPDATE AIRPORT OWNERSHIP REFERENCES FROM LOS ANGELES WORLD AIRPORTS (LAWA) TO ONTARIO INTERNATIONAL AIRPORT AUTHORITY (OIAA); 2) ELIMINATE LAWA'S PROPOSAL TO RECONFIGURE THE ONT RUNWAY SYSTEM BY SHIFTING BOTH RUNWAYS SOUTH AND EAST OF THEIR PRESENT POSITION (EXHIBIT 1-6: SIMPLIFIED AIRPORT DIAGRAM) AND RELY ON THE EXISTING RUNWAY SYSTEM (CURRENT AIRPORT LAYOUT PLAN) FOR THE ONT ALUCP; AND 3) UPDATE POLICY MAPS 2-1: AIRPORT INFLUENCE AREA, 2-2: SAFETY ZONES, 2-3: NOISE IMPACT ZONES, 2-4: AIRSPACE PROTECTION ZONES AND 2-5: OVERFLIGHT NOTIFICATION ZONES TO REFLECT IMPACTS FROM THE EXISTING RUNWAY CONFIGURATION AND ELIMINATE THE COMPOSITE APPROACH THAT PROTECTS EXISTING AND LAWA'S PROPOSED RUNWAY RECONFIGURATIONS. THE GEOGRAPHIC SCOPE OF THE ONT ALUCP IS THE AIRPORT INFLUENCE AREA (AIA), WHICH INCLUDES PORTIONS OF THE CITIES OF ONTARIO, FONTANA, UPLAND, MONTCLAIR, RANCHO CUCAMONGA, CHINO, POMONA, CLAREMONT AND UNINCORPORATED PORTIONS OF SAN BERNARDINO, RIVERSIDE AND LOS ANGELES COUNTIES, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, City of Ontario ("Applicant") has filed an Application for the approval of an amendment to the Airport Land Use Compatibility Plan for Ontario International Airport, File No. PALU18-004, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Resolution No. 95-34 established the City of Ontario as the responsible agency for land use compatibility planning for Ontario International Airport; and

WHEREAS, the geographic scope of the Airport Land Use Compatibility Plan (ALUCP) is the Airport Influence Area (AIA), the area in which current or future airport-related noise, safety, airspace protection and/or overflight factors may affect future land uses or necessitate restrictions on those uses; and

WHEREAS, the Airport Influence Area which include portions of the Cities of Ontario, Fontana, Upland, Montclair, Rancho Cucamonga, Chino, Pomona and

Claremont, portions of Riverside and Los Angeles Counties and unincorporated portions of San Bernardino; and

WHEREAS, the basic function of the project is to promote compatibility between Ontario International Airport and the land uses that surround it and the main objective of the project is to avoid future compatibility conflicts rather than to remedy existing incompatibilities; and

WHEREAS, the Project is aimed at addressing future land uses and development, not airport activity and the project does not place any restrictions on the present and future role, configuration, or use of the airport; and

WHEREAS, on April 19, 2011 the Ontario City Council adopted the Airport Land Use Compatibility Plan for Ontario International Airport (ONT ALUCP) that was based upon a Simplified Airport Diagram emphasizing both the existing and anticipated ultimate configurations of the runway system generated by Los Angeles World Airports (LAWA) the previous airport owner/operator; and

WHEREAS, on May 30, 2018 the City of Ontario received a letter from the current ONT airport owner and operator, the OIAA (Ontario International Airport Authority) requesting the ONT ALUCP be based on the most recently approved Airport Layout Plan (ALP) instead of the alternative runway configurations proposed by LAWA; and

WHEREAS, the proposed amendment includes updating airport ownership references from LAWA to OIAA; the elimination of LAWA's proposal to reconfigure the ONT runway system and rely only upon the existing runway system (current Airport Layout Plan) for the ONT ALUCP; and update Policy Maps 2-1: Airport Influence Area, 2-2: Safety Zones, 2-3: Noise Impact Zones, 2-4: Airspace Protection Zones and 2-5: Overflight Notification Zones to reflect impacts from the existing runway configuration; 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 environmental impacts of this project were previously reviewed in conjunction with File No. File No. PADV07-008, for which a Negative Declaration (State Clearinghouse No. 2011011081) was adopted by the Ontario City Council on April 19, 2011, 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, the Application is a project pursuant to CEQA (Public Resources Code Section 21000 et seq.), and an initial study has been prepared to determine possible environmental impacts; and

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

WHEREAS, 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 June 26, 2018, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1: Environmental Determination and Findings. As the recommending body for the Project, the Planning Commission has reviewed and considered the information contained in the previous Negative Declaration and supporting documentation. Based upon the facts and information contained in the previous Negative Declaration and supporting documentation, the Planning Commission finds as follows:

(1) The environmental impacts of this project were reviewed in conjunction with the Negative Declaration, previously adopted by the City of Ontario Council on April 19, 2011, in conjunction with File No. PADV07-008.

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

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

(4) The previous "ND" reflects the independent judgment of the Planning Commission; and

(5) The proposed project will introduce no new significant environmental impacts beyond those previously analyzed in the previous "ND".

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

(1) ***The proposed ALUCP Amendment will protect the public health, safety, and welfare by ensuring the orderly expansion of airports.*** The proposed ONT ALUCP amendment will ensure the orderly expansion of ONT by protecting the current runway configuration system shown in the most recently approved Airport Layout Plan dated March 7, 2018.

(2) ***The proposed ALUCP Amendment will minimize the public's exposure to excessive noise and safety hazards within areas around the airport to the extent that these areas are not already devoted to incompatible uses.*** The proposed ONT ALUCP amendment will minimize the public's exposure to excessive noise and safety hazards within areas around ONT by protecting the current runway configuration system shown in the most recently approved Airport Layout Plan dated March 7, 2018.

(3) ***The proposed ALUCP Amendment is consistent with the goals and policies of the general plan.*** The proposed ONT ALUCP amendment is consistent with the policies of The Ontario Plan, specifically policy LU5-3 Airport Compatibility Planning for ONT that requires the City Ontario to create and maintain the Airport Land Use Compatibility Plan for ONT.

(4) ***The proposed ALUCP Amendment is reasonable and beneficial, and in the interest of good planning practice.*** The proposed amendment is reasonable and beneficial in the interest of good planning practices since it will continue to protect the orderly expansion of the airport and allow surrounding land uses to be developed consistently with the future planned growth of ONT. The proposed amendment will eliminate the need to limit land uses based upon a future runway configuration that has been deemed unnecessary by the owner/operator of ONT.

SECTION 6: *Planning Commission Action.* Based upon the findings and conclusions set forth in Sections 1 through 4, above, the Planning Commission hereby recommends the City Council APPROVES the herein described Application, as shown in "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: Certification to Adoption. The Secretary shall certify to the adoption of the Resolution.

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

I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 26th day of June 2018, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.


Richard D. Delman
Planning Commission Chairman

ATTEST:


Cathy Wahlstrom
Planning Director
Secretary of Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC18-068 was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on June 26, 2018, by the following roll call vote, to wit:

AYES: DeDiemar, Delman, Gregorek, Reyes, Willoughby

NOES:

ABSENT: Downs, Gage

ABSTAIN:



Gwen Berendsen
Secretary Pro Tempore

ATTACHMENT A:

File No. PALU18-004

**Ontario International Airport
Land Use Compatibility Plan (ONT ALUCP)
Document**

ONTARIO INTERNATIONAL AIRPORT LAND USE
COMPATIBILITY PLAN

(PALU18-004)

**Complete text and all supporting documents are
available for public review during
normal business hours at the
City Clerk's office**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PALU18-004, AN AMENDMENT TO THE ONTARIO INTERNATIONAL AIRPORT LAND USE COMPATIBILITY PLAN TO: 1) UPDATE AIRPORT OWNERSHIP REFERENCES FROM LOS ANGELES WORLD AIRPORTS (LAWA) TO ONTARIO INTERNATIONAL AIRPORT AUTHORITY (OIAA); 2) ELIMINATE LAWA'S PROPOSAL TO RECONFIGURE THE ONT RUNWAY SYSTEM BY SHIFTING BOTH RUNWAYS SOUTH AND EAST OF THEIR PRESENT POSITION (EXHIBIT 1-6: SIMPLIFIED AIRPORT DIAGRAM) AND RELY ON THE EXISTING RUNWAY SYSTEM (CURRENT AIRPORT LAYOUT PLAN) FOR THE ONT ALUCP; AND 3) UPDATE POLICY MAPS 2-1: AIRPORT INFLUENCE AREA, 2-2: SAFETY ZONES, 2-3: NOISE IMPACT ZONES, 2-4: AIRSPACE PROTECTION ZONES AND 2-5: OVERFLIGHT NOTIFICATION ZONES TO REFLECT IMPACTS FROM THE EXISTING RUNWAY CONFIGURATION AND ELIMINATE THE COMPOSITE APPROACH THAT PROTECTS EXISTING AND LAWA'S PROPOSED RUNWAY RECONFIGURATIONS. THE GEOGRAPHIC SCOPE OF THE ONT ALUCP IS THE AIRPORT INFLUENCE AREA (AIA), WHICH INCLUDES PORTIONS OF THE CITIES OF ONTARIO, FONTANA, UPLAND, MONTCLAIR, RANCHO CUCAMONGA, CHINO, POMONA, CLAREMONT AND UNINCORPORATED PORTIONS OF SAN BERNARDINO, RIVERSIDE AND LOS ANGELES COUNTIES, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, City of Ontario ("Applicant") has filed an Application for the approval of an amendment to the Airport Land Use Compatibility Plan for Ontario International Airport, File No. PALU18-004, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Resolution No. 95-34 established the City of Ontario as the responsible agency for land use compatibility planning for Ontario International Airport; and

WHEREAS, the geographic scope of the Airport Land Use Compatibility Plan (ALUCP) is the Airport Influence Area (AIA), the area in which current or future airport-related noise, safety, airspace protection and/or overflight factors may affect future land uses or necessitate restrictions on those uses; and

WHEREAS, the Airport Influence Area which include portions of the Cities of Ontario, Fontana, Upland, Montclair, Rancho Cucamonga, Chino, Pomona and Claremont, portions of Riverside and Los Angeles Counties and unincorporated portions of San Bernardino; and

WHEREAS, the basic function of the project is to promote compatibility between Ontario International Airport and the land uses that surround it and the main objective of the project is to avoid future compatibility conflicts rather than to remedy existing incompatibilities; and

WHEREAS, the Project is aimed at addressing future land uses and development, not airport activity and the project does not place any restrictions on the present and future role, configuration, or use of the airport; and

WHEREAS, on April 19, 2011, the Ontario City Council adopted the Airport Land Use Compatibility Plan for Ontario International Airport (ONT ALUCP) that was based upon a Simplified Airport Diagram emphasizing both the existing and anticipated ultimate configurations of the runway system generated by Los Angeles World Airports (LAWA) the previous airport owner/operator; and

WHEREAS, on May 30, 2018, the City of Ontario received a letter from the current ONT airport owner and operator, the OIAA (Ontario International Airport Authority) requesting the ONT ALUCP be based on the most recently approved Airport Layout Plan (ALP) instead of the alternative runway configurations proposed by LAWA; and

WHEREAS, the proposed amendment includes updating airport ownership references from LAWA to OIAA; the elimination of LAWA's proposal to reconfigure the ONT runway system and rely only upon the existing runway system (current Airport Layout Plan) for the ONT ALUCP; and update Policy Maps 2-1: Airport Influence Area, 2-2: Safety Zones, 2-3: Noise Impact Zones, 2-4: Airspace Protection Zones and 2-5: Overflight Notification Zones to reflect impacts from the existing runway configuration; 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 environmental impacts of this project were previously reviewed in conjunction with File No. File No. PADV07-008, for which a Negative Declaration (SCH# 2011011081) was adopted by the Ontario City Council on April 19, 2011, 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, the Application is a project pursuant to CEQA (Public Resources Code Section 21000 et seq.), and an initial study has been prepared to determine possible environmental impacts; 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 June 26, 2018, 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. PC18-068, recommending the City Council approve the Application; and

WHEREAS, on July 17, 2018, 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 previous Negative Declaration and supporting documentation. Based upon the facts and information contained in the previous Negative Declaration and supporting documentation, the City Council finds as follows:

(1) The environmental impacts of this project were previously reviewed in conjunction with File No. PADV07-008, for which a Negative Declaration was adopted by the Ontario City Council on April 19, 2011.

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

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

(4) The previous Negative Declaration 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 Negative Declaration, and all mitigation measures previously adopted with the Negative Declaration, are incorporated herein by this reference.

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

(1) ***The proposed ALUCP Amendment will protect the public health, safety, and welfare by ensuring the orderly expansion of airports.*** The proposed ONT ALUCP amendment will ensure the orderly expansion of ONT by protecting the current runway configuration system shown in the most recently approved Airport Layout Plan dated March 7, 2018.

(2) ***The proposed ALUCP Amendment will minimize the public's exposure to excessive noise and safety hazards within areas around the airport to the extent that these areas are not already devoted to incompatible uses.*** The proposed ONT ALUCP amendment will minimize the public's exposure to excessive noise and safety hazards within areas around ONT by protecting the current runway configuration system shown in the most recently approved Airport Layout Plan dated March 7, 2018.

(3) ***The proposed ALUCP Amendment is consistent with the goals and policies of the general plan.*** The proposed ONT ALUCP amendment is consistent with the policies of The Ontario Plan, specifically policy LU5-3 Airport Compatibility Planning for ONT that requires the City Ontario to create and maintain the Airport Land Use Compatibility Plan for ONT.

(4) ***The proposed ALUCP Amendment is reasonable and beneficial, and in the interest of good planning practice.*** The proposed amendment is reasonable and beneficial in the interest of good planning practices since it will continue to protect the orderly expansion of the airport and allow surrounding land uses to be developed consistently with the future planned growth of ONT. The proposed amendment will eliminate the need to limit land uses based upon a future runway configuration that has been deemed unnecessary by the owner/operator of ONT.

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 ONT ALUCP amendment, 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. Certification to Adoption. The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 17th day of July 2018.

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. 2018- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held July 17, 2018, 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. 2018- duly passed and adopted by the Ontario City Council at their regular meeting held July 17, 2018.

SHEILA MAUTZ, CITY CLERK

(SEAL)

ATTACHMENT A:

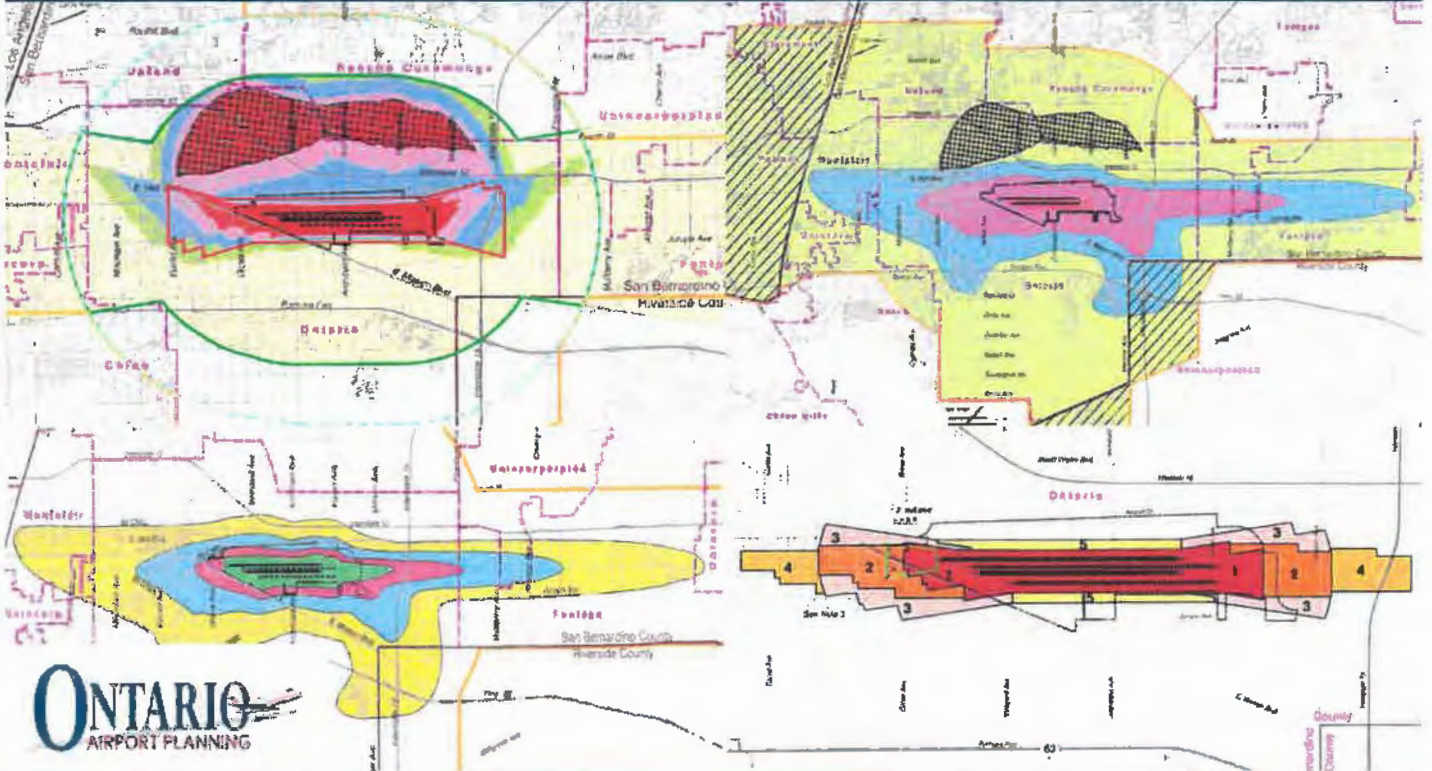
**File No. PALU18-004;
Ontario International Airport
Land Use Compatibility Plan (ONT ALUCP)
Amendment**

(Document follows this page)



LA/ONTARIO INTERNATIONAL AIRPORT LAND USE COMPATIBILITY PLAN

CITY OF ONTARIO AIRPORT COMPATIBILITY PLANNING



ONTARIO
AIRPORT PLANNING

ADOPTED APRIL 19, 2011 - AMENDED JULY 2018

ONTARIO INTERNATIONAL AIRPORT LAND USE COMPATIBILITY PLAN



City Council

Paul S. Leon, *Mayor*

Debra Dorst-Porada, *Mayor pro Tem*

Alan D. Wapner, *Council Member*

Sheila Mautz, *Council Member*

Jim W. Bowman, *Council Member*

Chris Hughes, *City Manager*

Otto Kroutil, *Development Agency Director*

Planning Commission

Bob Gregorek, *Chairman*

Richard Delman, *Commissioner*

Rick Gage, *Commissioner*

Barbara Hartley, *Commissioner*

Fausto Reyes, *Commissioner*

ADOPTED BY ONTARIO CITY COUNCIL

APRIL 19, 2011

ORDINANCE NO. 2935

EFFECTIVE DATE

MAY 19, 2011

AMENDMENT

JULY 17, 2018

Prepared for:
City of Ontario
Planning Department



Jerry L. Blum
Planning Director
303 East B Street
Ontario, CA 91764

Principal Planner
Cathy Wahlstrom

Project Manager
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Prepared by:
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Project Manager
Maranda Thompson

In association with:



Harris Miller Miller & Hanson, Inc.



Technology Associates
International Corporation

Technology Associates
International Corporation

Funded by:
Federal Aviation Administration (FAA)



Section 160 of Vision 100
Century of Aviation Reauthorization Act

ACKNOWLEDGEMENTS

The City of Ontario would like to thank the Technical Advisory Committee for their time, participation and technical assistance with development of the Airport Land Use Compatibility Plan for LA/Ontario International Airport. The City also thanks the Federal Aviation Administration (FAA) for allocating the grant funds which made the development of this plan possible.



CITY OF ONTARIO

Jerry L. Blum, *Planning Director*
Scott Murphy, *Assistant Planning Director*
Cathy Wahlstrom, *Principal Planner*
Barbara Paine, *Principal Planner*
Chuck Mercler, *Senior Planner*
Richard Ayala, *Senior Planner*
Lorena Mejia, *Associate Planner*
Louis Abi-Younes, *City Engineer*
Nabil Kassih, *Assistant City Engineer*
Tom Danna, *Traffic Engineer*
John Andrews, *Redevelopment Director*
Sigfrido Rivera, *Housing Manager*
Peter Witherow, *IT Applications Manager*
Robert De Casas, *Senior System Analyst*
Dale Wishner, *IT Systems Manager*

ALUCP PLANNING COMMISSION SUB-COMMITTEE

Richard Delman, *Planning Commissioner*
Fred Nelsen, *Vice Chair*

FEDERAL AVIATION ADMINISTRATION (FAA)

Margie Drilling, *Aviation Planner, Los Angeles ADO*

CALTRANS, DIVISION OF AERONAUTICS

Terry Barrie, *Chief, Office of Aviation Planning*
Ron Bolyard, *Associate Aviation Land Use Planner*
Chris Ferrell, *Associate Aviation Land Use Planner*

LOS ANGELES WORLD AIRPORTS (LAWA)

Jess L. Romo, *Airport Manager*
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Eileen Schoetzow, *Forecasting and Analysis*
Sheryl Thomas Perkins, *Senior Government Affairs Representative*

SAN BERNARDINO COUNTY

Mike N. Williams, A.A.E., *Director of Airports*
Jim Squire, *Deputy Director*
Christine Barilla, *Land Use Services Director Representative*

CITY OF CHINO

Chris Lovell, *Principal Planner*

CITY OF FONTANA

Debbie Brazill, *Deputy City Manager*
Don Williams, *Director of Community Development*
Charles Fahie, *Senior Planner*

CITY OF MONTCLAIR

Steve Lustra, *Community Development Director*
Michael Diaz, *City Planner*

CITY OF RANCHO CUCAMONGA

James R. Troyer, *Planning Director*
Donald Granger, *Senior Planner*

CITY OF UPLAND

Karen Peterson, *Planning Manager*
Jeff Bloom, *Community Development Director*

COUNTY OF RIVERSIDE

Ed Cooper, *Airport Land Use Commission Director*
Ron Goldman, *Planning Director*
John Guerin, *Principal Planner*

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Maranda Thompson, *Project Manager, Aviation Services*
Ken Brody, *Senior Project Planner*
Keith Downs, *Senior Planner*
Corbett Smith, *Airport Planner*
Todd Eroh, *Senior Technician*

DUDEK

Shawn Shamlou, *Environmental Manager*
Lisa Lubeley, *GIS Manager*

HARRIS MILLER MILLER & HANSON, INC.

Robert Behr, *Senior Noise Consultant*

TECHNOLOGY ASSOCIATES INTERNATIONAL CORPORATION

TION

Pat Atchison, *GIS Tool Manager*

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Aviation is an important industry in the State of California. It plays a significant role in the local and regional economy. Airports provide a means of transportation, business development, recreational aviation opportunities and educational venues to the citizens of the State, as well as visitors to the region. Communities in close proximity of an airport benefit from its economic value but are also subject to airport impacts such as noise and safety. Airport Land Use Compatibility Plans are documents that address airport impacts and provide implementation techniques to ensure the development of compatible land uses around airports.

This *Airport Land Use Compatibility Plan (Compatibility Plan)* addresses land use impacts around ~~LA~~/Ontario International Airport. The document is organized into two chapters and a set of appendices. Chapter 1 identifies the background data and methodology utilized for the basis of this *Compatibility Plan* and Chapter 2 identifies the procedural policies and compatibility criteria for implementing this Plan.





Chapter **1**

BACKGROUND AND METHODOLOGY

AIRPORT COMPATIBILITY PLANNING

Introduction

The California State Aeronautics Act (Public Utilities Code, Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan (Compatibility Plan) be prepared for all public-use airports in the state to:

“protect the public health, safety, and welfare by ensuring orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible land uses.”

State law also requires local land use plans and individual development proposals to be consistent with policies set forth in Compatibility Plans. Compatibility Plans must have 20-year horizons, taking into consideration regional growth projections and future airport expansion plans that would increase airport activity and associated impacts. Compatibility Plans are tailored to each airport’s specific land use impacts and issues. The statutes also require that local jurisdictions preparing Compatibility Plans “rely upon” the compatibility guidance provided by the *California Airport Land Use Planning Handbook* published by the California Department of Transportation (Caltrans), Division of Aeronautics in January 2002.

Five-Step Compatibility Planning Process

The development of the ~~LA~~ *Ontario International Airport Land Use Compatibility Plan* followed this five-step process.

- **Step 1: Initiate Process and Gather Data**
Conduct preliminary work needed to initiate the compatibility planning process such as identifying the responsibilities of the City of Ontario in preparing the *Compatibility Plan*, gathering pertinent airport data such as an airport master plan or airport layout plan, and identifying/notifying the different stakeholders.
- **Step 2: Delineate the Airport Influence Area**
Define the areas that need to be considered for airport land use compatibility planning by examining the four factors of compatibility that include safety, noise, airspace protection and overflight consistent with the *California Airport Land Use Planning Handbook (Handbook)*.
- **Step 3: Identify Compatibility Concerns**
Examine the level of compatibility in the community by evaluating existing land uses and land use plans against compatibility concerns.
- **Step 4: Develop Compatibility Policies**
Examine the various policies and regulatory documents available (e.g. *California Handbook*, Public Utilities Code, FAA guidance) to guide in the development of compatibility policies that will be part of the airport land use compatibility plan.

→ **Step 5: Establish Implementation Strategies**

Identify and adopt strategies for implementing the compatibility plan, making local land use plans consistent with the *Compatibility Plan* and processing consistency reviews of future development proposals.

THE ONT COMPATIBILITY PLAN

Function of the Compatibility Plan

The basic function of the *Compatibility Plan* for ~~LA~~/Ontario International Airport (ONT) is to promote compatibility between ONT and the land uses that surround it. As required by state law, the *Compatibility Plan* provides guidance to affected local jurisdictions with regard to airport land use compatibility matters involving ONT. The *Compatibility Plan* is separate and distinct from the jurisdictions' other land use policy documents—their general plans, specific plans, and zoning ordinances—yet all of the documents are expected to be made consistent with each other through incorporation of the compatibility policies into their land use policy documents.

The main objective of the *Compatibility Plan* is to avoid future compatibility conflicts rather than to remedy existing incompatibilities. Also, the *Compatibility Plan* is aimed at addressing future land uses and development, not airport activity. The *Compatibility Plan* does not place any restrictions on the present and future role, configuration, or use of the airport.

Airport Influence Area

The central component of this *Compatibility Plan* is the set of procedural and compatibility policies outlined in Chapter 2. These policies set limits on future land uses and development near the airport in response to noise, safety, airspace protection, and overflight impacts of current and future airport activity. The geographic extent of these four types of impacts together constitutes the ONT Airport Influence Area (AIA). The ONT AIA encompasses lands within parts of San Bernardino, Riverside and Los Angeles Counties. However, this *Compatibility Plan* applies only to jurisdictions within San Bernardino County; specifically, the County of San Bernardino and the Cities of Chino, Fontana, Montclair, Ontario, Rancho Cucamonga, and Upland, together with any special district, community college district, or school district that exists or may be established or expanded into the AIA. The *Compatibility Plan* does not apply to state-owned, federal or tribal lands.

Note: The compatibility policies set forth herein, specifically in Chapter 2, are relevant to Los Angeles and Riverside County jurisdictions and Los Angeles and Riverside County Airport Land Use Commissions. These agencies are encouraged to adopt these policies for their portions of the ONT AIA, but are not required to.

The *Compatibility Plan* has been prepared in coordination with the applicable jurisdictions listed above and representatives of Caltrans Division of Aeronautics and the Federal Aviation Administration (FAA) Los Angeles Airports District Office.

Effective Date and Adoption of the Compatibility Plan

The provisions of the *Compatibility Plan* will take effect upon the plan's adoption by the City of Ontario. Other affected entities within San Bernardino County have options as to how to incorporate pertinent *Compatibility Plan* provisions into their respective local plans and policies or to dispute portions of the plan, but they cannot simply opt out of the process (Public Utilities Code Section 21670.1 (c)).

THE “ALTERNATIVE PROCESS”

State Law Requirements

In most counties, the responsibility for the preparation and adoption of compatibility plans falls to the county airport land use commission (ALUC). State law also provides for what is generally referred to as an “Alternative Process” wherein a county does not have to form an ALUC and the required compatibility planning responsibilities fall to local jurisdictions. San Bernardino County and its cities elected to follow the Alternative Process when this option became available as a result of the 1994 legislation (Assembly Bill 2831).

Specific requirements for implementation of the Alternative Process are set forth in Public Utilities Code Section 21670.1(c)(2) as follows:

“...[the] county and the appropriate affected cities having jurisdiction over an airport, subject to the review and approval by the Division of Aeronautics of the department, shall do all of the following:

- (A) Adopt processes for the preparation, adoption, and amendment of the airport land use compatibility plan for each airport that is served by a scheduled airline or operated for the benefit of the general public.
- (B) Adopt processes for the notification of the general public, landowners, interested groups, and other public agencies regarding the preparation, adoption, and amendment of the airport land use compatibility plans.
- (C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the airport land use compatibility plans.
- (D) Adopt processes for the amendment of general and specific plans to be consistent with the airport land use compatibility plans.
- (E) Designate the agency that shall be responsible for the preparation, adoption, and amendment of each airport land use compatibility plan.”

Paragraph (3) of Section 21670.1(c) goes on to say that:

“The Division of Aeronautics of the department shall review the processes adopted pursuant to paragraph (2), and shall approve the processes if the division determines that the processes are consistent with the procedure required by this article and will do all of the following:

- (A) Result in the preparation, adoption, and implementation of plans within a reasonable amount of time.
- (B) Rely on the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations.
- (C) Provide adequate opportunities for notice to, review of, and comment by the general public, landowners, interested groups, and other public agencies.”

San Bernardino County Alternative Process

Use of the Alternative Process within San Bernardino County was established in 1995 by resolutions of the County Board of Supervisors and the city councils of cities affected by airports. Specifically the Ontario City Council adopted the Alternative Process through Resolution No. 95-34 utilizing the Airport Environs Section of the General Plan as the basis for airport land use compatibility planning (see Appendix F). The California Division of Aeronautics approved the San Bernardino County

Alternative Process in 1996. The approval of the Alternative Process designated the City of Ontario as the local jurisdiction responsible for leading the compatibility planning process for ONT.

The policies in Chapter 2 of this *Compatibility Plan* clarify and amend the process previously established by Ontario City Council Resolution No. 95-34 to include participation by the other agencies within San Bernardino County having jurisdiction over portions of the ALA established by this *Compatibility Plan*. Participation by these agencies will be accomplished through the ONT Inter-Agency Notification Process and creation of a Mediation Board. The roles and responsibilities of the participating agencies and the Mediation Board are described in Chapter 2. The matrix below identifies the jurisdictions/entities that may be subject to the ONT Alternative Process.

METHODOLOGY FOR CREATING THE ONT COMPATIBILITY PLAN

State law (Public Utilities Code Section 21675(a)) dictates that airport land use compatibility plans be based upon an Airport Master Plan (AMP) or an Airport Layout Plan (ALP). Where an AMP is not available or is outdated, an ALP drawing can serve as the basis for compatibility planning, subject to the approval of the California Division of Aeronautics. An ALP is a drawing showing existing facilities and planned improvements. A typical AMP includes an ALP, but also provides textual background data, a discussion of forecasts, and an examination of alternatives along with detailed description of the proposed development. ALP's and AMP's are prepared for and adopted by the entity that owns and/or operates the airport. Most large, publicly owned airports have an AMP, but many smaller or private airports do not.

Applicability Matrix	San Bernardino County ¹	Riverside County ²	Los Angeles County	Federal Agencies	Native American Tribes	Special Entities ³ of San Bernardino County
Required	x					x
Informational		x	x	x	x	

¹ The Cities within San Bernardino County that are required to participate in the Alternative Process include: Ontario, Rancho Cucamonga, Chino, Montclair, Fontana and Upland.

² The County of Riverside having unincorporated lands within the noise impacted areas of LA/Ontario International Airport has elected to participate in the compatibility planning process for the Airport on a discretionary basis.

³ See definition for "Special Entity" on page 1-9 of this Chapter.

ONT Master Plan Status

ONT has never had an adopted AMP that can serve as the basis for this *Compatibility Plan*. In 2002, Los Angeles World Airports (LAWA) initiated a master planning effort for ONT. A tentative proposal of the AMP involved reconfiguration of the runway system, shifting both runways south and east of their present positions. This reconfiguration ~~is~~ was regarded necessary to enable the runway system to accommodate the volume of aircraft operations associated with the numbers of airline passengers and air cargo expected to use the airport by 2030. Before the new AMP could be completed and adopted, however, the nationwide economic downturn, coupled with local factors, resulted in a substantial decline in activity at ONT. With this decline, the urgency for completion of the AMP largely disappeared and, consequently, LAWA suspended work on the plan development in late 2008.

In August 2012 the City of Ontario and San Bernardino County formed the Ontario International Airport Authority (OIAA) by enacting a Joint Powers Agreement. The OIAA provides overall direction for the management, operations, development and marketing of ONT. The final transfer of ONT from LAWA to OIAA was approved in late 2016. OIAA has since reevaluated LAWA's proposal for

~~separating and lengthening the runways and runway modifications as unnecessary and requested the ONT ALUCP be based on the FAA approved 2018 ALP (see Exhibit 1-5 and 1-6).~~

~~Planning for Future Runway Modifications~~

~~The discontinuation of the ONT AMP efforts left the compatibility planning project without a clearly defined AMP to use as its basis. Without an AMP, the *Compatibility Plan* could be based on the existing runway configuration or the modified configuration that was developed as part of LAWA’s master planning efforts. Both LAWA and the City of Ontario expect the new AMP to eventually move forward with a modified runway system either as indicated on the internal draft plan or similar to it. Not considering the modified runways in the *Compatibility Plan* could potentially enable new development to occur in a manner that would be in conflict with the future airport configuration. Meanwhile, the existing runways also need to be protected until such time as they are no longer in use. Accounting for dual sets of runways in the *Compatibility Plan* makes the plan more complicated, but it is the approach that provides the best assurance of compatibility between the airport and new land use development, both in the near and long terms. Representatives of the California Division of Aeronautics, Federal Aviation Administration (FAA), LAWA and City of Ontario are in concurrence with this approach.~~

~~Therefore, for the purposes of this *Compatibility Plan*, a Simplified Airport Diagram of the airport layout has been prepared emphasizing the features having implications for land use compatibility in both the near and long term. The Simplified Airport Diagram takes into account both the existing and anticipated ultimate configurations of the runway system, runway protection zones (RPZ), setback requirements lateral to the runways and the airport property boundary. In accordance with state law, the Simplified Airport Diagram has been approved by the Division of Aeronautics as the basis for this *Compatibility Plan* (see Exhibit 1-5 and 1-6).~~

Note: The Runway Protection Zones are confined within the City of Ontario.

~~Future and Existing Activity Forecasts~~

~~The activity forecasts LAWA generated prior to the discontinuation of the AMP, explored several possible scenarios that the airport could experience. The *Compatibility Plan* is specifically focusing on two ultimate forecasts that were prepared. The “no project” and “proposed project” scenarios, as defined in the preliminary ONT AMP, represent the two levels of airport activity which could potentially be seen by 2030 depending on the ultimate configuration of the airport.~~

The “no project” forecast assumes that the airport configuration would remain as it is today. This lack of airfield change would limit the airport to approximately 343,000 annual aircraft operations. The preliminary ONT AMP anticipated that this level of demand would be reached by 2030.

~~The “proposed project” forecast is based on the ultimate reconfiguration of the airport. In this configuration, the airfield will be able to accommodate approximately 465,000 operations. This forecast assumes roughly 33.4 million passengers and 3.26 million tons of air cargo enplaned and deplaned annually. The forecast of 33.4 million passengers is based on the assumption that any terminal expansion would be restricted to the north side of the airport provided that the airfield is capable of accommodating it.~~

~~It is important to note that~~ The 3.26 million tons of air cargo expected within the planning period includes both the off-airport United Parcel Service (UPS) activity, and the 1.6 million tons of air cargo served by the on-airport cargo facilities. UPS maintains a large sorting facility south of the airport with a through-the-fence access point. The UPS aircraft land and take off on the ONT runways but UPS cargo is loaded and unloaded at the private UPS site.

Future and Existing Airfield Configurations

The airport's present runway system consists of two parallel runways (8L/26R and 8R/26L) oriented east and west. Runway 8L-26R is 12,200 feet in length, while Runway 8R-26L is 10,200 feet long. Runway 8L has a displaced threshold of 997 feet. Both runways are equipped with High-Intensity Runway Lights (HIRLs) and centerline lights. All runway ends are served by straight-in instrument approaches. Runway 26L has the lowest approach minimums with a straight-in ILS approach having a 200 foot vertical ceiling. The airport is served by an air traffic control tower which operates twenty-four hours a day.

The only published noise abatement procedure for the airport requires Runway 8L for departures and Runway 26L for arrivals between 10:00 p.m. and 7:00 a.m. when weather conditions permit. This noise abatement procedure is also known as a contra-flow. The contra-flow procedures are aimed at reducing the number of nighttime overflights of the residential neighborhoods west of the airport.

The most recent official ONT ALP drawing is one dated ~~February 17, 2009~~ March 7, 2018. ~~LAWA has submitted this ALP to the Federal Aviation Administration (FAA) and it is pending approval.~~ It shows the runway system in its existing configuration. Also, all runway ends, except Runway 8L, are shown having the largest size of runway protection zone (RPZ); specifically, 2,500 feet long, 1,000 feet inner width, and 1,750 feet outer width. This size RPZ is associated with a runway having approach visibility minimums lower than $\frac{3}{4}$ mile and capable of serving all sizes of aircraft. The existing ALP also shows two RPZs west of the Runway 8L threshold. The approach RPZ begins 200 feet from the landing threshold and is 2,500 feet long, with a 1,000 foot inner width, and a 1,750 foot outer width. The departure RPZ begins 200 feet from the physical end of the runway and is 1,700 feet long, with a 500 foot inner width, and a 1,010 foot outer width.

~~An ALP showing the future runway configuration was part of the discontinued AMP. That drawing, which shows both runways being shifted south and east of their current alignments, has been made available for the compatibility planning project, and a conceptual version was made public through a Notice of Preparation of a Draft Environmental Impact Report for the discontinued ONT AMP. The relocated runway position provides a separation of 800 feet between the two runways, compared to 700 feet currently. This increased separation and southward shift will allow for the construction of dual taxiways on the north and a center taxiway between the two runways. The additional taxiway on the north and a center taxiway would aid in circulation and efficiency. These facilities will allow the airport to accommodate the forecast increase in operations without significant delays. Additionally, all four runway ends would have precision instrument approach capabilities and the ALP shows the RPZs accordingly.~~

Note: FAA recommends placing Building Restriction Lines (BRLs) on ALPs to identify suitable building area locations on airports. (FAA Advisory Circular 150/5300-13, Section 210). The BRL shown on the Simplified Airport Diagram (Exhibit 1-6) identifies the approximate locations where buildings of 35 feet in height or taller would be suitable based on FAR Part 77, Subpart C, criteria. The BRL does not account for the topography of the site and, thus, is depicted for informational purposes only and does not constitute ALUCP policy.

LAND USE PLAN CONSISTENCY

State Law Requirements

General Plans and Specific Plans must be made consistent with adopted airport compatibility plans. Several sections of state law establish the relationship between Airport Land Use Compatibility Plans and county and city General and Specific Plans. In particular, Government Code Section 65302.3 requires that General Plans and any applicable Specific Plans "shall be consistent with" the

Compatibility Plan. This requirement is reiterated in local agencies' obligations under the Alternative Process (Public Utilities Code Section 21670.1(c)(2)(D)).

A second point to emphasize is that the consistency requirement pertains only to future land use development. Nothing in state law or the *Compatibility Plan* requires that already existing development be removed or modified to eliminate incompatibilities that may already exist. Furthermore, General Plans and Specific Plans can show such land uses as continuing even though they would be nonconforming with the *Compatibility Plan* criteria. Conflicts of this type do not constitute inconsistencies between a General Plan or Specific Plan and the *Compatibility Plan*.

Consistency Options

General Plans do not need to be identical with Compatibility Plans in order to achieve consistency with them a General Plan must do two things:

- It must specifically address compatibility planning issues, either directly or through reference to a zoning ordinance or other policy document; and
- It must avoid direct conflicts with the Compatibility Plan development policies and criteria.

Compatibility planning issues can be reflected in a General Plan in one, or a combination, of several ways:

- ➔ **Incorporate Policies into Existing General Plan Elements**—One method of achieving the necessary planning consistency is to modify existing General Plan elements. For example, airport land use noise policies could be inserted into the noise element, safety policies could be placed into a safety element and the primary compatibility criteria and associated maps plus the procedural policies might fit into the land use element. With this approach, direct conflicts would be eliminated and the majority of the mechanisms and procedures necessary to ensure compliance with compatibility criteria could be fully incorporated into the local jurisdiction's General Plan.
- ➔ **Adopt a General Plan Airport Element**—Another approach is to prepare a separate airport element of the General Plan. Such a format may be advantageous when the community's General Plan also needs to address on-airport development and operational issues. Modification of other plan elements to provide cross-referencing and eliminate conflicts would still be necessary.
- ➔ **Adopt Compatibility Plan as Standalone Document**—A jurisdiction selecting this option would simply adopt as a local policy document the relevant portions of the compatibility plan—specifically, the policies and maps. Applicable background information could be included as well if desired. Changes to the community's existing General Plan would be minimal. Policy reference to the *Compatibility Plan* would need to be added and any direct land use or other conflicts with compatibility planning criteria would have to be removed. Limited discussion of compatibility planning issues could be included in the General Plan, but the substance of most compatibility policies would appear only in the stand-alone document.
- ➔ **Adopt an Airport Overlay Zone**—Affected jurisdictions can adopt an airport overlay zone for the areas of impact and make reference to them within their respective General Plans or Specific Plans. The airport overlay zone would act as added layer of standards/restrictions over the existing zoning land use designation. Other than where direct conflicts need to be eliminated from the local plans, implementation of procedural and compatibility policies would be accomplished solely through the zoning ordinance. Policy reference to airport compatibility in the General Plan could be as simple as mentioning support for the compatibility planning process indicated in the compatibility plan and stating that policy implementation is by means of

the overlay zone. (An outline of topics which could be addressed in an airport overlay zone is included in Appendix E.)

BACKGROUND INFORMATION

This *Compatibility Plan* is a stand-alone document that addresses airport land use compatibility issues for ONT. Although, this is the first stand-alone document created, the City of Ontario performed airport compatibility planning for the areas around ONT by implementing policies of the 1992 General Plan, Airport Environs Section. The City of Ontario's ~~newly adopted~~ 2010 General Plan refers to this *Compatibility Plan* for guidance on compatibility planning matters.

Definitions for this Compatibility Plan

1. **Action:** A proposed General Plan, Specific Plan, policy document, or individual development project subject to review under the ONT Alternative Process defined in this chapter. Also, an airport master plan, airport layout plan, and certain types of airport improvements proposed by ~~LAWA-OIAA~~ for ONT which would require amendment of the Airport Permit.
2. **Aeronautics Act:** Except as indicated otherwise, the article of the California Public Utilities Code (Sections 21670 *et seq.*) pertaining to airport land use commissions and airport land use compatibility planning.
3. **Affected Agency:** Any county, city, or special district having lands within the ONT Airport Influence Area (AIA). Consistent with state law, each county within the State of California is responsible for its own airport land use compatibility planning efforts. Thus, the policies of this *Compatibility Plan* apply only to the affected agencies of San Bernardino County. However, since the AIA extends beyond the limits of San Bernardino County, information about the airport impacts extending into Riverside and Los Angeles Counties is provided for informational purposes. That is, the affected agencies of Riverside and Los Angeles Counties may use the information and compatibility policies provided herein at their discretion.
 - (a) **Affected Agencies in San Bernardino County:**
 - Cities of Ontario, Chino, Fontana, Montclair, Rancho Cucamonga, and Upland.
 - San Bernardino County, as the jurisdiction having control over unincorporated San Bernardino County lands within the AIA.
 - ~~Los Angeles World Airports (LAWA), a department of the City of Los Angeles, as Ontario International Airport Authority (OIAA),~~ the owner and operator of ~~LA/Ontario International Airport.~~
 - Special entities including school districts, community college districts, and special districts whose boundaries include lands within the San Bernardino County portion of the AIA.
 - (b) **Affected Agencies outside San Bernardino County:**
 - Riverside County, as the jurisdiction having control over unincorporated Riverside County lands within the AIA.

- The City of Eastvale and any future city that may be incorporated within the affected portion of Riverside County.
 - Riverside County Airport Land Use Commission.
 - Cities of Pomona and Claremont, each of which has jurisdiction over portions of the AIA within Los Angeles County.
 - The Los Angeles County Airport Land Use Commission.
4. **Airport:** ~~LA/~~Ontario International Airport (ONT), a commercial airport in the City of Ontario that is owned and operated by Ontario International Airport Authority (OIAA)~~Los Angeles World Airports (LAWA)~~.
 5. **Airport Influence Area (AIA):** An area, as delineated in **Map 2-1** (see Chapter 2), in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restriction on those uses.
 6. **Aviation-Related Use:** Any facility or activity directly associated with the air transportation of persons or cargo or the operation, storage, or maintenance of aircraft at an airport or heliport. Such uses specifically include runways, taxiways, and their associated protection areas defined by the Federal Aviation Administration (FAA), together with aircraft aprons, hangars, fixed base operations facilities, terminal buildings, etc.
 7. **Alternative Process:** State law provides for what is generally known as the “Alternative Process” wherein counties do not have to form an Airport Land Use Commission (ALUC). Instead, the County and affected cities having jurisdiction over an airport are responsible for compatibility planning efforts.
 8. **Compatibility Plan:** This document, the ~~LA/~~*Ontario International Airport Land Use Compatibility Plan*.
 9. **Local Jurisdiction:** Any county or city within the ONT AIA.
 10. **Major Land Use Action:** Actions related to proposed land uses for which compatibility with airport activity is a particular concern. These types of actions are listed in Table 2-1 of Chapter 2. Minor actions (e.g., ministerial acts) are not subject to compatibility reviews.
 11. **Special Entity:** Special districts, school districts, and community college districts owning property or having boundaries within the San Bernardino County portions of the Airport Influence Area.

Table and Map Descriptions

The exhibits at the end of this chapter illustrate the different compatibility factors and other data which were used to evaluate and guide the creation of the ONT compatibility policies and maps that are part of Chapter 2.

Table Descriptions

- **Airport History & Development Summary** — **Exhibit 1-1** provides a historical timeline of airport events and facility improvements.
- **Airport Features Summary** — **Exhibit 1-2** provides a tabular summary of the airfield features at ONT.

- **Airport Activity Data Summary** — **Exhibit 1-3** summarizes future “no project” and “proposed project” aircraft activity data as developed by LAWA for the discontinued AMP.
- **Airport Environs Information** — **Exhibit 1-4** provides a summary of land use policies for neighboring jurisdictions, as well as the status of local plans.
- **Simplified Airport Diagram Acceptance OIAA ALP Update Letter** — **Exhibit 1-5** provides a copy of the acceptance letter issued by the California Division of Aeronautics regarding the Simplified Airport Diagram which was approved on July 21, 2009 OIAA letter requesting the ONT ALUCP be based on the 2018 FAA approved ALP.

Map Descriptions

- **Simplified Airport Diagram ONT ALP** — **Exhibit 1-6** is the simplified airport diagram which shows the airfield area highlighting the existing and future runway configuration, Runway Protection Zone (RPZ) and airport property. The simplified airport diagram was accepted by California Division of Aeronautics in July of 2009 ONT 2018 FAA approved Airport Layout Plan.
- **Runway Protection Zones: West** — The Los Angeles World Airports (LAWA) OIAA employs the use of approach/departure RPZs for Runway 8L. However, the Federal Aviation Administration’s (FAA’s) standard RPZ for runways with instrument approach minimums of less than ¾ mile is larger and would extend further beyond the airport property. The FAA’s standard RPZ (1,000 feet inner width by 2,500 feet length by 1,750 feet outer width) would begin 200 feet beyond the west end of Runway 8L. **Exhibit 1-7** displays the established approach/departure RPZs for Runway 8L as depicted in LAWA’s OIAA’s Airport Layout Plan dated February 17, 2009 March 7, 2018. The FAA’s standard RPZ is also shown for comparative purposes.
- **Compatibility Factors: Safety** — The area of safety concern is depicted in **Exhibit 1-8** using the generic safety zones for a large air carrier runway. These safety zones are taken from the *California Airport Land Use Planning Handbook* (January 2002) published by the California Division of Aeronautics. Consistent with the Handbook, Zone 1 is adjusted to match the RPZs reflected in the Simplified Airport Diagram (see **Exhibit 1-6**).
- **Compatibility Factors: Noise** — Two sets of noise contours are shown in **Exhibit 1-9**. These two sets of contours reflect the “no project” and “proposed project” activity levels of 343,100 and 465,000 annual aircraft operations respectively.
- **Compatibility Factors: Airspace** — Federal Aviation Regulations (FAR) Part 77 airspace surfaces for ONT are depicted in **Exhibits 1-10 Existing Airspace, 1-11 Ultimate Airspace, and 1-12 Composite Airspace**. The height notification surface boundary is based on the combination of the existing and future runway configurations.
- **Modeled Flight Routes** — **Exhibit 1-13-1-11** depicts the flight tracks which were modeled while creating noise contours for the airport. The flight envelope is shown to visualize the standard flight routes to and from the airport, including those that are infrequently flown.
- **Flight Track Altitudes: Arrivals and Departures** — Radar tracks by altitude and a flight track envelope are included for **Exhibits 1-14-12 through 1-1816**. The radar tracks shown reflect several days’ worth of aircraft operations at ONT. The radar tracks were recorded during times or normal east to west operation as well as contra-flow operations. These tracks did not, however, record many instances of west to east operations which occur when the Santa Ana

winds are blowing. The flight envelope is provided to help visualize the areas that are commonly overflowed by aircraft.

- **Existing Land Use** — The existing land uses for the areas within the vicinity of the airport are shown in **Exhibit 1-1917**.
- **General Plan Land Use: City of Ontario** — The General Plan Policy Plan was adopted in January 2010 as depicted in **Exhibit 1-2018**.
- **General Plan Land Use: Other Jurisdictions** — **Exhibit 1-21a-19a** displays the neighboring jurisdictions' adopted General Plan land use designations. The land use legends are shown in **Exhibit 1-21b19b**.

Exhibit 1-1

Airport History and Development Summary

Situated in the southwest corner of San Bernardino County along the southern edge of the San Gabriel Mountains, ONT originated in 1923 as a dirt landing strip east of its current location serving the agricultural uses of the region. Throughout the years the airport has seen significant changes.

- In 1929, the City of Ontario purchased additional land for the airport and it became known as Ontario Municipal Airport.
- In 1942, with the escalation of World War II, two concrete runways were constructed along with an air traffic control tower and an instrument landing system.
- In 1946, in recognition of the transpacific cargo flights originating from the airport, Ontario Municipal Airport was renamed Ontario International Airport.
- During the 1950s, Lockheed, Douglas and Northrop all had facilities at the airport throughout the postwar economic boom.
- In 1967, the Los Angeles City Department of Airports co-signed a joint powers agreement with the City of Ontario and the airport became part of Los Angeles' regional airport system.
- In 1985, the City of Los Angeles became the official title holder for the airport.
- In 1998, service at the new terminal complex began.
- In 1999, the new ground transportation center opened, including six on-airport car rental companies.
- In 2006, the Runway 8L-26R reconstruction and lengthening project was completed.
- Today, the airport is managed by ~~Los Angeles World Airports (LAWA)~~ the Ontario International Airport Authority (OIAA). The airport is currently served by a multitude of airlines, including several dedicated cargo airlines. The airport frequently sees activity from all sizes of aircraft ranging from small general aviation aircraft to 747-400s.

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Exhibit 1-2

Airport Features
GENERAL INFORMATION

- **Airport Ownership:**
 - Los Angeles World Airports (LAWA)
- **Year Opened as Public-Use Airport:** 1929 current location; 1923 landing strip east of current location
- **Property Size:**
 - 1,741 acres
- **Airport Classification:** Commercial Service - Primary
- **Airport Elevation:** 944 ft. MSL

AIRPORT PLANNING DOCUMENTS

- **Airport Master Plan:** none
 - Planning effort discontinued December 2008
- **Airport Layout Plan Drawing:**
 - Approved ~~September 4, 2003~~ **March 7, 2018, 2003** by FAA
 - ~~Revision dated February 17, 2009 pending approval~~

RUNWAY/TAXIWAY DESIGN

(both runways except as indicated)

- **Airport Reference Code:** D-V
- **Critical Aircraft:** Boeing 747
- **Dimensions:**
 - Runway 8L-26R: 12,200 ft. long, 150 ft. wide
 - Runway 8R-26L: 10,200 ft. long, 150 ft. wide
- **Pavement Strength** (main landing gear configuration):
 - 30,000+ lbs. (single wheel)
 - 200,000 lbs. (dual wheel)
 - 560,000 lbs. (dual-tandem wheel)
 - 850,000 lbs. (double dual-tandem wheel)
- **Average Gradient:**
 - Runway 8L-26R: 0.2% (rising to the west)
 - Runway 8R-26L: 0.1% (rising to the west)
- **Runway Lighting:**
 - High-Intensity Runway Lights (HIRL)
 - Centerline Lights
- **Primary Taxiways:**
 - Full-length parallel Taxiway N on north side
 - Full-length parallel Taxiway S on south side
 - Partial parallel Taxiway M between runways

BUILDING AREA

- **Terminal Area:**
 - North side of airfield
- **General Aviation:**
 - Southwest end of airfield
- **Other Facilities:**
 - Air Traffic Control Tower (ATCT)
 - U.S. Border Patrol
 - UPS (on adjacent property)
- **Services:**
 - Fuel: 100LL, Jet A, Military Fuel (upon request)
 - Other: airfreight, avionics, cargo, charter, aircraft rental and sales

TRAFFIC PATTERNS AND APPROACH PROCEDURES

- **Airplane Traffic Patterns:**
 - Runways 8R and 26R: Right traffic
 - Runways 8L and 26L: Left traffic
- **Typical Pattern altitude:**
 - 2,000 ft. MSL
 - Large aircraft 2,500 ft. MSL
- **Instrument Approach Procedures** (lowest minimums):
 - Runway 8L (ILS):
 - Straight-in: 200 ft. ceiling, 2,400 ft. Runway Visual Range (RVR) (1/2 mile)
 - Runway 26R (ILS):
 - Straight-in: 200 ft. ceiling, 2,400 ft. RVR (1/2 mile)
 - Runway 8R (GPS):
 - Straight-in: 284 ft. ceiling, 5,000 ft. RVR (1 mile)
 - Runway 26L (ILS):
 - Straight-in: 200 ft. ceiling, 1,800 ft. RVR (1/3 mile)
 - Cat II and III provide lower minimums with special certification
- **Visual Approach Aids:**
 - 26R: 4-light PAPI on left
 - 8R: Pulsating/steady burning VASI on left
 - 26L: 4-light PAPI on right
- **Operational Restrictions / Noise Abatement Procedures:**
 - Chino Noise Mitigation Measures (May 15, 1991); detailed information available at City of Chino (see Exhibit 1-14)
 - Runway 8 departures and Runway 26 arrivals between 10:00 pm and 7:00 am

APPROACH PROTECTION

- **Runway Protection Zones (RPZ):**
 - Runway 8L Approach RPZ (Existing): Mostly on-airport, southwest corner off-airport
 - Runway 8L Departure RPZ (Existing): Mostly on-airport, southwest corner off-airport
 - Runway 8R (Existing): ¼ on-airport, southwest corner off-airport
 - Runway 8L (Ultimate): On-airport, future easement or property acquisition
 - Runway 8R (Ultimate): On-airport, future easement or property acquisition
 - Runways 26R & 26L (Existing & Ultimate): On airport
- **Approach Obstacles:**
 - Runway 8L (Existing): Road 600' from Runway end, 250' right of centerline, clearance slope 20:1
 - Runway 26R (Existing): Pole 2050' from Runway end, 400' right of centerline, clearance slope 46:1
 - Runway 26L (Existing): Pole 2050' from Runway end, 400' left of centerline, clearance slope 46:1

PLANNED FACILITY IMPROVEMENTS

- **Airfield:**
 - Relocate both runways south and east
 - Construct additional taxiways, including center parallel taxiway
- **Property:**
 - Easement or acquisition of remaining RPZ area

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Exhibit 1-3

Airport Activity Data Summary

AIRPORT MASTER PLAN ACTIVITY				RUNWAY USE DISTRIBUTION ^f			
	Current ^a	2030	2030 ^b		Day	Evening	Night
Aircraft Operations 465,000 ^h	152,870	N/A		Takeoffs – 2008			
Air Passengers (millions)	6.9	N/A	33.4	All Aircraft			
Air Cargo (thousand tons)	605	N/A	3,260 ^d	Runway 8L	3%	2%	41%
Total				Runway 8R	2%	2%	41%
				Runway 26L	34%	44%	19%
				Runway 26R	62%	52%	0%
				Landings – 2006			
				All Aircraft			
				Runway 8L	3%	3%	2%
				Runway 8R	2%	1%	2%
				Runway 26L	40%	35%	55%
				Runway 26R	56%	61%	41%
				Takeoffs – 2030 (No Proj.)			
				All Aircraft			
				Runway 8L	2%	2%	10%
				Runway 8R	2%	2%	24%
				Runway 26L	31%	46%	32%
				Runway 26R	65%	50%	35%
				Landings – 2030 (No Proj.)			
				All Aircraft			
				Runway 8L	3%	3%	2%
				Runway 8R	1%	2%	2%
				Runway 26L	34%	40%	56%
				Runway 26R	62%	56%	40%
				Takeoffs – 2030 (Proj.)			
				All Aircraft			
				Runway 8L	2%	2%	12%
				Runway 8R	2%	2%	26%
				Runway 26L	21%	35%	27%
				Runway 26R	74%	62%	35%
				Landings – 2030 (Proj.)			
				All Aircraft			
				Runway 8L	3%	3%	2%
				Runway 8R	2%	1%	3%
				Runway 26L	27%	27%	44%
				Runway 26R	68%	68%	51%

Notes

- ^a Source: FAA Terminal Area Forecast—Operations data is consistent with LAWA information.
- ^b Source: HNTB Technical Memorandums, *Ontario International Airport Master Plan Unconstrained Forecast* (November 2005) and *LA/Ontario International Airport Facility Constraints Analysis* (December 2007) and SCAG 2008 RTP.
- ^c No Project (No Proj.)—Assumes existing runway configuration is maintained.
~~Proposed Project (Project)—Assumes reconfigured runways.~~
- ^d Air cargo tonnage includes both off-airport UPS activity and 1.6 million tons by on-airport cargo facilities.
- ^e Source: Integrated Noise Model (INM) study prepared by HNTB Corporation, June 2008. INM data does not include touch-and-go or helicopter operations. INM aircraft types manually categorized into basic aircraft categories of air carrier, air cargo, etc.
- ^f Source: HNTB Technical Memorandum, *Noise Contours for LA/Ontario Environmental Impact Report* (June 2008).
- ^g Percentages may not add up to 100% due to rounding.
- ^h Annual operations rounded to the nearest thousand.

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Exhibit 1-4

ONT Airport Influence Area Information

AIRPORT SITE

- **Location**
 - Southwestern San Bernardino County
 - Within city limits of Ontario
 - 35 miles east of central Los Angeles
 - <1 mile south of Interstate 10
 - 2 miles west of Interstate 15
- **Nearby Terrain**
 - Airport situated on valley floor south of San Gabriel Mountains and Mt. San Antonio (10,049' MSL)

ONT AIA AFFECTED JURISDICTIONS

- **City of Ontario**
 - Airport within city limits of Ontario
- **Other Jurisdictions** (distance from nearest point of runway to city/county limits)
 - Chino 3 miles southwest
 - Fontana 3 miles east
 - Montclair 3 miles west
 - Rancho Cucamonga 1.5 miles north
 - Upland 2 miles northwest
 - Unincorporated lands of San Bernardino County 4 miles east and 3 miles west
 - Unincorporated lands of Riverside County 2 miles southeast

EXISTING LAND USES WITHIN ONT'S IMMEDIATE VICINITY

- **City of Ontario General Character**
 - Highly developed in all directions; industrial uses to south and east; residential uses to west; city center 2 miles northwest
- **Runway Approaches**
 - West (Runway 8): Residential and industrial uses
 - East (Runway 26): Industrial and commercial uses; landfill to southeast

AFFECTED AGENCIES GENERAL PLAN STATUS

- **City of Ontario**
 - Ontario General Plan adopted January 2010
- **City of Chino**
 - General Plan adopted in July 2010
- **City of Fontana**
 - General Plan adopted October 2003
- **City of Montclair**
 - General Plan adopted in 1999
- **City of Rancho Cucamonga**
 - General Plan adopted May 2010
- **City of Upland**
 - General Plan adopted June 1982; revised in 2001
 - Update in progress
- **County of San Bernardino**
 - General Plan adopted March 2007
 - Update in progress
- **County of Riverside**
 - General Plan adopted October 2003
 - Update in progress

GENERAL PLAN LAND USE DESIGNATIONS WITHIN AIA

- **City of Ontario**
 - North: Mixed-use areas allowing commercial-residential uses
 - South and East: Industrial
 - West: Industrial and residential
- **City of Chino**
 - Within CNEL 60 dB noise contour
 - West: Residential
- **City of Fontana**
 - Within CNEL 70 - 60 dB noise contours
 - East: Industrial and residential
- **City of Montclair**
 - Within CNEL 60 dB noise contour
 - West: Commercial, industrial, and residential
- **City of Rancho Cucamonga**
 - Within FAR Part 77 Horizontal and Conical surfaces
 - Northwest: Residential, industrial, and mixed-use
- **City of Upland**
 - Within FAR Part 77 Conical surface
 - Northeast: Industrial, residential, and school
- **County of Riverside**
 - Within FAR Part 77 Horizontal and Conical surfaces & 60 dB noise contour
 - Southwest: Industrial, commercial and rural desert

Exhibit 1-4

ONT Airport Influence Area Information, continued

ESTABLISHED AIRPORT COMPATIBILITY MEASURES ¹

→ Ontario General Plan (2010)

- Collaborate with all stakeholders in the preparation, update and maintenance of airport related plans. (LU5-1)
- Coordinate with airport authorities to ensure The Ontario Plan is consistent with airport law, adopted airport plans, and airport land use compatibility plans for ONT and Chino airports. (LU5-2)
- Work with agencies to mitigate impacts and hazards related to airport operations. (LU5-3)
- Comply with state statutes regarding City-administered Airport Land Use Commission for ONT. (LU5-4)
- Support and promote ONT to accommodate 30 million annual passengers and 1.6 million tons of cargo per year, as long as the impacts associated with that level of operations are planned for and mitigated. (LU5-5)

Simplified Airport Diagram Acceptance Letter/GIAA ALP Update Letter



Ontario International Airport Administration Offices
1923 E. Avion Street, Room 100, Ontario, CA 91761

ALAN D WAPNER
President

RONALD O. LOVERAGE
Vice President

JIM W. BOWMAN
Secretary

CURT HAGMAN
Commissioner

JULIA GOUW
Commissioner

MARK A. THORPE
Chief Executive Officer

LORI D. BALLANCE
General Counsel

JEFF P. REYNOLDS
Treasurer

May 30, 2018

Scott Murphy, AICP
Development Director
City of Ontario

RE: Ontario International Airport Safety Zones

Dear Mr. Murphy,

It has come to my attention that the Ontario International Airport Land Use Compatibility Plan (ONT ALUCP), adopted by the Ontario City Council, on April 19, 2011 contains Safety Zones that are different than the Safety Zones contained in the attached FAA Airport Layout Plan (ALP) which was approved earlier this year.

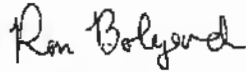
It is my understanding that the Safety Zones utilized in the ONT ALUCP reflected exploration of alternative runway configurations that appeared in a draft document prepared by LAWA in 2007-2008. This document was never adopted and did not result in changes to the FAA approved ALP.

To be in full compliance with the State Aeronautics Act, I am requesting that the City amend the ONT ALUCP to be consistent with the FAA approved ALP.

Respectfully,

We look forward to continuing to work with the City of Ontario and Mead Hunt in connection with approval of this important ALUCP. Please let us know if we can be of any additional assistance regarding this matter.

Sincerely,



RON BOLYARD
Aviation Planner

c: Fernando Yanez-FAA, Jerry Blum-City of Ontario

"Caltrans improves mobility across California"

Exhibit 1-5, ~~Simplified Airport Diagram Acceptance Letter, continued~~

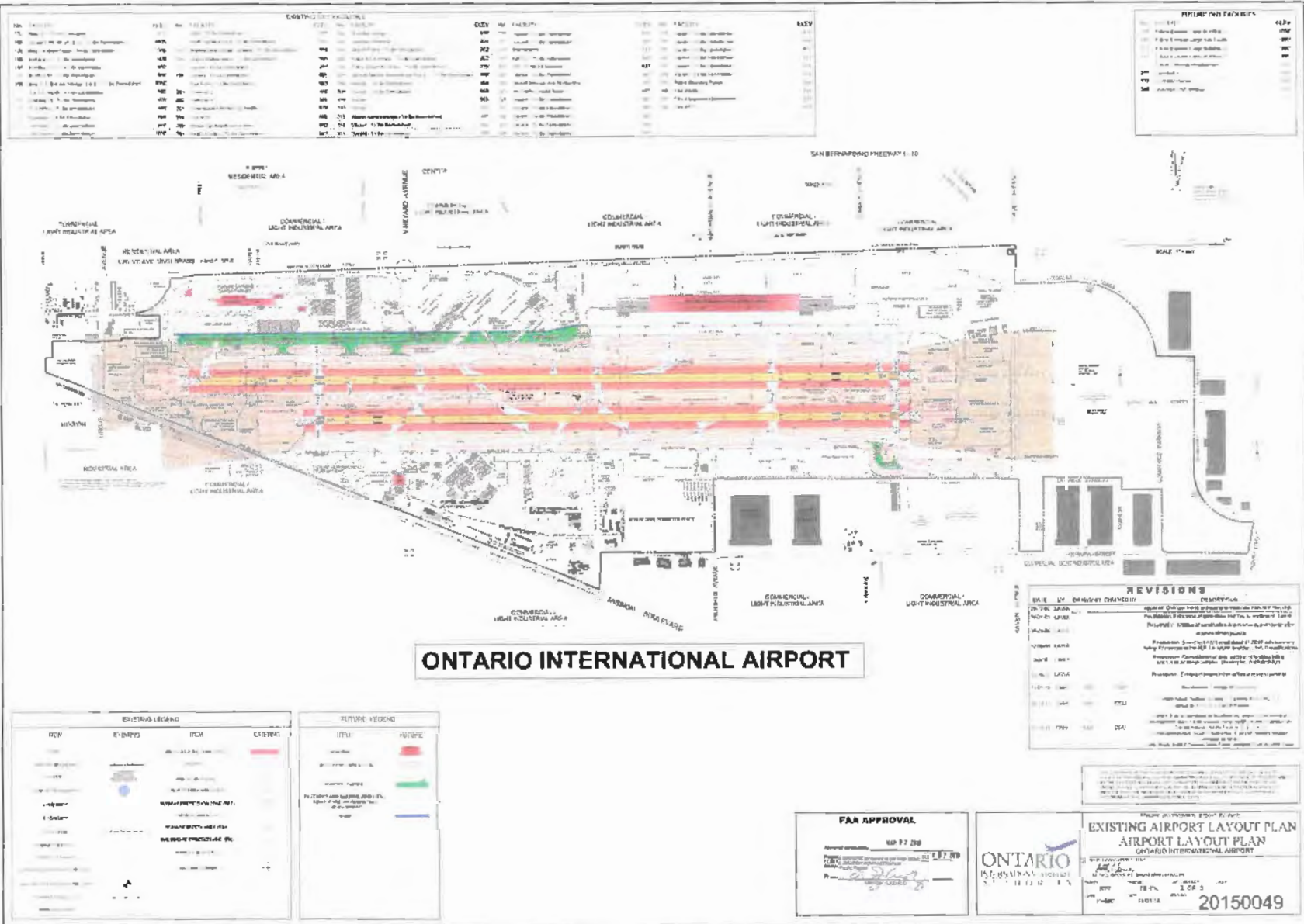
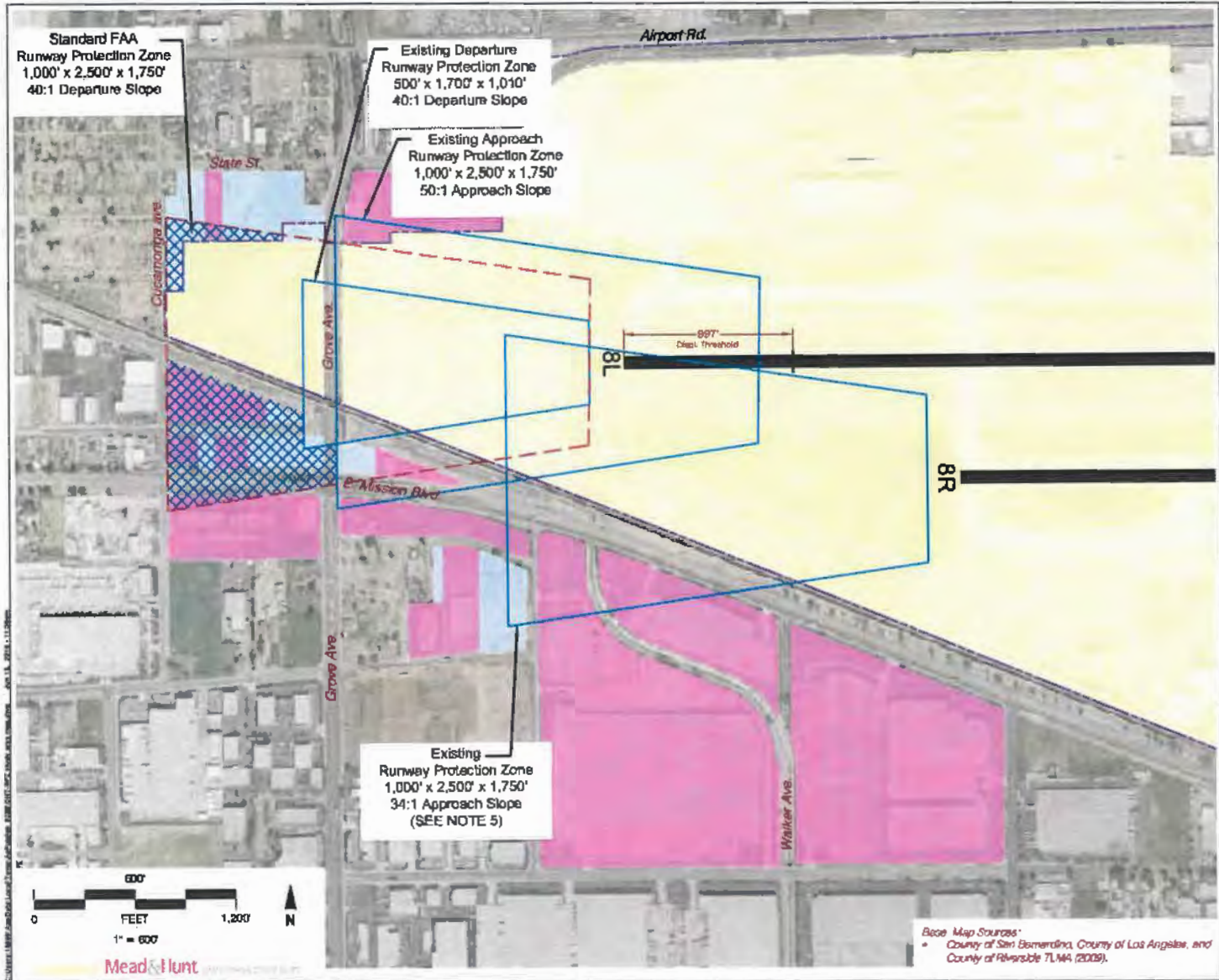


Exhibit 1-6



LEGEND

- Boundary Lines**
- Airport Property Line
 - Parcels
 - Existing Runway Runway 8L-20R
 - Existing Runway Protection Zone
 - Standard FAA Runway Protection Zone

Property Ownership

- OIAA
- City of Ontario
- Private

NOTES

1. City of Ontario building & zoning code controls this area. Allowable land uses are found in the City of Ontario General Plan, dated 2010 and Development Code with reference to Federal Aviation Regulations, Vol. XI Part 77 Objects Affecting Navigable Airspace.
2. The Ontario International Airport Authority (OIAA) employs the use of approach/departure RPZs for Runway 8L. The Federal Aviation Administration's (FAA's) standard RPZ for runways with instrument approach minimums of less than 3/4 mile in length and extends further beyond the airport property. The FAA's standard RPZ (1,000 feet inner width by 2,500 feet length by 1,750 feet outer width) begins 200 feet beyond the west end of Runway 8L.



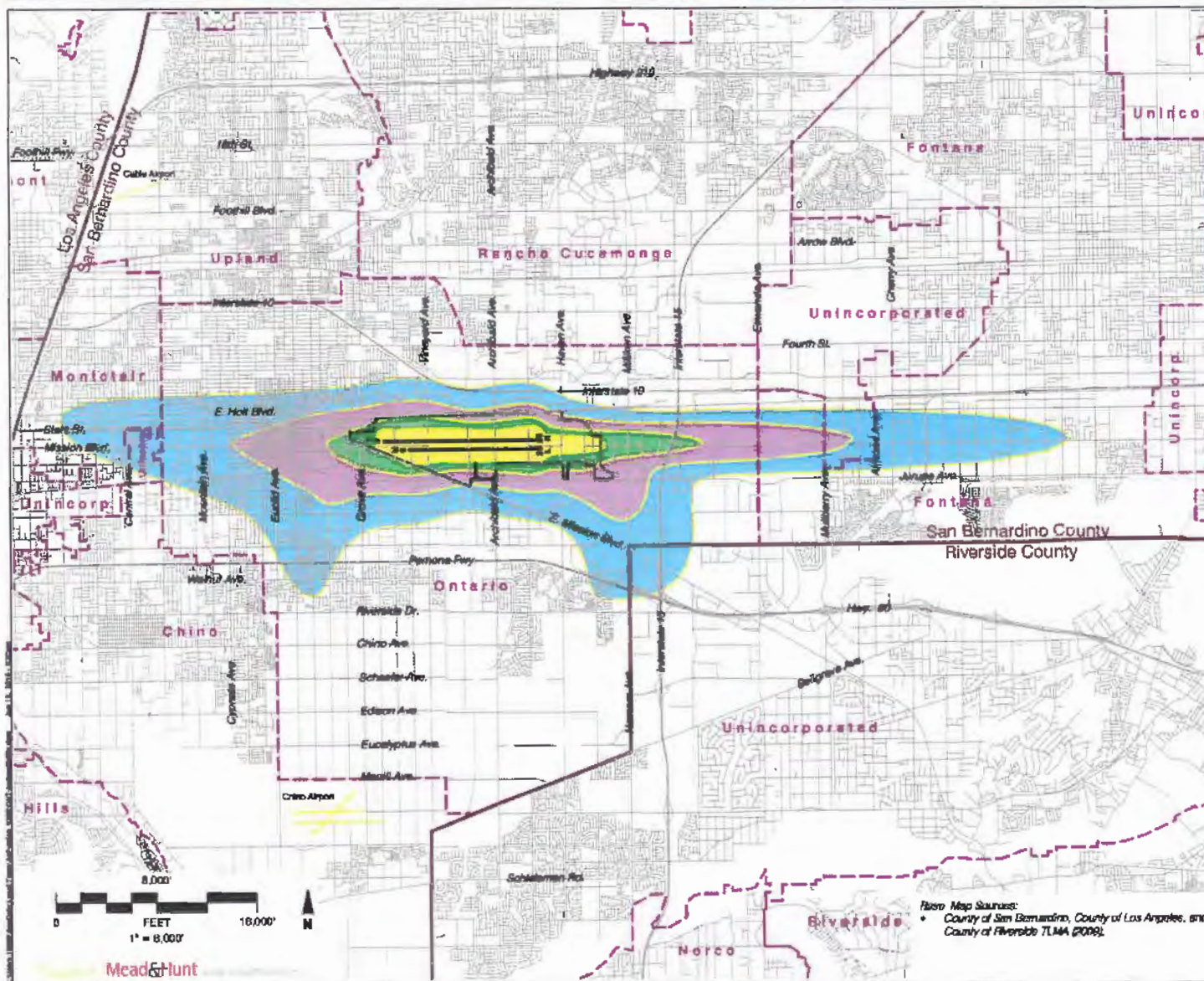
**Ontario International Airport
Land Use Compatibility Plan
(July 2018 Amendment)**

Exhibit 1-7

**Runway Protection Zone
West**

Base Map Source:
 • County of San Bernardino, County of Los Angeles, and County of Riverside TLM4 (2009).

Mead & Hunt



Legend

- Boundary Lines**
- Airport Property Line
 - County Line
 - - - City Limits
 - Street
 - Existing Runways } Runway 6L-26R
 - } Runway 6R-26L

- No Project Noise Contours¹**
- 60-65 dB CNEL
 - 65-70 dB CNEL
 - 70-75 dB CNEL
 - 75-80 dB CNEL
- 143,000 Annual Operations²

Notes

1. Source: HNTB Technical Memorandum to LAWA, Noise Contours for LA/ONT Environmental Impact Report (June 13, 2008).
2. The "No Project" forecast assumes that aircraft activity would be constrained due to the current airfield configuration. The "Proposed Project" forecast is based on the ultimate reconfiguration of the airport - both runways shifting south and east of their current alignments. Annual operations rounded to nearest thousand.



**Ontario International Airport
Land Use Compatibility Plan
July 2018 Amendment**

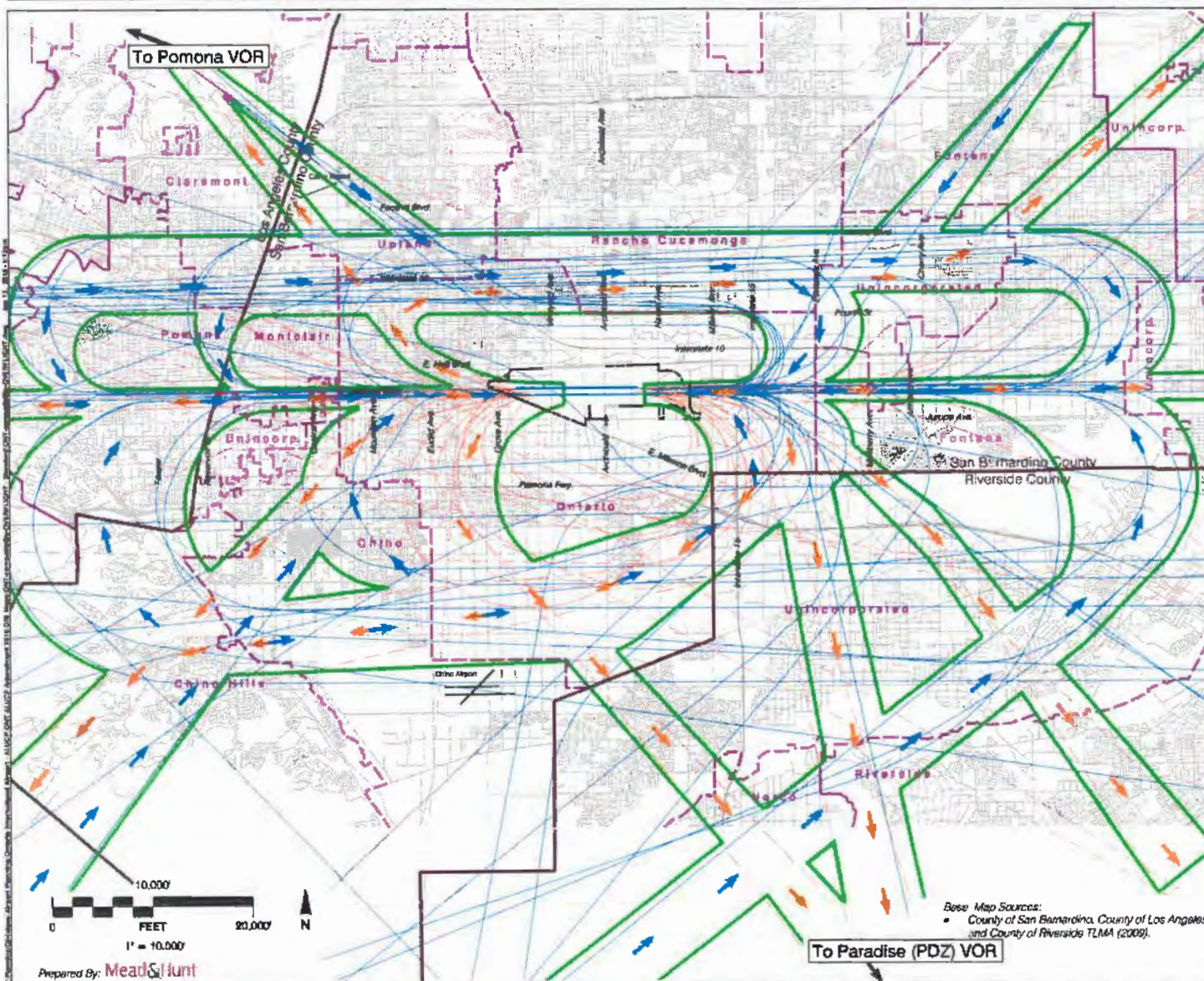


Base Map Sources:

- County of San Bernardino, County of Los Angeles, and County of Riverside T.L.M.A. (2016)

Exhibit 1-9

**Compatibility Factors:
Noise**



LEGEND

Boundary Lines

- Airport Property Line
- County Line
- - - City Limits
- Street
- Existing Runways } Runway 8L-26R
- } Runway 8A-26L

Flight Routes¹

- Modeled Flight Tracks - Arrival
- Modeled Flight Tracks - Departure
- Generalized Aircraft Traffic Corridors
- Direction of Flight - Arrival
- Direction of Flight - Departure

NOTES

1. Flight track source: received from LAWA (April 2005). Flight tracks used to model airport noise contours. Represents all modeled flight tracks including those infrequently used. Infrequently used tracks (i.e., over Chino) are modeled to account for occasional variances from standard airport traffic patterns due to weather, congested airspace, and unfamiliarity with noise abatement procedures.



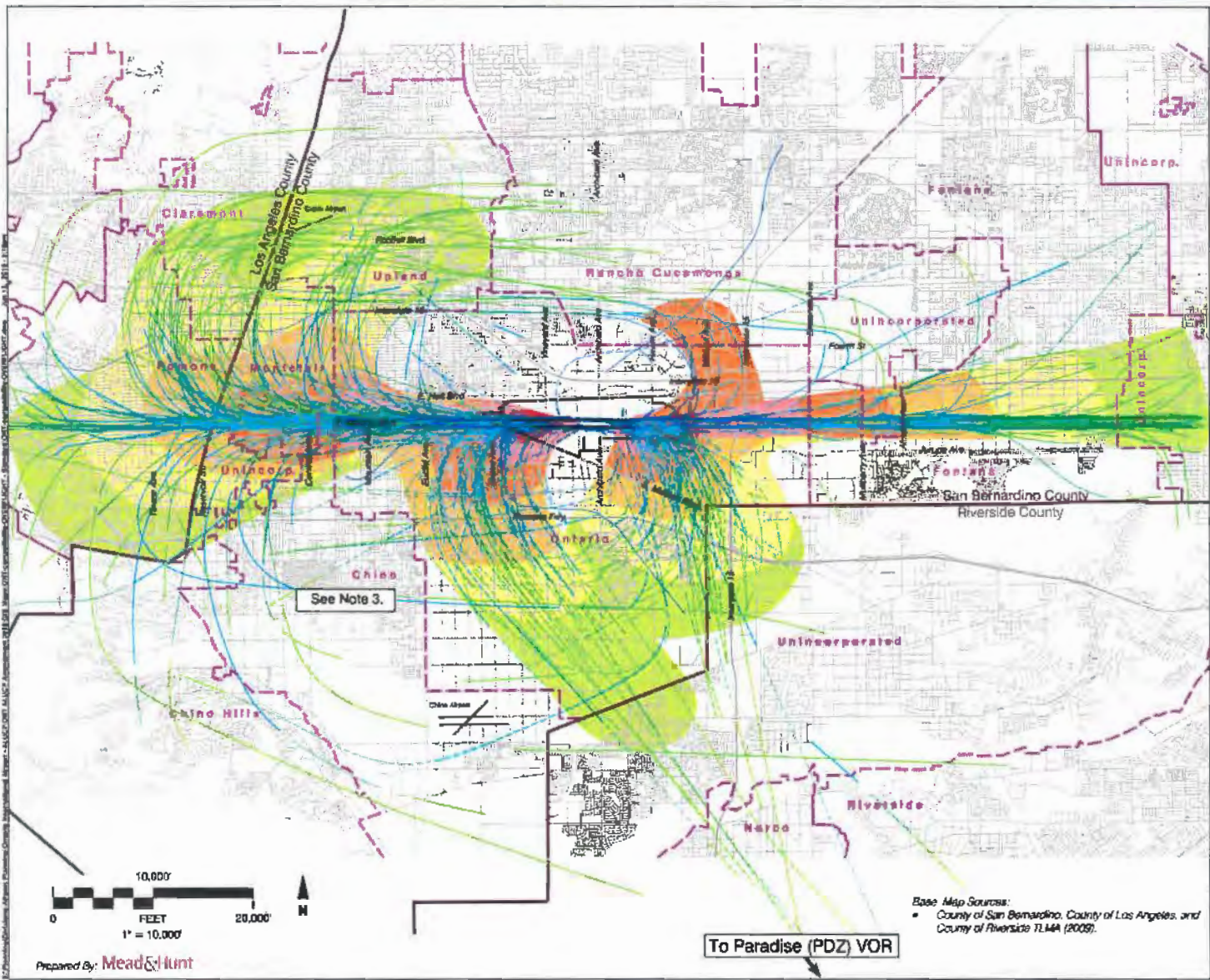
**Ontario International Airport
Land Use Compatibility Plan
July 2018 Amendment**

Base Map Sources:
• County of San Bernardino, County of Los Angeles,
and County of Riverside TLMA (2009).

Exhibit 1-11

Modeled Flight Routes

Prepared By: **Mead & Hunt**



Legend

Boundary Lines

- Airport Property Line
- County Line
- - - City Limits
- Street
- Existing Runways } Runway 8L-28R
- } Runway 8R-26L

Radar Flight Tracks²

Arrival	Departure	Altitude Range
Blue	Blue	0-500'
Light Blue	Light Blue	500' - 1,000'
Medium Blue	Medium Blue	1,000' - 1,500'
Dark Blue	Dark Blue	1,500' - 2,000'
Green	Green	2,000' - 2,500'
Yellow-Green	Yellow-Green	2,500' - 3,000'

Flight Track Altitudes²

Red	0-500'
Orange	500'-1,000'
Yellow-Orange	1,000'-1,500'
Yellow	1,500'-2,000'
Light Green	2,000'-2,500'
Dark Green	2,500'-3,000'

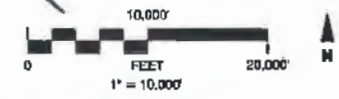
- Notes**
- Existing airport elevation is 944.0' above mean sea level (MSL). Future airport elevation assumed at 944.0' MSL. Actual to be determined.
 - Altitudes are above airport elevation. Track segments above 3,000' not shown.
 - Chino Noise Mitigation Measures (May 15, 1991): aircraft requested to avoid overflight of Chino by making immediate left turn to Paradise (PDZ) VORTAC or proceed straight for several miles before turning left, when feasible.



Ontario International Airport
Land Use Compatibility Plan
 July 2018 Amendment

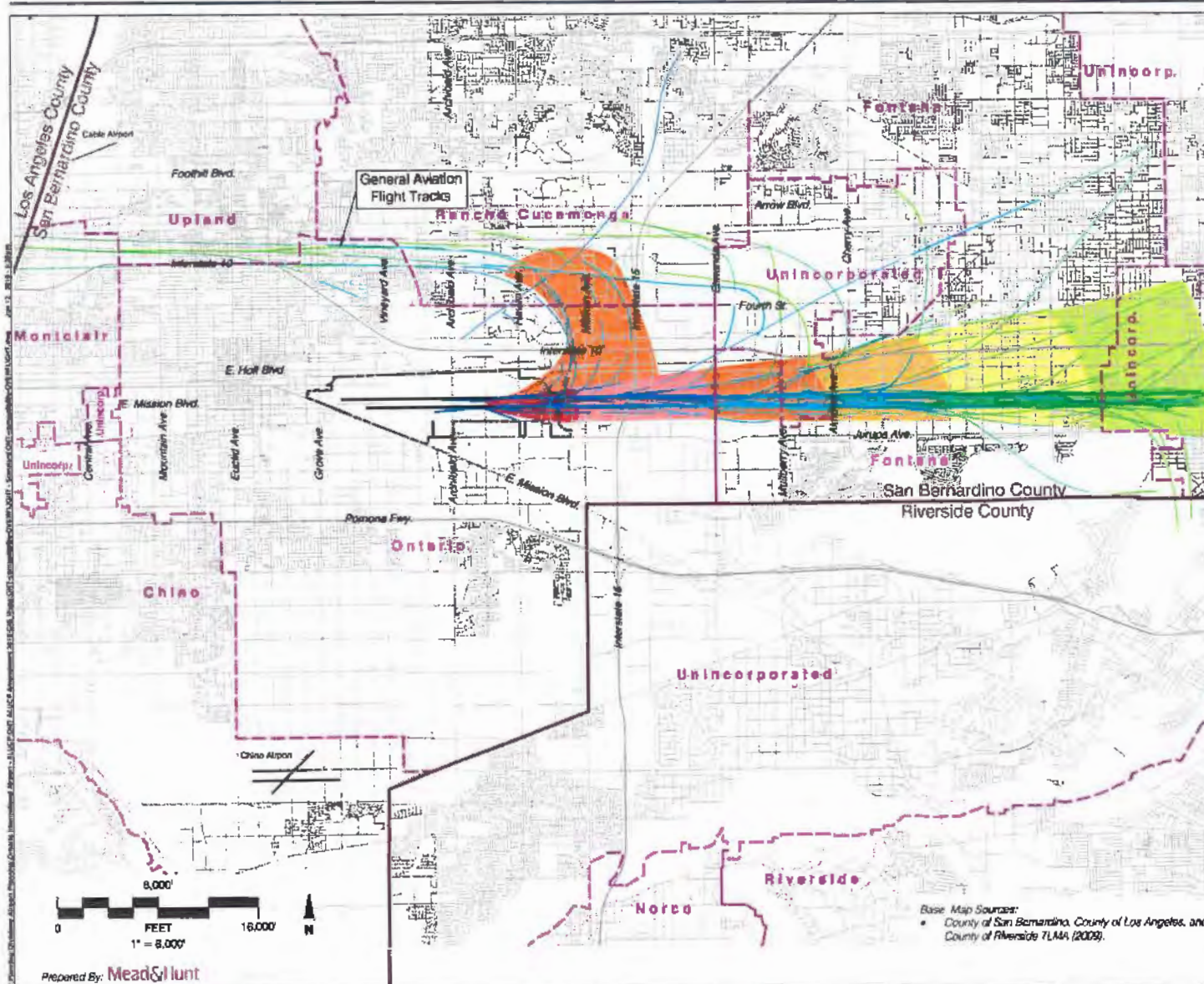
Base Map Sources:

- County of San Bernardino, County of Los Angeles, and County of Riverside TLM4A (2009).



Prepared By: **Mead & Hunt**

To Paradise (PDZ) VOR



LEGEND

Boundary Lines

- Airport Property Line
- County Line
- - - City Limits
- Street
- Existing Runways } Runway 0L-26R
- } Runway 0R-26L

Radar Flight Tracks²

- Arrival**
- 0-500'
 - 500' - 1,000'
 - 1,000' - 1,500'
 - 1,500' - 2,000'
 - 2,000' - 2,500'
 - 2,500' - 3,000'

Flight Track Altitudes²

- 0-500'
- 500'-1,000'
- 1,000'-1,500'
- 1,500'-2,000'
- 2,000'-2,500'
- 2,500'-3,000'

Notes

1. Existing airport elevation is 944.0' above mean sea level (MSL). Future airport elevation assumed at 944.0' MSL. Actual to be determined.
2. Altitudes are above airport elevation. Track segments above 3,000' not shown.
3. Radar flight tracks reflect normal arrival flow: arrivals from east (April 1-2, 2008).
4. These arrival flight patterns also reflect how aircraft approach the airport during contra flow conditions: night time (8:00 pm - 8:00 am) arrivals from the east and departures to the east.

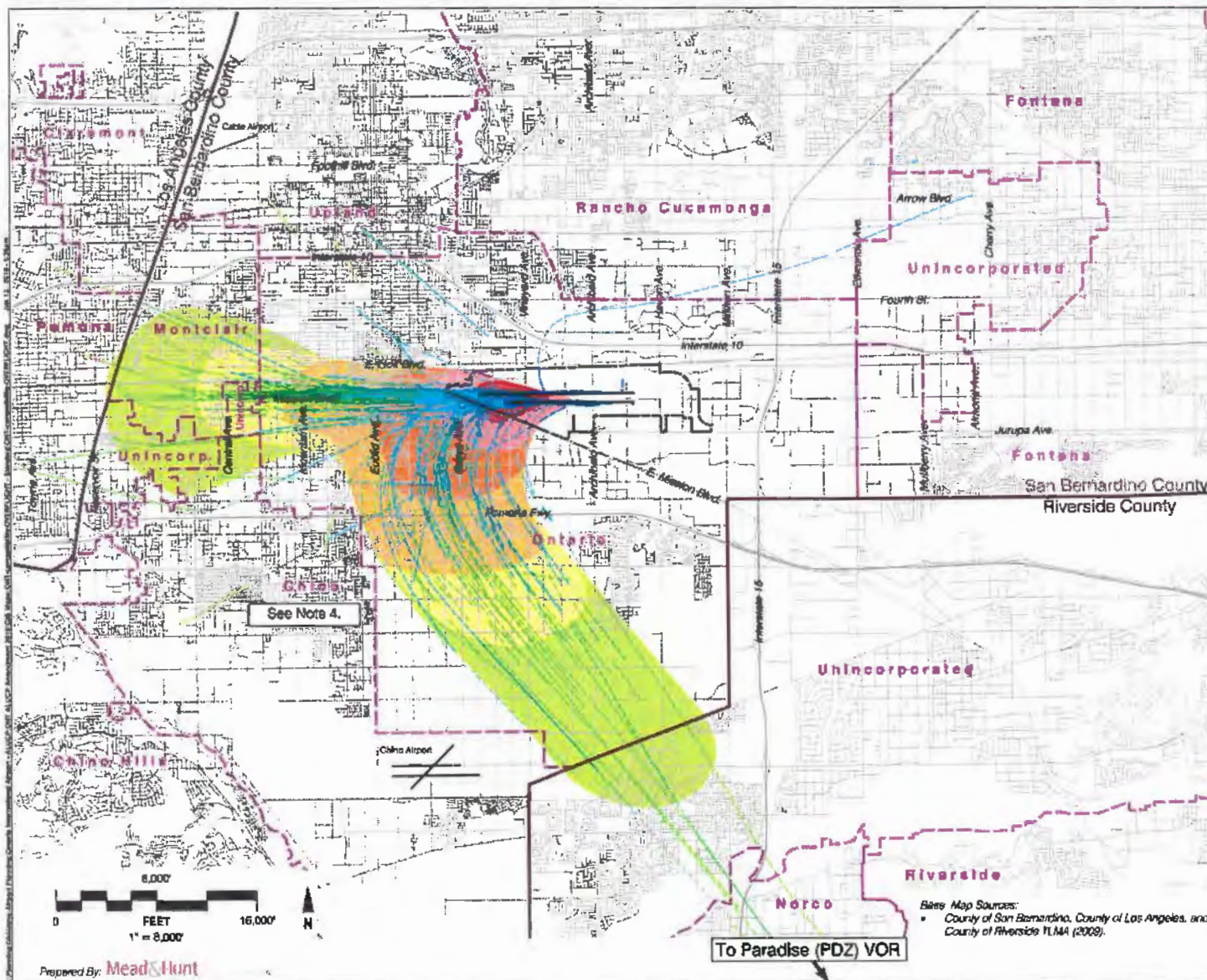


**Ontario International Airport
Land Use Compatibility Plan
July 2018 Amendment**

Base Map Sources:
• County of San Bernardino, County of Los Angeles, and County of Riverside TLAM (2009).

Exhibit 1-13

**Flight Track Altitude:
Normal Operations - Arrivals**



Prepared By: Mead & Hunt

LEGEND

Boundary Lines

- Airport Property Line
- County Line
- - - City Limits
- Street
- Existing Runways } Runway 0L-26R
- } Runway 0R-26L

Radar Flight Tracks²

Departure

- 0-500'
- 500' - 1,000'
- 1,000' - 1,500'
- 1,500' - 2,000'
- 2,000' - 2,500'
- 2,500' - 3,000'

Flight Track Altitudes²

- 0-500'
- 500'-1,000'
- 1,000'-1,500'
- 1,500'-2,000'
- 2,000'-2,500'
- 2,500'-3,000'

- NOTES**
1. Existing airport elevation is 944.0' above mean sea level (MSL). Future airport elevation assumed at 944.0' MSL. Actual to be determined.
 2. Altitudes are above airport elevation. Track segments above 3,000' not shown.
 3. Radar flight tracks reflect normal departure flow: departures to west or south to PDZ VORTAC (April 1-2, 2008).
 4. China Noise Mitigation Measures (May 15, 1991): aircraft requested to avoid overflight of China by making immediate left turn to Paradise (PDZ) VORTAC or proceed straight for several miles before turning left, when feasible.



Ontario International Airport
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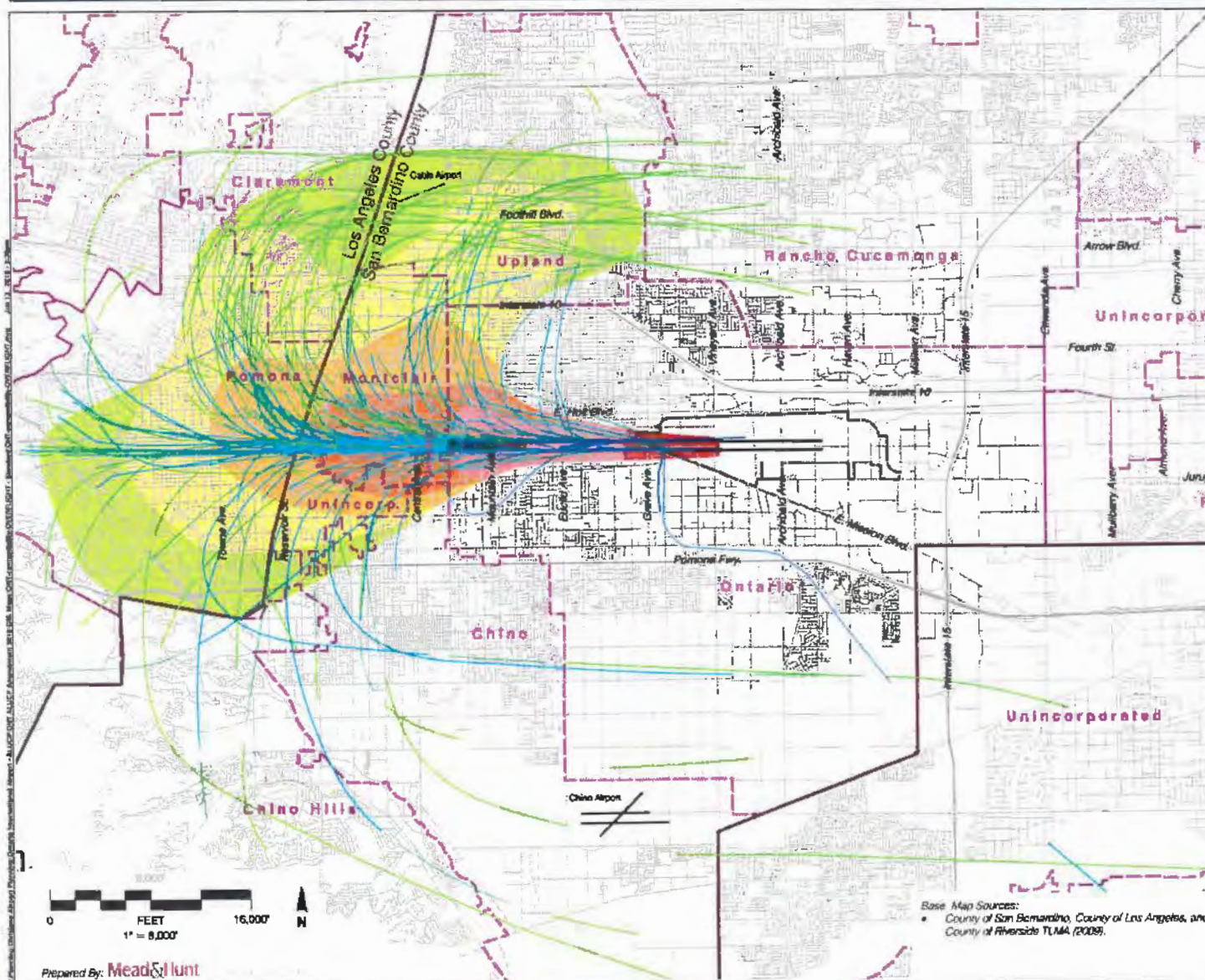
Exhibit 1-14

Flight Track Altitude:
Normal Operations - Departures

Base Map Sources:

- County of San Bernardino, County of Los Angeles, and County of Riverside TLMA (2009).

To Paradise (PDZ) VOR



LEGEND

Boundary Lines

- Airport Property Line
- County Line
- City Limits
- Street
- Existing Runways
 - Runway 8L-26R
 - Runway 8R-26L

Radar Flight Tracks²

- Arrival**
- 0-500'
 - 500'-1,000'
 - 1,000'-1,500'
 - 1,500'-2,000'
 - 2,000'-2,500'
 - 2,500'-3,000'

Flight Track Altitudes²

- 0-500'
- 500'-1,000'
- 1,000'-1,500'
- 1,500'-2,000'
- 2,000'-2,500'
- 2,500'-3,000'

NOTES

1. Existing airport elevation is 944.0' above mean sea level (MSL). Future airport elevation assumed at 944.0' MSL. Actual to be determined.
2. Altitudes are above airport elevation. Track segments above 3,000' not shown.
3. Radar flight tracks reflect Santa Ana conditions arrival flow: arrivals from the west. (January 16-17, 2008).

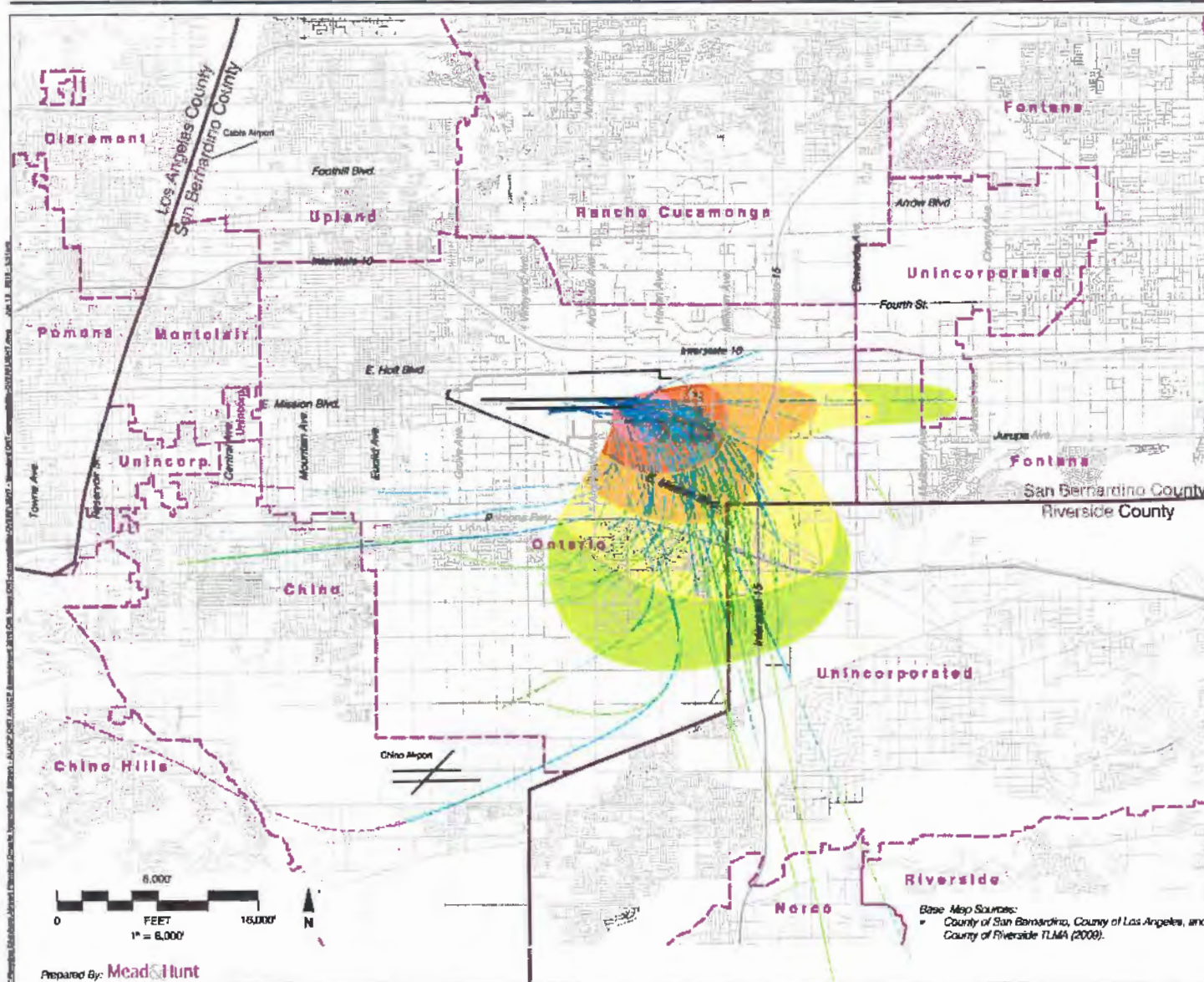


**Ontario International Airport
Land Use Compatibility Plan
July 2018 Amendment**

Base Map Sources:
 • County of San Bernardino, County of Los Angeles, and County of Riverside TUMA (2008).

Exhibit 1-15

**Flight Track Altitude:
Santa Ana Conditions - Arrivals**



LEGEND

Boundary Lines

- Airport Property Line
- County Line
- City Limits
- Stream
- Existing Runways

Radar Flight Tracks²

- Departure**
- 0-500'
 - 500' - 1,000'
 - 1,000' - 1,500'
 - 1,500' - 2,000'
 - 2,000' - 2,500'
 - 2,500' - 3,000'

Flight Track Altitudes²

- 0-500'
- 500'-1,000'
- 1,000'-1,500'
- 1,500'-2,000'
- 2,000'-2,500'
- 2,500'-3,000'

NOTES

1. Existing airport elevation is 944.0' above mean sea level (MSL). Future airport elevation assumed at 944.0' MSL. Actual to be determined.
2. Altitudes are above airport elevation. Track segments above 3,000' not shown.
3. Radar flight tracks reflect Santa Ana conditions departure flow: departures to the east (January 16-17, 2008).
4. These departure flight patterns also reflect how aircraft depart the airport during contra flow conditions: night time (8:30 pm - 6:00 am) arrivals from the east and departures to the west.



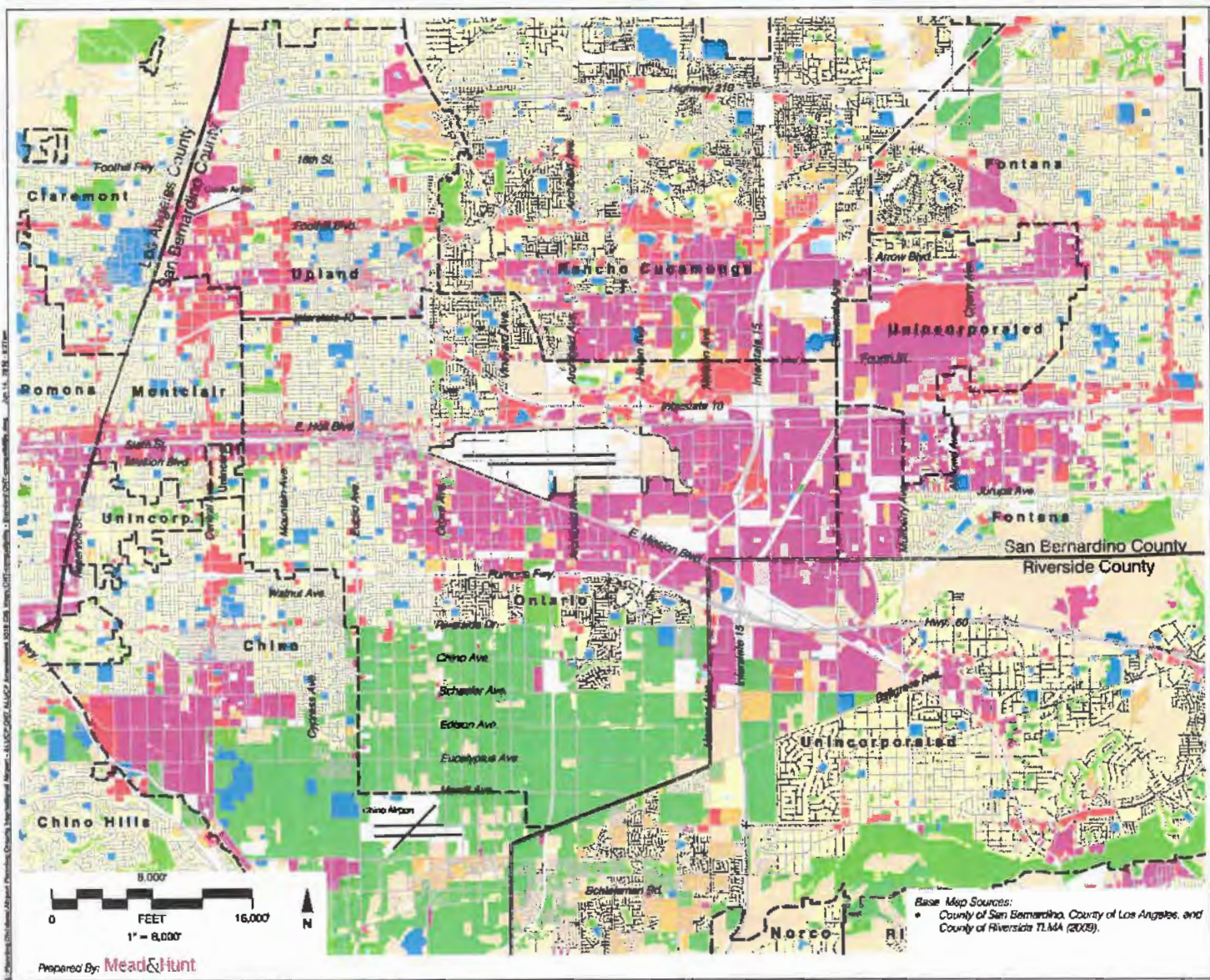
**Ontario International Airport
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*Base Map Sources:
County of San Bernardino, County of Los Angeles, and
County of Riverside TLMA (2008).*

Prepared By: Mead & Hunt

Exhibit 1-16

**Flight Track Altitude:
Santa Ana Conditions - Departures**



- Legend**
- Boundary Lines**
- Airport Property Line
 - County Line
 - - - City Limits
 - Existing Runways } Runway 8L-26R
 - } Runway 8R-26L

- Existing Land Use (SCAG 2005)**
- Residential
 - Commercial
 - Public Facilities and Institutional
 - Military Installations
 - Industrial
 - Extraction
 - Transportation & Utilities
 - Mixed Use
 - Open Space & Recreation
 - Agriculture
 - Residential
 - Under Construction
 - Vacant



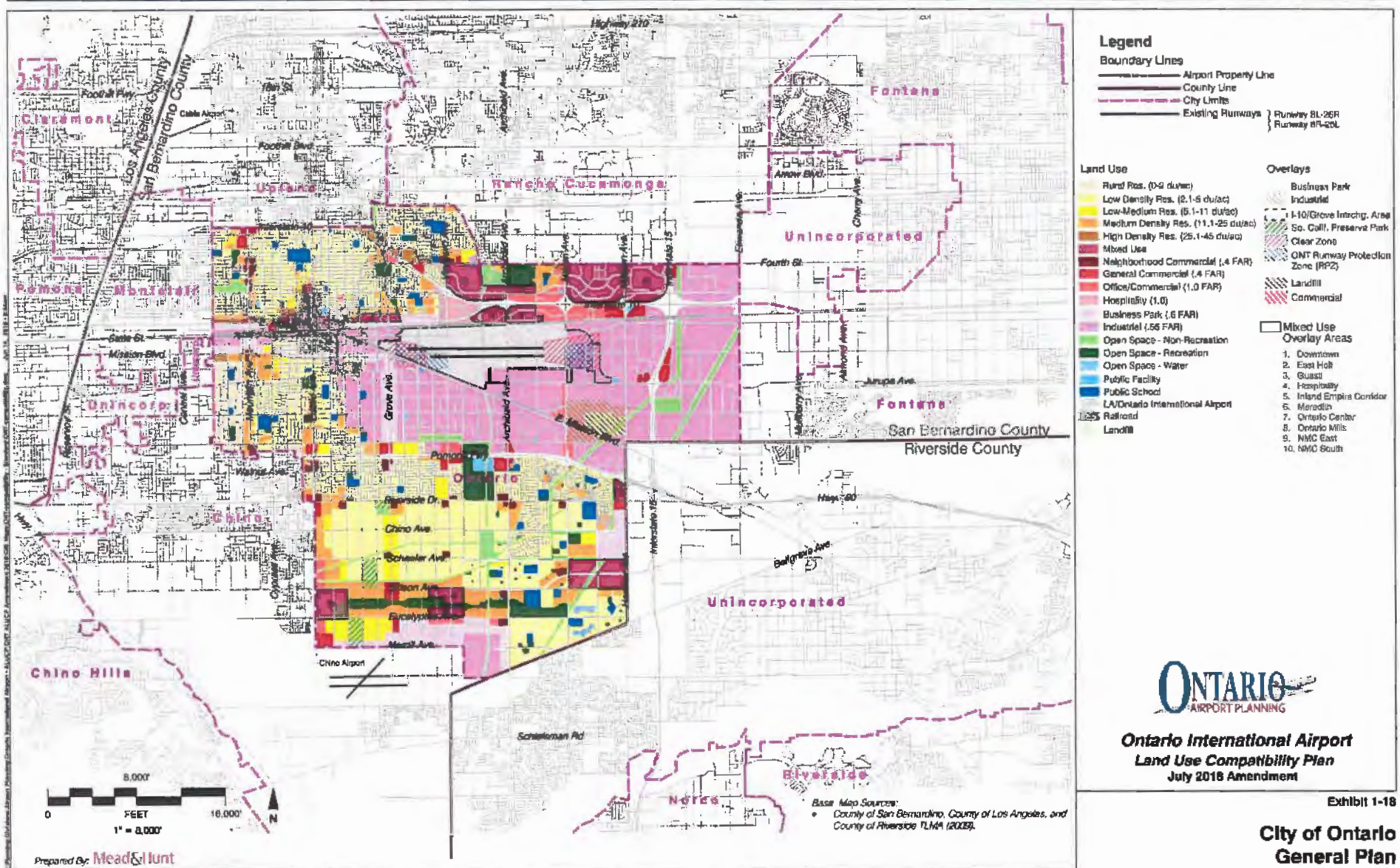
**Ontario International Airport
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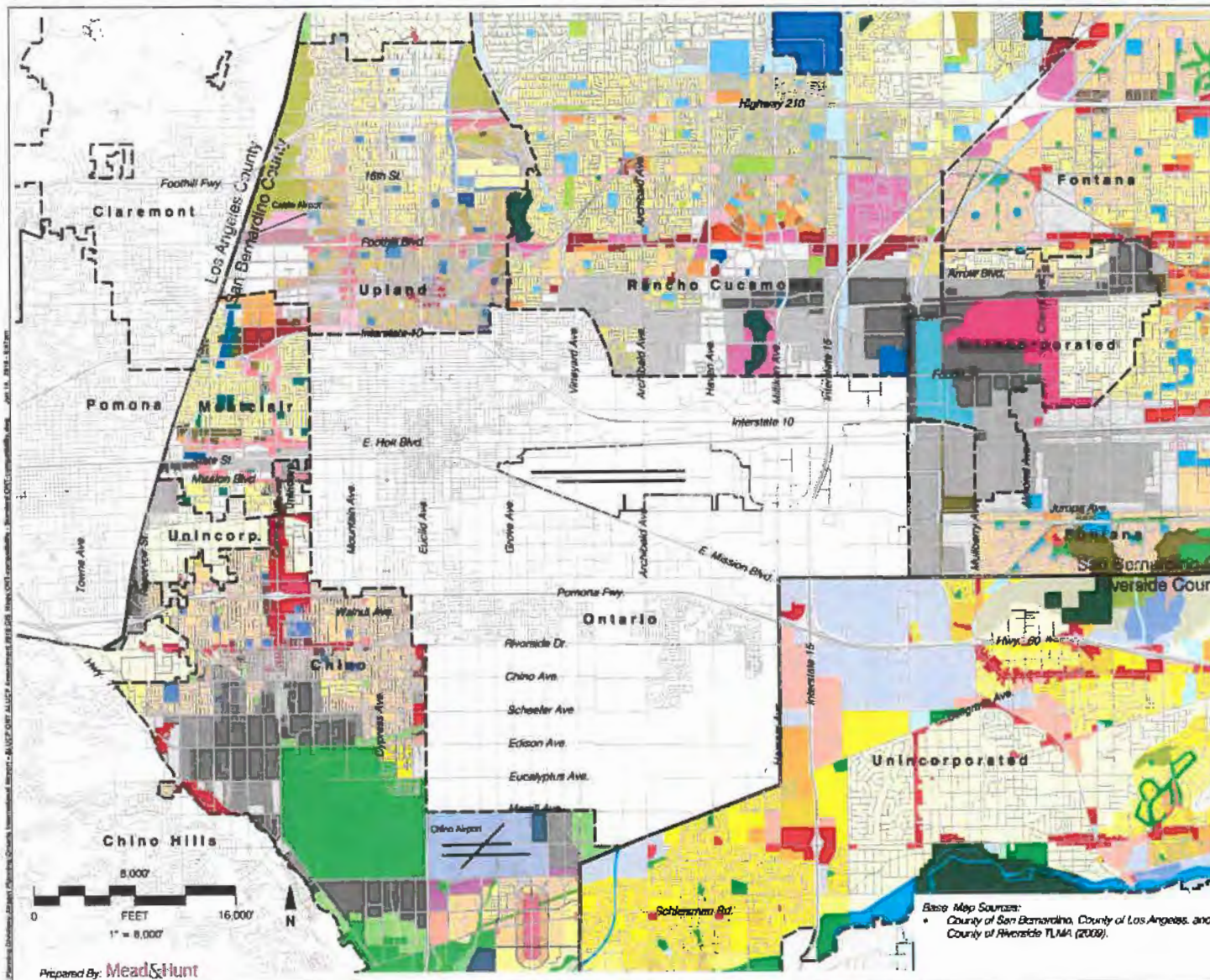
Base Map Sources:
 • County of San Bernardino, County of Los Angeles, and County of Riverside TLMA (2008).

Prepared By: **Mead & Hunt**

Exhibit 1-17

Existing Land Use





Legend

Boundary Lines

- Airport Property Line
- County Line
- - - City Limits
- Existing Runways } Runway 8L-86R
Runway 8R-26L

Notes

1. See Exhibit 1-19B for General Plan Land Use Logans.
2. General Plan Land Use Sources:
 Chino: June 2008
 Fontana: October 2003
 Montclair: 1998
 Rancho Cucamonga: October 2001
 Upland: 1998
 County of Riverside: October 2003
 County of San Bernardino: April 2007



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Base Map Sources:
 • County of San Bernardino, County of Los Angeles, and County of Riverside TLMA (2009).

Exhibit 1-19A

**General Plan Land Use:
 Other Jurisdictions**

County of Riverside General Plan

- Estate Residential
- Rural Community - Low Density Residential
- EDR-RC
- Very Low Density Residential
- VLDR-RC
- Low Density Residential
- LDR-RC
- Medium Density Residential
- Medium High Density Residential
- High Density Residential
- Highest Density Residential
- Very High Density Residential
- Commercial Retail
- Commercial Tourist
- Commercial Office
- Community Center
- Light Industrial
- High Industrial
- Business Park
- Public Facilities
- Mixed Use Policy Area
- Rural Residential
- Rural Mountainous
- Rural Desert
- Agriculture
- Conservation
- Conservation Habitat
- Open Space Recreation
- Open Space Rural
- Water
- Mineral Resources
- Indian Lands
- CITY
- Freeway
- SP

City of Chino General Plan

- RD 1
- RD 2
- RD 3
- RD 4.5
- RD 8
- RD 12
- RD 14
- RD 20

COMMERCIAL

- REGIONAL
- GENERAL
- OFFICE
- NEIGHBORHOOD

INDUSTRIAL

- BUSINESS
- SERVICE
- MANUFACTURING RESEARCH
- LIGHT
- GENERAL

OPEN SPACE

- RECREATION / EDUCATION
- RECREATION / OPEN SPACE
- URBAN RESERVE

OTHER

- PUBLIC
- TRANSITIONAL AREA
- PUBLIC SCHOOL
- ER - ESTATE RESIDENTIAL
- LDR - LOW DENSITY RESIDENTIAL
- MDR - MEDIUM DENSITY RESIDENTIAL
- HDR - HIGH DENSITY RESIDENTIAL
- I - INSTITUTIONAL
- OSR - OPEN SPACE / RECREATIONAL
- MU - MIXED USE
- OYPRESS CHANNEL
- GENERAL INDUSTRIAL
- AGRICULTURAL
- OPEN SPACE
- ER - ESTATE RESIDENTIAL (2 DU/AC)
- LDR - LOW DENSITY RESIDENTIAL (5.5 DU/AC)
- MDR - MEDIUM DENSITY RESIDENTIAL (10 DU/AC)
- HDR - HIGH DENSITY RESIDENTIAL (16 DU/AC)
- NC - NEIGHBORHOOD COMMERCIAL (1.25 FAR)
- RC - REGIONAL COMMERCIAL (2.25 FAR)
- AR - AIRPORT RELATED (35 FAR)
- LI - LIGHT INDUSTRIAL (45 FAR)
- OS-N - OPEN SPACE NATURAL
- OS-R - OPEN SPACE RECREATIONAL
- AGOS-N - AGRICULTURAL AND OPEN SPACE NATURAL
- AG - AGRICULTURAL
- PF - PUBLIC FACILITY
- CC - COMMUNITY CORE

City of Upland General Plan

Single Family Residential

- 0 - 2 du/ac
- 2 - 3 du/ac
- 3 - 4 du/ac
- 4 - 5 du/ac
- 5 - 10 du/ac
- 5 - 14 du/ac Mobile Home

Multi-Family Residential

- 7 - 12 du/ac
- 12 - 20 du/ac
- 7 - 12 du/ac Condominium
- 12 - 20 du/ac Condominium
- Luxury Attached Housing

Commercial

- Highway Commercial
- Central Trading
- Neighborhood Shopping
- Commercial Professional
- Office Only
- Triplex Commercial
- Regional Commercial
- Neighborhood Business Specialty
- Neighborhood Conservation
- Commercial/Industrial Mixed Use

Industrial

- Light Industrial
- Industrial/Office Mixed Use
- Neighborhood Industrial
- Light Industrial/Neighborhood

Specific Plans

- IRF - Industrial/Residential (AP)
- Commer/Industrial (SP)
- Residential/Commercial (SP)

Public/Government

- Public
- School
- Park
- Reservoir
- Land Fill

Special/Institutional

- Cable Airport
- Open Space
- Eden Essement
- Flood Control

City of Rancho Cucamonga General Plan

- VERY LOW
- LOW
- LOW MEDIUM
- MEDIUM
- MEDIUM HIGH
- HIGH
- OFFICE
- NEIGHBORHOOD COMMERCIAL
- COMMUNITY COMMERCIAL
- GENERAL COMMERCIAL
- COMMERCIAL RECREATION
- MIXED USE
- INDUSTRIAL PARK
- GENERAL INDUSTRIAL
- HEAVY INDUSTRIAL
- HILLSIDE RESIDENTIAL
- CONSERVATION
- OPEN SPACE
- FLOOD CONTROL / UTILITY CORRIDOR
- CIVIC / REGIONAL
- COMMUNITY COLLEGE
- ELEMENTARY SCHOOL
- HIGH SCHOOL
- JUNIOR HIGH SCHOOL
- PARK
- MAJOR ROADS

City of Montclair General Plan

- Very Low, 0-2 units/acre
- Low, 3-7 units/acre
- Medium, 8-14 units/acre
- Senior Housing
- Office Professional
- Neighborhood Commercial
- General Commercial
- Regional Commercial
- Business Park
- Industrial Park
- Limited Manufacturing
- Public/Quasi Public
- Neighborhood Park
- Conservation Basins
- Community Plan
- Planned Development
- Medical Center

City of Fontana General Plan

- R-E Residential Estates (2 du/ac)
- R-PC Residential Planned Community (3-6.4 du/ac)
- R-SF Single Family Residential (2.1-5 du/ac)
- R-M Medium Density Residential (5, 7, 7.7-12 du/ac)
- R-MF Multi-Family Residential (12.1-24 du/ac)
- C-C Community Commercial
- C-G General Commercial
- RMU Regional Mixed Use (12-24 du/ac)
- I-L Light Industrial
- I-G General Industrial
- P-PF Public Facilities
- P-R Recreational Facilities
- P-UC Public Utility Corridor
- OS Open Space
- ROW

County of San Bernardino General Plan

- CC - General Commercial
- CA - Neighborhood Commercial
- CO - Office Commercial
- CS - Service Commercial
- PA - Pharmacy
- IC - Community Industrial
- I - Institutional
- RI - Regional Industrial
- OS - Open Space
- RC - Resource Conservation
- RL - 5 - Rural Living
- RM - Multiple Residential Single Residential
- EDCOM - Special Development - Commercial
- SDRES - Special Development - Residential
- BUSC-SC - General Commercial
- BUSC-NC - Neighborhood Commercial
- BUSC-SC - Service Commercial
- PLUC - Community Industrial
- ASBP - Specific Plan
- BLM - Biomimetic
- SLR - Airport Expansion
- BLM - Retail Living
- BLM - Mobile Residential
- KCEP - Specific Plan

Notes
 1. Certain land use designations may be outside of map view.



**Ontario International Airport
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Exhibit 1-19B

**General Plan Land Use:
 Other Jurisdictions**



Chapter **2**

PROCEDURAL AND COMPATIBILITY POLICIES

CHAPTER OVERVIEW

Introduction

Chapter 2 focuses on procedural policies, compatibility policies and compatibility criteria. The procedural policies modify the Alternative Process previously established for LAX/Ontario International Airport (ONT) in 1995. The modified Alternative Process provides for participation by all jurisdictions in San Bernardino County impacted by existing and future airport activity and for the optional participation of Riverside County. Representation by these jurisdictions will be accomplished through inter-agency collaboration and the formation of a Mediation Board to mediate disputes.

Note: State law provides for what is generally known as the "Alternative Process" wherein counties do not have to form an Airport Land Use Commission (ALUC). Instead, the county and affected cities having jurisdiction over an airport take on the compatibility planning responsibilities.

The compatibility criteria in this chapter provides the foundation for compatibility policies. Affected agencies will use the compatibility policies and criteria to evaluate future airport and land use plans, as well as individual development proposals, for consistency with the *ONT Compatibility Plan*. The compatibility policies address four types of airport land use impacts: safety, noise, airspace protection and overflight.

Section Descriptions

The content of each section contained within this chapter is described below.

➔ **Section 1: Scope and Limitations of the Compatibility Plan**

This section provides details regarding the geographic extent of the airport influence area, the jurisdictions affected by airport impacts, the applicability of the *Compatibility Plan* to the affected agencies and the limitations of the plan.

➔ **Section 2: ALUCP Implementation Responsibilities**

This section identifies the responsibilities of each agency in implementing the *Compatibility Plan*. It also identifies the process by which projects are reviewed through the Alternative Process.

➔ **Section 3: City of Ontario Roles and Responsibilities**

This section stipulates the roles and responsibilities of the City of Ontario in implementing the *Compatibility Plan*, facilitating the Alternative Process, and assisting affected jurisdictions with the *Compatibility Plan* implementation.

➔ **Section 4: Mediation Board Roles, Responsibilities and Dispute Resolution Process**

This section stipulates the role and responsibilities of the Mediation Board, composition of the Board, and the procedures by which the Board will review disputed projects. Procedural policies for overruling decisions of the Mediation Board is also included in this section.

→ **Section 5: Evaluating Land Use Consistency**

This section describes the evaluation tools (tables, maps, policies in Section 6) to be used by affected agencies in evaluating the consistency of land use proposals with the *Compatibility Plan*.

→ **Section 6: Compatibility Policies**

This section is divided into five sub-sections: safety, noise, airspace protection, overflight and special compatibility policies. With the exception of special policies, each section contains general information regarding the factors considered in establishing the policies and delineating the compatibility zone boundaries.

Criteria Table Descriptions

The compatibility tables at the end of this chapter provide the following information:

→ **Table 2-1: Major Land Use Actions**

This table identifies types of development projects and land use actions that are subject to the ONT Inter-Agency Notification Process.

→ **Table 2-2: Safety Criteria**

The safety criteria table provides a list of land use categories and identifies the acceptability of specific land uses within each of the five safety zones. Intensity limits for nonresidential uses (i.e., maximum number of people per acre) and other safety considerations within each safety zone are also noted.

→ **Table 2-3: Noise Criteria**

The noise criteria table provides a list of land use categories and identifies the acceptability of specific land uses within each of the noise impact zones. The interior noise level requirements within each zone are also noted for residential and nonresidential uses.

Compatibility Policy Map Descriptions

The geographic extent of each compatibility factor is depicted in the compatibility policy maps within this chapter.

→ **Map 2-1: Airport Influence Area (AIA)**

The AIA boundary encompasses the geographic extents of all the compatibility factors: safety, noise, airspace protection, and overflight.

→ **Map 2-2: Safety Zones**

This policy map displays a single set of safety zones reflecting the existing and ultimate runway configurations (i.e., shows the most restrictive set of safety zones). The safety zones for ONT are based upon the generic safety zones provided in the *California Airport Land Use Planning Handbook* (January 2002).

→ **Map 2-3: Noise Impact Zones**

The noise impact zones represent ~~a composite of two sets of project noise contours reflecting two forecast scenarios for 2030. The~~ “No Project” scenario ~~and~~ assumes 343,000 annual operations on the existing runways system, ~~and the “Proposed Project” scenario reflects 465,000 annual operations on the ultimate runway configuration.~~

→ **Map 2-4: Airspace Protection Zones**

The airspace protection zones ~~are a composite of the various~~ the airspace surfaces prepared in accordance with Federal Aviation Regulation Part 77, the United States Standard for

Terminal Instrument Procedures (TERPS), and applicable obstruction clearance standards published by the Federal Aviation Administration. The airspace surfaces reflect ~~both the existing and ultimate runway configurations and have been merged into a single set of airspace protection zones.~~

→ **Map 2-5: Overflight Notification Zones**

The overflight notification zones were delineated by identifying the areas overflowed by aircraft flying at altitudes of less than 3,000 feet above ground level. The overflight notification zones also encompass the areas underlying the airport's critical airspace surfaces.

Section 1: SCOPE AND LIMITATIONS OF THE COMPATIBILITY PLAN

1.1 Geographic Scope

1.1.1 Airport Influence Area (AIA): In accordance with state law, the ONT AIA encompasses all lands that could be negatively impacted by ONT's present or future aircraft operations or land uses that could negatively affect ONT's airport operations. The AIA depicted in **Map 2-1** encompasses the geographic extent of four types of compatibility impacts, referred to as compatibility factors. They are:

- (a) **Safety:** Areas where the risk of an aircraft accident poses heightened safety concerns for people and property on the ground.
- (b) **Noise:** Locations exposed to potentially disruptive levels of aircraft noise.
- (c) **Airspace Protection:** Places where height and certain other land use characteristics, particularly uses that attract birds, need to be restricted in order to protect the airspace required for operation of aircraft to and from the airport.
- (d) **Overflight:** Locations where aircraft overflights can be intrusive and annoying to many people.

1.1.2 Other Airport Impacts: Other impacts sometimes created by airports (e.g., air pollution, automobile traffic, etc.) are not addressed in this *Compatibility Plan* and are not factors to be considered when reviewing a project for consistency with the compatibility criteria of this *Compatibility Plan*.

1.2 Applicability of the Compatibility Plan

1.2.1 Affected Local Jurisdictions: The ONT AIA encompasses jurisdictions within San Bernardino, Los Angeles, and Riverside Counties. Each jurisdiction is impacted differently as the geographic extents of the four compatibility factors vary in size and shape. **Exhibit-Table 2A** lists each jurisdiction within the AIA and indicates the type of impact they are affected by.

1.2.2 Affected Agencies in San Bernardino County: The *Compatibility Plan* shall apply to the following agencies in San Bernardino County:

- (a) Cities of Ontario, Chino, Fontana, Montclair, Rancho Cucamonga, and Upland are the local jurisdictions impacted by ONT.
- (b) San Bernardino County has jurisdictional control over unincorporated San Bernardino County lands within the AIA.

- (c) ~~Los Angeles World Airports (LAWA) is a department of the City of Los Angeles and~~ The Ontario International Airport Authority (OIAA) is the owner and operator of ONT.
- (d) Special entities including school districts, community college districts, and special districts whose boundaries include lands within the San Bernardino County portion of the AIA.

1.2.3 Jurisdictions of Los Angeles and Riverside Counties: The ONT AIA extends beyond the San Bernardino County borders and into parts of adjacent Los Angeles and Riverside Counties. For the jurisdictions of Los Angeles and Riverside Counties, the *Compatibility Plan* is informational only. These jurisdictions are not subject to the requirements of this *Compatibility Plan*. The County of Riverside has jurisdictional control over unincorporated lands within the noise-impacted areas of ONT and has elected to participate in the Alternative Process on a discretionary basis.

Exhibit Table 2A: Affected Jurisdictions

Agency	Safety	Noise	Airspace Protection	Overflight	Comments
City of Ontario	X	X	X	X	All policies apply
City of Chino		X	X	X	
City of Fontana		X	X	X	
City of Montclair		X	X	X	
City of Rancho Cucamonga			X	X	
City of Upland			X	X	
County of San Bernardino		X	X	X	
County of Riverside		X	X	X	Policies are informational; Participating in Alternative Process on discretionary basis (see Section 1.2.3)
City of Pomona, Los Angeles County				X	Policies are informational (see Section 1.2.3)
City of Claremont, Los Angeles County				X	Policies are informational (see Section 1.2.3)

1.3 Limitations of the Compatibility Plan

1.3.1 Airport Operations: State law explicitly precludes airport land use commissions from having jurisdiction over the operation of any airport (Public Utilities Code Section 21674(e)). The same limitation also applies under the Alternative Process.

- (a) The City of Ontario, affected local jurisdictions, and the Mediation Board have no authority over the operation of ONT. This authority rests with ~~LAWA~~ OIAA and the Federal Aviation Administration (FAA).
- (b) The only actions of ~~OIAA/LAWA~~ subject to the Alternative Process and the policies of this *Compatibility Plan* are the adoption or amendment of the airport

master plan or airport layout plan, or approval of certain facility development plans that would have off-airport compatibility implications (e.g., runway alterations, improved instrument approach procedures), and approval of on-airport development that is not an aviation related use (e.g., commercial or industrial facilities).

1.3.2 Existing Land Uses: The *Compatibility Plan* applies only to new development or future land uses within the ALA. In accordance with Public Utilities Code Section 21674(a), the policies of this *Compatibility Plan* do not apply to existing land uses, whether or not they are consistent with the *Compatibility Plan*.

- (a) **Qualifying Criteria:** A land use is considered to be “existing” when one or more of the below conditions has been met prior to the approval date of the *Compatibility Plan* by California Division of Aeronautics. The determination as to whether a specific project meets the criteria below is made by the responsible jurisdiction or special entity involved.
- ➔ The development and/or land use physically exists.
 - ➔ A vesting tentative parcel or subdivision map has been approved and all discretionary approvals have been obtained.
 - ➔ A development agreement has been approved and remains in effect.
 - ➔ A final subdivision map has been recorded.
 - ➔ A use permit or other discretionary entitlement has been approved and not yet expired.
 - ➔ A valid building permit has been issued.
 - ➔ Substantial investments in physical construction were made by the property owner prior to the approval date of this *Compatibility Plan* by the California Division of Aeronautics and such investments make it infeasible for the property to be utilized for anything other than its proposed use. Substantial investment is determined by the responsible agency.
 - ➔ Prior to the approval date of this *Compatibility Plan* by the California Division of Aeronautics, substantial public funds were expended for land acquisition of a project site and the responsible agency had publicly indicated support for a proposed development or development concept, even though all discretionary approvals had not yet been obtained by that date.
- (b) **Existing Nonconforming Uses:** Existing land uses that are inconsistent with the *Compatibility Plan* are considered to be “nonconforming” land uses. These uses are not subject to the *Compatibility Plan* unless changes to the use are proposed.
- ➔ Any type of construction, renovation, or other redevelopment activity that would demolish 80% or more of the existing structure’s floor area would change the nonconforming status of the use and be subject to the *Compatibility Plan* and any other requirements set by the local jurisdiction.
 - ➔ A structure that has been fully or partially destroyed as a result of a flood, fire and or natural disaster may be rebuilt and re-occupied by the same nonconforming use and is only subject to requirements set by the local jurisdiction not the *Compatibility Plan*.

Section 2: ALUCP IMPLEMENTATION RESPONSIBILITIES UNDER THE ALTERNATIVE PROCESS

2.1 Overview of ALUCP Implementation Responsibilities for Affected Agencies

- 2.1.1 Adopt Compatibility Plan:** The City of Ontario is responsible for leading the preparation of the ~~L/A~~ *Ontario International Airport Land Use Compatibility Plan* and any future amendments in coordination with affected jurisdictions (see Section 3.1). Affected Agencies are responsible for adopting the *Compatibility Plan* or specific policies that apply to their portions of the AIA. The compatibility policies in Section 6 of this *Compatibility Plan* are structured in a manner that recognizes that the City of Ontario's land use authority stops at its borders. As such, policies applicable only to the City of Ontario use the word "shall." Policies applicable to the other affected agencies, as well as the City of Ontario, use the word "should." In the both instances, the policies are considered "shall" for the City of Ontario. In accordance with the provisions of the Alternative Process, the other affected agencies are encouraged to adopt similar requirements for the portions of the AIA within their respective jurisdictions.
- 2.1.2 Attain Consistency with the Compatibility Plan:** Consistent with state law, Affected Agencies are responsible for modifying their respective general plans, specific plans, zoning ordinances, and other policy documents to be consistent with the compatibility policies and criteria set forth in this *Compatibility Plan* or requesting a hearing before the ONT Mediation Board to resolve disputes.
- 2.1.3 ALUCP Consistency Evaluations:** Affected Agencies are responsible for conducting their own consistency evaluations for new development and/or major land use actions within their portions of the ONT AIA. Major Land Use Actions (Table 2-1), are subject to the ONT Inter-Agency Notification Process.
- 2.1.4 ONT Inter-Agency Notification Process:** Each Affected Agency is required to notify the City of Ontario of proposed Major Land Use Actions within its portion of the AIA. The City of Ontario is then responsible for forwarding information regarding these proposed Major Land Use Actions to other Affected Agencies for comment. Major Land Use Actions are listed in Table 2-1 of this Chapter. The Inter-Agency Notification Process is discussed further in Section 2.3.
- 2.1.5 Referencing the Compatibility Plan in CEQA Documents:** The California Environmental Quality Act (CEQA) requires Affected Agencies to utilize the *California Airport Land Use Planning Handbook* and this *Compatibility Plan* as a technical resource for analyzing the environmental impacts of new projects located within the AIA. Projects situated within the AIA should be evaluated to determine if the project would expose people residing or working in the project area to excessive levels of airport-related noise or to airport-related safety hazards (Public Resources Code Section 21096).
- 2.1.6 Establish a Process for Mediating Disputes:** State law pertaining to the Alternative Process requires that a process be established for "the mediation of disputes arising from the preparation, adoption, and amendment" of an airport land use compatibility plan (Public Utilities Code Section 21670.1(c)(2)(C)). This *Compatibility Plan* fulfills State Law requirements by establishing a Mediation Board. The roles, responsibilities, process and membership of the Mediation Board are described in detail in Section 4 of this chapter.

2.2 Specific Responsibilities of ~~Los Angeles World Airports (LAWA)~~ the Ontario International Airport Authority (OIAA)

2.2.1 Submit Certain Airport Actions Through Alternative Process: The ~~LA/Ontario~~ Ontario International Airport compatibility zones delineated on Maps 2-2 through 2-5 are based upon the existing and ultimate airport configuration and projected aircraft activity summarized in Chapter 1. If, at a future time, changes in the configuration or use of the airport are proposed and those changes could result in expansion of the airport's impacts beyond the impacts identified in this *Compatibility Plan*, the proposed changes shall be subject to the ONT Inter-Agency Notification Process described in Section 2.3. Specifically, the following types of projects are subject to the ONT Inter-Agency Notification Process:

- (a) **Airport Plans:** Adoption or amendment of the ~~LA/Ontario~~ Ontario International Airport Master Plan or Airport Layout Plan (Public Utilities Code Sections 21661.5 and 21664.5).
- (b) **Aviation-Related Development Proposals:** Any proposal for modification or expansion of airport facilities requiring amendment to the Airport Permit issued by the California Division of Aeronautics. Airport development projects include:
 - Proposal to acquire land for runway protection zones or airport development;
 - Construction of a new runway;
 - Extension or realignment of an existing runway; or
 - Expansion of the airport's physical facilities.
- (c) **Nonaviation-Related Development Proposals:** Any proposal for the construction of new nonaviation-related development (e.g., commercial or industrial) requiring action by the City of Ontario.

2.3 ONT Inter-Agency Notification Process

2.3.1 ONT Inter-Agency Notification Process: Each Affected Agency and ~~LAWA~~ the OIAA shall participate in the ONT Inter-Agency Notification Process for the purposes of providing technical assistance, information and oversight for the implementation of this *Compatibility Plan*.

- (a) Affected Agencies required to participate in the Inter-Agency Notification Process include ~~LAWA-OIAA~~ and the Cities of Ontario, Chino, Fontana, Montclair, Rancho Cucamonga, Upland and the County of San Bernardino. The City Manager of each Affected Agency shall designate a department responsible for participating in the ONT Inter-Agency Notification Process.

~~(b) The County of Riverside has elected to participate in the Inter-Agency Notification Process on a discretionary basis.~~

- ~~(c)~~ (b) Special entities as described in 1.2.2(d) are subject to the development criteria of this *Compatibility Plan* and shall participate in the Inter-Agency Notification Process by submitting Major Land Use Actions to the City of Ontario for consistency evaluations.

2.3.2 Project Review Process: The ONT Inter-Agency Notification Process includes the steps listed below.

- (a) For each project or land use action subject to the Alternative Process, the Submitting Agency shall complete a Project Comment Worksheet and forward it to the City of Ontario for forwarding to Affected Agencies. The Worksheet shall contain sufficient project details to enable Affected Agencies to comment upon the project's consistency with the *Compatibility Plan* for ONT. See Appendix E for the type of information that should be included in the Project Comment Worksheet. Items shall be submitted electronically to the City of Ontario (preferably in PDF format).
- (b) Commenting Agencies will have 15 calendar days to review and comment on the Submitting Agency's Project Comment Worksheet. Agencies that do not respond within the 15-day period would be considered to have no comments and subsequently agree with the Submitting Agency's consistency evaluation. Commenting Agencies shall limit their comments to issues related to the project's consistency with the *Compatibility Plan* and forward their comments electronically to the City of Ontario.
- (c) If the Submitting Agency disagrees with the comments received on the Worksheet, staff of the Submitting Agency is encouraged to collaborate with staff of the commenting agency and/or commenting agencies to seek solutions that will bring the project into voluntary compliance with the *Compatibility Plan*. If the proposed project is revised in response to comments received on the Project Comment Worksheet, the Submitting Agency shall submit a revised Project Comment Worksheet in the manner provided in subdivision (a). If disagreements regarding consistency remain, the Submitting Agency or any Commenting Agency may request a Mediation Board hearing to mediate the dispute.
- (d) If no comments are submitted on the Project Comment Worksheet as provided in subdivision (b), or if comments are resolved as provided in subdivision (c), the Submitting Agency shall indicate in its own public notices that the project is within the ONT AIA and has undergone a consistency evaluation and found to be consistent with this *Compatibility Plan*.

Section 3: CITY OF ONTARIO ADDITIONAL RESPONSIBILITIES

3.1 Preparation, Adoption and Amendment of the Compatibility Plan

- 3.1.1 **Prepare and Adopt the Compatibility Plan:** The City of Ontario shall be the lead agency responsible for preparing the ~~L4/~~*Ontario International Airport Land Use Compatibility Plan* and any amendments that may subsequently be proposed. The City of Ontario shall also be responsible for coordinating these efforts with affected jurisdictions.
- 3.1.2 **Adoption Authority for the City of Ontario:** The Ontario City Council has the authority to adopt the *Compatibility Plan* or any amendments to the Plan as they apply to the City of Ontario.
- 3.1.3 **Adoption Authority for Affected Agencies:** Each Affected Agency has the authority to adopt the *Compatibility Plan* adopted by the City of Ontario or the specific policies that apply to their portions of the AIA.

3.2 ALUCP Implementation Administration

- 3.2.1 Mediation Board General Administration:** The City of Ontario shall perform general administrative duties for the Mediation Board including, but not limited to:
- (a) Arranging meeting places and schedules, preparing agendas, and recording meeting minutes.
 - (b) Issuing required public notices for meetings of the Mediation Board.
 - (c) Providing an annual report to the Mediation Board and California Division of Aeronautics on the compatibility planning actions reviewed over the course of the year.
- 3.2.2 Administration of the ONT Inter-Agency Notification Process:** The City of Ontario shall coordinate with and assist Affected Agencies with implementing the relevant policies of the *Compatibility Plan* by:
- (a) Developing, maintaining and distributing the Project Comment Worksheet, when necessary;
 - (b) Providing affected agencies with technical information and guidance regarding compatibility planning issues;
 - (c) Serving as a clearinghouse for major airport and land use actions within the AIA and proposed on-site airport development;
 - (d) Reviewing proposed major airport and land use actions for consistency with the policies set forth in this *Compatibility Plan* and preparing written consistency evaluations for transmittal to applicable Affected Agencies;
 - (e) Soliciting input and comments from the Federal Aviation Administration, California Division of Aeronautics, pilot groups, and others regarding compatibility planning matters, when necessary; and
 - (f) Encouraging Los Angeles and Riverside Counties to adopt compatibility planning policies and criteria for the portions of the ONT ALA located within their respective jurisdictions.

Section 4: MEDIATION BOARD ROLES, RESPONSIBILITIES, AND PROJECT DISPUTE PROCESS

4.1 Mediation Board Purpose and Composition

- 4.1.1 Function of Mediation Board:** The Mediation Board for ONT is a voting body established to formally address disputes that are not resolved at a staff level. The Mediation Board will only review matters appealed to it by Affected Agencies.
- 4.1.2 Membership of Mediation Board:** The Mediation Board shall be comprised of elected or appointed government officials of the participating agencies and two members representing the public. The members representing the Affected Agencies shall have land use, planning, and/or public hearing experience (e.g., county

supervisor, city council member, planning/airport commissioner). Members of the Mediation Board shall be appointed as follows:

- (a) **City of Ontario:** Two members representing the City of Ontario, appointed by the Ontario City Council.
- (b) **LAWA/OIAA:** One member representing the ~~Los Angeles World Airports~~ Ontario International Airport Authority (LAWA/OIAA), the ~~LA/Ontario International Airport Manager~~ Chief Executive Officer.
- (c) **Public:** Two public representatives (at least one having aviation expertise), appointed by the Ontario City Council with recommendations from the other Affected Agencies.
- (d) **Other Affected Agency:** Two members representing the agency with the disputed project, appointed by the agency's governing body. If the agency with the dispute is either the City of Ontario or ~~LAWA~~ the OIAA, the two members shall not be appointed and the Mediation Board shall consist of a five-member board.

4.1.3 Mediation Board Decisions: When acting upon a disputed action (e.g., consistency evaluation or preparation, adoption or amendment of the *Compatibility Plan*) the Mediation Board shall:

- (a) Hold a public hearing on the action under consideration.
- (b) Provide the opportunity for public input.
- (c) Issue formal findings on the disputed action.
- (d) Make decisions by majority vote.

4.2 Mediation Board Project Dispute Process

4.2.1 Actions Open to Mediation: State law pertaining to the Alternative Process requires that a process be established for “the mediation of disputes arising from the preparation, adoption, and amendment” of an airport land use compatibility plan (Public Utilities Code Section 21670.1(c)(2)(C)). This *Compatibility Plan* allows mediation to occur over certain land use actions—specifically, general plan amendments, zoning ordinance modifications, airport development plans (Section 2.2), or major land use actions.

4.2.2 Convening the Mediation Board: The Mediation Board shall convene on an as needed basis, to resolve disputed matters brought to it by an Affected Agency. Meetings shall be convened within 30 calendar days from the date the Affected Agency requests in writing a Mediation Board Hearing date to resolve a dispute. Additionally, the Board shall convene once per calendar year to receive an annual report from the Ontario Planning Director. All meetings shall be publicly noticed consistent with Ontario's public hearing procedures.

4.2.3 Mediation Board Actions for Non-Airport Projects: When deciding whether a proposed project is consistent with the *Compatibility Plan*, the Mediation Board has three action choices:

- (a) *Consistent*—Find that the proposed project is consistent with this *Compatibility Plan*.
- (b) *Conditionally Consistent*—Find that the proposed project is consistent with this *Compatibility Plan* subject to specified conditions or modifications.
- (c) *Inconsistent*—Find that the proposed project is inconsistent with this *Compatibility Plan*.

4.2.4 Mediation Board Action Choices for Airport Proposals: When making consistency determinations on a proposed planning and/or development action pertaining to ~~LA~~/Ontario International Airport (ONT), the Mediation Board has four action choices:

- (a) *Consistent*—Find that the airport plan is consistent with this *Compatibility Plan*.
- (b) *Conditionally Consistent*—Find that the airport plan is consistent with this *Compatibility Plan* subject to specified conditions or limitations on the airport plans or use.
- (c) *Inconsistent*—Find that the airport plan is inconsistent with this *Compatibility Plan*.
- (d) *Consistent Upon Compatibility Plan Revision*—Modify the *Compatibility Plan* (after duly noticed public hearing) to reflect the assumptions and proposals in the airport plan—thereby making the airport plan consistent—or establish an intent to modify the *Compatibility Plan* at a later date.

4.2.5 Overriding Considerations: The compatibility criteria set forth in this *Compatibility Plan* are intended to be applicable to all locations within the ONT AIA. However, there may be specific situations where a normally incompatible use can be considered compatible because of terrain, specific location, or other extraordinary factors or circumstances related to the site. After due consideration of all the factors involved in such situations, the Mediation Board may find a normally incompatible use to be acceptable. In reaching such a decision, the Mediation Board shall document the nature of the extraordinary circumstances that warrant the policy exception and make the following specific findings:

- (a) That the proposed project will neither create a safety hazard to people on the ground or aircraft in flight nor result in excessive noise exposure for the future occupants of the proposed use.
- (b) That the granting of a special condition exception is site specific and shall not be generalized to include other sites.

4.3 Overruling Mediation Board Decisions

4.3.1 General: If the Mediation Board determines that a proposed project is inconsistent with the *Compatibility Plan*, the Submitting Agency shall be notified and the governing body of that agency has the option under state law to overrule the Mediation Board decision. To do so, however, the Submitting Agency must make specific findings (see Section 4.3.2).

4.3.2 Findings: The agency must make specific findings that the proposed local action is consistent with the purposes of Article 3.5 of the California Public Utilities Code, as

stated in Section 21670. Such findings may not be adopted as a matter of opinion, but must be supported by substantial evidence. Specifically, the governing body of the Submitting Agency must make specific findings that the proposed project will not:

- (a) Impair the orderly, planned expansion of ~~LA~~ Ontario International Airport (ONT); adversely affect the utility or capacity of the airport (such as by reducing instrument approach procedure minimums).
- (b) Expose the public to excessive noise and safety hazards.

4.3.3 Notification and Voting Requirements:

- (a) The Submitting Agency must provide a copy of the proposed decision and findings to overrule the Mediation Board 45 days prior to the hearing date, to the City of Ontario and California Division of Aeronautics, as required by State law (Public Utilities Code Section 21676).
- (b) The governing body of the Submitting Agency must hold a public hearing on the matter. The public hearing shall be noticed consistent with the Submitting Agency's established procedures.
- (c) A decision by the governing body to overrule the Mediation Board must be made by a vote of at least two-thirds of the body's members.
- (d) The Submitting Agency must include any comments received from any Affected Agency, Mediation Board, Division of Aeronautics, and the Federal Aviation Administration (FAA) in the public record of any final decision to overrule the Mediation Board.

Section 5: EVALUATING LAND USE CONSISTENCY

5.1 Evaluating Consistency of New Development

- 5.1.1 Evaluating Compatibility of Proposed Development:** The compatibility of proposed projects within the ONT AIA shall be evaluated in accordance with the specific safety, noise, airspace protection, overflight policies, and special compatibility policies set forth in Section 6, including the criteria listed in **Table 2-2: Safety Criteria** and **Table 2-3: Noise Criteria**, and the compatibility zones depicted in **Maps 2-2 through 2-5**.

5.2 Evaluation Tools

- 5.2.1 Safety and Noise Criteria Tables:** **Table 2-2: Safety Criteria** and **Table 2-3: Noise Criteria** list general land use categories and indicate each use as being either "normally compatible," "conditionally compatible," or "incompatible" depending upon the compatibility zone in which it is located. When evaluating a proposed development, each land use component of a project shall be evaluated as separate developments and must meet the criteria for the respective land use category in **Table: 2-2 Safety Criteria** and **Table 2-3: Noise Criteria**.

- 5.2.2 Evaluation Considerations:**

- (a) Land uses not specifically listed in **Table 2-2: Safety Criteria** and **Table 2-3: Noise Criteria** shall be evaluated using the criteria for similar listed uses.
- (b) Multiple land use categories and the compatibility criteria associated with them may apply to a single project (e.g., mixed-use developments). Each land use component shall individually satisfy the criteria for the respective land use category in **Table 2-2 Safety Criteria** and **Table 2-3: Noise Criteria** (see **Exhibit 2B**).

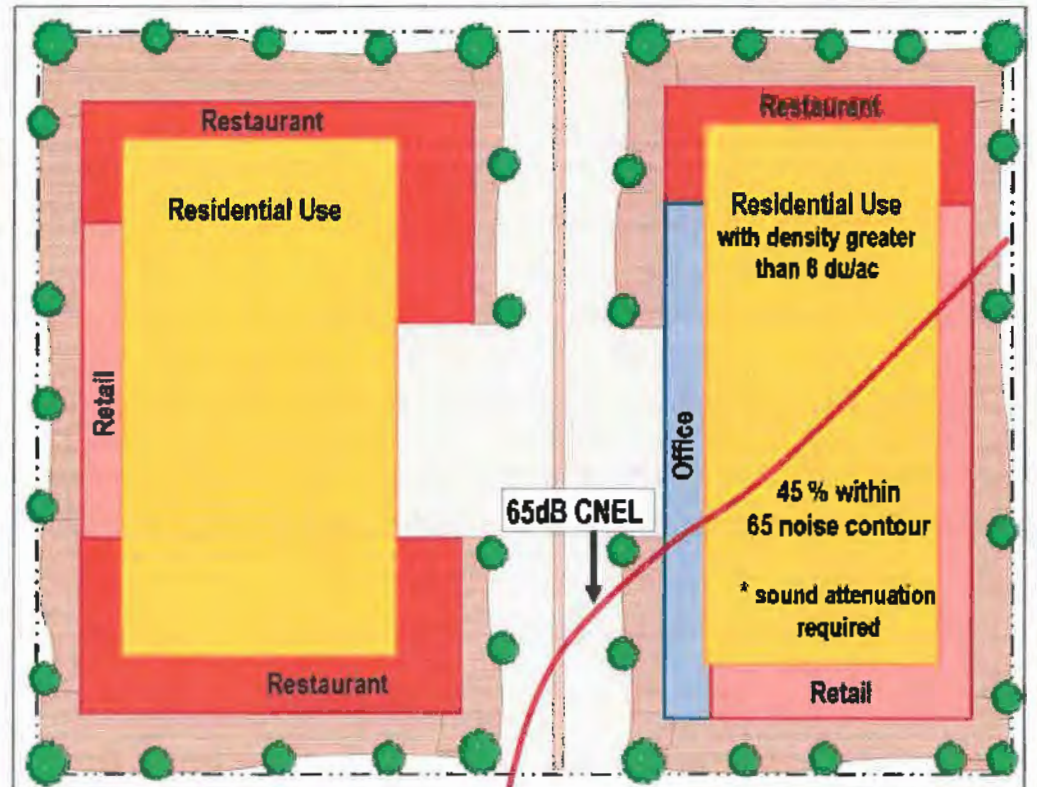
5.2.3 Land Use Compatibility Determinations:

- (a) **Normally Compatible** means that common examples of the use are compatible with the airport; uncommon examples of the use may require review to ensure compliance with compatibility criteria.
- (b) **Conditionally Compatible** means that the use is compatible if the listed conditions are met.
- (c) **Incompatible** means that the use should not be permitted under any circumstances.

5.2.4 Policies Pertaining to Special Compatibility Concerns: In addition to satisfying the compatibility criteria defined in **Table 2-2: Safety Criteria** and **Table 2-3: Noise Criteria**, land use actions must comply with the specific safety, noise, airspace protection, overflight and special compatibility policies set forth in Section 6.

Exhibit 2B: Mixed-Use Development Example

In this example, the proposed mixed-use development includes four distinct types of land uses. Each land use component must be evaluated against the criteria for the respective land use category in **Table 2-2: Safety Criteria** and **Table 2-3: Noise Criteria**:



Section 6: COMPATIBILITY POLICIES

6.1 Safety

- 6.1.1 Policy Objective:** The intent of the safety compatibility policies is to minimize the risks associated with an off-airport aircraft accident or emergency landing. The policies focus on reducing the potential consequences of such events when they occur. The potential risks to people and property within the ONT AIA and to people on board the aircraft are considered.
- 6.1.2 Safety Affected Agency:** The safety compatibility policies and criteria of this section apply only to the City of Ontario since the safety zones are located solely within Ontario's city limits.
- 6.1.3 Factors Considered in Establishing Safety Zones:** The principal factors considered in setting the policies applicable within each safety zone are:
- (a) **California Airport Land Use Planning Handbook:** The *California Airport Land Use Planning Handbook* (January 2002) provides risk information, accident data, and analyses for air carrier airports. The *Handbook* identifies the locations, delineated with respect to the airport runways, where aircraft accidents near air carrier airports have historically occurred and the relative concentration of accidents within these locations. These concentrations represent likely future risk levels. Furthermore, the *Handbook* recommends applying the most stringent land use controls to the areas with the greatest potential risks. The safety zones utilized for ONT reflect the *Handbook's* suggested zones for Large Air Carrier Runways.
 - (b) **Specific Airport Features:** The existing ~~and ultimate~~ runway configuration, approach categories, normal flight patterns, and aircraft fleet mix for ONT are factors reflected in the safety zone shapes and sizes.
 - (c) **Measures of Risk Exposure:** For the purposes of this *Compatibility Plan*, the risk that potential aircraft accidents pose to lands around ONT is defined in terms of the geographic distribution of where accidents are most likely to occur. Because aircraft accidents are infrequent occurrences, the pattern of accidents at any one airport cannot be used to predict where future accidents are most likely to happen around that airport. Reliance must be placed on data about aircraft accident locations at similar airports nationally, refined with respect to information about the types and patterns of aircraft usage at the individual airport. This methodology, as further described in Appendix C, is used to delineate the safety zones for ONT shown in **Map 2-2: Safety Zones**.
- 6.1.4 Factors Considered in Setting Safety Policies:** To minimize risks to people and property on the ground, the safety compatibility criteria in **Table 2-2: Safety Criteria** set limits on:
- (a) **Residential Uses:** The density of residential development is measured by the number of dwelling units per acre. Consistent with the *California Airport Land Use Planning Handbook* (2002) guidelines, a greater degree of protection is warranted for residential uses.

Note: See Section 6.3, *Airspace Protection*, for land use features that can pose hazards to aircraft in flight

- (b) **Nonresidential Uses:** The intensity of nonresidential development is measured by the number of people per acre concentrated in areas most susceptible to aircraft accidents.
- 6.1.5 **Safety Zones for LA/Ontario International Airport:** The five safety zones depicted in **Map 2-2: Safety Zones** ~~are a composite of~~ reflects the existing ~~and ultimate~~ airfield configurations, the methodology for this approach is explained in Chapter 1 of this *Compatibility Plan*:
- (a) **Safety Zones 1 - 5:** A composite set of safety zones were created for ONT to reflect ~~both the existing and ultimate~~ airfield configurations. ~~The safety zones for each configuration were combined to create one set of composite safety zones utilizing the most stringent conditions. The ultimate runway configuration shifts both runways south and east of their current alignments.~~
- (b) **Safety Zone 1:** Safety Zone 1 reflects the airport's established Runway Protection Zones (RPZs) as shown in the Airport Layout Plans prepared by ~~Los Angeles World Airports (LAWA)~~ the Ontario International Airport Authority (OIAA) ~~and the Simplified Airport Diagram accepted by California Division of Aeronautics on July 2009 as the basis of this Compatibility Plan~~ (see **Exhibit 1-6** in Chapter 1).
- (c) **Overlay Safety Zone 1A:** Overlay Safety Zone 1A was created to reflect the FAA's standard RPZ (1,000 feet inner width by 2,500 feet length by 1,750 feet outer width) beginning 200 feet beyond the west end of Runway 8L. (See Chapter 1 for additional RPZ discussion and Policy S5).
- 6.1.6 **Safety Standards for New Development:** To minimize risk-sensitive development in high-risk areas around ONT, the safety compatibility of new development shall be evaluated in accordance with the safety policies set forth in this section, including the criteria listed in **Table 2-2: Safety Criteria** and the safety zones depicted on **Map 2-2: Safety Zones**. Other policies may be applicable to uses of special concern (see **Policy S4**).

SAFETY POLICIES

- S1** **Residential Development:** New residential development is incompatible within all Safety Zones (1 through 5). **Policies S1a and S1b** are exceptions to this policy, if applicable.
- S1a** **Single-Family Home:** The construction of a single-family home on a legal lot of record is allowed in Safety Zones 2, 3, and 4 if the use is permitted by the City of Ontario's land use regulations. See **Policy SP2** with regard to development by right.
- S1b** **Second-Unit:** A second-unit as defined by state law is allowed within Safety Zones 2, 3 and 4 if the use is permitted by the City of Ontario's land use regulations.

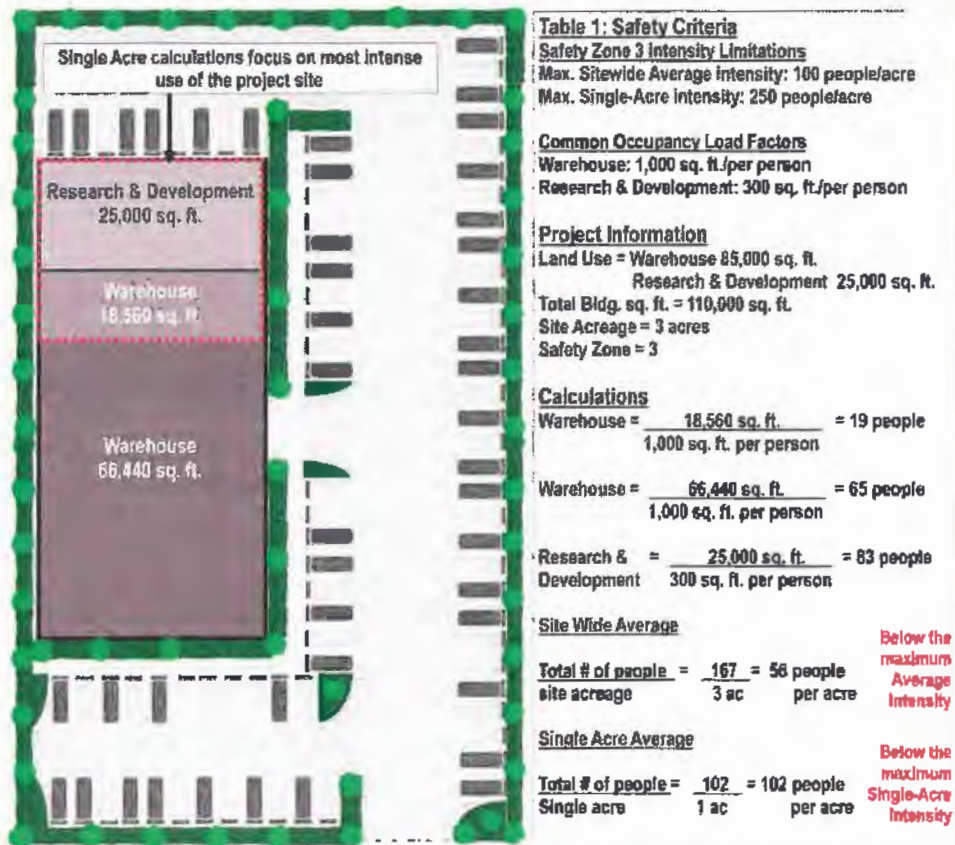
S1c Family Day Care: In accordance with state law, a family day care home serving 14 or fewer children may be established in any dwelling by the policies of this *Compatibility Plan*.

S1d Residential Mixed-Use Developments: New mixed-use developments will locate the residential component outside of all safety zones.

S2 Occupancy Limits For Nonresidential Development: **Table 2-2: Safety Criteria** indicates the usage intensity (number of people per acre) limit for each safety zone. The usage intensity limits represent the safety criteria for new nonresidential development. The usage intensity limits measure intensity in two forms: 1) Sitewide average intensity which sets intensity limits for the entire project site; and 2) Single-acre intensity which sets intensity limits on any single acre within the project site (see **Exhibit 2C** for a graphical example). As a condition of approval, all new nonresidential development within the Safety Zones shall comply with both forms of intensity limits as described further below.

Exhibit 2C: Land Use Intensity Calculation Example

In this example, both the sitewide and single-acre intensity of a proposed Research & Development (R&D) / warehouse facility is calculated using the common occupancy load factors [number of square feet per person] information in **Table 2-2: Safety Criteria** together with project-specific data. The results are then compared with the maximum sitewide and single-acre intensity limits to determine consistency of the project with the safety criteria.



- S2a Sitewide Average Intensity** is calculated by determining the total number of people expected to be on the site at any given time under normal operating conditions and dividing by the total number of acres of the project site.
- S2b Single-acre Intensity** of a proposed development is calculated by determining the total number of people expected to be within any one-acre portion of the site, typically the most intensively used building or part of a building. The 1.0-acre area calculations represent building footprints that are generally rectangular and not elongated in shape or, for buildings larger than 1.0 acre, represent a portion of the building.
- S2c Usage Intensity calculations** includes all people (e.g., employees, customers/visitors) who may be on the property at any single point in time during normal operating conditions, whether indoors or outdoors. **Table 2-2: Safety Criteria** indicates the normal occupancy load factor (number of square feet per person) and Floor Area Ratio (FAR) for many nonresidential uses. These numbers are interrelated with the intensity limits (number of people per acre) and can be used to calculate the usage intensity of a proposed project (see **Exhibit 2D**). Note that the safety criteria are the sitewide and single-acre intensity limits (number of people per acre). The occupancy load factors and FARs are provided as methods for calculating the intensity of a proposed project.

Exhibit 2D: Intensity Limits

The interrelationship between Intensity limit, normal occupancy load factor and Floor Area Ratio (FAR) is indicated in the two examples below. The examples reflect Zone 3 criteria: intensity limit of 100 people per acre, occupancy load factor of 200 square feet per person, and 0.46 FAR.

Example 1

200 square feet per person (occupancy load factor)
x 100 people per acre (intensity limit)
20,000 square foot building
÷ 43,560 square feet per acre
0.46 FAR

Example 2

43,560 square feet per acre
x 0.46 FAR
20,000 square foot building
÷ 200 square feet per person (occupancy load factor)
100 people per acre (intensity limit)

1. **Occupancy Load Factors:** The occupancy load factors (minimum number of square feet per person) provided in **Table 2-2: Safety Criteria** vary from one land use to another. As shown in **Exhibit 2C**, the sitewide average usage intensity of a project having multiple uses can be calculated by:
 - ➔ Dividing the number of square feet of each component use by the number of square feet per person (occupancy load) for that use as indicated in **Table 2-2**;
 - ➔ Adding together the number of people for each component use; and
 - ➔ Dividing the total number of people by the total number of acres of the project site to get the sitewide average intensity.

- Where occupancy load factors are not indicated in the table or if the assumed occupancy load factor for a particular proposal or component thereof is not applicable to the project, then the number of occupants is estimated in another manner – for example, the number of seats and employees at a restaurant or the number of parking places times the vehicle occupancy for an industrial plant.
2. **Floor Area Ratios (FARs):** The allowable FAR is indicated in **Table 2-2: Safety Criteria** for a particular safety zone and vary from one land use to another. Each component use is calculated as occupying a share of the total project site equal to its percentage of the total floor area in the project. Mathematically, this means that the FAR for each component use will be the same as the FAR for the entire building.
 3. **Alternative Intensity Calculations:** An alternative method for measuring compliance with the usage intensity limits is acceptable. For example, a method based upon the City's parking space requirements may be used together with an assumed number of people per vehicle as a means of determining the number of occupants for uses that are vehicle oriented (this method would not be suitable for land uses where many users arrive by transit, bicycle, or other means of transportation).
 4. **Mixed-Use Development:** Each component use within a nonresidential mixed-use development shall comply with **Table 2-2: Safety Criteria** unless the use is ancillary (less than 10% of total building floor area).
 5. **Ancillary Uses:** Up to 10% of the total floor area of a building may be devoted to an ancillary use of another type, including a use with a higher occupancy load factor that is shown as incompatible in **Table 2-2: Safety Criteria**. Ancillary uses may be excluded from the single-acre intensity calculations (but not the sitewide average intensity limits) provided that the ancillary use is neither:
 - An assembly room having more than 750 square feet of floor area (this criterion is intended to parallel Building Code standards) and a capacity of more than 50 people; nor
 - A children's school (grades K–12), day care center or other risk-sensitive use that is "incompatible" within the safety zone where the primary use is to be located.
 6. **Uncommon Land Use Considerations:** If a particular development proposal is uncommon—that is, there would be more floor area per person and lower usage intensity—the local agency may consider that information in determining the safety compatibility of the proposal. In considering any such exceptions, the local agency shall also take into account the potential for the use of a building to change over time. A building could have planned low-intensity use initially, but later be converted to a higher-intensity use. Local agency permit language or other mechanisms to ensure continued compliance with the usage intensity criteria must be put in place.
 7. **Parcels within Multiple Safety Zones:** For the purposes of evaluating consistency with the usage intensity criteria set forth in **Table 2-2: Safety**

Criteria, any parcel that is split by safety zone boundaries shall be considered as if it were multiple parcels divided at the safety zone boundary line. However, the intensity of nonresidential development allowed within the more restricted portion of the parcel can (and is encouraged to) be transferred to the less restricted portion. This full or partial reallocation of intensity is permitted even if the resulting intensity in the less restricted area would then exceed the limits which would otherwise apply within that safety zone (see **Exhibit 2E**).

Exhibit 2E: Transferring Usage Intensity

An example of transferring usage intensity to the less restrictive safety zone is provided below.

Zone 3 intensity limit: 100 people per acre

Zone 4 intensity limit: 160 people per acre

Proposed intensity in Zone 3: 80 people per acre

Proposed intensity in Zone 4: 100 people per acre

* The proposed intensity for Zone 3 (80 people per acre) is encouraged to be transferred to Zone 4 for a total of 180 people per acre, even if it exceeds the Zone 4 intensity limit of 160 people per acre.

- S3 Land Use Event Exceptions:** The City of Ontario may make exceptions for “conditional” or “incompatible” land uses associated with rare special events (e.g., an air show at the airport) for which a facility is not designed and normally not used and for which extra safety precautions can be taken as appropriate.
- S4 Land Uses of Special Concern:** Certain types of land uses represent special safety concerns irrespective of the number of people associated with those uses. **Table 2-2: Safety Criteria** indicates the criteria applicable to these uses. In some cases, these uses are not allowed in portions of the safety zones regardless of the number of occupants associated with the use. In other instances, these uses should be avoided—i.e., allowed only if an alternate site outside of the safety zone would not work. When allowed, special measures should be taken to minimize hazards to the facility and occupants if the facility were to be struck by an aircraft. Land uses of particular concern and the nature of the concern are:
- S4a Land Uses Having Vulnerable Occupants:** These land uses are ones in which the majority of occupants are children, elderly, and/or disabled—people who have reduced effective mobility or may be unable to respond to emergency situations. These uses include:
- ➔ Children’s schools (grades K–12).
 - ➔ Day care centers (facilities with 15 or more children, as defined in the California Health and Safety Code).
 - ➔ Hospitals, health care centers, and similar facilities, especially where patients remain overnight.
 - ➔ Nursing homes.
 - ➔ Inmate facilities.

- S4b Hazardous Materials Storage:** Materials that are flammable, explosive, corrosive, or toxic constitute special safety compatibility concerns to the extent that an aircraft accident could cause release of the materials and thereby pose dangers to people and property in the vicinity. Facilities in this category include:
- Facilities such as oil refineries and chemical plants that manufacture, process, and/or store bulk quantities (tank capacities greater than 6,000 gallons) of hazardous materials generally for shipment elsewhere.
 - Facilities associated with otherwise compatible land uses where hazardous materials are stored in smaller quantities primarily for on-site use (tank capacities greater than 6,000 gallons).
- S4c Critical Community Infrastructure:** The damage or destruction of public infrastructure facilities which would cause significant adverse effects to public health and welfare well beyond the immediate vicinity of the facility. Among these facilities are:
- Emergency services facilities such as police and fire stations.
 - Emergency communications facilities, power plants, and other utilities.
- S5 Overlay Safety Zone 1A:** New development proposed within Overlay Safety Zone 1A is encouraged to locate buildings outside the overlay zone, when feasible, otherwise utilize the intensity limits of the underlying Safety Zone.
- S6 Avigation Easements:** The City of Ontario shall require dedication of an avigation easement as a condition for approval of all proposed development situated off-airport within Safety Zones 1 through 5 in accordance with **Policy SP1** (see Section 6.5). The Safety Zones and this policy affect only the City of Ontario.

6.2 Noise

- 6.2.1 Policy Objective:** The purpose of noise compatibility policies is to avoid the establishment of noise-sensitive land uses in the portions of the ONT ALA that are exposed to significant levels of aircraft noise.
- 6.2.2 Noise Affected Agencies:** The noise impact zones for ONT affect lands within the Cities of Chino, Fontana, Montclair, and Ontario and unincorporated areas of the Counties of San Bernardino and Riverside. The noise compatibility policies and criteria of this section apply only to the jurisdictions and special entities (e.g., school districts) in San Bernardino County.
- 6.2.3 Factors Considered in Establishing Noise Impact Zones:** The factors considered in setting the policies within each noise impact zone are:
- (a) **Measures of Noise Exposure:** The magnitude of the airport-related noise to which properties near ONT are exposed must be measured in terms of Community Noise Equivalent Level (CNEL).
 - (b) **Noise Contours:** In accordance with state law, the planning time frame utilized in this *Compatibility Plan* extends at least 20 years into the future. The noise contours depicted herein represent the greatest annualized noise impact,

measured in terms of CNEL, anticipated to be generated by the airport over the planning time frame.

6.2.4 Factors Considered in Setting Noise Policies: The factors considered in setting the noise policies for this section and the criteria in **Table 2-3: Noise Criteria** are described below. These factors must also be considered when conducting compatibility assessments of individual development projects.

- (a) **Noise Regulations:** State regulations and guidelines, including noise compatibility recommendations in the *California Airport Land Use Planning Handbook* (2002) provide the foundation for the noise policies.
- (b) **Ambient Noise levels:** Ambient noise levels influence the potential intrusiveness of aircraft noise upon land uses within a community. Ontario is characterized as an urban community with higher ambient noise levels than that of a suburban community. Highway and rail noise contribute significantly to the ambient noise levels in the community.
- (c) **Noise-Sensitive Uses:** The extent to which noise would intrude upon and interrupt the activity associated with a particular use affects whether the use is compatible with a particular noise exposure.
- (d) **Noise-Generating Uses:** Land uses with operating conditions that generate noise are typically more compatible with high external noise exposure than uses that are internally quiet.
- (e) **Outdoor Uses:** The extent of outdoor activities associated with a particular land use, especially activities for which quiet is important, is a key determinant of noise exposure compatibility because the sound attenuation that a structure would provide does not exist. Outdoor activities are particularly susceptible to aircraft overflight noise in that sound walls and other devices that can serve as shields from highway, railroad, and other ground-level noises are not practical.
- (f) **Sound Attenuation:** Indoor uses associated with a particular land use that would otherwise be incompatible may be made consistent with this *Compatibility Plan* with the application of sound attenuation standards in accordance with **Policy N4**.
- (g) **Single-event noise levels:** Single-event noise levels are taken into account in **Table 2-3: Noise Criteria** with respect to the acceptability of highly noise-sensitive land uses. Single-event noise levels are considered when assessing the compatibility of highly noise-sensitive land uses such as residences, schools, libraries, and outdoor theaters. Susceptibility to speech interference and sleep disturbance are among the factors that make certain land uses noise sensitive. Single-event noise levels are especially important in areas that are regularly overflown by aircraft, but that do not produce significant CNEL contours (helicopter overflight areas are a particular example). Flight patterns for ONT must be considered in the review process. Acoustical studies or on-site noise measurements could also be required to assist in determining the compatibility of sensitive uses.

6.2.5 Noise Impact Zones for ONT: The noise impact zones depicted in **Map 2-3** were prepared for ONT in conjunction with the master planning efforts conducted by Los

Angeles World Airports (LAWA) in the mid 2000s. The noise exposure contours represent ~~a composite of two sets of projected noise contours reflecting two forecast scenarios.~~ The “No Project” scenario and reflects the existing runway configuration and a 2030 forecast of 343,000 annual operations. ~~The “Proposed Project” scenario reflects the ultimate runway configuration and a 2030 forecast of 465,000 annual operations. Aircraft activity data upon which the contours are based are summarized in Chapter 1 of this Compatibility Plan.~~ The City of Ontario, as the agency responsible for this *Compatibility Plan*, should periodically review the projected CNEL contours and, in conjunction with LAWA/QIAA, update them as necessary to ensure that they continue to have a future time horizon of at least 20 years.

- 6.2.6 **Noise Standards for New Development:** To minimize noise-sensitive development in noisy areas around ONT, new development should be evaluated in accordance with the policies set forth in this section, including the criteria listed in **Table 2-3: Noise Criteria** and the noise impact zones depicted on **Map 2-3: Noise Impact Zones**.

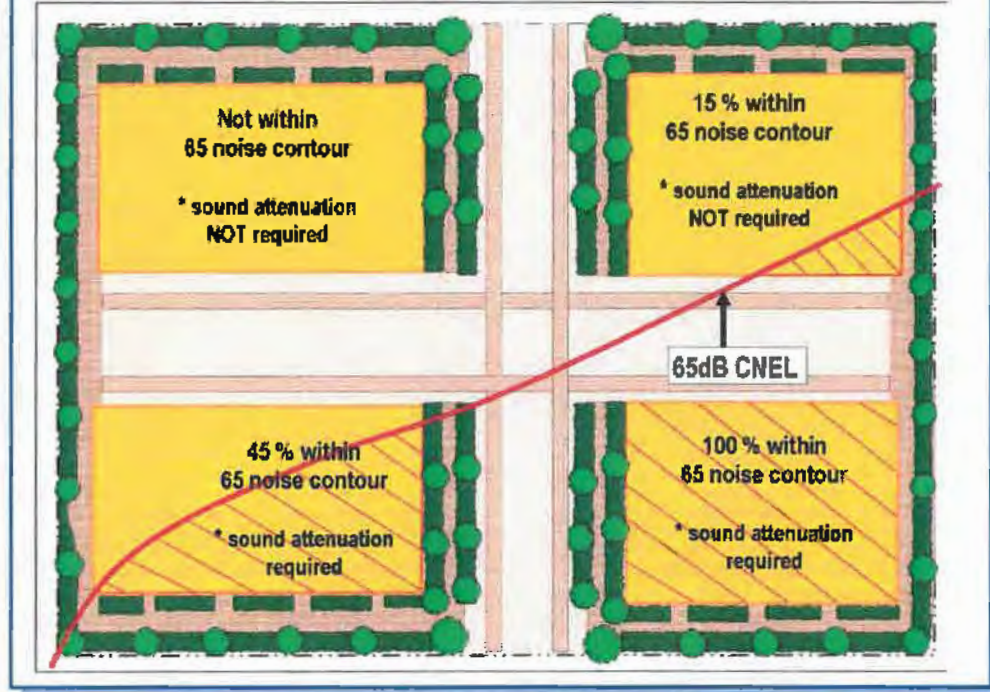
NOISE POLICIES

- N1 Residential Development:** New residential development is incompatible within the projected CNEL 65 dB contour of ONT except as described in Policy N2 and SP3e.
- N2 Residential Development Exceptions:** The following types of residential developments are allowed within the CNEL 65 dB contour, if the structure is capable of attenuating exterior noise from all noise sources to an indoor CNEL of 45 dB or less.
- N2a Multi-Family Residential:** Multi-family residential is allowed within the CNEL 65 dB contour if the development can achieve a density that is greater than 8 dwelling units per acre and incorporate interior common space and recreational facilities.
- N2b Caretaker’s Unit:** A caretakers unit that is ancillary to a primary use located within the projected CNEL 65 dB contour should be deemed compatible with this *Compatibility Plan* provided that there is no more than 1 dwelling unit.
- N2c Existing Residential Lots:** Exceptions are provided for existing residential lots (see **Policy SP2** with regard to development by right).
- N2d Composite Industrial/Residential Use:** A single-family residential use combined with an industrial land use should be deemed compatible within the projected CNEL 65 dB contour due to the high ambient noise levels generated by the industrial use. However, new structures developed for residential purposes should achieve noise attenuating standards consistent with the California Building Code.
- N3 Non-residential Development:** New nonresidential development is incompatible in locations where the airport-related noise exposure would be highly disruptive to the specific land use. The applicable criteria are indicated in **Table 2-3: Noise Criteria**.

- N4 Maximum Interior Noise Level:** To the extent that the criteria in **Table 2-3: Noise Criteria** and other policies herein permit the development, land uses with interior activities that may be easily disrupted by aircraft noise should be required to incorporate exterior-to-interior noise level reduction (NLR) design features for all new structures. The land uses listed in **Policies N4a** and **N4b** are considered acceptable if proper sound attenuation standards are applied and the maximum interior noise level indicated in **Policies N4a** and **N4b** are not exceeded.
- N4a CNEL 45 dB Interior Noise Level**
- Any habitable room of single- or multi-family residences.
 - Hotels, motels, and other lodging.
 - Hospitals, nursing homes, and related uses where patients remain overnight.
 - Places of worship, meeting halls, theaters, and mortuaries.
 - Schools, libraries, and museums.
- N4b CNEL 50 dB Interior Noise Level**
- Offices and office areas of industrial facilities.
 - Eating and drinking establishments.
 - Retail centers and stores.
 - Miscellaneous other uses as listed in **Table 2-3: Noise Criteria**.
- N4c Noise Attenuation Criteria:** Where **Table 2-3: Noise Criteria** indicates that buildings associated with a particular land use must be capable of attenuating exterior noise to the specified maximum interior noise level, acoustical data documenting that the structure will be designed to comply with the criteria should be provided. The noise impact zones depicted in **Map 2-3** should be used in calculating compliance with these criteria. The calculations should assume that windows are closed.
- N4d Noise Attenuation Exceptions:** Exceptions to the interior noise level criteria set in **Policy N4a** may be allowed if evidence is provided that the indoor noise generated by the use itself exceeds the listed criteria.
- N4e Parcels with Multiple Noise Contour Ranges:** When a proposed building lies within multiple CNEL range zones (e.g., partly in 60-65 dB and partly in 65-70 dB), the higher range zone should apply for the purposes of determining sound attenuation requirements unless less than 25% of the building floor area is within the least restrictive zone. In such case, the lower range zone may be used. See **Exhibit 2F** for graphical example.
- N5 Avigation Easements:** The City of Ontario shall require dedication of an avigation easement in accordance with **Policy SP1** as a condition of approval for proposed noise-sensitive developments situated within the City of Ontario portion of the CNEL 65 dB. Affected Agencies that have authority over lands elsewhere within CNEL 65 dB contour are encouraged to establish a similar requirement for development within their jurisdictions.

Exhibit 2F: Interior Noise Limit Requirement Example

In this example, the proposed buildings with less than 25% of the building floor area ratio in the 65 dB CNEL contour does not require noise insulation. Interior noise limit requirements are provided for each land use category in Table 2-2: Safety Criteria.



6.3 Airspace Protection

- 6.3.1 Policy Objective:** Airspace protection compatibility policies seek to prevent creation of land use features that can be hazards to aircraft in flight and have the potential for causing an aircraft accident to occur. Such hazards may be physical, visual, or electronic.
- 6.3.2 Affected Agencies:** Considering the topography within the AIA, the airspace protection zones for ONT primarily affect lands within the Cities of Ontario, Rancho Cucamonga, and Upland. The Cities of Chino, Fontana, and Montclair and unincorporated areas of San Bernardino County are affected to a lesser extent. Portions of the airspace protection zones also extend into the Counties of Riverside and Los Angeles however Airspace protection policies are only informational.
- 6.3.3 Factors Considered in Establishing Airspace Protection Zones:** The principal factors considered in setting the airspace protection zones are:
- (a) **Federal Regulations:** Federal Aviation Regulations (FAR) Part 77, *Objects Affecting Navigable Airspace*, set the requirements for notice to the Federal Aviation Administration (FAA) of certain proposed construction or alteration projects (Subpart B, *Notice of Construction or Alteration*) and establish standards for determining obstructions to navigable airspace (Subpart C, *Obstruction Standards*). The airspace protection zones for ONT also considered the *United States Standard for Terminal Instrument Procedures* (TERPS), the One-Engine Inoperative (OEI)

obstacle identification surface and other applicable obstruction clearance standards published by the FAA in Advisory Circular 150/5300-13, Change 15. **Appendix B** provides a copy of FAR Part 77.

- (b) **Specific Airport Features:** The current ~~and-ultimate~~ runway alignments with precision approaches to all runway ends, OEI obstacle identification surfaces associated with the existing ~~and-future~~ departure procedures, and the TERPS surfaces for the existing approach procedures at ONT were also considered. The TERPS surfaces for the ultimate runway are not considered as the FAA establishes these surfaces for specific instrument approach procedures.
- (c) **High Terrain Zone:** Objects in high terrain areas are closer to the airport's airspace surfaces and thus have a greater potential of creating airspace hazards. In accordance with FAR Part 77, Subpart B, a proposed structure which would penetrate the Part 77 airspace surfaces would be considered an airspace obstruction and thus requires an aeronautical review by the FAA. However, Section 77.15 of the regulations stipulate that FAA review is not required for new structures that would penetrate the airport's airspace surfaces if the proposed structure would be shielded by existing structures of a permanent and substantial character of equal or greater height. In 2010, the City of Ontario surveyed the heights of existing structures within the High Terrain Zone area to establish a height threshold for future objects (see Appendix J). The survey revealed that existing structures within the high terrain areas north of ONT have heights of up to 70 feet above ground. This information is considered when delineating the High Terrain Zone described in Section 6.3.5(d).

6.3.4 Factors Considered in Setting Airspace Protection Policies: The factors considered in setting the airspace protection policies in this section are described below. These factors should also be considered when conducting compatibility assessments of individual development projects. The factors are:

- (a) **Federal and State Regulations:** The airspace protection policies outlined in this section are based upon and intended to help implement the regulations enacted by the FAA and the State of California. State airspace protection standards mostly mirror those of the FAA. A key difference is that state law gives the California Department of Transportation, Division of Aeronautics and local agencies the authority to enforce the standards.
- (b) **Flight Hazards:** The FAA has well-defined standards by which potential hazards to flight, especially airspace obstructions, can be assessed. However, the FAA has no authority to prevent creation of such hazards. That authority rests with state and local governments. There are three categories of flight hazards: physical, visual, and electronic.
 - Height of structures and other objects situated near the airport are a primary determinant of physical hazards to the airport airspace.
 - Land use features that have the potential to attract birds and certain other wildlife to the airport area also need to be evaluated as a form of physical hazard.
 - Visual hazards of concern include certain types of lights, sources of glare, and sources of dust, steam, thermal plumes, or smoke.

- Electronic hazards are ones that may cause interference with aircraft communications or navigation.
- (c) **Airspace Obstructions:** The criteria for determining the acceptability of a project with respect to height are based upon the standards set forth in: Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace, Subpart C, Obstruction Standards; the United States Standard for Terminal Instrument Procedures (TERPS); the One-Engine Inoperative (OEI) obstacle identification surface and other applicable airport design standards published by the FAA.
- (d) **OEI and TERPS Surfaces:** The OEI and TERPS surfaces associated with the current instrument approach and departure procedures at ONT are a significant airspace protection factor. In some locations, these surfaces establish height limitations lower than the FAR Part 77 surfaces used by the FAA in evaluating airspace obstructions.
- (e) **Local Topography:** The topography underlying the airport's airspace surfaces is a significant factor in determining the allowable height of a structure. The terrain north of ONT slopes upwards towards the San Gabriel Mountains, thereby reducing the allowable heights of objects in those areas. In the high terrain areas north of ONT, the heights of existing structures (natural or manmade) that are of a permanent and substantial character are considered in establishing the allowable heights of future objects. Appendix J documents the heights of existing structures within the High Terrain Zone.

6.3.5 Airspace Protection Zones for ONT: The airspace protection zones depicted in Map 2-4 were prepared for ONT in accordance with Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace; the United States Standard for Terminal Instrument Procedures (TERPS), the One-Engine Inoperative (OEI) obstacle identification surface and other applicable obstruction clearance standards published by the Federal Aviation Administration (FAA) in Advisory Circular 150/5300-13, Change 15.

- (a) **FAA Height Notification Surface:** Established in accordance with FAR Part 77, Subpart B, this airspace surface extends outward and upward at a slope of 100 to 1 for a horizontal distance of 20,000 feet from the airport runways.
- (b) **Airspace Obstruction Surfaces:** Includes the controlling portions of the FAR Part 77, Subpart C, TERPS, and OEI surfaces extending out to a point where these surfaces terminate at the outer limits of the FAA Height Notification Surface. Objects which penetrate these surfaces are subject to airspace evaluation by the FAA and the ONT Inter-Agency Notification Process. Objects which penetrate the Approach/Departure Surfaces which extend beyond the FAA Height Notification Surface require evaluation by the FAA but would not be subject to the ONT Inter-Agency Notification Process.
- (c) **Allowable Heights:** To determine the allowable heights of future objects, the underlying ground elevation is compared with the elevation of the controlling portions of the FAR Part 77, TERPS, and OEI surfaces. These are depicted as color bands in Policy Map 2-4, each color band represents a range of distance, measured in vertical feet, between the ground and overlying surface.

- (d) **High Terrain Zone:** Based on a height survey conducted by the City of Ontario in 2010, existing objects within the high terrain areas north of ONT have heights of up to 70 feet (see Appendix J). Therefore, the High Terrain Zone is delineated to include portions of the FAR Part 77, Subpart C, airspace surfaces where the ground either penetrates or lies within 70 feet of the airspace surface.
- (e) **Airspace Avigation Easement Area:** Includes portions of the FAR Part 77, Subpart C, approach and transitional airspace surfaces and the TERPS and OEI surfaces extending out to a point where these surfaces intersect the horizontal surface, which is situated 150 feet above the airport elevation of 944 feet MSL.

6.3.6 Airspace Protection Standards for New Development: The airspace protection compatibility of proposed land uses within the AIA of ONT should be evaluated in accordance with the policies in this section, including the existing and future airspace protection surfaces depicted in **Map 2-4**.

AIRSPACE PROTECTION POLICIES

A1 FAA Height Notification Surface: Except as provided in **Policy A2b**, if a project contains proposed structures or other objects that would penetrate the FAA Height Notification Surface for ONT, the project proponent should submit notification of the proposal to the FAA, as required by the provisions of FAR Part 77, Subpart B, and by the California Public Utilities Code, Sections 21658 and 21659. The FAA will conduct an “aeronautical study” of the object(s) and determine whether the object(s) would be of a height that would constitute a hazard to air navigation. A copy of the completed FAR Part 77 notification form submitted to the FAA and the resulting FAA aeronautical study findings should be supplied to the local jurisdiction by the project proponent. The results of the FAA aeronautical study should be taken into account by the local agency when conducting compatibility reviews of the proposed project. A copy of the FAA notification form and online submittal procedures are provided in **Appendix B**. A requirement for submitting notice to the FAA does not necessarily result in a requirement that the proposed object also be reviewed under the ONT Inter-Agency Notification Process. Proposed objects are subject to the ONT process only as specified in Policy A2. The FAA notification requirements apply to the following:

- A1a Penetrations to the FAA Height Notification Surface:** With limited exceptions, the FAA requires notification for all objects which penetrate the FAA Height Notification Surface, including structures, antennas, trees, mobile objects, and temporary objects such as construction cranes.
- A1b Structures in Excess of 200 feet:** The FAA requires that it be notified about any proposal to construct or alter a structure that would be taller than 200 feet above the ground level regardless of the structure’s proximity to ONT or any other airport.
- A1c FAR Part 77 Notification:** FAA requires project proponents to submit notification of the proposal where required by the provisions of FAR Part 77, and by the California Public Utilities Code, Sections 21658 and 21659. See

Appendix B for FAA notification requirements and online submittal process of Form 7460-1, *Notice of Proposed Construction or Alteration*.

A2 Airspace Obstruction Surfaces: Except as provided in **Policies A2a and A2b**, no object should have a height that would result in a penetration of the Airspace Obstruction Surface depicted for ONT in **Map 2-4**. Any object that penetrates the Airspace Obstruction Surface and is located outside of the High Terrain Zone should satisfy the conditions set forth in **Policy A2a**. These requirements apply to all objects including structures, antennas, trees, mobile objects, and temporary objects such as construction cranes.

A2a Airspace Obstacle Criteria and Review Process: Except as indicated in **Policy A2b**, a proposed object having a height that penetrates ONT's airspace obstruction surfaces is subject to the ONT Inter-Agency Notification Process and should be allowed only if all of the following apply:

- The FAA conducts an aeronautical study of the proposed object and determines that the object would not be a hazard to air navigation.
- FAA or other expert analysis conducted under the auspices of the ~~Los Angeles World Airports (LAWA)~~ Ontario International Airport Authority (OIAA), as the airport owner, concludes that, despite being an airspace obstruction, the object would not cause any of the following:
 - An increase in the ceiling or visibility minimums of the airport for an existing or planned instrument procedure (a planned procedure is one that is formally on file with the FAA);
 - A reduction of the established operational efficiency and capacity of the airport, such as by causing the usable length of the runway to be reduced; or
 - A conflict with the visual flight rules (VFR) airspace used for the airport traffic pattern or en route navigation to and from the airport.
- Marking and lighting of the object will be installed as directed by the FAA aeronautical study or the California Division of Aeronautics and in a manner consistent with FAA standards in effect at the time the construction is proposed (Advisory Circular 70/7460-1J, Obstruction Marking and Lighting, or any later guidance).
- An aviation easement is dedicated in accordance with **Policy SP1** to the ~~LAWA-OIAA~~ as owner of the airport.
- The proposed project complies with all policies of this *Compatibility Plan* related to noise and safety compatibility.

A2b High Terrain Zone Exception: The High Terrain Zone is confined to portions of Upland, Ontario and Rancho Cucamonga (**Map 2-4**). A proposed structure of up to 70 feet in height (subject to local agency zoning limits) is exempt from the ONT Inter-Agency Notification Process, even if it penetrates the Part 77 airspace surfaces and thus constitute an airspace obstruction, as the object would be shielded by existing structures of a permanent and substantial character of equal or greater height. Submitting notice of the proposed project to the FAA for an airspace evaluation in

accordance with FAR Part 77, Subpart B, is at the discretion of the project applicant. Dedication of an aviation easement is required in accordance with **Policy SP1**.

A3 **Flight Hazards:** Land uses that may cause visual, electronic, or wildlife hazards, particularly bird strike hazards, to aircraft in flight or taking off or landing at the airport should be prohibited within the AIA consistent with FAA rules and regulations. To resolve any uncertainties with regard to the significance of flight hazards, local agencies should consult with the FAA, California Division of Aeronautics, and/or ONT officials. Specific characteristics to be avoided include:

- Sources of glare (such as from mirrored or other highly reflective buildings or building features) or bright lights (including search lights and laser light displays).
- Distracting lights that could be mistaken for airport lights.
- Sources of dust, steam, or smoke that may impair pilots' vision.
- Sources of steam or other emissions that cause thermal plumes or other forms of unstable air.
- Sources of electrical interference with aircraft communications or navigation.
- Any proposed use that creates an increased attraction for wildlife and that is inconsistent with FAA rules and regulations including, but not limited to FAA Advisory Circulars 150/5200-33B, *Hazardous Wildlife Attractants On or Near Airports* and 150/5200-34A, *Construction or Establishment of Landfills near Public Airports*. Of particular concern are landfills and certain recreational or agricultural uses that attract large flocks of birds which pose bird strike hazards to aircraft in flight.

A4 **Avigation Easements:** In accordance with **Policy SP1**, the City of Ontario shall require dedication of an avigation easement as a condition of approval for proposed development that either penetrates the Airspace Obstruction Surfaces (see **Policy A2a**) or is situated within the High Terrain Zone (see **Policy A2b**) or Airspace Avigation Easement Area (see **Policy SP1**). Affected Agencies that have the authority over other lands elsewhere within these airspace protection areas are encouraged to establish a similar requirement for new development within their jurisdictions.

6.4 Overflight

6.4.1 Policy Objective: Noise from individual aircraft operations, especially by comparatively loud aircraft, can be intrusive and annoying in locations beyond the limits of the noise impacts addressed by the policies in Section 6.2. Sensitivity to aircraft overflights varies from one person to another. The purpose of overflight compatibility policies is to help notify people about the presence of overflights near airports so that they can make more informed decisions regarding acquisition or lease of property in the

Note: Overflight policies and criteria are informational for Riverside and Los Angeles Counties

affected areas. Overflight compatibility is particularly important with regard to residential land uses.

6.4.2 Affected Local Agencies: The overflight zones for ONT affect the Cities of Chino, Fontana, Montclair, Ontario, Rancho Cucamonga, and Upland and unincorporated areas of San Bernardino County. Portions of the Cities of Claremont and Pomona in Los Angeles County and the unincorporated areas of Riverside County are also within the overflight zones. The overflight policies of this section apply only to the jurisdictions and other entities in San Bernardino County.

6.4.3 Factors Considered in Establishing Overflight Zones:

(a) **State Law:** State statutes (Business and Professions Code Section 11010 and Civil Code Sections 1102.6, 1103.4, and 1353) define an AIA as “the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.”

(b) **Measures of Overflight Exposure:** The loudness of individual aircraft noise events is a key determinant of where airport proximity and aircraft overflight notification is warranted. The FAA has determined that overflight exposure is not significant where aircraft are flying at an altitude of 3,000 feet or more above ground level. The boundary of the overflight area for ONT, as depicted on Map 2-5, is drawn to encompass locations where aircraft approaching and departing the airport typically fly at an altitude of 3,000 feet or less, together with locations underlying the airspace protection and height notification surfaces.

6.4.4 Factors Considered in Setting Overflight Compatibility Criteria: Factors include:

(a) **Limitations of Local Agency Authority over Existing Uses:** To be most effective, overflight policies should apply to transactions involving existing land uses, not just future development. However, local agencies have little authority to set requirements for existing development. The intent of this policy is to define, on an advisory basis, the boundaries within which required real estate transfer disclosure under state law is appropriate. Implementing the real estate transaction disclosure requirement is the responsibility of the property owner and real estate agent. The local agency is responsible only for providing a map to a property owner or real estate agent that defines the areas within which the real estate disclosure requirement should be applied.

(b) **Limitations of California Real Estate Transaction Disclosure Law:** State law applies to existing development, but not to all transactions. Specifically, California state statutes (Business and Professions Code Section 11010 and Civil Code Sections 1102.6, 1103.4, and 1353) require that, as part of many residential real estate transactions, information be disclosed regarding whether the property is situated within an AIA. The Business and Professions Code applies the disclosure requirement to the sale or lease of newly subdivided lands and condominium conversions and to the sale of certain existing residential property. The Civil Code applies the disclosure requirement to existing residential property transfers only when certain natural conditions (earthquake, fire, or flood hazards) warrant disclosure.

- (c) **Need for Continuity of Notification to Future Property Owners and Tenants:** To the extent that this *Compatibility Plan* sets notification requirements for new development, the policy should ensure that the notification runs with the land and is provided to prospective future owners and tenants. These types of notifications are described in **Policy SP1**, Avigation Easements and **Policy O1**, Recorded Overflight Notification.
- (d) **Inappropriateness of Avigation Easement Dedication Solely for Buyer Awareness Purposes:** Avigation easements involve conveyance of property rights from the property owner to the party owning the easement and are thus best suited to locations where land use restrictions for noise, safety, or airspace protection purposes are necessary. While avigation easements also provide a form of buyer awareness, property rights conveyance is not needed solely for buyer awareness purposes.

6.4.5 Overflight Notification Zones for ONT: The boundaries of the overflight notification zones around ONT are shown on **Map 2-5** and include:

- (a) **Avigation Easement Dedication:** The boundary identifies the high-risk, noise-impacted, and critical airspace protection areas of ONT. Although not strictly an overflight notification boundary, the Avigation Easement Dedication boundary is established in accordance with **Policy SP1** and reflected on the **Map 2-5**.
- (b) **Recorded Overflight Notification:** The boundary identifies the primary overflight area for the airport. The policy boundary matches the CNEL 60 dB noise impact zone depicted on **Map 2-3**. The Recorded Overflight Notification boundary encompasses the traffic pattern areas where aircraft typically fly at altitudes of less than 2,500 feet above ground level.
- (c) **Real Estate Transaction Disclosure:** The boundary, which reflects the ONT AIA, encompasses areas underlying the common aircraft traffic patterns where aircraft are typically flying at altitudes of 3,000 feet or less. The AIA also includes the areas underlying the Height Notification Surface and Airspace Obstruction Surfaces defined for ONT in **Map 2-5**. The policy boundary follows roads and government boundary lines where practical.

6.4.6 Overflight Policies: Unlike the function of the noise, safety, and airspace protection compatibility policies in this *Compatibility Plan*, the overflight compatibility policies set forth in this section do not restrict the manner in which land can be developed or used. The policies in this section serve only to establish the language and recommended geographic coverage for notification about airport proximity and aircraft overflights to be given in conjunction with local agency approval of new development and with certain real estate transactions involving existing development.

OVERFLIGHT POLICIES

- O1 Recorded Overflight Notification:** The City of Ontario shall require the recording of an overflight notification running with the land as a condition for approval of new residential development that falls within CNEL 60 dB noise contour, as depicted in **Map 2-5**. Affected Agencies having authority over other lands elsewhere within this

noise contour are encouraged to establish a similar requirement. Other conditions include:

- O1a Notification Language:** The overflight notification should contain language dictated by state law with regard to real estate transaction disclosure (see **Policy O2a**) and should be formatted similar to the example shown in Appendix E.
 - O1b Property Deed Recording:** The overflight notification should be evident to future purchasers of the property by appearing on the property deed.
 - O1c Avigation Easement Exception:** A separate recorded overflight notification is not required where an avigation easement is provided in accordance with **Policy SP1**.
 - O1d Nonresidential Exception:** Recording of an overflight notification is not required for nonresidential development unless the project is a mixed-use development containing residential uses on the same property.
- O2 Real Estate Transaction Disclosure:** Airport proximity disclosure information should be provided in accordance with state law (Business and Professions Code Section 11010 and Civil Code Sections 1102.6, 1103.4, and 1353. See Section 6.4.4 (b) and Appendix A for information on these laws.
- O2a Disclosure Language:** State Law provides the following disclosure language:

 NOTICE OF AIRPORT IN VICINITY: This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.
 - O2b Airport Influence Area:** Consistent with state law, as the entity authorized to prepare the *Compatibility Plan* for ONT, the City of Ontario in coordination with other affected jurisdictions deems airport proximity disclosure to be appropriate within the AIA identified on **Maps 2-1** through **2-5**. The AIA boundary is identical on each map.
 - O2c Responsibility of Local Jurisdictions:** Local jurisdictions should make available to property owners and the public a copy of **Map 2-5: Overflight Zones** depicting the AIA boundary in which the airport proximity disclosure is required.

6.5 Special Compatibility

- 6.5.1 Special Compatibility Policies:** These policies are intended to address unique land use concerns.

SPECIAL COMPATIBILITY POLICIES

SP1 Avigation Easement Dedication: An avigation easement should be dedicated to the owner/operator of ONT for new development as specified in **Policies SP1a and SP1b**. An example of an avigation easement is provided in Appendix E.

SP1a Avigation Easement Dedication Requirements: Within portions of the AIA inside the City of Ontario, avigation easement dedication shall be required for new development requiring discretionary as described below. Affected Agencies having authority over comparable affected portions of the AIA are encouraged to establish similar requirements. However, an avigation easement dedication is not considered necessary for ministerial actions as defined by each jurisdiction. **Map 2-5**, depicts the locations where an avigation easement dedication would be appropriate.

- *Safety Zones:* All new development within Safety Zones 1 through 5 as depicted on **Map 2-2**. (Safety zones contained solely within the City of Ontario)
- *Noise Impact Zones:* Development of new noise-sensitive land uses within the CNEL 65 dB noise contour depicted on **Map 2-3**. Noise sensitive land uses include residential, schools(public and private), places of worship, hospitals and convalescent homes. (The projected CNEL 65 dB noise contour extends into portions of the Ontario, Fontana and unincorporated portions of San Bernardino County.)
- *Airspace Protection Zones:* All new development in locations beneath the critical portions of the approach and transitional surfaces to where these surfaces intersect with the horizontal surface. (Located solely within the City of Ontario, see Airspace Avigation Easement Area on **Map 2-4**.)
- *High Terrain Zone:* All new development within the High Terrain Zone as depicted in **Map 2-5**. (Applies to portions of the City of Ontario, Upland and Rancho Cucamonga.)

SP1b Avigation Easement Purpose: The avigation easement should do the following:

- *Right of Flight:* Provide the right of flight in the airspace above the property.
- *Noise Impacts:* Allow the generation of noise and other impacts associated with aircraft overflight.
- *Physical Hazards:* Restrict the height of structures, trees and other objects in accordance with the policies in Section 6.3 and the airspace protection surfaces depicted on **Map 2-4**.
- *Obstruction Marking:* Permit access to the property, with appropriate advance notice, for the removal or aeronautical marking of objects exceeding the established height limit.
- *Other Airspace Hazards:* Prohibit electrical interference, glare, and other potential hazards to flight from being created on the property.

- SP2 Development by Right:** Other than in Safety Zones 1 and 5 and within the projected CNEL 70 dB contour of the airport, nothing in these policies prohibits the types of development specified in **Policies SP2a, SP2h, and SP2c.**
- SP2a Residential Uses:** Construction of a single-family detached home, including a second unit as defined by state law, on a legal lot of record as of the date of adoption of this *Compatibility Plan* is acceptable if such use is permitted by local land use regulations.
- SP2h Existing Uses:** Construction of other types of uses is permitted if local agency approvals qualify the development as an existing land use (see Section 1.3.2 for definition of an existing land use). In accordance with **Policies N4**, sound attenuation should be required.
- SP2c Lot Line Adjustments:** Lot line adjustments are permitted provided that new developable parcels would not be created and the resulting density or intensity of the affected property would not exceed the applicable criteria indicated in the **Table 2-2: Safety Criteria** and **Table 2-3: Noise Criteria.**
- SP3 Infill:** Within the AIA, infill development of nonconforming land uses should be allowed to occur provided that the following conditions and restrictions are met:
- SP3a Safety Zone 1 Restriction:** No type of infill development should be permitted in Safety Zone 1 (the runway protection zones and within the runway primary surface).
- SP3h Safety Zones 1, 2 and 5 Residential Restriction:** Residential infill development should not be permitted within Safety Zones 1, 2, and 5. See **Policy S1** for exceptions.
- SP3c Safety Zone 3 and 4 Density Residential Restriction:** For infill residential development in Safety Zones 3 and 4, the average development density (dwelling units per acre) of the site should not exceed the median density represented by all existing residential lots that lie fully or partially within a distance of 1,000 feet from the boundary of the defined infill area.
- SP3d Nonresidential Development :** For nonresidential infill development, the average sitewide usage intensity (the number of people per acre) of the site's proposed use should not exceed the lesser of the two intensity results (See **Exhibit 2G** for example) :
- ➔ Option 1: The median intensity of all existing nonresidential uses that lie fully or partially within a distance of 1,000 feet from the boundary of the defined infill area; or
 - ➔ Option 2: Double the intensity permitted in accordance with the criteria for that location as indicated in **Table 2-2: Safety Criteria.**
- SP3e Residential Noise Restriction:** Residential infill development should not be allowed in areas exposed to exterior noise levels equal to or greater than CNEL 70 dB.
- SP3f Other Applicable Policies for Infill Development:** The single-acre intensity limits described in **Policy S2** and listed in **Table 2-2: Safety Criteria** are applicable to infill development. Also, the sound attenuation and

avigation easement dedication requirements set by **Policies N4** and **SP1**, respectively, should apply to infill development.

SP4 Nonconforming Uses: The policies within this *Compatibility Plan* do not apply to existing land uses even if those uses are not in conformance with the compatibility criteria set forth in this *Compatibility Plan*. Local jurisdictions have limited ability to cause reduction or removal of incompatible land uses from the ALA. However, proposed changes to existing uses that would change or result in increased nonconformity with the compatibility criteria are subject to the provisions of this chapter and the requirements of the Alternative Process set forth in Section 2 of this *Compatibility Plan*. Specifically, proposed changes to existing nonconforming uses (including a parcel or building) are limited as follows:

SP4a Residential uses: A nonconforming residential land use may be continued, sold, leased, or rented without restriction or review.

SP4b Nonconforming Single-family: A nonconforming single-family dwelling may be maintained, remodeled, reconstructed (see **Policy SP5a**) or expanded in size. The lot line of an existing single-family residential parcel may be adjusted. Also, a new single-family residence may be constructed on an existing lot in accordance with **Policy SP2**. The above noted property improvements may occur if improvements do not increase the number of units and lot line adjustments do not result in allowing for additional dwelling units. Examples include:

- Any remodeling, reconstruction, or expansion must not increase the number of dwelling units. For example, a bedroom could be added to an existing residence, but an additional dwelling unit could not be built on the parcel unless that unit is a secondary dwelling unit as defined by state and local laws.
- A single-family residential parcel may not be divided for the purpose of allowing additional dwellings to be constructed.

SP4c Nonconforming Multi-family (> 8 du/ac): Nonconforming multi-family residential dwelling units may be maintained, remodeled, or reconstructed (see **Policy SP5a**). The size of individual dwelling units may be increased, but additional dwelling units may not be added. The sound attenuation and avigation easement dedication requirements set by **Policies N4** and **SP1**, respectively, apply.

Exhibit 2G

Nonresidential Infill Calculation Examples

Example 1:

Option 1: Median intensity of existing nonresidential uses = 150 people per acre

Option 2: Double the intensity permitted in Zone 3 = $100 \times 2 = 200$ people per acre

* The intensity limit for the proposed development is 150 people per acre (the lesser of the two results)

Example 2:

Option 1: Median intensity of existing nonresidential uses = 225 people per acre

Option 2: Double the intensity permitted in Zone 3 = $100 \times 2 = 200$ people per acre

* The intensity limit for the proposed development is 200 people per acre (the lesser of the two results)

- SP4d Nonresidential uses:** A nonconforming, nonresidential use may be continued, sold, leased, or rented without restriction or review. Nonconforming, nonresidential facilities may be maintained, altered, or, if required by state law, reconstructed (see **Policy SP5**). However, any such work:
- Should not result in expansion of either the portion of the site devoted to the nonconforming use or the floor area of the buildings; and
 - Should not result in an increase in the usage intensity (the number of people per acre) above the levels existing at the time of approval of this *Compatibility Plan* by California Division of Aeronautics.
- SP4e Schools:** Children's schools (including grades K-12, day care centers with more than 14 children, and school libraries) may be continued, reconstructed (see **Policy SP5**), expanded with the following restrictions per State Law:
- Land acquisition for new schools or expansion of existing schools is not permitted within the CNEL 65 dB contour as depicted in Map 2-3. Land acquisition for new schools or expansion of existing schools is not permitted in any safety zone (see Map 2-4).
 - Replacement or expansion of buildings at existing schools is also not allowed in any safety zone, except that in Safety Zone 4 an expansion that accommodates no more than 50 students is allowed. This limitation does not preclude work required for normal maintenance or repair.
- SP4f Other Applicable Policies for Nonconforming Development:** As a condition of local agency approval, a proposed modification of an existing nonconforming development is subject to the sound attenuation and avigation easement dedication requirements set by **Policies N4** and **SP1**, respectively.
- SP5 Reconstruction of Nonconforming Uses:** An existing nonconforming building, structure, or use that has been partially or completely destroyed as the result of a fire, flood or natural disaster may be rebuilt under the conditions listed in **Policies SP5a** through **SP5c** so long as it does not violate local ordinances. The requirements listed in this policy do not restrict normal maintenance and repairs as defined by the local jurisdiction.
- SP5a Residential:** Nonconforming residential uses may be rebuilt provided that the reconstruction does not result in more dwelling units than existed on the parcel at the time of the damage. Addition of a secondary dwelling unit to a single-family residence is permitted if in accordance with state law and local zoning regulations.
- SP5b Nonresidential:** A nonconforming nonresidential development may be rebuilt provided that the reconstruction does not increase the floor area of the previous structure or result in an increased intensity of use (i.e., more people per acre).
- SP5c Reconstruction Requirements:** The reconstruction of nonconforming uses listed in **Policies SP5a** and **SP5b** should comply with the following requirements:

- A permit to rebuild the structure should be obtained by the local agency within twenty-four (24) months of the date the damage occurred.
- New structures should incorporate sound attenuation features consistent with **Policy N4** and California Noise Standards.
- The property should be required to dedicate an avigation easement to the ~~Los Angeles World Airports~~Ontario International Airport Authority (LAWAOIAA) as the airport proprietor, if required under **Policy SP1**.
- The new structure should comply with FAR Part 77, TERPS, and applicable airport obstruction clearance standards published by the FAA.

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Table 2-1

Major Land Use Actions subject to the ONT Inter-Agency Notification Process

The following types of Major Land Use Actions are subject to the ONT Inter-Agency Notification Process if located anywhere within the Airport Influence Area (*Applies to all Affected Jurisdictions*):

- Expansion or creation of the sphere of influence of a city or district (e.g., annexation or incorporation)
- General Plan, Specific Plan or Zoning Amendments
- Major capital improvements (e.g., water, sewer, roads) that would promote urban development in undeveloped or agricultural areas to the extent that such uses are not reflected in a previously reviewed general plan or specific plan.
- Any proposal for acquisition of a new site or expansion of an existing site by a special district, school district, or community college district.
- Any proposal for construction or alteration of a structure (including antennae) taller than 200 feet above the ground.

The following types of Major Land Use Actions are subject to the ONT Inter-Agency Notification Process only if they are located within a safety zone (*Applies solely to the City of Ontario*):

- Any proposed land use within Safety Zone 1 that is not an aviation-related use.
- Public agency acquisition of sites intended for institutional uses including hospitals, schools, jails or prisons.
- Any discretionary development proposal for projects having a building floor area of 20,000 square feet or greater unless only ministerial approval (e.g., a building permit) is required.
- Proposed development of airport property if such development is not an aviation-related use or has not previously been included in an airport master plan or community general plan reviewed under the Alternative Process.

The following types of Major Land Use Actions are subject to the ONT Inter-Agency Notification Process only if they are located within a noise impact zone of 65+ dB CNEL (*Applies to the City of Ontario, City of Fontana and unincorporated areas of San Bernardino County*):

- Residential development, including land divisions, consisting of five or more dwelling units or individual parcels.
- Any nonresidential use having outdoor dining or gathering functions.
- Public agency acquisition of sites intended for institutional uses including hospitals, schools, jails or prisons.

The following types of Major Land Use Actions are subject to the ONT Inter-Agency Notification Process only if they are located within an airspace protection zone (*Applies to all Affected Jurisdictions*):

- Any proposed object (including buildings, antennas, and other structures) having a height that requires review by the Federal Aviation Administration in accordance with Federal Aviation Regulations Part 77, Subpart B.
- Any proposed object (including buildings, antennas, and other structures) that would penetrate the allowable height as defined by Map 2-4 or conflict with the Airspace Protection policies.
- Any project having the potential to create electrical or visual hazards to aircraft in flight, including:
 - Electrical interference with radio communications or navigational signals.
 - Lighting which could be mistaken for airport lighting.
 - Glare in the eyes of pilots of aircraft using the airport.
 - Impaired visibility near the airport.
- Any project (e.g., water treatment facilities, waste transfer or disposal facilities, parks with open water areas), plan (e.g., Habitat Conservation Plan) or proposal to acquire sites intended for lakes, ponds, wetlands, or sewer treatment ponds which would have the potential to cause an increase in the attraction of birds or other wildlife that can be hazardous to aircraft operations in the vicinity of an airport.

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**Table 2-2
Safety Criteria**
Legend: Land Use Compatibility

(A detailed explanation of each land use acceptability category is provided on pg. 2-46 of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use
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- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development (see Policy S2c). Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewise intensity limits.

Land Use Category ¹	Safety Zone ²					Criteria for Conditional Uses
	1	2	3	4	5	
<i>Note: Multiple land use categories and compatibility criteria may apply to a project</i>						<i>Note: The numbers below indicate zone in which condition applies.</i>
Max Sitewise Average Intensity (people/acre)	10	60	100	160	180	<ul style="list-style-type: none"> ▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) <i>applicable to all nonresidential development</i>	20	120	250	400	400	

Outdoor Uses (limited or no activities in buildings)

Natural Land Areas: desert, brush lands ³						1: Objects above runway elevation not allowed in Object Free Area (OFA)
Water: flood plains, wetlands, lakes, reservoirs ³						1-5: Objects above runway elevation not allowed in Object Free Area (OFA)
Agriculture (except residences and livestock): crops, orchards, vineyards, pasture, range land ³						1-5: Not allowed in Object Free Area (OFA)
Livestock Uses: feed lots, stockyards, breeding, fish hatcheries, horse stables ³						
Outdoor Major Assembly Facilities: ⁴ spectator-oriented outdoor stadiums, amphitheaters, fairgrounds, zoos						
Group Recreation (limited spectator stands): athletic fields, water recreation facilities, picnic areas						3,4: Allowed only if alternative site outside zone would not serve intended function
Small/Non-Group Recreation: golf courses, tennis courts, shooting ranges ³						2-4: Allowed only if alternative site outside zone would not serve intended function and intensity criteria met
Local Parks: children-oriented neighborhood parks, playgrounds						3-5: Allowed only if alternative site outside zone would not serve intended function and intensity criteria met
Camping: campgrounds, recreational vehicle/ motor home parks						3,4: Allowed only if intensity criteria met
Cemeteries (except chapels)						

Residential and Lodging Uses

Table 2-2
Safety Criteria

Legend: Land Use Compatibility

(A detailed explanation of each land use acceptability category is provided on pg. 2-46 of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use
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- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development (see Policy S2c). Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category ¹ <i>Note: Multiple land use categories and compatibility criteria may apply to a project</i>	Safety Zone ²					Criteria for Conditional Uses <i>Note: The numbers below indicate zone in which condition applies.</i>
	1	2	3	4	5	
Max Sitewide Average Intensity (people/acre)	10	60	100	160	160	<ul style="list-style-type: none"> ▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) <i>applicable to all nonresidential development</i>	20	120	250	400	400	
Residential (<8 d.u./acre): individual dwellings, townhouses, mobile homes, bed & breakfast inns ⁵						
Residential (≥8 d.u./acre) ⁵						
Long-Term Lodging (>30 nights): extended-stay hotels, dormitories						
Short-Term Lodging (≤ 30 nights): hotels, motels, other transient lodging (except conference/assembly facilities) <i>[approx. 200 s.f./person]</i>			0.46	0.74		3, 4: FAR limits as indicated
Congregate Care: retirement homes, assisted living, nursing homes, intermediate care facilities						
Educational and Institutional Uses						
Family day care homes (≤14 children) ⁵						
Children's Schools: K-12, day care centers (>14 children); school libraries						4: No new sites or land acquisition; Bldg replacement/expansion allowed for existing schools; expansion limited to ≤50 students

Table 2-2
Safety Criteria
Legend: Land Use Compatibility

(A detailed explanation of each land use acceptability category is provided on pg. 2-46 of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)					Incompatible Land Use
<ul style="list-style-type: none"> A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions. Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development (see Policy S2c). Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits. 						
Land Use Category ¹	Safety Zone ²					Criteria for Conditional Uses
<i>Note: Multiple land use categories and compatibility criteria may apply to a project</i>	1	2	3	4	5	<i>Note: The numbers below indicate zone in which condition applies.</i>
Max Sitewide Average Intensity (people/acre)	10	60	100	160	160	<ul style="list-style-type: none"> Nonresidential development must satisfy both forms of intensity limits. Maximum Intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) <i>applicable to all nonresidential development</i>	20	120	250	400	400	
Adult Education classroom space: adult schools, colleges, universities [approx. 40 s.f./person]			0.09	0.15		3, 4: FAR limits as indicated; also see individual components of campus facilities (e.g., assembly facilities, offices, gymnasiums)
Community Libraries [approx. 100 s.f./person]			0.23	0.37		3, 4: FAR limits as indicated
Major Indoor Assembly Facilities ⁴ : auditoriums, conference centers, concert halls, arenas						
Large Indoor Assembly Facilities ⁴ : movie theaters, places of worship, cemetery chapels, mortuaries [approx. 15 s.f./person]			0.03	0.06		3, 4: FAR limits as indicated
Indoor Recreation: gymnasiums, club houses, athletic clubs, dance studios [approx. 60 s.f./person]			0.14	0.22		3, 4: FAR limits as indicated
In-Patient Medical: hospitals, mental hospitals						3, 4: No new sites or land acquisition; replacement/expansion of existing facilities limited to existing size
Out-Patient Medical: health care centers, clinics [approx. 240 s.f./person]			0.55	0.88		3, 4: FAR limits as indicated
Penal Institutions: prisons, reformatories						
Public Safety Facilities: police, fire stations						3-5: Allowed only if alternative site outside zone would not serve intended public function 5: Allowed only if airport serving
Commercial, Office, and Service Uses						
Major Retail: regional shopping centers, 'big box' retail [approx. 110 s.f./person]			0.25	0.40		3, 4: FAR limits as indicated; evaluate eating/drinking areas separately if >10% of total floor area
Local Retail: community/neighborhood shopping centers, grocery stores [approx. 170 s.f./person]			0.39	0.62		3, 4: FAR limits as indicated; evaluate eating/drinking areas separately if >10% of total floor area

**Table 2-2
Safety Criteria**

Legend: Land Use Compatibility

(A detailed explanation of each land use acceptability category is provided on pg. 2-46 of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use
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- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development (see Policy S2c). Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category ¹ <i>Note: Multiple land use categories and compatibility criteria may apply to a project</i>	Safety Zone ²					Criteria for Conditional Uses <i>Note: The numbers below indicate zone in which condition applies.</i>
	1	2	3	4	5	
Max Sitewide Average Intensity (people/acre)	10	60	100	160	160	<ul style="list-style-type: none"> ▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) <i>applicable to all nonresidential development</i>	20	120	250	400	400	
Eating/Drinking Establishments: restaurants, fast-food dining, bars [approx. 60 s.f./person]			0.14	0.22	0.22	3-5: FAR limits as indicated
Limited Retail/Wholesale: furniture, automobiles, heavy equipment, lumber yards, nurseries [approx. 250 s.f./person]		0.34	0.57			2, 3: FAR limits as indicated; design site to place parking inside and bldgs outside of zone if possible
Offices: professional services, doctors, finance, civic; radio, television & recording studios, office space associated with other listed uses [approx. 215 s.f./person]		0.30	0.49	0.79	0.79	2-5: FAR limits as indicated
Personal & Miscellaneous Services: barbers, car washes, print shops [approx. 200 s.f./person]		0.28	0.46	0.74	0.74	2-5: FAR limits as indicated
Vehicle Fueling: gas stations, trucking & transportation terminals						5: Allowed only if airport serving
Industrial, Manufacturing, and Storage Uses						
Hazardous Materials Production: oil refineries, chemical plants (≥ 6,000 gallons)						
Heavy Industrial						3, 4: Avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft
Light Industrial, High Intensity: food products preparation, electronic equipment [approx. 200 s.f./person]		0.28	0.46	0.74		2-4: FAR limits as indicated; avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft

**Table 2-2
Safety Criteria**

Legend: Land Use Compatibility

(A detailed explanation of each land use acceptability category is provided on pg. 2-46 of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use
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- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development (see Policy S2c). Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewide intensity limits.

Land Use Category ¹ <i>Note: Multiple land use categories and compatibility criteria may apply to a project</i>	Safety Zone ²					Criteria for Conditional Uses <i>Note: The numbers below indicate zone in which condition applies.</i>
	1	2	3	4	5	
Max Sitewide Average Intensity (people/acre)	10	60	100	160	160	<ul style="list-style-type: none"> ▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) <i>applicable to all nonresidential development</i>	20	120	250	400	400	
Light Industrial, Low Intensity: machine shops, wood products, auto repair [approx. 350 s.f./person]		0.48	0.80	1.29		2-4: FAR limits as indicated 5: Single story only; max. 10% in mezzanine 2-5: Avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft
Research & Development [approx. 300 s.f./person]			0.69	1.10		3, 4: FAR limits as indicated; avoid bulk storage of hazardous (flammable, explosive, corrosive, or toxic) materials; permitting agencies to evaluate possible need for special measures to minimize hazards if struck by aircraft
Indoor Storage: wholesale sales, warehouses, mini/other indoor storage, barns, greenhouses [approx. 1,000 s.f./person]						2: Single story only; max. 10% in mezzanine
Outdoor Storage: public works yards, automobile dismantling						
Mining & Extraction ⁶						
Transportation, Communication, and Utilities						
Airport Terminals: airline, general aviation						
Rail & Bus Stations						2: Allowed only if alternative site outside zone would not serve intended public function 5: Allowed only if airport serving
Transportation Routes: road & rail rights-of-way, bus stops						1: Not allowed in Object Free Area ³
Auto Parking: surface lots, structures						1: Not allowed in Object Free Area ³
Communications Facilities: emergency communications, broadcast & cell towers ⁷						3-5: Allowed only if alternative site outside zone would not serve intended public function; not allowed within ½ mile of runway
Power Plants ⁷						3, 4: Primary plants not allowed; peaker plants only

Table 2-2
Safety Criteria

Legend: Land Use Compatibility

(A detailed explanation of each land use acceptability category is provided on pg. 2-46 of this table)

Normally Compatible Land Use	Conditional Land Use (FAR)	Incompatible Land Use
------------------------------	----------------------------	-----------------------

- A yellow cell indicates a use that is conditionally compatible provided it satisfies the maximum intensity limits and/or other listed conditions.
- Numbers in yellow cells indicate the Floor Area Ratio (FAR) limit for the use. The FAR limit is based on the common occupancy load factor [approx. number of square feet per person] indicated for that use. The FAR and/or the common occupancy load factors can be used to calculate the intensity (number of people per acre) of the proposed development (see Policy S2c). Up to 10% of the total FAR of a building may be devoted to an ancillary use and excluded from the single-acre intensity calculations, but not the average sitewise intensity limits.

Land Use Category ¹ <i>Note: Multiple land use categories and compatibility criteria may apply to a project</i>	Safety Zone ²					Criteria for Conditional Uses <i>Note: The numbers below indicate zone in which condition applies.</i>
	1	2	3	4	5	
Max Sitewise Average Intensity (people/acre)	10	60	100	160	160	<ul style="list-style-type: none"> ▪ Nonresidential development must satisfy both forms of intensity limits. ▪ Maximum intensity criteria apply to Normally Compatible as well as Conditional land uses
Max Single-Acre Intensity (people/acre) <i>applicable to all nonresidential development</i>	20	120	250	400	400	
Electrical Substations ⁷						2, 5: Allowed only if alternative site outside zone would not serve intended public function
Wastewater Facilities: treatment, disposal ⁸						2, 5: Allowed only if alternative site outside zone would not serve intended public function
Solid Waste Disposal Facilities: landfill, incineration ³						2: Allowed only if alternative site outside zone would not serve intended public function
Solid Waste Transfer Facilities, Recycle Centers ³						

Land Use Acceptability	Interpretation/Comments
Normally Compatible	Normal examples of the use are compatible under the presumption that usage intensity criteria will be met. Atypical examples may require review to ensure compliance with usage intensity criteria. Noise, airspace protection, and/or overflight limitations may apply.
Conditional	Use is compatible if indicated Floor Area Ratio (FAR) and/or other listed conditions are met.
Incompatible	Use should not be permitted under any circumstances.

Notes

- ¹ Land uses not specifically listed shall be evaluated using the criteria for similar uses.
- ² Safety zones for ONT lie entirely within the limits of the City of Ontario. Avigation easement dedication required as condition of approval for all properties within safety zones.
- ³ Although these uses may satisfy the Safety criteria, they may be inconsistent with the Airspace Protection criteria as these uses may attract birds or other wildlife that could pose hazards to flight (see **Policy A3**).
- ⁴ A *Major Assembly Facility* is defined as having a capacity of $\geq 1,000$ people, while a *Large Assembly Facility* has a capacity of 300 to 999 people. Source: International Building Code.
- ⁵ Construction of a single-family home, including a second dwelling unit as defined by state law, allowed on a legal lot of record if such use is permitted by local land use regulations. A family day care home (serving ≤ 14 children) may be established in any dwelling. See **Policy S1**.
- ⁶ These uses may generate dust or other hazards to flight. See **Policy A3** for applicable policies.
- ⁷ Power lines or other tall objects associated with these uses may be hazards to flight.
- ⁸ Common occupancy load factors source: Mead & Hunt, Inc. based upon information from various sources including the international building code.

Table 2-3
Noise Criteria
Legend: Land use compatibility

(A detailed explanation of each land use acceptability category is provided on pg. 2-50 of this table.)

Normally Compatible Land Use	Conditional Land Use (45/50)	Incompatible Land Use
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▪ Cells that are conditionally compatible that have a number, indicate the interior noise level standard condition for use consistency.

Land Use Category ¹	Noise Impact Zones Exterior Noise Exposure ² (CNEL dB)					Criteria for Conditional Uses
	≤ 60	60-65	65-70	70-75	≥ 75	

Note: Multiple land use categories and compatibility criteria may apply to a project

Note: Interior noise level limits shown in yellow cells also apply (See Policy N4)

Outdoor Uses (limited or no activities in buildings)

Natural Land Areas: desert, brush lands						Compatible at levels indicated, but noise disruption of natural quiet will occur
Water: flood plains, wetlands, lakes, reservoirs						
Agriculture (except residences and livestock): crops, orchards, vineyards, pasture, range land						
Livestock Uses: feed lots, stockyards, breeding, fish hatcheries, horse stables						Exercise caution with uses involving noise-sensitive animals
Outdoor Major Assembly Facilities: spectator-oriented outdoor stadiums, amphitheatres, fairgrounds, zoos ³						Exercise caution if clear audibility by users is essential
Group Recreation (limited spectator stands): athletic fields, water recreation facilities, picnic areas						Exercise caution if clear audibility by users is essential
Small/Non-Group Recreation: golf courses, tennis courts, shooting ranges						Exercise caution if clear audibility by users is essential
Local Parks: children-oriented neighborhood parks, playgrounds						Exercise caution if clear audibility by users is essential
Camping: campgrounds, recreational vehicle/motor home parks						
Cemeteries (excluding chapels)						Compatible at levels indicated, but noise disruption of outdoor activities will occur

Residential and Lodging Uses

Residential (<8 d.u./acre): individual dwellings, townhouses, mobile homes, bed & breakfast inns ⁴		45				
Residential (≥8 d.u./acre) ⁴		45	45			
Long-Term Lodging (>30 nights): extended-stay hotels, dormitories		45	45			
Short-Term Lodging (≤ 30 nights): hotels, motels, other transient lodging (except conference/assembly facilities)		45	45			

Table 2-3
Noise Criteria

Legend: Land use compatibility
(A detailed explanation of each land use acceptability category is provided on pg. 2-50 of this table.)

Normally Compatible Land Use	Conditional Land Use (45/50)					Incompatible Land Use
<p>▪ Cells that are conditionally compatible that have a number, indicate the interior noise level standard condition for use consistency.</p>						
Land Use Category ¹	Noise Impact Zones Exterior Noise Exposure ² (CNEL dB)					Criteria for Conditional Uses
Note: Multiple land use categories and compatibility criteria may apply to a project	≤ 60	60-65	65-70	70-75	≥ 75	Note: Interior noise level limits shown in yellow cells also apply (See Policy N4)
Congregate Care: retirement homes, assisted living, nursing homes, intermediate care facilities						
		45	45			
Educational and Institutional Uses						
Family day care homes (≤14 children) ⁴		45				
Children's Schools: K-12, day care centers (>14 children); school libraries		45				
Adult Education classroom space: adult schools, colleges, universities		45	45			Applies only to classrooms; offices, laboratory facilities, gymnasiums, outdoor athletic facilities, and other uses to be evaluated as indicated for those land use categories
Community Libraries		45				
Indoor Major Assembly Facilities: auditoriums, conference centers, concert halls, indoor arenas ³		45	45			
Indoor Large Assembly Facilities: movie theaters, places of worship, cemetery chapels, mortuaries ³		45	45			
Indoor Recreation: gymnasiums, club houses, athletic clubs, dance studios			50			
In-Patient Medical: hospitals, mental hospitals		45	45			
Out-Patient Medical: health care centers, clinics		45	45	45		
Penal Institutions: prisons, reformatories		45	45			
Public Safety Facilities: police, fire stations			50	50		
Commercial, Office, and Service Uses						
Major Retail: regional shopping centers, 'big box' retail			50	50		Outdoor dining or gathering places incompatible above CNEL 70 dB
Local Retail: community/neighborhood shopping centers, grocery stores			50	50		Outdoor dining or gathering places incompatible above CNEL 70 dB
Eating/Drinking Establishments: restaurants, fast-food dining, bars			50	50		Outdoor dining or gathering places incompatible above CNEL 70 dB
Limited Retail/Wholesale: furniture, automobiles, heavy equipment, lumber yards, nurseries			50	50		

Table 2-3
Noise Criteria
Legend: Land use compatibility

(A detailed explanation of each land use acceptability category is provided on pg. 2-50 of this table.)

Normally Compatible Land Use	Conditional Land Use (45/50)	Incompatible Land Use
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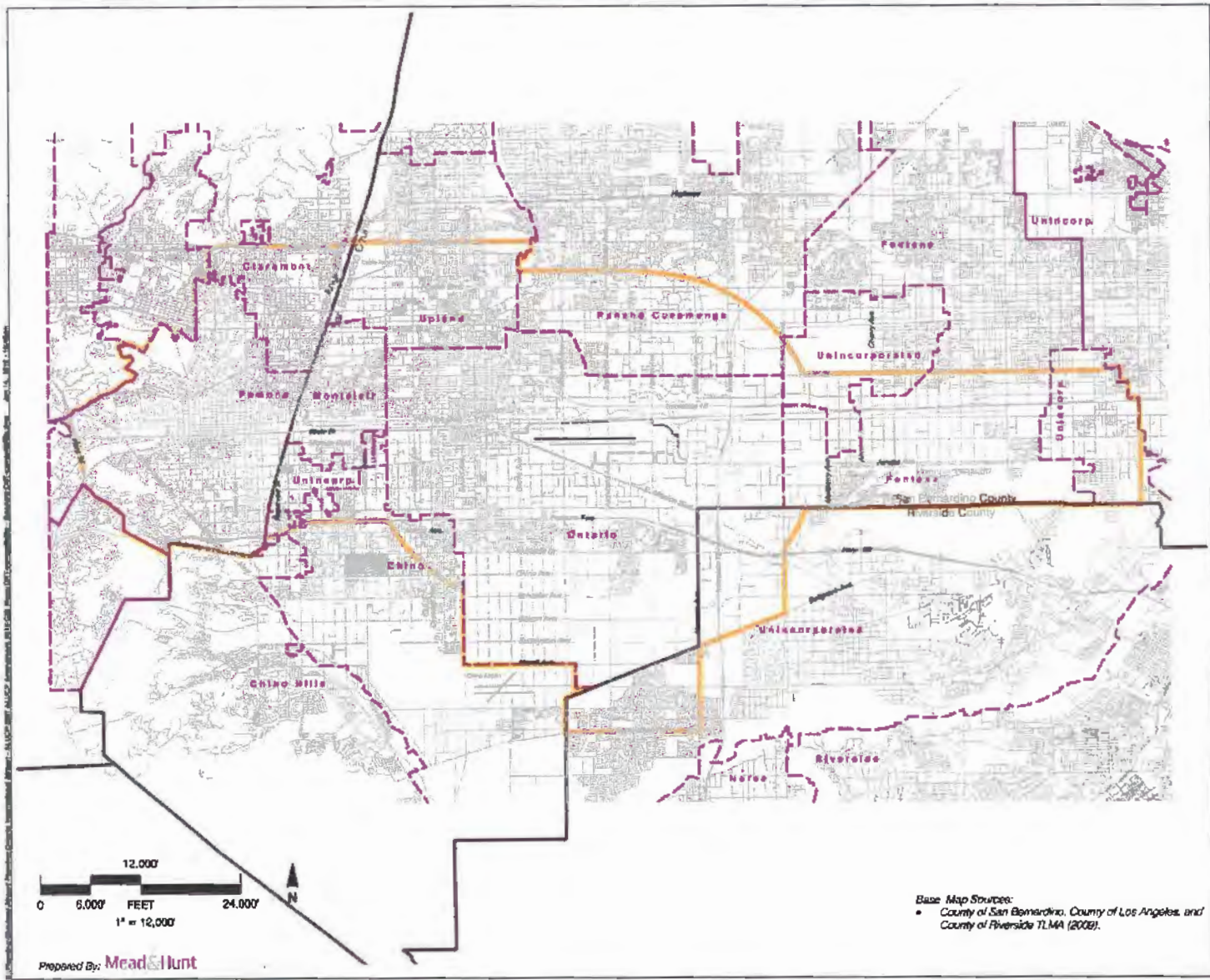
▪ Cells that are conditionally compatible that have a number, indicate the interior noise level standard condition for use consistency.

Land Use Category ¹	Noise Impact Zones Exterior Noise Exposure ² (CNEL dB)					Criteria for Conditional Uses <i>Note: Interior noise level limits shown in yellow cells also apply (See Policy N4)</i>
	≤ 60	60-65	65-70	70-75	≥ 75	
<i>Note: Multiple land use categories and compatibility criteria may apply to a project</i>						
Offices: professional services, doctors, finance, civic; radio, television & recording studios, office space associated with other listed uses			50	50		
Personal & Miscellaneous Services: barbers, car washes, print shops			50	50		
Vehicle Fueling: gas stations, trucking & transportation terminals				50	50	
Industrial, Manufacturing, and Storage Uses						
Hazardous Materials Production: oil refineries, chemical plants (≥6,000 gallons)						
Heavy Industrial						
Light Industrial, High Intensity: food products preparation, electronic equipment				50	50	
Light Industrial, Low Intensity: machine shops, wood products, auto repair				50	50	
Research & Development			50	50		
Indoor Storage: wholesale sales, warehouses, mini/other indoor storage, barns, greenhouses						
Outdoor Storage: public works yards, automobile dismantling						
Mining & Extraction						
Transportation, Communication, and Utilities						
Rail & Bus Stations				50	50	
Transportation Routes: road & rail rights-of-way, bus stops						
Auto Parking: surface lots, structures						
Communications Facilities: emergency communications, broadcast & cell towers						
Power Plants						
Electrical Substations						
Wastewater Facilities: treatment, disposal						
Solid Waste Disposal Facilities: landfill, incineration						
Solid Waste Transfer Facilities, Recycle Centers						

Land Use Compatibility	Interpretation/Comments
Normally Compatible	<p><i>Indoor Uses:</i> Either the activities associated with the land use are inherently noisy or standard construction methods will sufficiently attenuate exterior noise to an acceptable indoor community noise equivalent level (CNEL); for land use types that are compatible because of inherent noise levels, sound attenuation must be provided for associated office, retail, and other noise-sensitive indoor spaces sufficient to reduce exterior noise to an interior maximum of CNEL 50 dB</p> <p><i>Outdoor Uses:</i> Except as noted in the table, activities associated with the land use may be carried out with minimal interference from aircraft noise</p>
Conditional	<p><i>Indoor Uses:</i> Building structure must be capable of attenuating exterior noise from all noise sources to the indoor CNEL indicated by the number in the cell (either 45 or 50)</p> <p><i>Outdoor Uses:</i> Caution should be exercised with regard to noise-sensitive outdoor uses; these uses are likely to be disrupted by aircraft noise events; acceptability is dependent upon characteristics of the specific use⁶</p>
Incompatible	<p><i>Indoor Uses:</i> Unacceptable noise interference if windows are open; at exposures above CNEL 65 dB, extensive mitigation techniques required to make the indoor environment acceptable for performance of activities associated with the land use</p> <p><i>Outdoor Uses:</i> Severe noise interference makes the outdoor environment unacceptable for performance of activities associated with the land use</p>

Notes

- ¹ Land uses not specifically listed shall be evaluated using the criteria for similar uses.
- ² For the purposes of these criteria, the exterior noise exposure generated by aircraft activity at ONT is defined by the projected noise impact zones illustrated on Map 2-3 of this *Compatibility Plan*.
- ³ A *Major Assembly Facility* is defined as having a capacity of ≥1,000 people, while a *Large Assembly Facility* has a capacity of 300 to 999 people. Source: International Building Code.
- ⁴ In accordance with Policies S1, N2, and SP2, construction of a single-family home, including a second dwelling unit as defined by state law, is allowed on a legal lot of record if such use is permitted by local land use regulations. A family day care home (serving ≤14 children) may be established in any dwelling.
- ⁵ Noise-sensitive land uses are ones for which the associated primary activities, whether indoor or outdoor, are susceptible to disruption by loud noise events. The most common types of noise-sensitive land uses include, but are not limited to, the following: residential, hospitals, nursing facilities, intermediate care facilities, educational facilities, libraries, museums, places of worship, child-care facilities, and certain types of passive recreational parks and open space.



LEGEND

Boundary Lines

- Airport Property Line
- County Line
- - - City Limits
- Street
- Existing Runway } Runway 8L-28R
- } Runway 8R-25L
- FAA Height Notification Area

Policy Boundaries

- Airport Influence Area

NOTES

1. Airport Influence area includes the areas in which current or future airport-related safety, noise, airspace protection, or overflight factors may significantly affect land uses or necessitate restrictions on those uses.



Prepared By: Mead & Hunt

Base Map Sources:

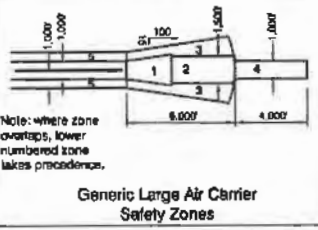
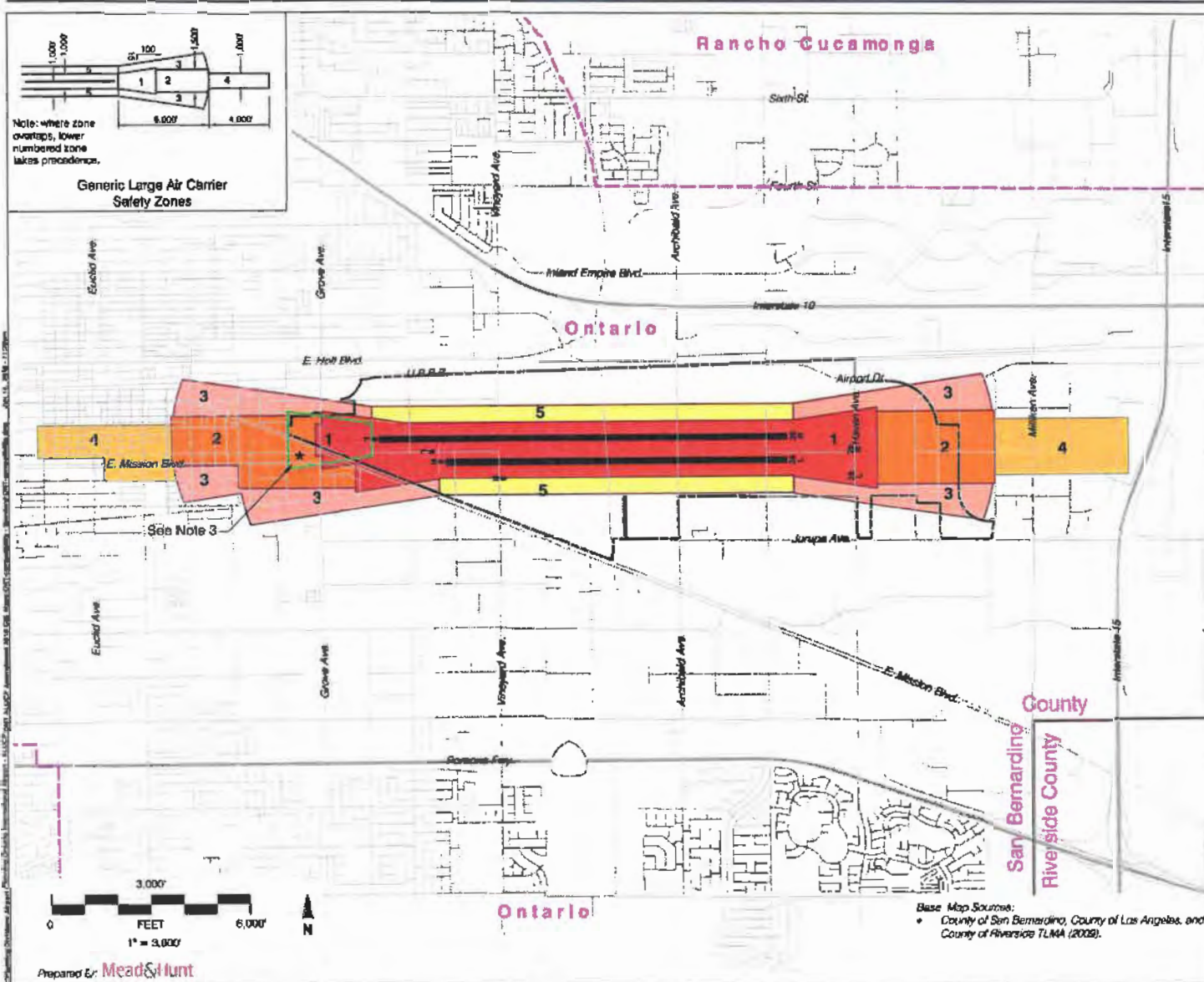
- County of San Bernardino, County of Los Angeles, and County of Riverside T/LMA (2008).



Ontario International Airport
Land Use Compatibility Plan
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Map 2-1

Compatibility Policy Map:
Airport Influence Area



LEGEND

Boundary Lines

- Airport Property Line
- County Line
- City Limits
- Street
- Existing Runways } Runway 8L-28R
Runway 8R-26L

Policy Boundaries

- Airport Influence Area (beyond map view)

Safety Zones

- Zone 1 - Runway Protection Zone (RPZ)
- Zone 2 - Inner Approach/Departure Zone
- Zone 3 - Inner Turning Zone
- Zone 4 - Outer Approach/Departure Zone
- Zone 5 - Sidelane Zone
- Overlay Safety Zone 1A¹

- NOTES**
1. See Section 6.1 and Table 2-2 for safety policies and criteria. Policies apply only to City of Ontario.
 2. Aviation easement dedication required within all safety zones (see Policy S7 and SP1).
 3. See Section 6.1.5 (c) for Zone 1A explanation.



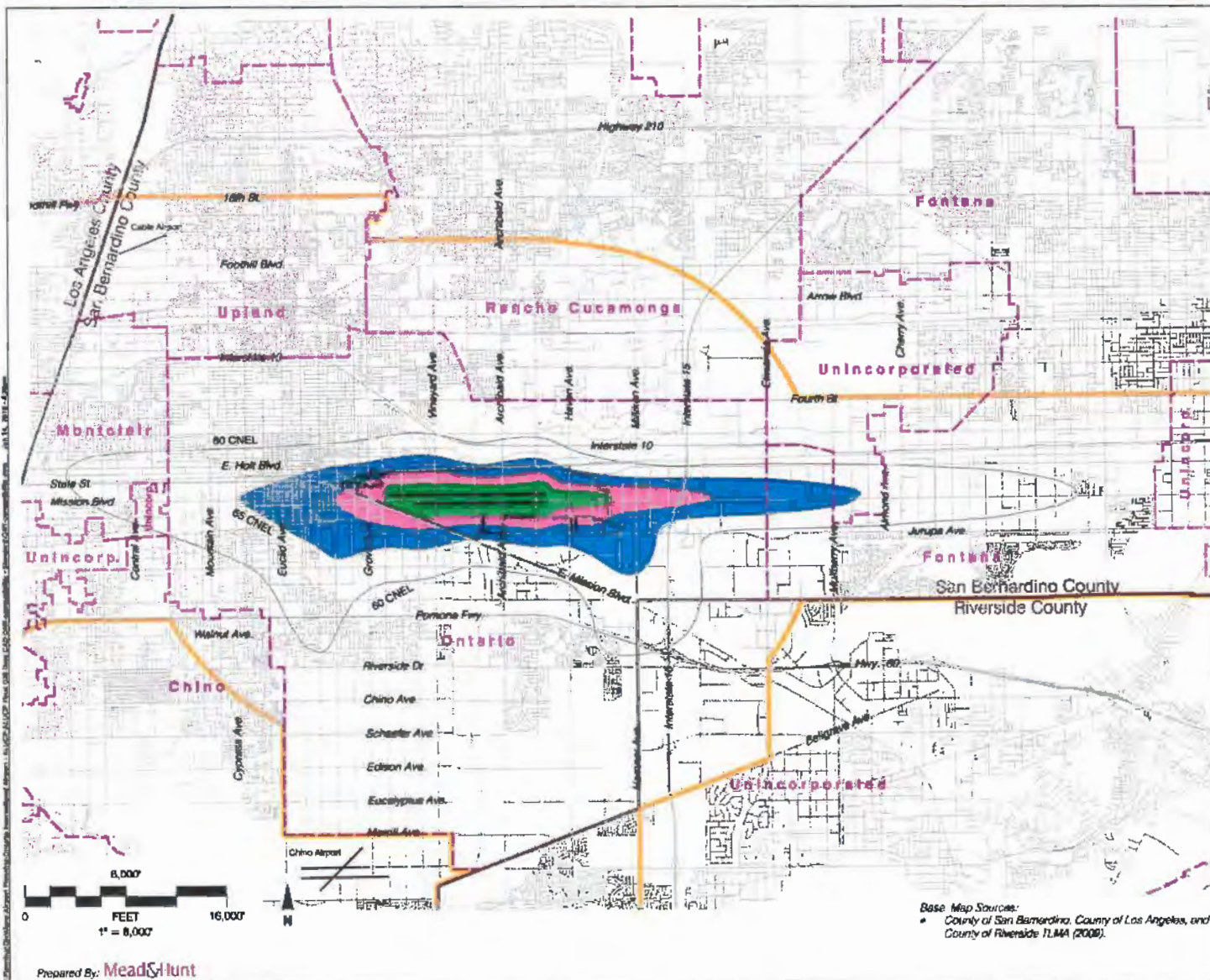
Ontario International Airport
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Compatibility Policy Map:
Safety Zones

Map 2-2

Base Map Sources:
 • County of San Bernardino, County of Los Angeles, and County of Riverside TLMA (2009).

Prepared by: Mead & Hunt



LEGEND

Boundary Lines

- Airport Property Line
- County Line
- - - City Limits
- Street
- Existing Runways } Runway 2L-26R
- } Runway 27-26L

Policy Boundaries

- Airport Influence Area (portions extend beyond map view)

Noise Impact Zones¹

- 60 - 65 dB CNEL
- 65 - 70 dB CNEL
- 70 - 75 dB CNEL
- 75 + dB CNEL

- NOTES**
1. See Section 8.2 and Table 2-3 for noise policies and criteria.
 2. Aviation assessment and dedication required in areas exposed to noise of CNEL 65 dB or greater (see Policy NS and SP1).
 3. No Project (348,000 annual operations) contours.



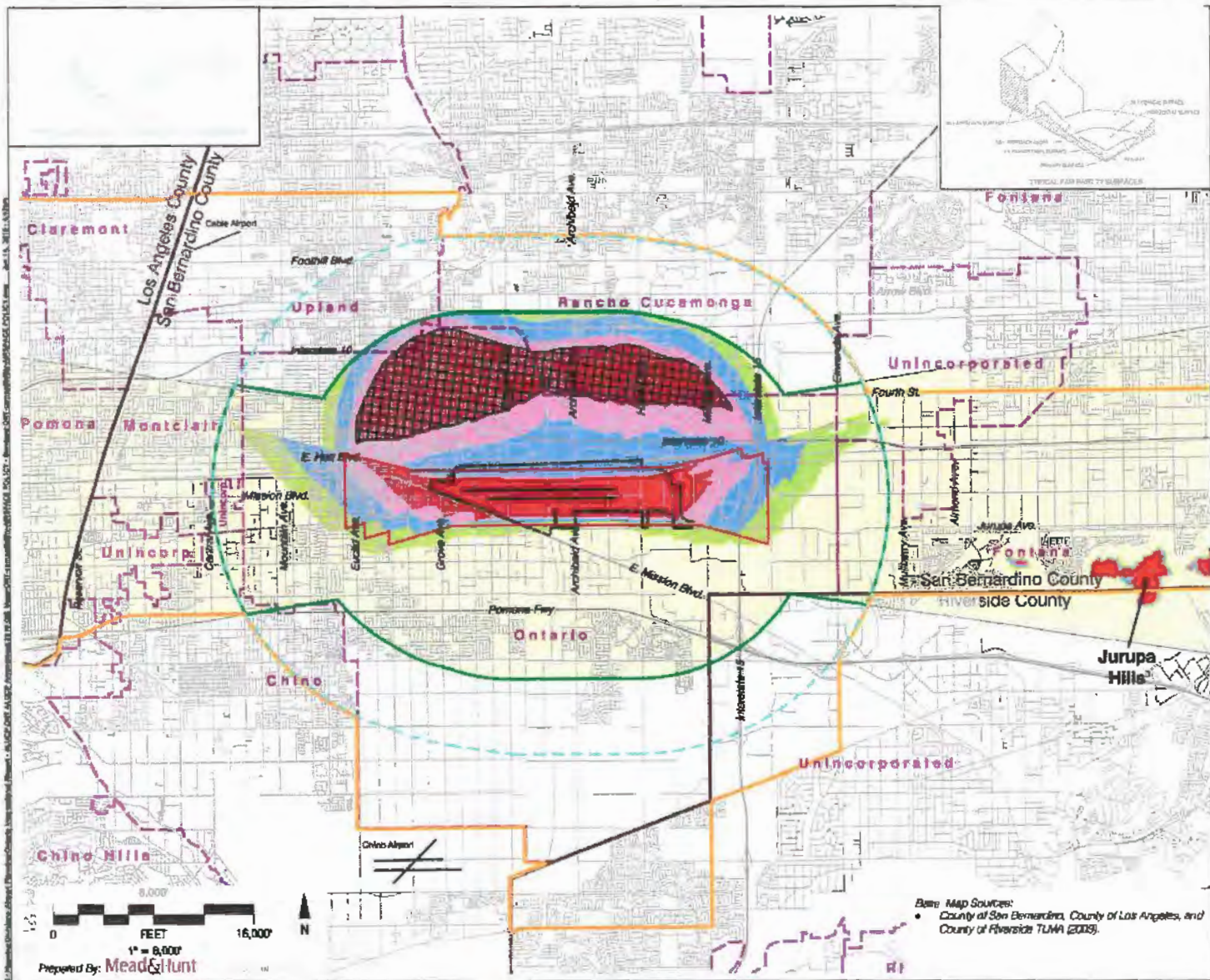
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Map 2-3

**Compatibility Policy Map:
 Noise Impact Zones**

Base Map Sources:
 • County of San Bernardino, County of Los Angeles, and County of Riverside TLMA (2008).

Prepared By: Mead & Hunt



LEGEND

Boundary Lines

- Airport Property Line
- County Line
- - - City Limits
- Street
- Existing Runways } Runway 8L-29R
- } Runway 8R-28L

Policy Boundaries¹

- Airport Influence Area (portions extend beyond map view)

Airspace Protection Zones

- FAA Height Notification Surface
- Airspace Obstruction Surfaces
- High Terrain Zone
- Airspace Aviation Easement Area

Allowable Heights in AGL

- Less than 70'
- 70' to 100'
- 100' to 150'
- 150' to 200'
- Greater than 200'

- NOTES**
1. See Section 5.3 for airspace protection policies.
 2. Existing airport elevation is 944.0' above mean sea level (MSL). Future airport elevation assumed at 944.0' MSL. Actual to be determined.
 3. Projects with Jurupa Hills are not subject to the ONT Inter-Agency Notification Process but may require FAA notification (see Section 5.3.3d).



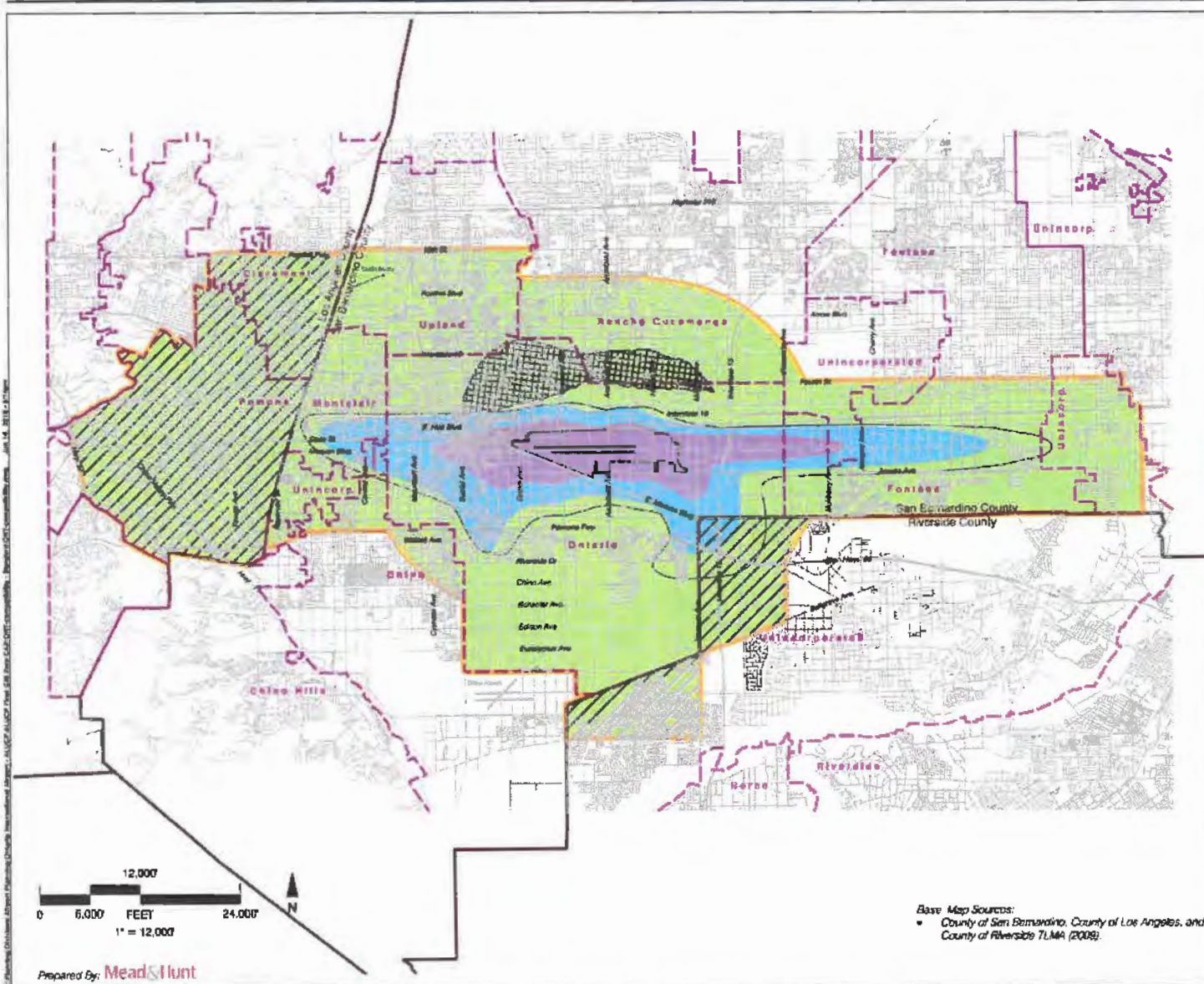
**Ontario International Airport
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July 2018 Amendment**

Map 2-4

**Compatibility Policy Map:
Airspace Protection Zones**

Base Map Sources:
 • County of San Bernardino, County of Los Angeles, and County of Riverside TUMA (2008).

0 8,000 16,000
 FEET
 1" = 8,000'
 Prepared By: Mead & Hunt



LEGEND

Boundary Lines

- Airport Property Line
- County Line
- - - City Limits
- Street
- Existing Runways } Runway 6L-26R
- } Runway 8R-26L

Policy Boundaries

- Airport Influence Area¹
- ▨ Advisory Area (outside San Bernardino County)⁵
- ▩ High Terrain Zone

Overflight Notification Zones¹

- Aviation Easement Dedication²
- Recorded Overflight Notification³
- Real Estate Transaction Disclosure⁴

- NOTES**
1. See Section 6.4 for overflight policies.
 2. Aviation easement dedication required for new development within all safety zones, the 65 dB contour, inner portions of the airspace protection zones and high terrain zone. See Policy SP1.
 3. Recorded Overflight Notification required for new development within 60 dB contour, except where Aviation Easement Dedication applies.
 4. Real Estate Transaction Disclosure policy applies within entire Airport Influence Area (AIA) including areas requiring Aviation Easement Dedication and Recorded Overflight Notification.
 5. Overflight policies are informational outside of San Bernardino County.



Ontario International Airport
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Map 2-5

Compatibility Policy Map:
Overflight Notification Zones

Base Map Sources:
 • County of San Bernardino, County of Los Angeles, and County of Riverside T/LMA (2008)



Prepared By: **Mead & Hunt**



APPENDICES



APPENDIX A

**STATE LAWS RELATED TO
AIRPORT LAND USE PLANNING**

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(as of January 2010)

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AERONAUTICS LAW
PUBLIC UTILITIES CODE
Division 9—Aviation
Part 1—State Aeronautics Act
Chapter 4—Airports and Air Navigation Facilities
Article 3.5—Airport Land Use Commission

21670. Creation; Membership; Selection

- (a) The Legislature hereby finds and declares that:
- (1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.
 - (2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.
- (b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:
- (1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.
 - (2) Two representing the county, appointed by the board of supervisors.
 - (3) Two having expertise in aviation, appointed by a selection committee comprised of the managers of all of the public airports within that county.
 - (4) One representing the general public, appointed by the other six members of the commission.
- (c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

- (d) Each member shall promptly appoint a single proxy to represent him or her in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.
- (e) A person having an “expertise in aviation” means a person who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports, or is an elected official of a local agency which owns or operates an airport.
- (f) It is the intent of the Legislature to clarify that, for the purposes of this article, that special districts, school districts and community college districts are included among the local agencies that are subject to airport land use laws and other requirements of this article.

21670.1. Action by Designated Body Instead of Commission

- (a) Notwithstanding any other provision of this article, if the board of supervisors and the city selection committee of mayors in the county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.
- (b) A body designated pursuant to subdivision (a) that does not include among its membership at least two members having expertise in aviation, as defined in subdivision (e) of Section 21670, shall, when acting in the capacity of an airport land use commission, be augmented so that body, as augmented, will have at least two members having that expertise. The commission shall be constituted pursuant to this section on and after March 1, 1988.
- (c) (1) Notwithstanding subdivisions (a) and (b), and subdivision (b) of Section 21670, if the board of supervisors of a county and each affected city in that county each makes a determination that proper land use planning pursuant to this article can be accomplished pursuant to this subdivision, then a commission need not be formed in that county.

(2) If the board of supervisors of a county and each affected city makes a determination that proper land use planning may be accomplished and a commission is not formed pursuant to paragraph (1), that county and the appropriate affected cities having jurisdiction over an airport, subject to the review and approval by the Division of Aeronautics of the department, shall do all of the following:
 - (A) Adopt processes for the preparation, adoption, and amendment of the airport land use compatibility plan for each airport that is served by a scheduled airline or operated for the benefit of the general public.
 - (B) Adopt processes for the notification of the general public, landowners, interested groups, and other public agencies regarding the preparation, adoption, and amendment of the airport land use compatibility plans.
 - (C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the airport land use compatibility plans.
 - (D) Adopt processes for the amendment of general and specific plans to be consistent with the airport land use compatibility plans.

- (E) Designate the agency that shall be responsible for the preparation, adoption, and amendment of each airport land use compatibility plan.
- (3) The Division of Aeronautics of the department shall review the processes adopted pursuant to paragraph (2), and shall approve the processes if the division determines that the processes are consistent with the procedure required by this article and will do all of the following:
 - (A) Result in the preparation, adoption, and implementation of plans within a reasonable amount of time.
 - (B) Rely on the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations.
 - (C) Provide adequate opportunities for notice to, review of, and comment by the general public, landowners, interested groups, and other public agencies.
- (4) If the county does not comply with the requirements of paragraph (2) within 120 days, then the airport land use compatibility plan and amendments shall not be considered adopted pursuant to this article and a commission shall be established within 90 days of the determination of noncompliance by the division and an airport land use compatibility plan shall be adopted pursuant to this article within 90 days of the establishment of the commission.
- (d) A commission need not be formed in a county that has contracted for the preparation of airport land use compatibility plans with the Division of Aeronautics under the California Aid to Airports Program (Chapter 4 (commencing with Section 4050) of Title 21 of the California Code of Regulations), Project Ker-VAR 90-1, and that submits all of the following information to the Division of Aeronautics for review and comment that the county and the cities affected by the airports within the county, as defined by the airport land use compatibility plans:
 - (1) Agree to adopt and implement the airport land use compatibility plans that have been developed under contract.
 - (2) Incorporated the height, use, noise, safety, and density criteria that are compatible with airport operations as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations as part of the general and specific plans for the county and for each affected city.
 - (3) If the county does not comply with this subdivision on or before May 1, 1995, then a commission shall be established in accordance with this article.
- (e) (1) A commission need not be formed in a county if all of the following conditions are met:
 - (A) The county has only one public use airport that is owned by a city.
 - (B) (i) The county and the affected city adopt the elements in paragraph (2) of subdivision (d), as part of their general and specific plans for the county and the affected city.
 - (ii) The general and specific plans shall be submitted, upon adoption, to the Division of Aeronautics. If the county and the affected city do not submit the elements specified in paragraph (2) of subdivision (d), on or before May 1, 1996, then a commission shall be established in accordance with this article.

21670.2. Application to Counties Having over 4 Million in Population

- (a) Sections 21670 and 21670.1 do not apply to the County of Los Angeles. In that county, the county regional planning commission has the responsibility for coordinating the airport planning of public agencies within the county. In instances where impasses result relative to this planning, an appeal may be made to the county regional planning commission by any public agency involved. The action taken by the county regional planning commission on an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.
- (b) By January 1, 1992, the county regional planning commission shall adopt the airport land use compatibility plans required pursuant to Section 21675.
- (c) Sections 21675.1, 21675.2, and 21679.5 do not apply to the County of Los Angeles until January 1, 1992. If the airport land use compatibility plans required pursuant to Section 21675 are not adopted by the county regional planning commission by January 1, 1992, Sections 21675.1 and 21675.2 shall apply to the County of Los Angeles until the airport land use compatibility plans are adopted.

21670.3 San Diego County

- (a) Sections 21670 and 21670.1 do not apply to the County of San Diego. In that county, the San Diego County Regional Airport Authority, as established pursuant to Section 170002, shall be responsible for the preparation, adoption, and amendment of an airport land use compatibility plan for each airport in San Diego County.
- (b) The San Diego County Regional Airport Authority shall engage in a public collaborative planning process when preparing and updating an airport land use compatibility plan.

21670.4. Intercounty Airports

- (a) As used in this section, “intercounty airport” means any airport bisected by a county line through its runways, runway protection zones, inner safety zones, inner turning zones, outer safety zones, or sideline safety zones, as defined by the department’s Airport Land Use Planning Handbook and referenced in the airport land use compatibility plan formulated under Section 21675.
- (b) It is the purpose of this section to provide the opportunity to establish a separate airport land use commission so that an intercounty airport may be served by a single airport land use planning agency, rather than having to look separately to the airport land use commissions of the affected counties.
- (c) In addition to the airport land use commissions created under Section 21670 or the alternatives established under Section 21670.1, for their respective counties, the boards of supervisors and city selection committees for the affected counties, by independent majority vote of each county’s two delegations, for any intercounty airport, may do either of the following:
 - (1) Establish a single separate airport land use commission for that airport. That commission shall consist of seven members to be selected as follows:
 - (A) One representing the cities in each of the counties, appointed by that county’s city selection committee.
 - (B) One representing each of the counties, appointed by the board of supervisors of each county.

- (C) One from each county having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.
 - (D) One representing the general public, appointed by the other six members of the commission.
- (2) In accordance with subdivision (a) or (b) of Section 21670.1, designate an existing appropriate entity as that airport's land use commission.

21671. Airports Owned by a City, District, or County

In any county where there is an airport operated for the general public which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (b) of Section 21670 shall be appointed by the city selection committee of mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by paragraph (2) subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

21671.5. Term of Office

- (a) Except for the terms of office of the members of the first commission, the term of office of each member shall be four years and until the appointment and qualification of his or her successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members is four years. The body that originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which that member's term is to expire. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairperson of the commission shall be selected by the members thereof.
- (b) Compensation, if any, shall be determined by the board of supervisors.
- (c) Staff assistance, including the mailing of notices and the keeping of minutes and necessary quarters, equipment, and supplies, shall be provided by the county. The usual and necessary operating expenses of the commission shall be a county charge.
- (d) Notwithstanding any other provisions of this article, the commission shall not employ any personnel either as employees or independent contractors without the prior approval of the board of supervisors.
- (e) The commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members. A majority of the commission members shall constitute a quorum for the transaction of business. No action shall be taken by the commission except by the recorded vote of a majority of the full membership.
- (f) The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a

commission that has not adopted the airport land use compatibility plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

- (g) In any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, the commission may continue to charge fees necessary to comply with this article until June 30, 1992, and, if the airport land use compatibility plans are complete by that date, may continue charging fees after June 30, 1992. If the airport land use compatibility plans are not complete by June 30, 1992, the commission shall not charge fees pursuant to subdivision (f) until the commission adopts the land use plans.

21672. Rules and Regulations

Each commission shall adopt rules and regulations with respect to the temporary disqualification of its members from participating in the review or adoption of a proposal because of conflict of interest and with respect to appointment of substitute members in such cases.

21673. Initiation of Proceedings for Creation by Owner of Airport

In any county not having a commission or a body designated to carry out the responsibilities of a commission, any owner of a public airport may initiate proceedings for the creation of a commission by presenting a request to the board of supervisors that a commission be created and showing the need therefor to the satisfaction of the board of supervisors.

21674. Powers and Duties

The commission has the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

- (a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses.
- (b) To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.
- (c) To prepare and adopt an airport land use compatibility plan pursuant to Section 21675.
- (d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.
- (e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.
- (f) In order to carry out its responsibilities, the commission may adopt rules and regulations consistent with this article.

21674.5. Training of Airport Land Use Commission's Staff

- (a) The Department of Transportation shall develop and implement a program or programs to assist in the training and development of the staff of airport land use commissions, after consulting with airport land use commissions, cities, counties, and other appropriate public entities.
- (b) The training and development program or programs are intended to assist the staff of airport land use commissions in addressing high priority needs, and may include, but need not be limited to, the following:
 - (1) The establishment of a process for the development and adoption of airport land use compatibility plans.
 - (2) The development of criteria for determining the airport influence area.
 - (3) The identification of essential elements that should be included in the airport land use compatibility plans.
 - (4) Appropriate criteria and procedures for reviewing proposed developments and determining whether proposed developments are compatible with the airport use.
 - (5) Any other organizational, operational, procedural, or technical responsibilities and functions that the department determines to be appropriate to provide to commission staff and for which it determines there is a need for staff training or development.
- (c) The department may provide training and development programs for airport land use commission staff pursuant to this section by any means it deems appropriate. Those programs may be presented in any of the following ways:
 - (1) By offering formal courses or training programs.
 - (2) By sponsoring or assisting in the organization and sponsorship of conferences, seminars, or other similar events.
 - (3) By producing and making available written information.
 - (4) Any other feasible method of providing information and assisting in the training and development of airport land use commission staff.

21674.7. Airport Land Use Planning Handbook

- (a) An airport land use commission that formulates, adopts or amends an airport land use compatibility plan shall be guided by information prepared and updated pursuant to Section 21674.5 and referred to as the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation.
- (b) It is the intent of the Legislature to discourage incompatible land uses near existing airports. Therefore, prior to granting permits for the renovation or remodeling of an existing building, structure, or facility, and before the construction of a new building, it is the intent of the Legislature that local agencies shall be guided by the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations, to the extent that the criteria has been incorporated into the plan prepared by a commission pursuant to Section 21675. This subdivision does not limit the

jurisdiction of a commission as established by this article. This subdivision does not limit the authority of local agencies to overrule commission actions or recommendations pursuant to Sections 21676, 21676.5, or 21677.

21675. Land Use Plan

- (a) Each commission shall formulate an airport land use compatibility plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission airport land use compatibility plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating an airport land use compatibility plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the airport influence area. The airport land use compatibility plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.
- (b) The commission shall include, within its airport land use compatibility plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any military airport for all of the purposes specified in subdivision (a). The airport land use compatibility plan shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport. This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.
- (c) The airport influence area shall be established by the commission after hearing and consultation with the involved agencies.
- (d) The commission shall submit to the Division of Aeronautics of the department one copy of the airport land use compatibility plan and each amendment to the plan.
- (e) If an airport land use compatibility plan does not include the matters required to be included pursuant to this article, the Division of Aeronautics of the department shall notify the commission responsible for the plan.

21675.1. Adoption of Land Use Plan

- (a) By June 30, 1991, each commission shall adopt the airport land use compatibility plan required pursuant to Section 21675, except that any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, shall adopt that airport land use compatibility plan on or before June 30, 1992.
- (b) Until a commission adopts an airport land use compatibility plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land that will be included or reasonably could be included within the airport land use compatibility plan. If the commission has not designated an airport influence area for the airport land use compatibility plan, then "vicinity" means land within two miles of the boundary of a public airport.

- (c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:
 - (1) The commission is making substantial progress toward the completion of the airport land use compatibility plan.
 - (2) There is a reasonable probability that the action, regulation, or permit will be consistent with the airport land use compatibility plan being prepared by the commission.
 - (3) There is little or no probability of substantial detriment to or interference with the future adopted airport land use compatibility plan if the action, regulation, or permit is ultimately inconsistent with the airport land use compatibility plan.
- (d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.
- (e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the airport land use compatibility plan.
- (f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit.
- (g) A commission may adopt rules and regulations that exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:
 - (1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1991.
 - (2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

21675.2. Approval or Disapproval of Actions, Regulations, or Permits

- (a) If a commission fails to act to approve or disapprove any actions, regulations, or permits within 60 days of receiving the request pursuant to Section 21675.1, the applicant or his or her representative may file an action pursuant to Section 1094.5 of the Code of Civil Procedure to compel the commission to act, and the court shall give the proceedings preference over all other actions or proceedings, except previously filed pending matters of the same character.
- (b) The action, regulation, or permit shall be deemed approved only if the public notice required by this subdivision has occurred. If the applicant has provided seven days advance notice to the commission of the intent to provide public notice pursuant to this subdivision, then, not earlier than the date of the expiration of the time limit established by Section 21675.1, an applicant may provide the required public notice. If the applicant chooses to provide public notice, that notice shall include a description of the proposed action, regulation, or permit substantially similar to the descriptions which are commonly used in public notices by the commission, the location of any proposed development, the application number, the name and address of the commission, and a statement that the action, regulation, or

permit shall be deemed approved if the commission has not acted within 60 days. If the applicant has provided the public notice specified in this subdivision, the time limit for action by the commission shall be extended to 60 days after the public notice is provided. If the applicant provides notice pursuant to this section, the commission shall refund to the applicant any fees which were collected for providing notice and which were not used for that purpose.

- (c) Failure of an applicant to submit complete or adequate information pursuant to Sections 65943 to 65946, inclusive, of the Government Code, may constitute grounds for disapproval of actions, regulations, or permits.
- (d) Nothing in this section diminishes the commission's legal responsibility to provide, where applicable, public notice and hearing before acting on an action, regulation, or permit.

21676. Review of Local General Plans

- (a) Each local agency whose general plan includes areas covered by an airport land use compatibility plan shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the airport land use compatibility plan. If the plan or plans are inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its airport land use compatibility plans. The local agency may propose to overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final record of any final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.
- (b) Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, propose to overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the public record of any final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

- (c) Each public agency owning any airport within the boundaries of an airport land use compatibility plan shall, prior to modification of its airport master plan, refer any proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, propose to overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the public agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the public agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the public agency governing body may act without them. The comments by the division or the commission are advisory to the public agency governing body. The public agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.
- (d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the airport land use compatibility plan.

21676.5. Review of Local Plans

- (a) If the commission finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670, the commission may require that the local agency submit all subsequent actions, regulations, and permits to the commission for review until its general plan or specific plan is revised or the specific findings are made. If, in the determination of the commission, an action, regulation, or permit of the local agency is inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may propose to overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.
- ~~(b) Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency shall not be subject to further commission review, unless the commission and the local agency agree that individual projects shall be reviewed by the commission.~~

21677. Marin County Override Provisions

Notwithstanding the two-thirds vote required by Section 21676, any public agency in the County of Marin may overrule the Marin County Airport Land Use Commission by a majority vote of its governing body. At least 45 days prior to the decision to overrule the commission, the public agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the public agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the public agency governing body may act without them. The comments by the division or the commission are advisory to the public agency governing body. The public agency governing body shall include comments from the commission and the division in the public record of the final decision to overrule the commission, which may be adopted by a majority vote of the governing body.

21678. Airport Owner's Immunity

With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation.

21679. Court Review

- (a) In any county in which there is no airport land use commission or other body designated to assume the responsibilities of an airport land use commission, or in which the commission or other designated body has not adopted an airport land use compatibility plan, an interested party may initiate proceedings in a court of competent jurisdiction to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, that directly affects the use of land within one mile of the boundary of a public airport within the county.
- (b) The court may issue an injunction that postpones the effective date of the zoning change, zoning variance, permit, or regulation until the governing body of the local agency that took the action does one of the following:
 - (1) In the case of an action that is a legislative act, adopts a resolution declaring that the proposed action is consistent with the purposes of this article stated in Section 21670.
 - (2) In the case of an action that is not a legislative act, adopts a resolution making findings based on substantial evidence in the record that the proposed action is consistent with the purposes of this article stated in Section 21670.
 - (3) Rescinds the action.
 - (4) Amends its action to make it consistent with the purposes of this article stated in Section 21670, and complies with either paragraph (1) or (2), whichever is applicable.
- (c) The court shall not issue an injunction pursuant to subdivision (b) if the local agency that took the action demonstrates that the general plan and any applicable specific plan of the agency accomplishes the purposes of an airport land use compatibility plan as provided in Section 21675.

- (d) An action brought pursuant to subdivision (a) shall be commenced within 30 days of the decision or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever is longer.
- (e) If the governing body of the local agency adopts a resolution pursuant to subdivision (b) with respect to a publicly owned airport that the local agency does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the local agency's decision to proceed with the zoning change, zoning variance, permit, or regulation.
- (f) As used in this section, "interested party" means any owner of land within two miles of the boundary of the airport or any organization with a demonstrated interest in airport safety and efficiency.

21679.5. Deferral of Court Review

- (a) Until June 30, 1991, no action pursuant to Section 21679 to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport, shall be commenced in any county in which the commission or other designated body has not adopted an airport land use compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan.
- (b) If a commission has been prevented from adopting the airport land use compatibility plan by June 30, 1991, or if the adopted airport land use compatibility plan could not become effective, because of a lawsuit involving the adoption of the airport land use compatibility plan, the June 30, 1991 date in subdivision (a) shall be extended by the period of time during which the lawsuit was pending in a court of competent jurisdiction.
- (c) Any action pursuant to Section 21679 commenced prior to January 1, 1990, in a county in which the commission or other designated body has not adopted an airport land use compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan, which has not proceeded to final judgment, shall be held in abeyance until June 30, 1991. If the commission or other designated body adopts an airport land use compatibility plan on or before June 30, 1991, the action shall be dismissed. If the commission or other designated body does not adopt an airport land use compatibility plan on or before June 30, 1991, the plaintiff or plaintiffs may proceed with the action.
- (d) An action to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport for which an airport land use compatibility plan has not been adopted by June 30, 1991, shall be commenced within 30 days of June 30, 1991, or within 30 days of the decision by the local agency, or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever date is later.

AERONAUTICS LAW
PUBLIC UTILITIES CODE
Division 9, Part 1
Chapter 3—Regulation of Aeronautics
(excerpts)

21402. Ownership; Prohibited Use of Airspace

The ownership of the space above the land and waters of this State is vested in the several owners of the surface beneath, subject to the right of flight described in Section 21403. No use shall be made of such airspace which would interfere with such right of flight; provided, that any use of property in conformity with an original zone of approach of an airport shall not be rendered unlawful by reason of a change in such zone of approach.

21403. Lawful Flight; Flight Within Airport Approach Zone

- (a) Flight in aircraft over the land and waters of this state is lawful, unless at altitudes below those prescribed by federal authority, or unless conducted so as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the land or waters of another, without his or her consent, is unlawful except in the case of a forced landing or pursuant to Section 21662.1. The owner, lessee, or operator of the aircraft is liable, as provided by law, for damages caused by a forced landing.
- (b) The landing, takeoff, or taxiing of an aircraft on a public freeway, highway, road, or street is unlawful except in the following cases:
 - (1) A forced landing.
 - (2) A landing during a natural disaster or other public emergency if the landing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road, or street.
 - (3) When the landing, takeoff, or taxiing has received prior approval from the public agency having primary jurisdiction over traffic upon the freeway, highway, road or street.

The prosecution bears the burden of proving that none of the exceptions apply to the act which is alleged to be unlawful.

- (c) The right of flight in aircraft includes the right of safe access to public airports, which includes the right of flight within the zone of approach of any public airport without restriction or hazard. The zone of approach of an airport shall conform to the specifications of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, Department of Transportation.

AERONAUTICS LAW
PUBLIC UTILITIES CODE
Division 9, Part 1
Chapter 4—Airports and Air Navigation Facilities
Article 2.7—Regulation of Obstructions
(excerpts)

21655. Proposed Site for Construction of State Building Within Two Miles of Airport Boundary

Notwithstanding any other provision of law, if the proposed site of any state building or other enclosure is within two miles, measured by air line, of that point on an airport runway, or runway proposed by an airport master plan, which is nearest the site, the state agency or office which proposes to construct the building or other enclosure shall, before acquiring title to property for the new state building or other enclosure site or for an addition to a present site, notify the Department of Transportation, in writing, of the proposed acquisition. The department shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the state agency or office which proposes to construct the building or other enclosure a written report of the investigation and its recommendations concerning acquisition of the site.

If the report of the department does not favor acquisition of the site, no state funds shall be expended for the acquisition of the new state building or other enclosure site, or the expansion of the present site, or for the construction of the state building or other enclosure, provided that the provisions of this section shall not affect title to real property once it is acquired.

21658. Construction of Utility Pole or Line in Vicinity of Aircraft Landing Area

No public utility shall construct any pole, pole line, distribution or transmission tower, or tower line, or substation structure in the vicinity of the exterior boundary of an aircraft landing area of any airport open to public use, in a location with respect to the airport and at a height so as to constitute an obstruction to air navigation, as an obstruction is defined in accordance with Part 77 of the Federal Aviation Regulations, Federal Aviation Administration, or any corresponding rules or regulations of the Federal Aviation Administration, unless the Federal Aviation Administration has determined that the pole, line, tower, or structure does not constitute a hazard to air navigation. This section shall not apply to existing poles, lines, towers, or structures or to the repair, replacement, or reconstruction thereof if the original height is not materially exceeded and this section shall not apply unless just compensation shall have first been paid to the public utility by the owner of any airport for any property or property rights which would be taken or damaged hereby.

21659. Hazards Near Airports Prohibited

- (a) No person shall construct or alter any structure or permit any natural growth to grow at a height which exceeds the obstruction standards set forth in the regulations of the Federal Aviation Administration relating to objects affecting navigable airspace contained in Title 14 of the Code of

Federal Regulations, Part 77, Subpart C, unless a permit allowing the construction, alteration, or growth is issued by the department.

- (b) The permit is not required if the Federal Aviation Administration has determined that the construction, alteration, or growth does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation. Subdivision (a) does not apply to a pole, pole line, distribution or transmission tower, or tower line or substation of a public utility.
- (c) Section 21658 is applicable to subdivision (b).

AERONAUTICS LAW
PUBLIC UTILITIES CODE
Division 9, Part 1, Chapter 4
Article 3—Regulation of Airports
(excerpts)

21661.5. City Council or Board of Supervisors and ALUC Approvals

- (a) No political subdivision, any of its officers or employees, or any person may submit any application for the construction of a new airport to any local, regional, state, or federal agency unless the plan for such construction is first approved by the board of supervisors of the county, or the city council of the city, in which the airport is to be located and unless the plan is submitted to the appropriate commission exercising powers pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of Division 9, and acted upon by such commission in accordance with the provisions of such article.
- (b) A county board of supervisors or a city council may, pursuant to Section 65100 of the Government Code, delegate its responsibility under this section for the approval of a plan for construction of new helicopter landing and takeoff areas, to the county or city planning agency.

21664.5. Amended Airport Permits; Airport Expansion Defined

- (a) An amended airport permit shall be required for every expansion of an existing airport. An applicant for an amended airport permit shall comply with each requirement of this article pertaining to permits for new airports. The department may by regulation provide for exemptions from the operation of this section pursuant to Section 21661, except that no exemption shall be made limiting the applicability of subdivision (e) of Section 21666, pertaining to environmental considerations, including the requirement for public hearings in connection therewith.
- (b) As used in this section, “airport expansion” includes any of the following:
 - (1) The acquisition of runway protection zones, as defined in Federal Aviation Administration Advisory Circular 150/1500-13 [~~sic~~ – should be 150/5300-13], or of any interest in land for the purpose of any other expansion as set forth in this section.
 - (2) The construction of a new runway.
 - (3) The extension or realignment of an existing runway.
 - (4) Any other expansion of the airport’s physical facilities for the purpose of accomplishing or which are related to the purpose of paragraph (1), (2), or (3).
- (c) This section does not apply to any expansion of an existing airport if the expansion commenced on or prior to the effective date of this section and the expansion met the approval, on or prior to that effective date, of each governmental agency that required the approval by law.

PLANNING AND ZONING LAW
GOVERNMENT CODE
Title 7—Planning and Land Use
Division 1—Planning and Zoning
Chapter 3—Local Planning
Article 5—Authority for and Scope of General Plans
(excerpts)

65302.3. General and Applicable Specific Plans; Consistency with Airport Land Use Plans; Amendment; Nonconcurrency Findings

- (a) The general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.
- (b) The general plan, and any applicable specific plan, shall be amended, as necessary, within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.
- (c) If the legislative body does not concur with any of the provisions of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.
- (d) In each county where an airport land use commission does not exist, but where there is a military airport, the general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport.

PLANNING AND ZONING LAW

GOVERNMENT CODE

Title 7, Division 1

Chapter 4.5—Review and Approval of Development Projects

Article 3—Application for Development Projects

(excerpts)

Note: The following government code sections are referenced in Section 21675.2(c) of the ALUC statutes.

65943. Completeness of Application; Determination; Time; Specification of Parts not Complete and Manner of Completion

- (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.
- (b) Not later than 30 calendar days after receipt of the submitted materials, the public agency shall determine in writing whether they are complete and shall immediately transmit that determination to the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for the purposes of this chapter.
- (c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency of the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

- (d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

- (e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

65943.5.

- (a) Notwithstanding any other provision of this chapter, any appeal pursuant to subdivision (c) of Section 65943 involving a permit application to a board, office, or department within the California Environmental Protection Agency shall be made to the Secretary for Environmental Protection.
- (b) Notwithstanding any other provision of this chapter, any appeal pursuant to subdivision (c) of Section 65943 involving an application for the issuance of an environmental permit from an environmental agency shall be made to the Secretary for Environmental Protection under either of the following circumstances:
 - (1) The environmental agency has not adopted an appeals process pursuant to subdivision (c) of Section 65943.
 - (2) The environmental agency declines to accept an appeal for a decision pursuant to subdivision (c) of Section 65943.
- (c) For purposes of subdivision (b), “environmental permit” has the same meaning as defined in Section 72012 of the Public Resources Code, and “environmental agency” has the same meaning as defined in Section 71011 of the Public Resources Code, except that “environmental agency” does not include the agencies described in subdivisions (c) and (h) of Section 71011 of the Public Resources Code.

65944. Acceptance of Application as Complete; Requests for Additional Information; Restrictions; Clarification, Amplification, Correction, etc; Prior to Notice of Necessary Information

- (a) After a public agency accepts an application as complete, the agency shall not subsequently request of an applicant any new or additional information which was not specified in the list prepared pursuant to Section 65940. The agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.
- (b) The provisions of subdivision (a) shall not be construed as requiring an applicant to submit with his or her initial application the entirety of the information which a public agency may require in order to take final action on the application. Prior to accepting an application, each public agency shall inform the applicant of any information included in the list prepared pursuant to Section 65940 which will subsequently be required from the applicant in order to complete final action on the application.
- (c) This section shall not be construed as limiting the ability of a public agency to request and obtain information which may be needed in order to comply with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.
- (d) (1) After a public agency accepts an application as complete, and if the project applicant has identified that the proposed project is located within 1,000 feet of a military installation or within special use airspace or beneath a low-level flight path in accordance with Section 65940, the public agency shall provide a copy of the complete application to any branch of the

United States Armed Forces that has provided the Office of Planning and Research with a single California mailing address within the state for the delivery of a copy of these applications. This subdivision shall apply only to development applications submitted to a public agency 30 days after the Office of Planning and Research has notified cities, counties, and cities and counties of the availability of Department of Defense information on the Internet pursuant to subdivision (d) of Section 65940.

- (2) Except for a project within 1,000 feet of a military installation, the public agency is not required to provide a copy of the application if the project is located entirely in an "urbanized area." An urbanized area is any urban location that meets the definition used by the United States Department of Commerce's Bureau of Census for "urban" and includes locations with core census block groups containing at least 1,000 people per square mile and surrounding census block groups containing at least 500 people per square mile.
- (e) Upon receipt of a copy of the application as required in subdivision (d), any branch of the United States Armed Forces may request consultation with the public agency and the project applicant to discuss the effects of the proposed project on military installations, low-level flight paths, or special use airspace, and potential alternatives and mitigation measures.
- (f) (1) Subdivisions (d), (e), and (f) as these relate to low-level flight paths, special use airspace, and urbanized areas shall not be operative until the United States Department of Defense provides electronic maps of low-level flight paths, special use airspace, and military installations, at a scale and in an electronic format that is acceptable to the Office of Planning and Research.
- (2) Within 30 days of a determination by the Office of Planning and Research that the information provided by the Department of Defense is sufficient and in an acceptable scale and format, the office shall notify cities, counties, and cities and counties of the availability of the information on the Internet. Cities, counties, and cities and counties shall comply with subdivision (d) within 30 days of receiving this notice from the office.

65945. Notice of Proposal to Adopt or Amend Certain Plans or Ordinances by City or County, Fee; Subscription to Periodically Updated Notice as Alternative, Fee

- (a) At the time of filing an application for a development permit with a city or county, the city or county shall inform the applicant that he or she may make a written request to retrieve notice from the city or county of a proposal to adopt or amend any of the following plans or ordinances:
 - (1) A general plan.
 - (2) A specific plan.
 - (3) A zoning ordinance.
 - (4) An ordinance affecting building permits or grading permits.

The applicant shall specify, in the written request, the types of proposed action for which notice is requested. Prior to taking any of those actions, the city or county shall give notice to any applicant who has requested notice of the type of action proposed and whose development project is pending before the city or county if the city or county determines that the proposal is reasonably related to the applicant's request for the development permit. Notice shall be given only for those types of actions which the applicant specifies in the request for notification.

The city or county may charge the applicant for a development permit, to whom notice is provided pursuant to this subdivision, a reasonable fee not to exceed the actual cost of providing that notice. If a fee is charged pursuant to this subdivision, the fee shall be collected as part of the application fee charged for the development permit.

- (b) As an alternative to the notification procedure prescribed by subdivision (a), a city or county may inform the applicant at the time of filing an application for a development permit that he or she may subscribe to a periodically updated notice or set of notices from the city or county which lists pending proposals to adopt or amend any of the plans or ordinances specified in subdivision (a), together with the status of the proposal and the date of any hearings thereon which have been set.

Only those proposals which are general, as opposed to parcel-specific in nature, and which the city or county determines are reasonably related to requests for development permits, need be listed in the notice. No proposals shall be required to be listed until such time as the first public hearing thereon has been set. The notice shall be updated and mailed at least once every six weeks; except that a notice need not be updated and mailed until a change in its contents is required.

The city or county may charge the applicant for a development permit, to whom notice is provided pursuant to this subdivision, a reasonable fee not to exceed the actual cost of providing that notice, including the costs of updating the notice, for the length of time the applicant requests to be sent the notice or notices.

65945.3. Notice of Proposal to Adopt or Amend Rules or Regulations Affecting Issuance of Permits by Local Agency other than City or County; Fee

At the time of filing an application for a development permit with a local agency, other than a city or county, the local agency shall inform the applicant that he or she may make a written request to receive notice of any proposal to adopt or amend a rule or regulation affecting the issuance of development permits.

Prior to adopting or amending any such rule or regulation, the local agency shall give notice to any applicant who has requested such notice and whose development project is pending before the agency if the local agency determines that the proposal is reasonably related to the applicant's request for the development permit.

The local agency may charge the applicant for a development permit, to whom notice is provided pursuant to this section, a reasonable fee not to exceed the actual cost of providing that notice. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

65945.5. Notice of Proposal to Adopt or Amend Regulation Affecting Issuance of Permits and Which Implements Statutory Provision by State Agency

At the time of filing an application for a development permit with a state agency, the state agency shall inform the applicant that he or she may make a written request to receive notice of any proposal to adopt or amend a regulation affecting the issuance of development permits and which implements a statutory provision.

Prior to adopting or amending any such regulation, the state agency shall give notice to any applicant who has requested such notice and whose development project is pending before the state agency if the

state agency determines that the proposal is reasonably related to the applicant's request for the development permit.

65945.7. Actions, Inactions, or Recommendations Regarding Ordinances, Rules or Regulations; Invalidity or Setting Aside Ground of Error Only if Prejudicial

No action, inaction, or recommendation regarding any ordinance, rule, or regulation subject to this Section 65945, 65945.3, or 65945.5 by any legislative body, administrative body, or the officials of any state or local agency shall be held void or invalid or be set aside by any court on the ground of any error, irregularity, informality, neglect or omission (hereinafter called "error") as to any matter pertaining to notices, records, determinations, publications, or any matters of procedure whatever, unless after an examination of the entire case, including evidence, the court shall be of the opinion that the error complained of was prejudicial, and that by reason of such error the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown.

65946. [Replaced by AB2351 Statutes of 1993]

PLANNING AND ZONING LAW
GOVERNMENT CODE
Title 7, Division 1
Chapter 9.3—Mediation and Resolution of Land Use Disputes
(excerpts)

66030.

- (a) The Legislature finds and declares all of the following:
- (1) Current law provides that aggrieved agencies, project proponents, and affected residents may bring suit against the land use decisions of state and local governmental agencies. In practical terms, nearly anyone can sue once a project has been approved.
 - (2) Contention often arises over projects involving local general plans and zoning, redevelopment plans, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), development impact fees, annexations and incorporations, and the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).
 - (3) When a public agency approves a development project that is not in accordance with the law, or when the prerogative to bring suit is abused, lawsuits can delay development, add uncertainty and cost to the development process, make housing more expensive, and damage California's competitiveness. This litigation begins in the superior court, and often progresses on appeal to the Court of Appeal and the Supreme Court, adding to the workload of the state's already overburdened judicial system.
- (b) It is, therefore, the intent of the Legislature to help litigants resolve their differences by establishing formal mediation processes for land use disputes. In establishing these mediation processes, it is not the intent of the Legislature to interfere with the ability of litigants to pursue remedies through the courts.

66031.

- (a) Notwithstanding any other provision of law, any action brought in the superior court relating to any of the following subjects may be subject to a mediation proceeding conducted pursuant to this chapter:
- (1) The approval or denial by a public agency of any development project.
 - (2) Any act or decision of a public agency made pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
 - (3) The failure of a public agency to meet the time limits specified in Chapter 4.5 (commencing with Section 65920), commonly known as the Permit Streamlining Act, or in the Subdivision Map Act (Division 2 (commencing with Section 66410)).
 - (4) Fees determined pursuant to Sections 53080 to 53082, inclusive, or Chapter 4.9 (commencing with Section 65995).

- (5) Fees determined pursuant to Chapter 5 (commencing with Section 66000).
 - (6) The adequacy of a general plan or specific plan adopted pursuant to Chapter 3 (commencing with Section 65100).
 - (7) The validity of any sphere of influence, urban service area, change of organization or reorganization, or any other decision made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5).
 - (8) The adoption or amendment of a redevelopment plan pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).
 - (9) The validity of any zoning decision made pursuant to Chapter 4 (commencing with Section 65800).
 - (10) The validity of any decision made pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code.
- (b) Within five days after the deadline for the respondent or defendant to file its reply to an action, the court may invite the parties to consider resolving their dispute by selecting a mutually acceptable person to serve as a mediator, or an organization or agency to provide a mediator.
 - (c) In selecting a person to serve as a mediator, or an organization or agency to provide a mediator, the parties shall consider the following:
 - (1) The council of governments having jurisdiction in the county where the dispute arose.
 - (2) Any subregional or countywide council of governments in the county where the dispute arose.
 - (3) Any other person with experience or training in mediation including those with experience in land use issues, or any other organization or agency which can provide a person with experience or training in mediation, including those with experience in land use issues.
 - (d) If the court invites the parties to consider mediation, the parties shall notify the court within 30 days if they have selected a mutually acceptable person to serve as a mediator. If the parties have not selected a mediator within 30 days, the action shall proceed. The court shall not draw any implication, favorable or otherwise, from the refusal by a party to accept the invitation by the court to consider mediation. Nothing in this section shall preclude the parties from using mediation at any other time while the action is pending.

PLANNING AND ZONING LAW
GOVERNMENT CODE
Title 7—Planning and Land Use
Division 2—Subdivisions
Chapter 3—Procedure
Article 3—Review of Tentative Map by Other Agencies
(*excerpts*)

66455.9.

Whenever there is consideration of an area within a development for a public school site, the advisory agency shall give the affected districts and the State Department of Education written notice of the proposed site. The written notice shall include the identification of any existing or proposed runways within the distance specified in Section 17215 of the Education Code. If the site is within the distance of an existing or proposed airport runway as described in Section 17215 of the Education Code, the department shall notify the State Department of Transportation as required by the section and the site shall be investigated by the State Department of Transportation required by Section 17215.

EDUCATION CODE
Title 1—General Education Code Provisions
Division 1—General Education Code Provisions
Part 10.5—School Facilities
Chapter 1—School Sites
Article 1—General Provisions
(excerpts)

17215.

- (a) In order to promote the safety of pupils, comprehensive community planning, and greater educational usefulness of school sites, before acquiring title to or leasing property for a new school site, the governing board of each school district, including any district governed by a city board of education or a charter school, shall give the State Department of Education written notice of the proposed acquisition or lease and shall submit any information required by the State Department of Education if the site is within two miles, measured by air line, of that point on an airport runway or a potential runway included in an airport master plan that is nearest to the site.
- (b) Upon receipt of the notice required pursuant to subdivision (a), the State Department of Education shall notify the Department of Transportation in writing of the proposed acquisition or lease. If the Department of Transportation is no longer in operation, the State Department of Education shall, in lieu of notifying the Department of Transportation, notify the United States Department of Transportation or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the department or other agency any information or assistance that it may desire to give.
- (c) The Department of Transportation shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the State Department of Education a written report of its findings including recommendations concerning acquisition or lease of the site. As part of the investigation, the Department of Transportation shall give notice thereof to the owner and operator of the airport who shall be granted the opportunity to comment upon the site. The Department of Transportation shall adopt regulations setting forth the criteria by which a site will be evaluated pursuant to this section.
- (d) The State Department of Education shall, within 10 days of receiving the Department of Transportation's report, forward the report to the governing board of the school district or charter school. The governing board or charter school may not acquire title to or lease the property until the report of the Department of Transportation has been received. If the report does not favor the acquisition or lease of the property for a school site or an addition to a present school site, the governing board or charter school may not acquire title to or lease the property. If the report does favor the acquisition or lease of the property for a school site or an addition to a present school site, the governing board or charter school shall hold a public hearing on the matter prior to acquiring or leasing the site.
- (e) If the Department of Transportation's recommendation does not favor acquisition or lease of the proposed site, state funds or local funds may not be apportioned or expended for the acquisition of that site, construction of any school building on that site, or for the expansion of any existing site to include that site.

- (f) This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.

EDUCATION CODE
Title 3—Postsecondary Education
Division 7—Community Colleges
Part 49—Community Colleges, Education Facilities
Chapter 1—School Sites
Article 2—School Sites
(excerpts)

81033. Investigation: Geologic and Soil Engineering Studies; Airport in Proximity

- (c) To promote the safety of students, comprehensive community planning, and greater educational usefulness of community college sites, the governing board of each community college district, if the proposed site is within two miles, measured by air line, of that point on an airport runway, or a runway proposed by an airport master plan, which is nearest the site and excluding them if the property is not so located, before acquiring title to property for a new community college site or for an addition to a present site, shall give the board of governors notice in writing of the proposed acquisition and shall submit any information required by the board of governors.

Immediately after receiving notice of the proposed acquisition of property which is within two miles, measured by air line, of that point on an airport runway, or a runway proposed by an airport master plan, which is nearest the site, the board of governors shall notify the Division of Aeronautics of the Department of Transportation, in writing, of the proposed acquisition. The Division of Aeronautics shall make an investigation and report to the board of governors within 30 working days after receipt of the notice. If the Division of Aeronautics is no longer in operation, the board of governors shall, in lieu of notifying the Division of Aeronautics, notify the Federal Aviation Administration or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the authority or other agency such information or assistance as it may desire to give.

The board of governors shall investigate the proposed site and within 35 working days after receipt of the notice shall submit to the governing board a written report and its recommendations concerning acquisition of the site. The governing board shall not acquire title to the property until the report of the board of governors has been received. If the report does not favor the acquisition of the property for a community college site or an addition to a present community college site, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the board of governors' report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the community college district, or if there is no such newspaper, then in a newspaper of general circulation within the county in which the property is located.

- (d) If, with respect to a proposed site located within two miles of an operative airport runway, the report of the board of governors submitted to a community college district governing board under subdivision (c) does not favor the acquisition of the site on the sole or partial basis of the unfavorable recommendation of the Division of Aeronautics of the Department of Transportation, no state agency or officer shall grant, apportion, or allow to such community college district for expenditure in connection with that site, any state funds otherwise made available under any state law whatever for a community college site acquisition or college building

construction, or for expansion of existing sites and buildings, and no funds of the community college district or of the county in which the district lies shall be expended for such purposes; provided that provisions of this section shall not be applicable to sites acquired prior to January 1, 1966, nor any additions or extensions to such sites.

If the recommendations of the Division of Aeronautics are unfavorable, such recommendations shall not be overruled without the express approval of the board of governors and the State Allocation Board.

CALIFORNIA ENVIRONMENTAL QUALITY ACT STATUTES**PUBLIC RESOURCES CODE
Division 13—Environmental Quality
Chapter 2.6—General
(*excerpts*)****21096. Airport Planning**

- (a) If a lead agency prepares an environmental impact report for a project situated within airport land use compatibility plan boundaries, or, if an airport land use compatibility plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation, in compliance with Section 21674.5 of the Public Utilities Code and other documents, shall be utilized as technical resources to assist in the preparation of the environmental impact report as the report relates to airport-related safety hazards and noise problems.
- (b) A lead agency shall not adopt a negative declaration for a project described in subdivision (a) unless the lead agency considers whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

BUSINESS AND PROFESSIONS CODE
Division 4—Real Estate
Part 2—Regulation of Transactions
Chapter 1—Subdivided Lands
Article 2—Investigation, Regulation and Report
(excerpts)

11010.

(a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, any person who intends to offer subdivided lands within this state for sale or lease shall file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire on a form prepared by the department.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

[Sub-Sections (1) through (12) omitted]

(13) (A) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision. If the property is located within an airport influence area, the following statement shall be included in the notice of intention:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(B) For purposes of this section, an “airport influence area,” also known as an “airport referral area,” is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

CIVIL CODE
Division 2—Property
Part 4—Acquisition of Property
Title 4—Transfer
Chapter 2—Transfer of Real Property
Article 1.7—Disclosure of Natural Hazards Upon Transfer of Residential Property
(excerpts)

1103.

- (a) Except as provided in Section 1103.1, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of any real property described in subdivision (c), or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.
- (b) Except as provided in Section 1103.1, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, that is classified as personal property intended for use as a residence, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, that is classified as personal property intended for use as a residence, if the real property on which the manufactured home or mobilehome is located is real property described in subdivision (c).
- (c) This article shall apply to the transactions described in subdivisions (a) and (b) only if the transferor or his or her agent are required by one or more of the following to disclose the property's location within a hazard zone:
 - (1) A person who is acting as an agent for a transferor of real property that is located within a special flood hazard area (any type Zone "A" or "V") designated by the Federal Emergency Management Agency, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a special flood hazard area if either:
 - (A) The transferor, or the transferor's agent, has actual knowledge that the property is within a special flood hazard area.
 - (B) The local jurisdiction has compiled a list, by parcel, of properties that are within the special flood hazard area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.
 - (2) ... is located within an area of potential flooding ... shall disclose to any prospective transferee the fact that the property is located within an area of potential flooding ...
 - (3) ... is located within a very high fire hazard severity zone, designated pursuant to Section 51178 of the Public Resources Code ... shall disclose to any prospective transferee the fact that the property is located within a very high fire hazard severity zone and is subject to the requirements of Section 51182 ...

- (4) ... is located within an earthquake fault zone, designated pursuant to Section 2622 of the Public Resources Code ... shall disclose to any prospective transferee the fact that the property is located within a delineated earthquake fault zone ...
 - (5) ... is located within a seismic hazard zone, designated pursuant to Section 2696 of the Public Resources Code ... shall disclose to any prospective transferee the fact that the property is located within a seismic hazard zone ...
 - (6) ... is located within a state responsibility area determined by the board, pursuant to Section 4125 of the Public Resources Code, shall disclose to any prospective transferee the fact that the property is located within a wildland area that may contain substantial forest fire risks and hazards and is subject to the requirements of Section 4291 ...
- (d) Any waiver of the requirements of this article is void as against public policy.

1103.1.

- (a) This article does not apply to the following transfers:
- (1) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.
 - (2) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default, transfers by any foreclosure sale after default, transfers by any foreclosure sale after default in an obligation secured by a mortgage, transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a deed of trust or secured by any other instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure.
 - (3) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.
 - (4) Transfers from one coowner to one or more other coowners.
 - (5) Transfers made to a spouse, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.
 - (6) Transfers between spouses resulting from a judgment of dissolution of marriage or of legal separation of the parties or from a property settlement agreement incidental to that judgment.
 - (7) Transfers by the Controller in the course of administering Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.
 - (8) Transfers under Chapter 7 (commencing with Section 3691) or Chapter 8 (commencing with Section 3771) of Part 6 of Division 1 of the Revenue and Taxation Code.
 - (9) Transfers or exchanges to or from any governmental entity.
- (b) Transfers not subject to this article may be subject to other disclosure requirements, including those under Sections 8589.3, 8589.4, and 51183.5 of the Government Code and Sections 2621.9,

2694, and 4136 of the Public Resources Code. In transfers not subject to this article, agents may make required disclosures in a separate writing.

1103.2.

- (a) The disclosures required by this article are set forth in, and shall be made on a copy of, the following Natural Hazard Disclosure Statement: [content omitted].
- (b) If an earthquake fault zone, seismic hazard zone, very high fire hazard severity zone, or wildland fire area map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a natural hazard area, the transferor or transferor's agent shall mark "Yes" on the Natural Hazard Disclosure Statement. The transferor or transferor's agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1103.4 that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the transferor or the transferor's agents to exercise reasonable care in making a determination under this subdivision.

[Sub-Sections (c) through (h) omitted]

[Section 1103.3 omitted]

1103.4.

- (a) Neither the transferor nor any listing or selling agent shall be liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or the listing or selling agent, and was based on information timely provided by public agencies or by other persons providing information as specified in subdivision (c) that is required to be disclosed pursuant to this article, and ordinary care was exercised in obtaining and transmitting the information.
- (b) The delivery of any information required to be disclosed by this article to a prospective transferee by a public agency or other person providing information required to be disclosed pursuant to this article shall be deemed to comply with the requirements of this article and shall relieve the transferor or any listing or selling agent of any further duty under this article with respect to that item of information.
- (c) The delivery of a report or opinion prepared by a licensed engineer, land surveyor, geologist, or expert in natural hazard discovery dealing with matters within the scope of the professional's license or expertise, shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral. In responding to that request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1103.2 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where that statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.
 - (1) In responding to the request, the expert shall determine whether the property is within an airport influence area as defined in subdivision (b) of Section 11010 of the Business and Professions Code. If the property is within an airport influence area, the report shall contain the following statement:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

[Remainder of Article 1.7 omitted]

CIVIL CODE
Division 2, Part 4
Title 6—Common Interest Developments
(excerpts)

1353.

- (a) (1) A declaration, recorded on or after January 1, 1986, shall contain a legal description of the common interest development, and a statement that the common interest development is a community apartment project, condominium project, planned development, stock cooperative, or combination thereof. The declaration shall additionally set forth the name of the association and the restrictions on the use or enjoyment of any portion of the common interest development that are intended to be enforceable equitable servitudes. If the property is located within an airport influence area, a declaration, recorded after January 1, 2004, shall contain the following statement:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

- (2) For purposes of this section, an “airport influence area,” also known as an “airport referral area,” is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.
- (3) [Omitted]
- (4) The statement in a declaration acknowledging that a property is located in an airport influence area does not constitute a title defect, lien, or encumbrance.
- (b) The declaration may contain any other matters the original signator of the declaration or the owners consider appropriate.

LEGISLATIVE HISTORY SUMMARY
PUBLIC UTILITIES CODE
Sections 21670 et seq.
Airport Land Use Commission Statutes
And Related Statutes

- 1967 Original ALUC statute enacted.
- Establishment of ALUCs required in each county containing a public airport served by a certificated air carrier.
 - The purpose of ALUCs is indicated as being to make recommendations regarding height restrictions on buildings and the use of land surrounding airports.
- 1970 Assembly Bill 1856 (Badham) Chapter 1182, Statutes of 1970—Adds provisions which:
- Require ALUCs to prepare comprehensive land use plans.
 - Require such plans to include a long-range plan and to reflect the airport's forecast growth during the next 20 years.
 - Require ALUC review of airport construction plans (Section 21661.5).
 - Exempt Los Angeles County from the requirement of establishing an ALUC.
- 1971 The function of ALUCs is restated as being to require new construction to conform to Department of Aeronautics standards.
- 1973 ALUCs are permitted to establish compatibility plans for military airports.
- 1982 Assembly Bill 2920 (Rogers) Chapter 1041, Statutes of 1982—Adds major changes which:
- More clearly articulate the purpose of ALUCs.
 - Eliminate reference to “achieve by zoning.”
 - Require consistency between local general and specific plans and airport land use commission plans; the requirements define the process for attaining consistency, they do not establish standards for consistency.
 - Eliminate the requirement for proposed individual development projects to be referred to an ALUC for review once local general/specific plans are consistent with the ALUC's plan.
 - Require that local agencies make findings of fact before overriding an ALUC decision.
 - Change the vote required for an override from 4/5 to 2/3.
- 1984 Assembly Bill 3551 (Mountjoy) Chapter 1117, Statutes of 1984—Amends the law to:
- Require ALUCs in all counties having an airport which serves the general public unless a county and its cities determine an ALUC is not needed.
 - Limit amendments to compatibility plans to once per year.
 - Allow individual projects to continue to be referred to the ALUC by agreement.
 - Extend immunity to airports if an ALUC action is overridden by a local agency not owning the airport.

- Provide state funding eligibility for preparation of compatibility plans through the Regional Transportation Improvement Program process.
- 1987 Senate Bill 633 (Rogers) Chapter 1018, Statutes of 1987—Makes revisions which:
- Require that a designated body serving as an ALUC include two members having “expertise in aviation.”
 - Allows an interested party to initiate court proceedings to postpone the effective date of a local land use action if a compatibility plan has not been adopted.
 - Delete *sunset* provisions contained in certain clauses of the law. Allows reimbursement for ALUC costs in accordance with the Commission on State Mandates.
- 1989 Senate Bill 255 (Bergeson) Chapter 54, Statutes of 1989—
- Sets a requirement that comprehensive land use plans be completed by June 1991.
 - Establishes a method for compelling ALUCs to act on matters submitted for review.
 - Allows ALUCs to charge fees for review of projects.
 - Suspends any lawsuits that would stop development until the ALUC adopts its plan or until June 1, 1991.
- 1989 Senate Bill 235 (Alquist) Chapter 788, Statutes of 1989—Appropriates \$3,672,000 for the payment of claims to counties seeking reimbursement of costs incurred during fiscal years 1985-86 through 1989-90 pursuant to state-mandated requirement (Chapter 1117, Statutes of 1984) for creation of ALUCs in most counties. This statute was repealed in 1993.
- 1990 Assembly Bill 4164 (Mountjoy) Chapter 1008, Statutes of 1990—Adds section 21674.5 requiring the Division of Aeronautics to develop and implement a training program for ALUC staffs.
- 1990 Assembly Bill 4265 (Clute) Chapter 563, Statutes of 1990—With the concurrence of the Division of Aeronautics, allows ALUCs to use an airport layout plan, rather than a long-range airport master plan, as the basis for preparation of a compatibility plan.
- 1990 Senate Bill 1288 (Beverly) Chapter 54, Statutes of 1990—Amends Section 21670.2 to give Los Angeles County additional time to prepare compatibility plans and meet other provisions of the ALUC statutes.
- 1991 Senate Bill 532 (Bergeson) Chapter 140, Statutes of 1991—
- Allows counties having half of their compatibility plans completed or under preparation by June 30, 1991, an additional year to complete the remainder.
 - Allows ALUCs to continue to charge fees under these circumstances.
 - Fees may be charged only until June 30, 1992, if plans are not completed by then.
- 1993 Senate Bill 443 (Committee on Budget and Fiscal Review) Chapter 59, Statutes of 1993—Amends Section 21670(b) to make the formation of ALUCs permissive rather than mandatory as of June 30, 1993. (Note: Section 21670.2 which assigns responsibility for coordinating the airport planning of public agencies in Los Angeles County is not affected by this amendment.)
- 1994 Assembly Bill 2831 (Mountjoy) Chapter 644, Statutes of 1994 —Reinstates the language in Section 21670(b) mandating establishment of ALUCs, but also provides for an alternative airport land use planning process. Lists specific actions which a county and affected cities must take in order for such alternative process to receive Caltrans approval. Requires that

- ALUCs be guided by information in the Caltrans *Airport Land Use Planning Handbook* when formulating airport land use plans.
- 1994 Senate Bill 1453 (Rogers) Chapter 438, Statutes of 1994—Amends California Environmental Quality Act (CEQA) statutes as applied to preparation of environmental documents affecting projects in the vicinity of airports. Requires lead agencies to use the *Airport Land Use Planning Handbook* as a technical resource when assessing the airport-related noise and safety impacts of such projects.
- 1997 Assembly Bill 1130 (Oller) Chapter 81, Statutes of 1997—Added Section 21670.4 concerning airports whose planning boundary straddles a county line.
- 2000 Senate Bill 1350 (Rainey) Chapter 506, Statutes of 2000—Added Section 21670(f) clarifying that special districts are among the local agencies to which airport land use planning laws are intended to apply.
- 2001 Assembly Bill 93 (Wayne) Chapter 946, Statutes of 2001—Added Section 21670.3 regarding San Diego County Regional Airport Authority’s responsibility for airport planning within San Diego County.
- 2002 Assembly Bill 3026 (Committee on Transportation) Chapter 438, Statutes of 2002—Changes the term “comprehensive land use plan” to “airport land use compatibility plan.”
- 2002 Assembly Bill 2776 (Simitian) Chapter 496, Statutes of 2002—Requires information regarding the location of a property within an airport influence area be disclosed as part of certain real estate transactions effective January 1, 2004.
- 2002 Senate Bill 1468 (Knight) Chapter 971, Statutes of 2002—Changes ALUC preparation of airport land use compatibility plans for military airports from optional to required. Requires that the plans be consistent with the safety and noise standards in the Air Installation Compatible Use Zone for that airport. Requires that the general plan and any specific plans be consistent with these standards where there is military airport, but an airport land use commission does not exist.
- 2003 Assembly Bill 332 (Mullin) Chapter 351, Statutes of 2003—Clarifies that school districts and community college districts are subject to compatibility plans. Requires local public agencies to notify ALUC and Division of Aeronautics at least 45 days prior to deciding to overrule the ALUC.
- 2004 Senate Bill 1223 (Committee on Transportation) Chapter 615, Statutes of 2004—Technical revisions eliminating most remaining references to the term “comprehensive land use plan” and replacing it with “airport land use compatibility plan.” Also replaces the terms “planning area” and “study area” with “airport influence area.”
- 2005 Assembly Bill 1358 (Mullin) Chapter 29, Statutes of 2005—Requires a school district to notify the Department of Transportation before leasing property for a new school site. Also makes these provisions applicable to charter schools.



APPENDIX B

FEDERAL AVIATION REGULATIONS PART 77 OBJECTS AFFECTING NAVIGABLE AIRSPACE

Amdt. 77-13, Effective January 18, 2011

Subpart A GENERAL

77.1 PURPOSE.

This part establishes:

- (a) The requirements to provide notice to the FAA of certain proposed construction, or the alteration of existing structures;
- (b) The standards used to determine obstructions to air navigation, and navigational and communication facilities;
- (c) The process for aeronautical studies of obstructions to air navigation or navigational facilities to determine the effect on the safe and efficient use of navigable airspace, air navigation facilities or equipment; and
- (d) The process to petition the FAA for discretionary review of determinations, revisions, and extensions of determinations.

77.3 DEFINITIONS.

For the purpose of this part:

“Non-precision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service military airport planning document.

Planned or proposed airport is an airport that is the subject of at least one of the following documents received by the FAA:

- (1) Airport proposals submitted under 14 CFR Part 157.
- (2) Airport Improvement Program requests for aid.
- (3) Notices of existing airports where prior notice of the airport construction or alteration was not provided as required by 14 CFR Part 157.
- (4) Airport layout plans.

- (5) DOD proposals for airports used only by the U.S. Armed Forces.
- (6) DOD proposals on joint-use (civil-military) airports.
- (7) Completed airport site selection feasibility study.

“Precision instrument runway” means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA-approved airport layout plan; a military service approved military airport layout plan; any other FAA planning document, or military service military airport planning document.

“Public use airport” is an airport available for use by the general public without a requirement for prior approval of the airport owner or operator.

“Seaplane base” is considered to be an airport only if its sea lanes are outlined by visual markers.

“Utility runway” means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

“Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan, a military service approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

Subpart B NOTICE REQUIREMENTS

77.5 APPLICABILITY.

- (a) If you propose any construction or alteration described in §77.9, you must provide adequate notice to the FAA of that construction or alteration.
- (b) If requested by the FAA, you must also file supplemental notice before the start date and upon completion of certain construction or alterations that are described in §77.9.
- (c) Notice received by the FAA under this subpart is used to:
 - (1) Evaluate the effect of the proposed construction or alteration on safety in air commerce and the efficient use and preservation of the navigable airspace and of airport traffic capacity at public use airports;
 - (2) Determine whether the effect of proposed construction or alteration is a hazard to air navigation;
 - (3) Determine appropriate marking and lighting recommendations, using FAA Advisory Circular 70/7460-1, Obstruction Marking and Lighting;
 - (4) Determine other appropriate measures to be applied for continued safety of air navigation; and

- (5) Notify the aviation community of the construction or alteration of objects that affect the navigable airspace, including the revision of charts, when necessary.

77.7 FORM AND TIME OF NOTICE.

- (a) If you are required to file notice under §77.9, you must submit to the FAA a completed FAA Form 7460-1, Notice of Proposed Construction or Alteration. FAA Form 7460-1 is available at FAA regional offices and on the Internet.
- (b) You must submit this form at least 45 days before the start date of the proposed construction or alteration or the date an application for a construction permit is filed, whichever is earliest.
- (c) If you propose construction or alteration that is also subject to the licensing requirements of the Federal Communications Commission (FCC), you must submit notice to the FAA on or before the date that the application is filed with the FCC.
- (d) If you propose construction or alteration to an existing structure that exceeds 2,000 ft. in height above ground level (AGL), the FAA presumes it to be a hazard to air navigation that results in an inefficient use of airspace. You must include details explaining both why the proposal would not constitute a hazard to air navigation and why it would not cause an inefficient use of airspace.
- (e) The 45-day advance notice requirement is waived if immediate construction or alteration is required because of an emergency involving essential public services, public health, or public safety. You may provide notice to the FAA by any available, expeditious means. You must file a completed FAA Form 7460-1 within 5 days of the initial notice to the FAA. Outside normal business hours, the nearest flight service station will accept emergency notices.

77.9 CONSTRUCTION OR ALTERATION REQUIRING NOTICE.

If requested by the FAA, or if you propose any of the following types of construction or alteration, you must file notice with the FAA of:

- (a) Any construction or alteration that is more than 200 ft. AGL at its site.
- (b) Any construction or alteration that exceeds an imaginary surface extending outward and upward at any of the following slopes:
 - (1) 100 to 1 for a horizontal distance of 20,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway more than 3,200 ft. in actual length, excluding heliports.
 - (2) 50 to 1 for a horizontal distance of 10,000 ft. from the nearest point of the nearest runway of each airport described in paragraph (d) of this section with its longest runway no more than 3,200 ft. in actual length, excluding heliports.
 - (3) 25 to 1 for a horizontal distance of 5,000 ft. from the nearest point of the nearest landing and takeoff area of each heliport described in paragraph (d) of this section.
- (c) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would

normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of paragraph (a) or (b) of this section.

- (d) Any construction or alteration on any of the following airports and heliports:
 - (1) A public use airport listed in the Airport/Facility Directory, Alaska Supplement, or Pacific Chart Supplement of the U.S. Government Flight Information Publications;
 - (2) A military airport under construction, or an airport under construction that will be available for public use;
 - (3) An airport operated by a Federal agency or the DOD.
 - (4) An airport or heliport with at least one FAA-approved instrument approach procedure.
- (e) You do not need to file notice for construction or alteration of:
 - (1) Any object that will be shielded by existing structures of a permanent and substantial nature or by natural terrain or topographic features of equal or greater height, and will be located in the congested area of a city, town, or settlement where the shielded structure will not adversely affect safety in air navigation;
 - (2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device meeting FAA-approved siting criteria or an appropriate military service siting criteria on military airports, the location and height of which are fixed by its functional purpose;
 - (3) Any construction or alteration for which notice is required by any other FAA regulation.
 - (4) Any antenna structure of 20 feet or less in height, except one that would increase the height of another antenna structure.

77.11 SUPPLEMENTAL NOTICE REQUIREMENTS.

- (a) You must file supplemental notice with the FAA when:
 - (1) The construction or alteration is more than 200 feet in height AGL at its site; or
 - (2) Requested by the FAA.
- (b) You must file supplemental notice on a prescribed FAA form to be received within the time limits specified in the FAA determination. If no time limit has been specified, you must submit supplemental notice of construction to the FAA within 5 days after the structure reaches its greatest height.
- (c) If you abandon a construction or alteration proposal that requires supplemental notice, you must submit notice to the FAA within 5 days after the project is abandoned.
- (d) If the construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

Subpart C

Standards for Determining Obstructions to Air Navigation or Navigational Aids or Facilities

77.13 APPLICABILITY.

This subpart describes the standards used for determining obstructions to air navigation, navigational aids, or navigational facilities. These standards apply to the following:

- (a) Any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus.
- (b) The alteration of any permanent or temporary existing structure by a change in its height, including appurtenances, or lateral dimensions, including equipment or material used therein.

77.15 SCOPE.

- (a) This subpart describes standards used to determine obstructions to air navigation that may affect the safe and efficient use of navigable airspace and the operation of planned or existing air navigation and communication facilities. Such facilities include air navigation aids, communication equipment, airports, Federal airways, instrument approach or departure procedures, and approved off-airway routes.
- (b) Objects that are considered obstructions under the standards described in this subpart are presumed hazards to air navigation unless further aeronautical study concludes that the object is not a hazard. Once further aeronautical study has been initiated, the FAA will use the standards in this subpart, along with FAA policy and guidance material, to determine if the object is a hazard to air navigation.
- (c) The FAA will apply these standards with reference to an existing airport facility, and airport proposals received by the FAA, or the appropriate military service, before it issues a final determination.
- (d) For airports having defined runways with specially prepared hard surfaces, the primary surface for each runway extends 200 feet beyond each end of the runway. For airports having defined strips or pathways used regularly for aircraft takeoffs and landings, and designated runways, without specially prepared hard surfaces, each end of the primary surface for each such runway shall coincide with the corresponding end of the runway. At airports, excluding seaplane bases, having a defined landing and takeoff area with no defined pathways for aircraft takeoffs and landings, a determination must be made as to which portions of the landing and takeoff area are regularly used as landing and takeoff pathways. Those determined pathways must be considered runways, and an appropriate primary surface as defined in §77.19 will be considered as longitudinally centered on each such runway. Each end of that primary surface must coincide with the corresponding end of that runway.
- (e) The standards in this subpart apply to construction or alteration proposals on an airport (including heliports and seaplane bases with marked lanes) if that airport is one of the following before the issuance of the final determination:

- (1) Available for public use and is listed in the Airport/Facility Directory, Supplement Alaska, or Supplement Pacific of the U.S. Government Flight Information Publications; or
- (2) A planned or proposed airport or an airport under construction of which the FAA has received actual notice, except DOD airports, where there is a clear indication the airport will be available for public use; or,
- (3) An airport operated by a Federal agency or the DOD; or,
- (4) An airport that has at least one FAA-approved instrument approach.

77.17 OBSTRUCTION STANDARDS.

- (a) An existing object, including a mobile object, is, and a future object would be an obstruction to air navigation if it is of greater height than any of the following heights or surfaces:
 - (1) A height of 499 feet AGL at the site of the object.
 - (2) A height that is 200 feet AGL, or above the established airport elevation, whichever is higher, within 3 nautical miles of the established reference point of an airport, excluding heliports, with its longest runway more than 3,200 feet in actual length, and that height increases in the proportion of 100 feet for each additional nautical mile from the airport up to a maximum of 499 feet.
 - (3) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.
 - (4) A height within an en route obstacle clearance area, including turn and termination areas, of a Federal Airway or approved off-airway route, that would increase the minimum obstacle clearance altitude.
 - (5) The surface of a takeoff and landing area of an airport or any imaginary surface established under §77.19, 77.21, or 77.23. However, no part of the takeoff or landing area itself will be considered an obstruction.
- (b) Except for traverse ways on or near an airport with an operative ground traffic control service furnished by an airport traffic control tower or by the airport management and coordinated with the air traffic control service, the standards of paragraph (a) of this section apply to traverse ways used or to be used for the passage of mobile objects only after the heights of these traverse ways are increased by:
 - (1) 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance.
 - (2) 15 feet for any other public roadway.
 - (3) 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road.
 - (4) 23 feet for a railroad.

- (5) For a waterway or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

77.19 CIVIL AIRPORT IMAGINARY SURFACES.

The following civil airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach procedure existing or planned for that runway end.

- (a) **Horizontal surface.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by Swinging arcs of a specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
- (1) 5,000 feet for all runways designated as utility or visual;
 - (2) 10,000 feet for all other runways. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.
- (b) **Conical surface.** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- (c) **Primary surface.** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:
- (1) 250 feet for utility runways having only visual approaches.
 - (2) 500 feet for utility runways having non-precision instrument approaches.
 - (3) For other than utility runways, the width is:
 - (i) 500 feet for visual runways having only visual approaches.
 - (ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute mile.
 - (iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths of a statute mile, and for precision instrument runways.
 - (iv) The width of the primary surface of a runway will be that width prescribed in this section for the most precise approach existing or planned for either end of that runway.
- (d) **Approach surface.** A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is

applied to each end of each runway based upon the type of approach available or planned for that runway end.

- (1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - (i) 1,250 feet for that end of a utility runway with only visual approaches;
 - (ii) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;
 - (iii) 2,000 feet for that end of a utility runway with a non-precision instrument approach;
 - (iv) 3,500 feet for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;
 - (v) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
 - (vi) 16,000 feet for precision instrument runways.
 - (2) The approach surface extends for a horizontal distance of:
 - (i) 5,000 feet at a slope of 20 to 1 for all utility and visual runways;
 - (ii) 10,000 feet at a slope of 34 to 1 for all non-precision instrument runways other than utility; and
 - (iii) 10,000 feet at a slope of 50 to 1 with an additional 40,000 feet at a slope of 40 to 1 for all precision instrument runways.
 - (3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- (e) Transitional surface. These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

77.21 DEPARTMENT OF DEFENSE (DOD) AIRPORT IMAGINARY SURFACES.

- (a) Related to airport reference points. These surfaces apply to all military airports. For the purposes of this section, a military airport is any airport operated by the DOD.
 - (1) Inner horizontal surface. A plane that is oval in shape at a height of 150 feet above the established airfield elevation. The plane is constructed by scribing an arc with a radius of 7,500 feet about the centerline at the end of each runway and interconnecting these arcs with tangents.

- (2) Conical surface. A surface extending from the periphery of the inner horizontal surface outward and upward at a slope of 20 to 1 for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation.
 - (3) Outer horizontal surface. A plane, located 500 feet above the established airfield elevation, extending outward from the outer periphery of the conical surface for a horizontal distance of 30,000 feet.
- (b) Related to runways. These surfaces apply to all military airports.
- (1) Primary surface. A surface located on the ground or water longitudinally centered on each runway with the same length as the runway. The width of the primary surface for runways is 2,000 feet. However, at established bases where substantial construction has taken place in accordance with a previous lateral clearance criteria, the 2,000-foot width may be reduced to the former criteria.
 - (2) Clear zone surface. A surface located on the ground or water at each end of the primary surface, with a length of 1,000 feet and the same width as the primary surface.
 - (3) Approach clearance surface. An inclined plane, symmetrical about the runway centerline extended, beginning 200 feet beyond each end of the primary surface at the centerline elevation of the runway end and extending for 50,000 feet. The slope of the approach clearance surface is 50 to 1 along the runway centerline extended until it reaches an elevation of 500 feet above the established airport elevation. It then continues horizontally at this elevation to a point 50,000 feet from the point of beginning. The width of this surface at the runway end is the same as the primary surface, it flares uniformly, and the width at 50,000 is 16,000 feet.
 - (4) Transitional surfaces. These surfaces connect the primary surfaces, the first 200 feet of the clear zone surfaces, and the approach clearance surfaces to the inner horizontal surface, conical surface, outer horizontal surface or other transitional surfaces. The slope of the transitional surface is 7 to 1 outward and upward at right angles to the runway centerline.

77.23 HELIPORT IMAGINARY SURFACES.

- (a) Primary surface. The area of the primary surface coincides in size and shape with the designated take-off and landing area. This surface is a horizontal plane at the elevation of the established heliport elevation.
- (b) Approach surface. The approach surface begins at each end of the heliport primary surface with the same width as the primary surface, and extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1 for civil heliports and 10 to 1 for military heliports.
- (c) Transitional surfaces. These surfaces extend outward and upward from the lateral boundaries of the primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontally from the centerline of the primary and approach surfaces.

Subpart D

AERONAUTICAL STUDIES AND DETERMINATIONS

77.25 APPLICABILITY.

- (a) This subpart applies to any aeronautical study of a proposed construction or alteration for which notice to the FAA is required under 77.9.
- (b) The purpose of an aeronautical study is to determine whether the aeronautical effects of the specific proposal and, where appropriate, the cumulative impact resulting from the proposed construction or alteration when combined with the effects of other existing or proposed structures, would constitute a hazard to air navigation.
- (c) The obstruction standards in subpart C of this part are supplemented by other manuals and directives used in determining the effect on the navigable airspace of a proposed construction or alteration. When the FAA needs additional information, it may circulate a study to interested parties for comment.

77.27 INITIATION OF STUDIES.

The FAA will conduct an aeronautical study when:

- (a) Requested by the sponsor of any proposed construction or alteration for which a notice is submitted; or
- (b) The FAA determines a study is necessary.

77.29 EVALUATING AERONAUTICAL EFFECT.

- (a) The FAA conducts an aeronautical study to determine the impact of a proposed structure, an existing structure that has not yet been studied by the FAA, or an alteration of an existing structure on aeronautical operations, procedures, and the safety of flight. These studies include evaluating:
 - (1) The impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;
 - (2) The impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;
 - (3) The impact on existing and planned public use airports;
 - (4) Airport traffic capacity of existing public use airports and public use airport development plans received before the issuance of the final determination;
 - (5) Minimum obstacle clearance altitudes, minimum instrument flight rules altitudes, approved or planned instrument approach procedures, and departure procedures;
 - (6) The potential effect on ATC radar, direction finders, ATC tower line-of-sight visibility, and physical or electromagnetic effects on air navigation, communication facilities, and other surveillance systems;

- (7) The aeronautical effects resulting from the cumulative impact of a proposed construction or alteration of a structure when combined with the effects of other existing or proposed structures.
- (b) If you withdraw the proposed construction or alteration or revise it so that it is no longer identified as an obstruction, or if no further aeronautical study is necessary, the FAA may terminate the study.

77.31 DETERMINATIONS.

- (a) The FAA will issue a determination stating whether the proposed construction or alteration would be a hazard to air navigation, and will advise all known interested persons.
- (b) The FAA will make determinations based on the aeronautical study findings and will identify the following:
 - (1) The effects on VFR/IFR aeronautical departure/arrival operations, air traffic procedures, minimum flight altitudes, and existing, planned, or proposed airports listed in §77.15(e) of which the FAA has received actual notice prior to issuance of a final determination.
 - (2) The extent of the physical and/or electromagnetic effect on the operation of existing or proposed air navigation facilities, communication aids, or surveillance systems.
- (c) The FAA will issue a Determination of Hazard to Air Navigation when the aeronautical study concludes that the proposed construction or alteration will exceed an obstruction standard and would have a substantial aeronautical impact.
- (d) A Determination of No Hazard to Air Navigation will be issued when the aeronautical study concludes that the proposed construction or alteration will exceed an obstruction standard but would not have a substantial aeronautical impact to air navigation. A Determination of No Hazard to Air Navigation may include the following:
 - (1) Conditional provisions of a determination.
 - (2) Limitations necessary to minimize potential problems, such as the use of temporary construction equipment.
 - (3) Supplemental notice requirements, when required.
 - (4) Marking and lighting recommendations, as appropriate.
- (e) The FAA will issue a Determination of No Hazard to Air Navigation when a proposed structure does not exceed any of the obstruction standards and would not be a hazard to air navigation.

77.33 EFFECTIVE PERIOD OF DETERMINATIONS.

- (a) A determination issued under this subpart is effective 40 days after the date of issuance, unless a petition for discretionary review is received by the FAA within 30 days after issuance. The determination will not become final pending disposition of a petition for discretionary review.

- (b) Unless extended, revised, or terminated, each Determination of No Hazard to Air Navigation issued under this subpart expires 18 months after the effective date of the determination, or on the date the proposed construction or alteration is abandoned, whichever is earlier.
- (c) A Determination of Hazard to Air Navigation has no expiration date.

77.35 EXTENSIONS, TERMINATIONS, REVISIONS AND CORRECTIONS.

- (a) You may petition the FAA official that issued the Determination of No Hazard to Air Navigation to revise or reconsider the determination based on new facts or to extend the effective period of the determination, provided that:
 - (1) Actual structural work of the proposed construction or alteration, such as the laying of a foundation, but not including excavation, has not been started; and
 - (2) The petition is submitted at least 15 days before the expiration date of the Determination of No Hazard to Air Navigation.
- (b) A Determination of No Hazard to Air Navigation issued for those construction or alteration proposals not requiring an FCC construction permit may be extended by the FAA one time for a period not to exceed 18 months.
- (c) A Determination of No Hazard to Air Navigation issued for a proposal requiring an FCC construction permit may be granted extensions for up to 18 months, provided that:
 - (1) You submit evidence that an application for a construction permit/license was filed with the FCC for the associated site within 6 months of issuance of the determination; and
 - (2) You submit evidence that additional time is warranted because of FCC requirements; and
 - (3) Where the FCC issues a construction permit, a final Determination of No Hazard to Air Navigation is effective until the date prescribed by the FCC for completion of the construction. If an extension of the original FCC completion date is needed, an extension of the FAA determination must be requested from the Obstruction Evaluation Service (OES).
 - (4) If the Commission refuses to issue a construction permit, the final determination expires on the date of its refusal.

Subpart E

PETITIONS FOR DISCRETIONARY REVIEW

77.37 GENERAL.

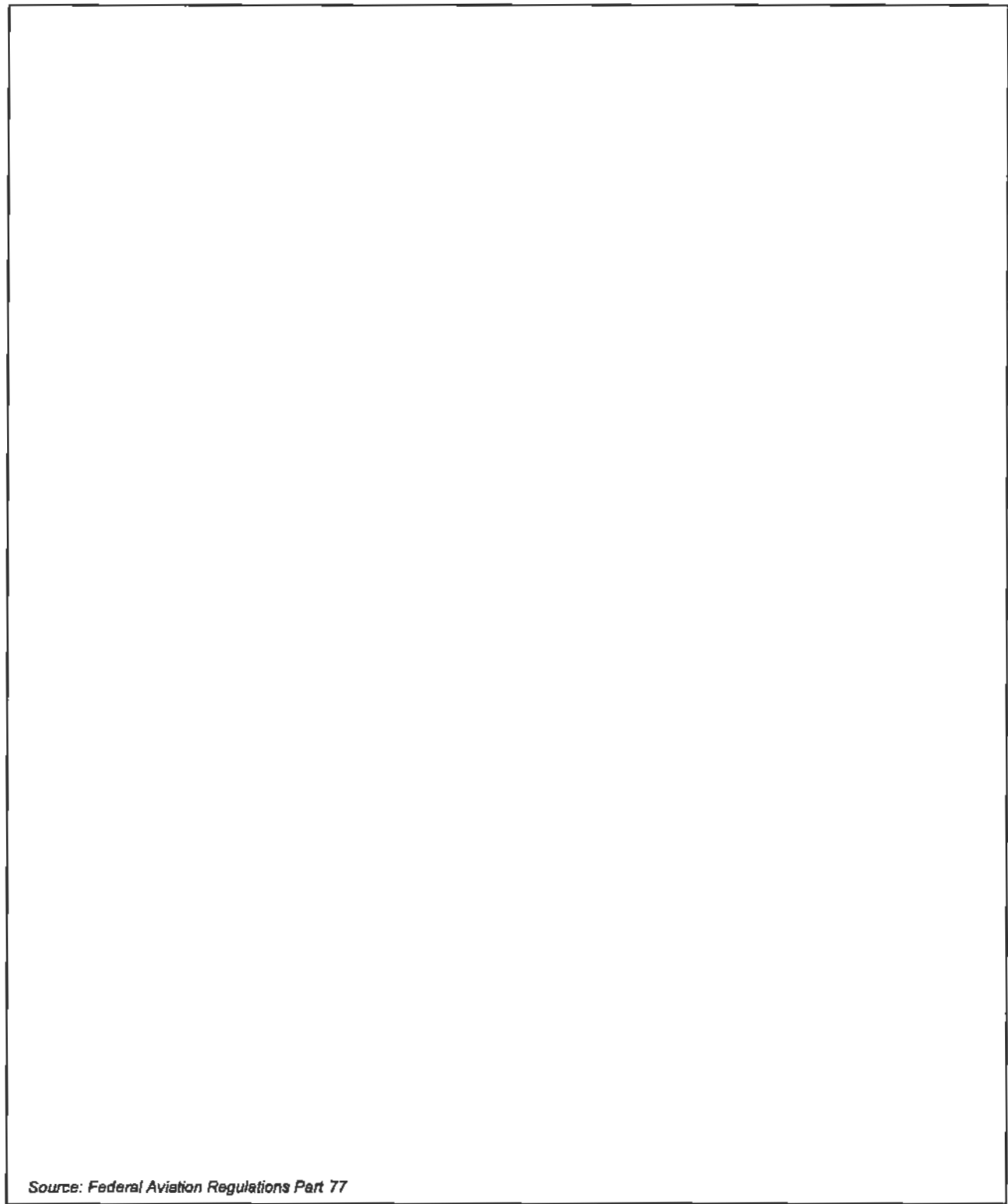
- (a) If you are the sponsor, provided a substantive aeronautical comment on a proposal in an aeronautical study, or have a substantive aeronautical comment on the proposal but were not given an opportunity to state it, you may petition the FAA for a discretionary review of a determination, revision, or extension of a determination issued by the FAA.
- (b) You may not file a petition for discretionary review for a Determination of No Hazard that is issued for a temporary structure, marking and lighting recommendation, or when a proposed structure or alteration does not exceed obstruction standards contained in subpart C of this part.

77.39 Contents of a petition.

- (a) You must file a petition for discretionary review in writing and it must be received by the FAA within 30 days after the issuance of a determination under 77.31, or a revision or extension of the determination under 77.35.
- (b) The petition must contain a full statement of the aeronautical basis on which the petition is made, and must include new information or facts not previously considered or presented during the aeronautical study, including valid aeronautical reasons why the determination, revisions, or extension made by the FAA should be reviewed.
- (c) In the event that the last day of the 30-day filing period falls on a weekend or a day the Federal government is closed, the last day of the filing period is the next day that the government is open.
- (d) The FAA will inform the petitioner or sponsor (if other than the petitioner) and the FCC (whenever an FCC-related proposal is involved) of the filing of the petition and that the determination is not final pending disposition of the petition.

77.41 Discretionary review results.

- (a) If discretionary review is granted, the FAA will inform the petitioner and the sponsor (if other than the petitioner) of the issues to be studied and reviewed. The review may include a request for comments and a review of all records from the initial aeronautical study.
- (b) If discretionary review is denied, the FAA will notify the petitioner and the sponsor (if other than the petitioner), and the FCC, whenever a FCC-related proposal is involved, of the basis for the denial along with a statement that the determination is final.
- (c) After concluding the discretionary review process, the FAA will revise, affirm, or reverse the determination.




Source: Federal Aviation Regulations Part 77

Exhibit B1
FAR Part 77 Imaginary Surfaces

Exhibit B3

Online Submittal of “Notice of Proposed Construction or Alteration”

Historically a paper form called a “7460-1” was required to be submitted to the FAA for any project proposed on airport property and certain projects near airports. Recently, the FAA has moved from paper forms to an on-line system of evaluating the effects of a proposed project on the national airspace system.

 The on-line system can be accessed at <https://oeaaa.faa.gov>.

This new system allows project proponents to submit and track their proposal as it progresses through the FAA evaluation process.

The purpose of this guidance is to supplement and clarify the FAA user guide for the 7460 website.

 available at: https://oeaaa.faa.gov/oeaaa/external/content/OFExternal_Guide_v3.1.pdf

We recommend that the user first read the entire guide provided by the FAA, and then use this document to clarify some of the more complicated aspects of the online 7460 system.

WHEN A PROJECT MUST BE SUBMITTED TO THE FAA

CFR Title 14 Part 77.13 states that any person/organization who intends to sponsor any of the following construction or alterations must notify the Administrator of the FAA:

- Any construction or alteration exceeding 200 ft above ground level
- Any construction or alteration:
 - within 20,000 ft of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with at least one runway more than 3,200 ft
 - within 10,000 ft of a public use or military airport which exceeds a 50:1 surface from any point on the runway of each airport with its longest runway no more than 3,200 ft
 - within 5,000 ft of a public use heliport which exceeds a 25:1 surface
- Any highway, railroad or other traverse way whose prescribed adjusted height would exceed the above noted standards
- When requested by the FAA
- Any construction or alteration located on a public use airport or heliport regardless of height or location.

The FAA has been continuously improving the oe/aaa website to be more user friendly and increase the on-line functionality. The look and feel of the website may change in the future, but the majority of the content should remain as is.

Create an account

Before accessing the features of the website, the user will be required to create a username and password to access the website.

- Obstruction Evaluation / Airport Airspace Analysis (OE/AAA)
- Home
- FAA OE/AAA Offices
- View Determined Cases
- View Proposed Cases
- View Supplemental Notices (Form 7460-2)
- View Circularized Cases
- Search Archives
- Download Archives
- Circle Search for Cases
- Circle Search for Airports
- Discretionary Review FAQs
- Notice Criteria Tool
- DoD Preliminary Screening Tool
- Distance Calculation Tool
- OE/AAA Accounts
- Login
- New User Registration
- (Former) Regulations
- FAA Acronyms
- Forms
- Regulatory Policy

Obstruction Evaluation / Airport Airspace Analysis (OE/AAA)

[E-file your forms](#) [Print this page](#)

In administering Title 14 of the Code of Federal Regulations CFR Part 77, the prime objectives of the FAA are to promote air safety and the efficient use of the navigable airspace. To accomplish this mission, aeronautical studies are conducted based on information provided by proponents on an FAA Form 7460-1, Notice of Proposed Construction or Alteration.

Advisory Circular 707460-1K, Obstruction Marking and Lighting, describes the standards for marking and lighting structures such as buildings, chimneys, antenna towers, cooling towers, storage tanks, supporting structures of overhead wires, etc.

OE/AAA Filing Process

If your organization is planning to sponsor any construction or alterations which may affect navigable airspace, you must file a **Notice of Proposed Construction or Alteration (Form 7460-1)** with the FAA.



If construction or alteration IS NOT LOCATED on an airport:

You may file forms 7460-1 and 7460-2 electronically via this website - New User Registration.

or

You may file forms 7460-1 and 7460-2 via US Postal Mail to:

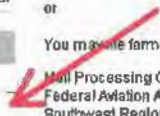
Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Service, AJR-322
2601 Meacham Boulevard
Fort Worth, TX 76193

If construction or alteration IS LOCATED on an airport:

You may file forms 7460-1 electronically via this website - New User Registration.

or

Find the FAA Airports Region / District Office having jurisdiction over the airport on which the construction is located, and file to that address.



Questions? Please contact the appropriate representative.

Once a user has created an account, they will be able to log in and will be directed to the OE/AAA Portal Page. This page displays a summary of any projects which have been entered into the website, categorized by off-airport and on-airport projects.

Adding a Sponsor

Before a user can enter project specific information, a project sponsor must be created. A sponsor is the person who is ultimately responsible for the construction or alteration. All FAA correspondence will be addressed to the sponsor. The sponsor could be the airport manager for projects proposed by the airport, or the developer proposing off airport construction. To create a sponsor contact, click "Add New Sponsor" on the "portal" page. From there the user can add sponsors for various projects.

OE/AAA Portal Page

Home | My Profile | Print this page

My Account

Name:
 User Name:
 Login Time:
 IP Address:

Actions:
 What's New
 Update Account Information
 Change Password
 Logout

Off Airport Construction (includes on Military Airport)

My Cases (Off Airport) | Add New Case (On Airport)
 My Sponsors | Add New Sponsor
 Air Traffic Areas of Responsibility

My Cases by Status:

Draft	0
Accepted	0
Add Letter	0
Work in Progress	0
Determined	0
Terminated	0
All	0

Draft: Cases that have been saved by the user but have not been submitted to the FAA.
Accepted: Cases that have been submitted to the FAA.
Add Letter: Cases that have been reviewed by the FAA and require additional information from the user.
Work in Progress: Cases that are being evaluated by the FAA.
Determined: Cases that have a completed aeronautical study and an FAA determination.
Terminated: Cases that are no longer valid.
 Please allow the FAA a minimum of 30 days to complete a study.
 Click here to contact the appropriate representative.

On Airport Construction (excludes on Military Airport)

My Cases (On Airport) | Add New Case (On Airport)
 My Sponsors | Add New Sponsor
 Airports Regional Contacts

My Cases by Status:

Draft	0
Waiting	0
Accepted	179
Add Letter	0
Work in Progress	64
Determined	4
Terminated	0
Deleted	6
All	247

Draft: Cases that have been saved by the user but have not been submitted to the FAA.
Waiting: Cases that have not been submitted to the FAA and are waiting for an action from the user, either to verify the map or attach a sketch.
Accepted: Cases that have been submitted to the FAA.
Add Letter: Cases that have been reviewed by the FAA and require additional information from the user.
Work in Progress: Cases that are being evaluated by the FAA.
Determined: Cases that have completed a aeronautical study and an FAA determination.
Terminated: Cases that are no longer valid.

NOTE: Please use this section for filing on-airport constructions electronically.

Email Notifications

Terminated Case Notification

Help

OE/AAA Support Desk
 Phone: 202-580-7500
 Email: oeaaa_helpdesk@eghtech.com

Documents

- OE/AAA System User Guide
- FAA Acronyms

When the user selects "Add New Sponsor", they will be presented with the following screen:

Add New Sponsor

Home | My Profile | Print this page

- The Sponsor can be you, your company, or your client. The sponsor is the person or business ultimately responsible for the construction or alteration. The sponsor appears as the addressee on all correspondence from the FAA.
- Please populate the following form to add or update a Sponsor.
 Required fields indicated with *

* Sponsor Name:

* Attention Of:

* Address:

Address 2:

+ City:

* State:

-OR-

* Non-US States:

* Country:

+ Zip / Post Code:

+ Phone: -- ext

* Fax: --

* Email:

NOTE: The party submitting information through the FAA website DOES NOT have to be the same as the sponsor. Often, a consultant or other party under direction from the sponsor makes the submittal through the website

Creating a New Submittal

There are two options for creating a new 7460 submittal. Again on the left side, either click “Add New Case (off airport)” or “Add New Case (on airport)”

The screenshot shows the OE/AAA Portal Page. On the left is a navigation sidebar with a grey header 'OE/AAA Account'. Below it are several menu items: Portal Page, My Cases (Off Airport), My Cases (On Airport), My Sponsors, Add New Case (Off Airport), Add New Case (On Airport), Update User Account, What's New, Change Password, and Logout. Two red arrows point to the 'Add New Case (Off Airport)' and 'Add New Case (On Airport)' links. The main content area has a grey header 'OE/AAA Portal Page' and a blue header 'My Account'. Below the header, there are sections for 'Name:', 'User Name:', 'Login Time:', and 'IP Address:'. Under 'Actions:', there are links for 'What's New', 'Update Account Information', 'Change Password', and 'Logout'. At the bottom, there is a blue header 'Email Notifications' and a link for 'Circularized Case Notification'.

There are some differences in the required fields for “on airport” vs. “off airport” but the differences are minor and self explanatory. One tip: for off airport submittals there is a field for “requested marking/lighting”. If the user does not have a preference, select other from the pull down menu and in the “other field” state “no preference”.

Notice of Proposed Construction or Alteration - Off Airport

Back to Table of Contents | Print this page

Sponsor (person, company, etc. proposing this action)
 * Sponsor:

Construction / Alteration Information

* Notice Of:

* Duration:

If Temporary: Months: Days:

Work Schedule - Start: (mm/dd/yyyy)

Work Schedule - End: (mm/dd/yyyy)

State Filing:

Structure Summary

* Structure Type:

* Structure Name:

FCC Number:

Prior ASN: - - OE

Structure Details

* Latitude: N

* Longitude: W

* Structure/Alt. Details:

* Site Elevation (SE): (nearest foot)

* Structure Height (AGL): (nearest foot)

* Requested Marking/Lighting:

Other:

Audio Visual Warning System (AVWS): Yes

* Current Marking/Lighting:

Other:

* Nearest City:

* Nearest State:

* Description of Location:

* Description of Proposal:

Additional Location(s)
 Add New Location(s)

Common Frequency Bands

	Low Freq.	High Freq.	Spacing Unit	SRP	EXP. USE
<input type="checkbox"/>	806	824	MHz	500	W
<input type="checkbox"/>	824	849	MHz	500	W
<input type="checkbox"/>	851	866	MHz	500	W
<input type="checkbox"/>	869	894	MHz	500	W
<input type="checkbox"/>	896	901	MHz	500	W
<input type="checkbox"/>	901	902	MHz	7	W
<input type="checkbox"/>	920	931	MHz	2500	W
<input type="checkbox"/>	931	932	MHz	3500	W
<input type="checkbox"/>	932	932.5	MHz	17	dBW
<input type="checkbox"/>	935	940	MHz	1000	W
<input type="checkbox"/>	940	941	MHz	3500	W
<input type="checkbox"/>	1050	1910	MHz	1640	W
<input type="checkbox"/>	1930	1990	MHz	1640	W
<input type="checkbox"/>	2805	2310	MHz	2000	W
<input type="checkbox"/>	2345	2360	MHz	2000	W

Specific Frequencies
 Add Specific Frequency

Accurate lat/long and site elevation is critical for an accurate airspace determination.

It is recommended that survey quality data be obtained from a recent survey, a GPS unit, or worst case, scaled from a topo quad.

- ➔ The most common “notice of” is construction. Select from pull down menu.
- ➔ Latitude and longitude must be entered for the structure/construction activity.
- ➔ Most 7460 submittals will require multiple points with lat/long unless the 7460 is for a pole/tower/ or other single point object. Buildings and construction areas all require points indicating the extents of the building or area. More information is provided below on how to add additional points to a submittal.
- ➔ There is a field to describe the activity taking place. In some complex activities the field does not provide enough room for the required text. An additional explanatory letter can be attached. Additional information is provided in this section on how to add a letter or document to the submittal.
- ➔ Red asterisks indicate the required fields.
- ➔ Unless there has been a previous aeronautical study for this submittal leave the “prior study” fields blank.
- ➔ Only select “common frequency bands” if the proposed structure will transmit a signal.

If the submittal is a building or construction area that is more than a single lat/long point the user must save the data first. Click save at the bottom of the page. This will bring up a summary screen of the case. To add more points click “clone” under the heading “actions”.

Notice of Proposed Construction or Alteration - Off Airport

Flag your English Print this page

Project Name: TEST1-000119804-09 Sponsor: test10

Project Summary : TEST1-000119804-09

Add Another Case to this Project

Structure	City, State	Lat/Long	Map	Actions
saofv Draft	edfv, TX	30° 30' 30.00" N 95° 30' 30.00" W	X Verify Map	Delete Clone Upload a PDF
saofv Draft	edfv, TX	30° 30' 3.00" N 95° 41' 1.00" W	X Verify Map	Delete Clone Upload a PDF
saofv Draft	edfv, TX	30° 30' 30.00" N 95° 1' 1.00" W	X Verify Map	Delete Clone Upload a PDF
saofv Draft	edfv, TX	30° 30' 3.00" N 94° 4' 7.00" W	X Verify Map	Delete Clone Upload a PDF
saofv Draft	edfv, TX	30° 30' 15.00" N 95° 41' 4.00" W	X Verify Map	Delete Clone Upload a PDF

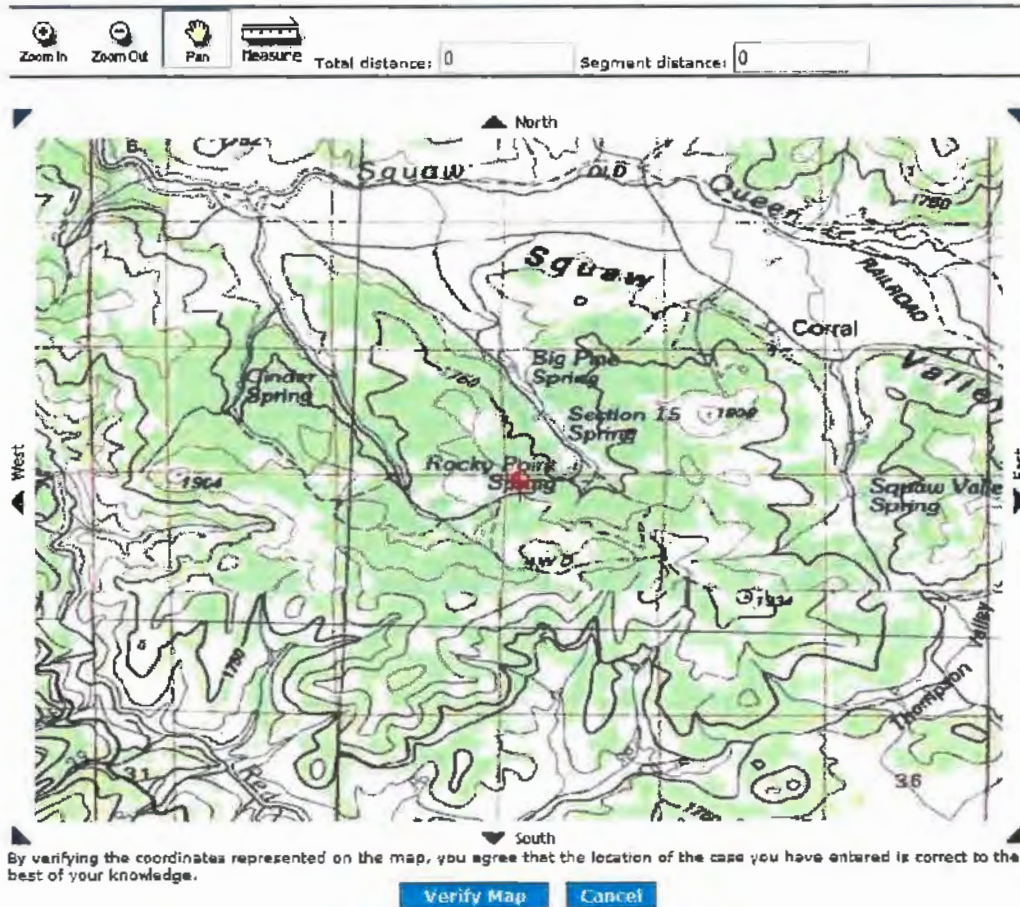
To submit this project, you must verify the coordinates of each case listed above.

The clone tool copies all the relevant information to a new page where an additional lat/long and elevation can be entered. However, the clone process does not number the various points of a proposed project. When entering the details for a point (see Image 5) it is helpful if the user assigns a number to the point and references the total number of points for the project (e.g. point 2 of 20). The numbering can be included in the project "description/remarks" field for each point.

It should be noted that each individual point associated with a project (e.g. each corner of a building) is evaluated individually, thus the importance of including a numbering system (2 of 20) in the text/description box.

Once done, click "save" again. Now the user will see two records under the "project summary" heading. Continue this process of cloning for all the remaining points.

Once all the points have been entered, each point must be verified. There is a red X with the words "verify map" indicating the user has not verified the location. Click Verify Map, a popup will display the lat/long point on a topo map and the user must verify that it is in the correct location. After clicking "verify map" on the popup, the red X will become a blue checkmark. It seems to be more efficient to enter all of the points associated with a project and then return to verify each point on the map at one time.



All on-airport project submittals must have a “project sketch” included. Under the “actions” column select “upload a PDF”. Once you have uploaded a sketch for all the points associated with the project the red X under “sketch” will turn to a green check mark. Off-airport projects do not require a “project sketch”, but the user can still upload one for informational purposes.

If the user needs to add any other information such as an explanatory letter, clicking on “upload a PDF” will allow the user to upload more documents, although only one at a time. Keep in mind that if additional PDFs or information are being provided, like the project sketch it must be uploaded to every point associated with the project.

Once the maps have been verified and sketches uploaded for all points associated with the case, the user will be able to submit the 7460 to the FAA for review.

Status of Submitted Projects

To check the status of a submittal, click on either “my cases (off airport)” or “my cases (on airport)” to see a list of what has been submitted. Each of the multiple points associated with one project will be listed as if they are separate, although still associated. The points will have a status:

ALL of My Cases (Off Airport)

[Screenshot](#) | [Print this page](#)

All Cases
 Show 28 Cases / 31

Filter by Case Status
 Draft: 15 | Accepted: 0 | Work in Progress: 0
 Determined: 0 | Circulated: 0 | Terminated: 16

Cases Requiring Action
 7460-2 Required: 0 | Add Letter: 0

Records 1 to 20 of 31

Page 1 of 2

Project Name	Structure Name	ASN	Status	Date Accepted	Date Determined	City	State
CITY-000039834-06	Text	2007-ASW-11975-OE	Terminated	12/27/2007	12/27/2007	Text	TX
CITY-000059482-07	adv		Draft			Jlevnaad	AS
CITY-000059482-07			Draft			LWADC	TX
CITY-000061676-07	Clearing		Draft			Loackhaven	PA
CITY-000102769-08	Eelgrade		Draft			Memphis	TH
TEST-000017393-05			Draft			Text	TX
TEST-000017393-05			Draft			Text	VA
TEST-000026823-05	-2 Test	2005-ASW-5900-OE	Terminated	10/24/2005	01/26/2006	Text	TX
TEST-000042512-05			Draft			Text	PW
TEST-000054890-04			Draft			Miami	HI
TEST-000062479-07	Text	2007-ASW-2891-OE	Terminated	03/31/2007	03/31/2007	Text	TX
TEST-000065885-07	Text	2007-ASW-4498-OE	Terminated	06/06/2007	06/06/2007	Text	TX
TEST-000070702-07	Text	2007-ASW-169-OE	Terminated	06/28/2007	06/28/2007	Text	AK
TEST-000073196-07	Text	2007-ASW-6663-OE	Terminated	07/28/2007	07/28/2007	Text	TX
TEST-000076148-07	Text Care	2007-ASW-7840-OE	Terminated	08/30/2007	09/24/2007	Text	TX
TEST-000080619-07	Text	2007-ASW-8818-OE	Terminated	10/25/2007	10/25/2007	Text	TX
TEST-000089176-08	Text	2008-ASW-1637-OE	Terminated	02/28/2008	02/28/2008	Text	TX
TEST-000100444-08	Text	2008-ASW-5488-OE	Terminated	08/04/2008	08/04/2008	Text	TX
TEST-000102895-08	Text	2008-ASW-3888-OE	Terminated	08/28/2008	10/03/2008	Text	TX
TEST-000104649-08	Text	2008-ASW-6317-OE	Terminated	10/09/2008	10/09/2008	Text	TX

Rows per Page:

Next page [→](#)
 Page 1 of 2

Records 1 to 20 of 31

Page: 1 2

Project Status Definitions:

Draft: Cases that have been saved by the user but have not been submitted to the FAA.

Waiting: Cases that have not been submitted to the FAA and are waiting for an action from the user, either to verify the map or attach a sketch.

Accepted: Cases that have been submitted to the FAA.

Add Letter: Cases that have been reviewed by the FAA and require additional information from the user.

Work in Progress: Cases that are being evaluated by the FAA.

Determined: Cases that have a completed aeronautical study and an FAA determination.

Terminated: Cases that are no longer valid.

These definitions are also shown at the bottom of the summary screen.

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APPENDIX C

AIRPORT LAND USE COMPATIBILITY CONCEPTS

INTRODUCTION

This appendix provides basic information regarding the concepts and rationale used to develop the compatibility policies and maps set forth in Chapter 2 of this *LA/Ontario International Airport Land Use Compatibility Plan*. Some of the material is excerpted directly from the *California Airport Land Use Planning Handbook* published by the California Division of Aeronautics in January 2002. Other portions are based upon concepts that evolved from technical input obtained during review and discussion of preliminary drafts of key policies.

State law requires that airport land use commissions “be guided by” the information presented in the *Handbook*. Despite the statutory reference to it, though, the *Handbook* does not constitute formal state policy or regulation. Indeed, adjustment of the guidelines to fit the circumstances of individual airports is suggested by the *Handbook*. The *Handbook* guidance and the information in this appendix does not supersede or otherwise take precedence over the policies contained in the *LA/Ontario International Airport Land Use Compatibility Plan*.

As outlined in the *Handbook*, the noise and safety compatibility concerns fall into four categories:

- *Noise*: As defined by cumulative noise exposure contours describing noise from aircraft operations near an airport.
- *Overflight*: The impacts of routine aircraft flight over a community.
- *Safety*: From the perspective of minimizing the risks of aircraft accidents beyond the runway environment.
- *Airspace Protection*: Accomplished by limits on the height of structures and other objects in the airport vicinity and restrictions on other uses that potentially pose hazards to flight.

The documentation in the remainder of this appendix is organized under the four compatibility categories. Under each of the four compatibility category headings, the discussion is organized around four topics:

- *Compatibility Objective*: The objective to be sought by establishment and implementation of the compatibility policies;
- *Measurement*: The scale on which attainment of the objectives can be measured;
- *Compatibility Strategies*: The types of strategies which, when formulated as compatibility policies, can be used to accomplish the objectives; and
- *Basis for Setting Criteria*: The factors which should be considered in setting the respective compatibility criteria.

NOISE

Noise is perhaps the most basic airport land use compatibility concern. Certainly, it is the most noticeable form of airport impact.

Compatibility Objective

The purpose of noise compatibility policies is to avoid establishment of new noise-sensitive land uses in portions of an airport influence area that are exposed to significant levels of aircraft noise, taking into account the characteristics of the airport and the community surrounding the airport.

Measurement

For the purposes of airport land use compatibility planning, noise generated by the operation of aircraft to, from, and around an airport is primarily measured in terms of the cumulative noise levels of all aircraft operations. In California, the cumulative noise level metric established by state regulations, including for measurement of airport noise, is the Community Noise Equivalent Level (CNEL). Cumulative noise level metrics measure the noise levels of all aircraft operating at an airport on an average day (1/365) of the year. The calculations take into account not only the number of operations of each aircraft type and the noise levels they produce, but also their distribution geographically (the runways and flight tracks used) and by time of day. To reflect an assumed greater community sensitivity to nighttime and evening noise, the CNEL metric counts events during these periods as being louder than actually measured.

Cumulative noise level metrics provide a single measure of the average sound level in decibels (dB) to which any point near an airport is exposed over the course of a day. Although the maximum noise levels produced by individual aircraft are a major component of the calculations, cumulative noise level metrics do not explicitly measure these peak values. Cumulative noise levels are usually illustrated on airport area maps as contour lines connecting points of equal noise exposure. Mapped noise contours primarily show areas of significant noise exposures—ones affected by high concentrations of aircraft takeoffs and landings.

For civilian airports, noise contours are typically calculated using the Federal Aviation Administration's Integrated Noise Model (INM) computer program. The input information that generate this model are of two basic types: standardized data regarding aircraft performance and noise levels generated (this data can be adjusted for a particular airport if necessary); and airport-specific data including aircraft types and number of operations, time of day of aircraft operations, runway usage distribution, and the location and usage of flight tracks. Airport elevation and surrounding topographic data can also be entered. For airports with airport traffic control towers, some of these inputs can be obtained from recorded data. Noise monitoring and radar flight tracking data available for airports in metropolitan areas are other sources of valuable information. At most airports, though, the individual input variables must be estimated.

Compatibility Strategies

The basic strategy for achieving noise compatibility in an airport's vicinity is to limit development of land uses that are particularly sensitive to noise. The most acceptable land uses are ones that either involve few people (especially people engaged in noise-sensitive activities) or generate significant noise levels themselves (such as other transportation facilities or some industrial uses).

California state law regards any residential land uses as normally incompatible where the noise exposure exceeds 65 dB CNEL (although the state airport noise regulations explicitly apply only to identified “noise problem airports” in the context of providing the ability of these airports to operate under a noise variance from the State, the *Handbook* and other state guidelines extend this criterion to all airports as discussed below). This standard, however, is set with respect to high-activity airports, particularly major air carrier airports, in urban locations, where ambient noise levels are generally higher than in suburban and rural areas. As also discussed below and as provided in the *Handbook*, a lower threshold of incompatibility is often appropriate at certain airports, particularly around airports in suburban or rural locations where the ambient noise levels are lower than those found in more urban areas.

In places where the noise exposure is not so severe as to warrant exclusion of new residential development, the ideal strategy is to have very low densities—that is, parcels large enough that the dwelling can be placed in a less impacted part of the property. In urban areas, however, this strategy is seldom viable. The alternative for such locations is to encourage high-density, multi-family residential development with little, if any, outdoor areas, provided that the 45 dB CNEL interior noise standard and limitations based upon safety are not exceeded. Compared to single-family subdivisions, ambient noise levels are typically higher in multi-family developments, outdoor living space is less, and sound insulation features can be more easily added to the buildings. All of these factors tend to make aircraft noise less intrusive.

Sound insulation is an important requirement for residential and other noise-sensitive indoor uses in high noise areas. The California Building Code requires that sufficient acoustic insulation be provided in any habitable rooms of new hotels, motels, dormitories, dwellings other than detached single-family residences to assure that aircraft noise is reduced to an interior noise level of 45 dB CNEL or less. To demonstrate compliance with this standard, an acoustical analysis must be done for any residential structure proposed to be located where the annual CNEL exceeds 65 dB. The *Compatibility Plan* further requires dedication of an aviation easement as a condition for development approval in locations where these standards come into play.

Basis for Setting Criteria

Compatibility criteria related to cumulative noise levels are well-established in federal and state laws and regulations. The California Airport Noise Regulations (California Code of Regulations Section 5000 *et seq.*) states that:

“The level of noise acceptable to a reasonable person residing in the vicinity of an airport is established as a community noise equivalent level (CNEL) value of 65 dB for purposes of these regulations. This criterion level has been chosen for reasonable persons residing in urban residential areas where houses are of typical California construction and may have windows partially open. It has been selected with reference to speech, sleep and community reaction.”

No airport declared by a county’s board of supervisors as having a “noise problem” is to operate in a manner that result in incompatible uses being located within the 65 dB CNEL contour. Incompatible uses are defined as being: residences of all types; public and private schools; hospitals and convalescent homes; and places of worship. However, these uses are not regarded as incompatible where acoustical insulation necessary to reduce the interior noise level to 45 dB CNEL has been installed or the airport proprietor has acquired an aviation easement for aircraft noise.

As noted in the regulations, the 65 dB CNEL standard is set with respect to urban areas. For many airports and many communities, 65 dB CNEL is too high to be considered acceptable to “reasonable persons.” Through a process called “normalization,” adjustments can be made to take into account such

factors as the background noise levels of the community and previous exposure to particular noise sources. This process suggests, for example, that 60 dB CNEL may be a more suitable criterion for suburban communities not exposed to significant industrial noise and 55 dB CNEL may be appropriate for quiet suburban or rural communities remote from industrial noise and truck traffic. On the other hand, even though exceeding state standards, 70 dB CNEL may be regarded as an acceptable noise exposure in noisy urban residential communities near industrial areas and busy roads.

Industrial activity and transportation noise are undoubtedly two of the most prominent contributors to background noise levels in a community. According to a U.S. Environmental Protection Agency (EPA) study however, the variable that correlates best with ambient noise levels across a broad range of communities is population density (*Population Distribution of the United States as a Function of Outdoor Noise Level*, EPA Report No. 550/9-74-009, June 1974). This study established the following formula as a means of estimating the typical background noise level of a community:

$$DNL_{EPA} = 22 + 10 * \log(p)$$

where “p” is the population density measured in people per square statute mile.

These factors are reflected in the policies of this *Compatibility Plan*. The *Compatibility Plan* considers the 70 dB CNEL the maximum normally acceptable noise exposure for new multi-family residential and 65 dB CNEL for new single-family residential development near LA/Ontario International Airport. The *Compatibility Plan* also establishes noise insulation standards for residential and nonresidential development in areas exposed to noise levels of 65 dB CNEL or greater. Based upon the above EPA equation, these criteria are a minimum of 5 dB above the predicted ambient noise levels in the respective communities.

Similar considerations come into play with respect to establishing maximum acceptable noise exposure for nonresidential land uses, particularly those that are noise sensitive. For schools, lodging, and other such uses, a higher noise exposure may be tolerated in noisy urban communities than in quieter suburban and rural areas. For uses that are not noise sensitive or which generate their own noise, the maximum acceptable noise exposure levels tend to be the same regardless of ambient noise conditions. The criteria listed in Chapter 2 of this *Compatibility Plan* are set with these various factors in mind.

OVERFLIGHT

Experience at many airports has shown that noise-related concerns do not stop at the boundary of the outermost mapped CNEL contours. Many people are sensitive to the frequent presence of aircraft overhead even at low levels of noise. These reactions can mostly be expressed in the form of *annoyance*.

The *Handbook* notes that at many airports, particularly air carrier airports, complaints often come from locations beyond any of the defined noise contours. Indeed, heavily used flight corridors to and from metropolitan areas are known to generate noise complaints 50 miles or more from the associated airport. The basis for such complaints may be a desire and expectation that outside noise sources not be intrusive—or, in some circumstances, even distinctly audible—above the quiet, natural background noise level. Elsewhere, especially in locations beneath the traffic patterns of general aviation airports, a fear factor also contributes to some individuals’ sensitivity to aircraft overflights.

While these impacts may be important community concerns, the question of importance here is whether any land use planning actions can be taken to avoid or mitigate the impacts or otherwise address the concerns. Commonly, when overflight impacts are under discussion in a community, the focus is on modification of the flight routes. Indeed, some might argue that overflight impacts should be ad-

dressed solely through the aviation side of the equation—not only flight route changes, but other modifications to where, when, and how aircraft are operated. Such changes are not always possible because of terrain, aircraft performance capabilities, FAA regulations, and other factors. In any case, though, ALUCs, or other designated bodies, are particularly limited in their ability to deal with overflight concerns. Most significantly, they have no authority over aircraft operations. The most they can do to bring about changes is to make requests or recommendations. Even with regard to land use, the authority of ALUCs/designated bodies extends only to proposed new development and the delineation of an airport’s overall influence area. The authority and responsibility for implementing the *Compatibility Plan’s* policies and criteria rests with the local governments.

These limitations notwithstanding, there are steps which ALUCs/designated bodies can and should take to help minimize overflight impacts.

Compatibility Objective

The compatibility objective with respect to overflight is the same as for noise: avoid new land use development that can disrupt activities and lead to annoyance and complaints. However, given the extensive geographic area over which the impacts occur, this objective is unrealistic except relatively close to the airport. A feasible objective of overflight compatibility policies therefore is to help notify people about the presence of overflights near airports so that they can make informed decisions regarding acquisition or lease of property in the affected areas.

Measurement

Cumulative noise metrics such as CNEL are well-suited for use in establishing land use compatibility policy criteria and are the only noise metrics for which widely accepted standards have been adopted. However, these metrics are not very helpful in determining the extent of overflight impact areas. Locations where overflight concerns may be significant are typically well beyond where noise contours can be drawn with precision. Flight tracks tend to be quite divergent and noise monitoring data is seldom available. Moreover, even if the contours could be drawn precisely, the noise levels they would indicate may not be much above the ambient noise levels.

For the purposes of airport land use compatibility planning, two other forms of noise exposure information are more useful. One measure is the momentary, maximum sound level (L_{max}) experienced on the ground as the aircraft flies over while landing at and taking off from a runway. These noise levels can be depicted in the form of a noise “footprint” as shown in Figure C1 for a variety of airline and general aviation aircraft. Each of these footprints is broadly representative of those produced by other aircraft similar to the ones shown. The actual sound level produced by any single aircraft takeoff or landing will vary not only among specific makes and models of aircraft, but also from one operation to another of identical aircraft.

In examining the footprints, two additional points are important to note. One is the importance of the outermost contour. This noise level (65 dBA L_{max}) is the level at which interference with speech begins to be significant. Land uses anywhere within the noise footprint of a given aircraft would experience a noise level, even if only briefly, that could be disruptive to outdoor conversation. Indoors, with windows closed, the aircraft noise level would have to be at least 20 dBA louder to present similar impacts. A second point to note concerns the differences among various aircraft, particularly business jets. As the data shows, business jets manufactured in the 1990s are much quieter than those of 10 and 20 years earlier. The impacts of the 1990s era jets are similar to those of twin-engine piston aircraft and jets being made in the 2000s are quieter yet. At many general aviation airports, the size of the CNEL contours is driven by a relatively small number of operations by the older, noisier business jets. These air-

craft are gradually disappearing from the nationwide aircraft fleet and are likely to be gone within 20 years, but at this point in time it is uncertain when they will be completely eliminated.

Another useful form of overflight information is a mapping of the common flight tracks used by aircraft when approaching and departing an airport. Where available, recorded radar data is an ideal source for flight track mapping. Even more revealing is to refine the simple flight track mapping with data such as the frequency of use and/or aircraft altitudes. Chapter 1 includes a sample of actual flight tracks and flight altitudes of aircraft using L~~A~~/Ontario International Airport.

Compatibility Strategies

The ideal land use compatibility strategy with respect to overflight annoyance is to avoid development of new residential and other noise-sensitive uses in the affected locations. However, as mentioned before this approach is not practical and other strategies need to be explored.

The strategy emphasized in this *Compatibility Plan* is to help people with above-average sensitivity to aircraft overflights—people who are highly *annoyed* by overflights—to avoid living in locations where frequent overflights occur. This strategy involves making people aware of an airport’s proximity and its current and potential aircraft noise impacts on the community before they move to the area. This can be accomplished through buyer awareness measures such as dedication of avigation or overflight easements, recorded deed notices, and/or real estate disclosure statements. In new residential developments, posting of signs in the real estate sales office and/or at key locations in the subdivision itself can be further means of alerting the initial purchasers about the impacts (signs, however, generally do not remain in place beyond the initial sales period and therefore are of little long-term value).

A second strategy is to minimize annoyance by promoting land uses that tend to mask or reduce the intrusiveness of aircraft noise. Although this strategy does not directly appear in the overflight policies of this *Compatibility Plan*, the objectives of the plan would be well-served if local jurisdictions take this concept into consideration in their own planning efforts. For example, multi-family residential uses would be a better choice to place within aircraft overflight areas because they tend to have comparatively little outdoor living areas, fewer external walls through which aircraft noise can intrude, and relatively high noise levels of their own. However, low-density single family residential with densities of 1 unit per acre are discouraged since background noise levels are likely to be low making residents more susceptible to aircraft noise.

Basis for Setting Criteria

In California, definitive guidance on where overflight impacts are significant or what actions should be taken in response comes from a state law that went into effect on January 2004. California statutes (Business and Profession Code Section 11010 and Civil Code Sections 1103 and 1353) now require most residential real estate transactions, including new subdivisions, to include disclosure that an airport is nearby. The area encompassed by the disclosure requirements is two miles from the airport or the airport influence area established by the county’s airport land use commission. The law defines the airport influence area as “the area in which current or future airport-related noise, overflight, safety, or air-space protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.” This *Compatibility Plan* requires that the disclosure of airport proximity be applied to all new residential development within the airport influence area and recommends that disclosure be provided as part of all real estate transactions involving private property, especially any sale, lease, or rental of residential property.

SAFETY

Compared to noise, safety is in many respects a more difficult concern to address in airport land use compatibility policies. A major reason for this difference is that safety policies address uncertain events that may occur with occasional aircraft operations, whereas noise policies deal with known, more or less predictable events which do occur with every aircraft operation. Because aircraft accidents happen infrequently and the time, place, and consequences of an individual accident's occurrence cannot be predicted, the concept of risk is central to the assessment of safety compatibility.

Compatibility Objective

The overall objective of safety compatibility criteria is to minimize the risks associated with potential off-airport aircraft accidents and emergency landings beyond the runway environment. There are two components to this objective:

- ➔ *Safety on the Ground:* The most fundamental safety compatibility component is to provide for the safety of people and property on the ground in the event of an aircraft accident near an airport.
- ➔ *Safety for Aircraft Occupants:* The other important component is to enhance the chances of survival of the occupants of an aircraft involved in an accident that takes place beyond the immediate runway environment.

Measurement

Because aircraft accidents happen infrequently, measuring the risks associated with their occurrence is difficult. It is necessary to look beyond an individual airport in order to assemble enough data to be statistically valid. It is beyond the intent of this discussion to provide statistical data about aircraft accidents. Much can be found on that topic in the *Handbook*. However, certain aspects of aircraft accidents are necessary to discuss in that they have a direct bearing on land use compatibility strategies.

From the standpoint of land use planning, two variables determine the degree of risk posed by potential aircraft accidents: frequency and consequences.

The frequency variable measures *where* and *when* aircraft accidents occur in the vicinity of an airport. More specifically, these two elements can be described as follows:

- ➔ *Spatial Element:* The spatial element describes *where* aircraft accidents can be expected to occur. Of all the accidents that take place in the vicinity of airports, what percentage occurs in any given location?
- ➔ *Time Element:* The time element adds a *when* variable to the assessment of accident frequency. In any given location around a particular airport, what is the chance that an accident will occur in a specified period of time?

Spatial Distribution of Aircraft Accidents

Of these two elements, the spatial element is the one most meaningfully applied to land use compatibility planning around an individual airport. Looking at airports nationwide, enough accidents have occurred to provide useful data regarding where accidents are most likely to occur. The *Handbook* uses accident data to define a set of safety zones. Additionally, the relative concentration of accidents in certain parts of the airport environs is a key consideration in the establishment of compatibility criteria applicable within those zones.

In contrast, the time element is not very useful for land use compatibility planning purposes for several reasons. First, at any given airport, the number of accidents is, with rare exceptions, too few to be statistically meaningful in determining where future accidents might occur. Secondly, a calculation of accident frequency over time depends upon the size of the area under consideration—the smaller the area examined, the less likely it is that an accident will occur in that spot. Lastly, even if the accident frequency over a period of time is calculated, there are no clear baselines with which to compare the results.

The *Handbook* presents a set of diagrams indicating where accidents are most likely to occur around airline and general aviation airports. Figures C2 and C3 show the spatial distribution of general aviation aircraft accidents in the vicinity of airports. (Note that these charts show data for all general aviation accidents in the *Handbook* database. Data on accidents associated with different lengths of runway is also provided. The *Handbook* accident distribution data plus the generic safety zones for air carrier runways is considered in delineation of the safety zones depicted in Chapter 1 of this *Compatibility Plan*.)

The charts reveal several facts:

- About half of arrival accidents and a third of departure accidents take place within the FAA-defined runway protection zone for a runway with a low-visibility instrument approach procedure (a 2,500-foot long trapezoid, varying from 1,000 feet wide at the inner edge to 1,750 feet in width at the outer end). This fact lends validity to the importance of the runway protection zones as an area within which land use activities should be minimal.
- Although accident risk levels are the highest within the runway protection zones, a significant degree of risk exists well beyond the runway protection zone boundaries. Among all near-airport (within 5 miles) accidents, over 80% are concentrated within 1.5 to 2.0 miles of a runway end.
- Arrival accidents tend to be concentrated relatively close to the extended runway centerline. Approximately 80% occur within a strip extending 10,000 feet from the runway landing threshold and 2,000 feet to each side of the runway centerline.
- Departure accidents are comparatively more dispersed laterally from the runway centerline, but are concentrated closer to the runway end. Many departure accidents also occur lateral to the runway itself, particularly when the runway is long. Approximately 80% of the departure accident sites lie within an area 2,500 feet from the runway centerline and 6,000 feet beyond the runway end or adjacent to the runway.

To provide some sense of order to the scatter of individual accident points, an analysis presented in the *Handbook* involves aggregating the accident location points (the scatter diagrams of where accidents have occurred relative to the runway) in a manner that better identifies where the accident sites are most concentrated. The results are presented as risk intensity contours—Figure C2 shows arrival accident risks and Figure C3 portrays departure accident risks. The two drawings divide the near-airport accident location points into five groups of 20% each (note that only accident sites that were not on a runway, but were within 5 miles of an airport are included in the database). The 20% contour represents the highest or most concentrated risk intensity, the 40% contour represents the next highest risk intensity, and so on up to 80%. The final 20% of the accident sites are beyond the 80% contour. Each contour is drawn so as to encompass 20% of the points within the most compact area. The contours are irregular in shape. No attempt has been made to create geometric shapes. However, the risk contours can serve as the basis for creating geometric shapes that can then be used as safety zones and the *Handbook* contains several examples.

The *Handbook* takes the additional step of translating the risk contours into several sets of generic safety zones having regular geometric shapes. Generic safety zones are illustrated for different types and lengths of runways. The shapes of these zones reflect not just the accident distribution data, but also the ways in which different phases of aircraft operations create different accident risk characteristics near an airport. For most runways, the *Handbook* suggests creation of six safety zones. The locations, typical dimensions, and characteristics of the accident risks within each zone are outlined in Table C1. The degree of risk exposure within each safety zone is listed below.

- *Zone 1* clearly is exposed to the greatest risk of aircraft accidents. For civilian airports, the dimensions of this zone are established by FAA standards. FAA encourages airport ownership of this zone and provides specific land use standards. Where the land is not airport owned, the FAA says these standards serve as recommendations.
- *Zone 2* lies beyond *Zone 1* and also has a significant degree of risk as reflected in both national and local accident location data.
- *Zone 3* has less risk than *Zone 2*, but more than *Zones 4, 5, or 6*. *Zone 3* encompasses locations where aircraft often turn at low altitude while approaching or departing the runway.
- *Zone 4* lies along the extended runway centerline beyond *Zone 2* and is especially significant at airports that have straight-in instrument approach procedures or a high volume of operations that results in an extended traffic pattern.
- *Zone 5* is a unique area lying adjacent to the runway and, for most airports, lies on airport property. The risk is comparable to *Zone 4*.
- *Zone 6* contains the aircraft traffic pattern. Although a high percentage of accidents occur within *Zone 6*, for any given runway *Zone 6* is larger than all the other zones combined. Relative to the other zones, the risks in *Zone 6* are much less, but are still greater than in locations more distant from the airport.

Although accident location data, together with information on how aircraft flight parameters affect where accidents occur, are the bases for delineation of the generic safety zones, the *Handbook* indicates that adjustments to the zone sizes and shapes must be made in recognition of airport-specific characteristics. Among these characteristics are:

- The particular mix of aircraft types operating at the airport. Larger aircraft generally are faster than smaller planes and thus fly longer and wider traffic patterns or make straight-in approaches.
- The overall volume of aircraft operations. At busy airports, a larger traffic pattern is common because aircraft have to get in sequence for landing.
- Nearby terrain or other airports. These physical features may, for example, limit a traffic pattern to a single side of the airport or dictate “nonstandard” approach and departure routes.
- Instrument approach procedures. Aircraft following these procedures typically fly long, straight-in, gradual descents to the runway. In some cases, though, an approach route may be aligned at an angle to the runway rather than straight in.
- Existence of an air traffic control tower. When a tower is present, controllers may direct or allow pilots to fly unusual routes in order to expedite traffic flow. By comparison, at relatively busy but non-towered airports, aircraft mostly follow the “standard” pattern dictated by federal aviation regulations.

- A dominant direction of traffic flow. As reflected in the Handbook analysis of accident locations, landing aircraft tend to follow routes directly in line with the runway during final descent and thus accident sites also are concentrated along this alignment. Departing aircraft are more likely to turn to head to their intended destination and the accident pattern is thus more dispersed. On runways where the flow of aircraft operations is almost always in one direction, this distinction in accident patterns is considered.

Radar data is particularly helpful in showing exactly where aircraft fly when approaching or departing an airport. This data can be used to further support adjustments to the safety zones based upon the above characteristics.

Accident Consequences

The consequences variable describes *what* happens when an aircraft accident occurs. Specific measures can be defined in terms of deaths, injuries, property damage, or other such characteristics. In many respects, the consequences component of aircraft accident risk assessment is a more important variable than accident frequency. Not only can a single accident cost many lives, it can indirectly force operational changes or even airport closure.

Relatively little data is available specifically documenting the consequences of aircraft accidents. Except with regard to numbers of deaths or injuries to people on the ground, data on various aspects of aircraft accidents must be used to infer what the consequences have been. Swath size is one useful piece of information. It indicates the area over which accident debris is spread. Swath size in turn depends upon the type of aircraft and the nature of the accident: was the aircraft in controlled flight (an engine failure for example), but then collided with something on the ground or did a catastrophic event (such as a mid-air collision or stall-spin) result in the aircraft making an uncontrolled descent? For small general aviation aircraft, the swath size data suggests that a controlled emergency landing in which the aircraft occupants have a strong chance of surviving is possible in an area about the size of a football field: 75 feet by 300 feet or about 0.5 acre. For larger aircraft, the minimum flight speed is so much higher that the consequences for people on board and anyone on the ground are likely to be high regardless of the land use or terrain characteristics.

Compatibility Strategies

The relatively low numbers of deaths and injuries from aircraft accidents is sometimes cited as indicating that the risks are low. Clearly, though, the more people occupying the critical areas around airports, the greater the risks are. Aircraft accidents may be rare occurrences, but when they occur, the consequences can be severe.

From a land use compatibility perspective, it is therefore essential to avoid conditions that can lead to catastrophic results. Basically, the question is: what land use planning measures can be taken to reduce the severity of an aircraft accident if one occurs in a particular location near an airport? Although there is a significant overlap, specific strategies must consider both components of the safety compatibility objective: protecting people and property on the ground; and, primarily for general aviation airports, enhancing safety for aircraft occupants. In each case, the primary strategy is to limit the intensity of use (the number of people concentrated on the site) in locations most susceptible to an off-airport aircraft accident. This is accomplished by three types of criteria.

Density and Intensity Limitations

Establishing criteria that limits the maximum number of dwellings or people in areas close to the airport is the most direct method of reducing the potential severity of an aircraft accident. In setting these criteria, consideration must be given to the two different forms of aircraft accidents: those in which the aircraft is descending, but is flying and under directional control of the pilot; and those in which the aircraft is out of control as it falls. Limits on usage intensity—the number of people per acre—must take into account both types of potential aircraft accidents. The policies in Chapter 2 address both of these circumstances. Limiting the average usage intensity over a site reduces the risks associated with either type of accident. In most types of land use development, though, people are not spread equally throughout the site. To minimize the risks from an uncontrolled accident, the policies also limit the extent to which people can be concentrated and development can be clustered in any small area.

Open Land Requirements

Requirements of undeveloped open land near an airport addresses the objective of enhancing safety for the occupants of an aircraft forced to make an emergency landing away from a runway. If sufficiently large and clear of obstacles, open land areas can be valuable for light aircraft anywhere near an airport. For large and high-performance aircraft, however, open land has little value for emergency landing purposes and is useful primarily where it is an extension of the clear areas immediately adjoining a runway.

Highly Risk-Sensitive Uses

Certain critical types of land uses—particularly schools, hospitals, and other uses in which the mobility of occupants is effectively limited—should be avoided near the ends of runways regardless of the number of people involved. Critical community infrastructure also should be avoided near airports. These types of facilities include power plants, electrical substations, public communications facilities and other facilities, the damage or destruction of which could cause significant adverse effects to public health and welfare well beyond the immediate vicinity of the facility. Lastly, aboveground storage of large quantities (6,000 gallons or greater) of highly flammable or hazardous materials may pose high risks if involved in an aircraft accident and therefore are incompatible close to runway ends.

Basis for Setting Criteria

As with noise contours, risk data by itself does not answer the question of what degree of land use restrictions should be established in response to the risks. Although most compatibility policies restrict certain land use activities in locations beyond the runway protection zones, the size of the area in which restrictions are established and the specific restrictions applied vary from one county to another.

Data useful in defining the geographic extent of airport safety areas was discussed above. To set safety compatibility criteria applicable within these zones presents the fundamental question of what is safe. Expressed in another way: what is an *acceptable risk*? In one respect, it may seem ideal to reduce risks to a minimum by prohibiting most types of land use development from areas near airports. However, as addressed in the *Handbook*, there are usually costs associated with such high degrees of restrictiveness. In practice, safety criteria are set on a progressive scale with the greatest restrictions established in locations with the greatest potential for aircraft accidents.

Little established guidance is available to ALUCs/designated bodies regarding how restrictive to make safety criteria for various parts of an airport's environs. Unlike the case with noise, there are no formal federal or state laws or regulations which set safety criteria for airport area land uses for civilian airports except within *runway protection zones* (and with regard to airspace obstructions as described separately in

the next section). Federal Aviation Administration safety criteria primarily are focused on the runway and its immediate environment. Runway protection zones—then called *clear zones*—were originally established mostly for the purpose of protecting the occupants of aircraft which overrun or land short of a runway. Now, they are defined by the FAA as intended to enhance the protection of people and property on the ground.

The most useful place from which ALUCs/designated bodies can begin to determine appropriate safety compatibility criteria for airport environs is the *Handbook* itself. Although not regulatory in nature, state law obligates ALUCs/designated bodies to “be guided by” the information presented in the *Handbook*. Suggested usage intensity limitations, measured in terms of people per acre, are set forth along with other safety criteria. Reference should be made to that document for detailed description of the suggested criteria. Three risk-related variables discussed in the *Handbook* are worth noting here, however.

- *Runway Proximity:* In general, the areas of highest risk are closest to the runway ends and secondarily along the extended runway centerline. However, many common aircraft flight tracks do not follow along the runway alignment, particularly on departures. Also, where an aircraft crashes may not be along the flight path that was intended to be followed. As indicated in Figures C2 and C3, these factors affect the risk distribution.
- *Urban versus Rural Areas:* Irrespective of airports, people living in urban areas face different types of risks than those living in rural areas. The cost of avoiding risks differs between these two settings as well. The *Handbook* acknowledges these differences by indicating that usage intensities can be higher in heavily developed urban areas compared to partially undeveloped suburban areas or minimally developed rural locations, yet be equivalent in terms of the level of acceptable risk.
- *Existing versus Proposed Uses:* Another distinction in compatibility policies can be drawn between existing and proposed development. It is reasonable for safety-related policies to be established which prohibit certain types of new development while considering identical existing development to be acceptable. The *Handbook* notes that cost is an important factor in this regard. The range of risks can be divided into three levels (see page 9-15 of the *Handbook*). At the bottom of this scale are negligible and acceptable risks for which no action is necessary. At the top are intolerable risks for which action is necessary regardless of the cost. In between are risks that are significant, but tolerable. Whether action should be taken to reduce these risks depends upon the costs involved. Typically, the cost of removing an incompatible development is greater than the cost of avoiding its construction in the first place.

Preparation of this *Compatibility Plan* has been greatly guided by the *Handbook* information. The *Handbook*, though, also recognizes the importance of tailoring compatibility plans to local circumstances. Such has been the case with the safety compatibility criteria included in this *Compatibility Plan*.

AIRSPACE PROTECTION

Relatively few aircraft accidents are caused by land use conditions that are hazards to flight. The potential exists, however, and protecting against it is essential to airport land use safety compatibility. In addition, and importantly, land use conditions that are hazards to flight may impact the continued viability of airport operations and limit the ability of an airport to operate in the manner identified by the airport proprietor in an adopted airport master plan and airport layout plan.

Compatibility Objective

Because airspace protection is in effect a safety factor, its objective can likewise be thought of in terms of risk. Specifically, the objective is to avoid development of land use conditions that, by posing hazards to flight, can increase the risk of an accident occurring. The particular hazards of concern are:

- Airspace obstructions;
- Wildlife hazards, particularly bird strikes; and
- Land use characteristics that pose other potential hazards to flight by creating visual or electronic interference with air navigation.

The purpose of airspace protection policies is to ensure that structures and other uses do not cause hazards to aircraft in flight within the airport vicinity. Hazards to flight include physical obstructions to the navigable airspace, wildlife hazards (particularly bird strikes), and land use characteristics that create visual or electronic interference with aircraft navigation or communication. This is accomplished by creating policies that place limits on the height of structures and other objects within the airport vicinity and restrictions on other uses that potentially pose hazards to flight.

Measurement

The measurement of requirements for airspace protection around an airport is a function of several variables including: the dimensions and layout of the runway system; the type of operating procedures established for the airport; and, indirectly, the performance capabilities of aircraft operated at the airport.

- *Airspace Obstructions:* Whether a particular object constitutes an airspace obstruction depends upon two factors: the height of the object relative to the runway elevation; and its proximity to the airport. The acceptable height of objects near an airport is most commonly determined by application of standards set forth in Federal Aviation Regulations (FAR) Part 77, *Objects Affecting Navigable Airspace*. These regulations establish a three-dimensional space in the air above an airport. Any object which penetrates this volume of airspace is considered to be an “obstruction” and may affect the aeronautical use of the airspace. Additionally, as described below, another set of airspace protection surfaces is defined by the U.S. *Standard for Terminal Instrument Procedures*, known as TERPS. Although the intended function of these standards is in design of instrument approach and departure procedures, they can be important in land use compatibility planning in situations where ground elevations near an airport exceed the FAR Part 77 criteria.
- *Wildlife and Other Hazards to Flight:* The significance of other potential hazards to flight is principally measured in terms of the hazards’ specific characteristics and their distance from the airport and/or its normal traffic patterns.

Compatibility Strategies

Compatibility strategies for the protection of airport airspace are directly associated with individual types of hazards:

- *Airspace Obstructions:* Buildings, antennas, other types of structures, and trees should be limited in height so as not to pose a potential hazard to flight.
- *Wildlife and Other Hazards to Flight:* Land uses that may create other types of hazards to aircraft in flight near an airport should be avoided or modified to remove the potential hazard.

Basis for Setting Criteria

The criteria for determining airspace obstructions have been long-established in FAR Part 77. Also, state of California regulation of obstructions under the State Aeronautics Act (Public Utilities Code, Section 21659) is based on FAR Part 77 criteria. A shortcoming of FAR Part 77 criteria, however, is that they often are too generic to fit the conditions specific to individual airports. The airspace protection surfaces defined in these regulations can be either more or less restrictive than appropriate for a particular airport. The surfaces can be less restrictive than essential in instances where an instrument approach procedure or its missed approach segment are not aligned with the runway. FAR Part 77 also does not take into account instrument departure procedures which, at some airports, can have critical airspace requirements. Oppositely, FAR Part 77 provides no useful guidance as to acceptable heights of objects located where the ground level already penetrates the airspace surfaces.

To define airspace protection surfaces better suited to these situations, reference must be made the TERPS standards mentioned above. These standards are used for creation of instrument approach and departure procedures. Thus they exactly match the procedures in effect at an individual airport. Unlike the FAR Part 77 surfaces, the elevations of which are set relative to the runway end elevations irrespective of surrounding terrain and obstacles, the TERPS surface elevations are directly determined by the location and elevation of critical obstacles. By design, neither the ground nor any obstacles can penetrate a TERPS surface. However, construction of a tall object that penetrates a TERPS surface can dictate immediate modifications to the location and elevation of the surfaces and directly cause minimum flight visibility and altitudes to be raised or the instrument course to be realigned. In severe instances, obstructions can force a procedure to be cancelled altogether. A significant downside to use of TERPS surfaces for compatibility planning purposes is that they are highly complex compared to the relative simplicity of FAR Part 77 surfaces. Also, the configuration and/or elevations of TERPS surfaces can change not only in response to new obstacles, but as implementation of new navigational technologies permits additional or modified instrument procedures to be established at an airport.

In the Compatibility Policy Map: Airspace Protection Zones presented in Chapter 2 of this *Compatibility Plan*, primary reliance is placed upon FAR Part 77 criteria. Where an instrument approach procedure is established, the associated TERPS surfaces are depicted as well. In most locations, the TERPS surfaces are well above the underlying terrain and present no significant constraint on land use development. As a precaution to help ensure that tall towers or antennas located on high terrain do not penetrate a TERPS surface, places where the ground elevation comes within 100 feet of a TERPS surface are shown on the map.

Among other hazards to flight, bird strikes no doubt represent the most widespread concern. The FAA recommends that uses known to attract birds—sanitary landfills being a primary example—be kept at least 10,000 feet away from any runway used by turbine-powered aircraft. More information regarding criteria for avoidance of uses that can attract wildlife to airports can be found in FAA Advisory Circulars 150/5200-34 and 150/5300-33.

Other flight hazards include land uses that may cause visual or electronic hazards to aircraft in flight or taking off or landing at the airport. Specific characteristics to be avoided include sources of glare or bright lights, distracting lights that could be mistaken for airport lights, sources of dust, steam, or smoke that may impair pilot visibility, and sources of electrical interference with aircraft communications or navigation.

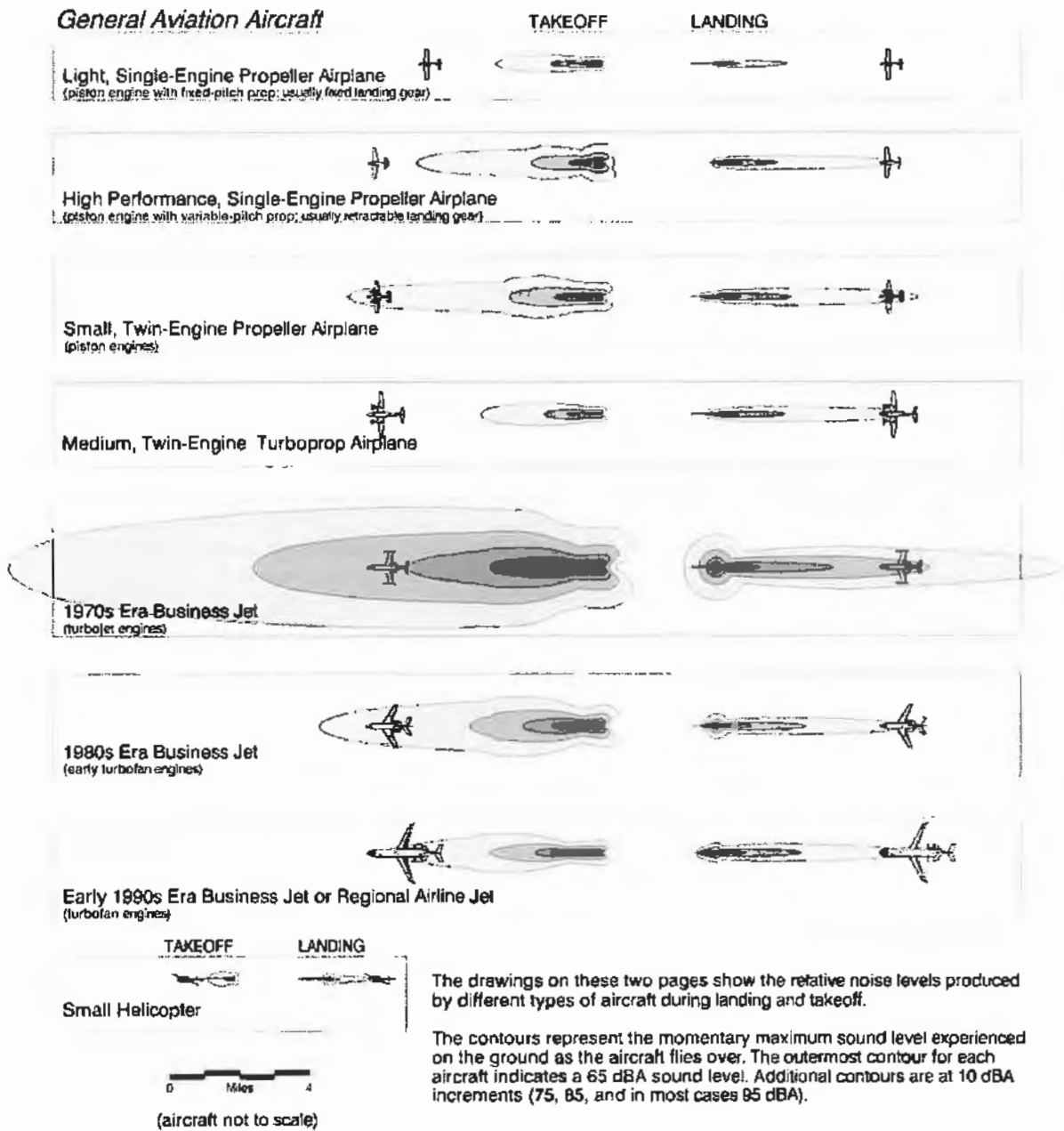
Table C1

Safety Zone Aircraft Accident Risk Characteristic

Zone	Description	Nominal Dimensions (California Airport Land Use Planning Handbook)	Relative Risk Level	Nature of Accident Risk	% of Accidents in Zone (Handbook Database)
1	Runway Protection Zone and within Runway Primary Surface primarily on airport property; airport ownership encouraged	Depending upon approach visibility minimums: 1,200 feet minimum, 2,700 feet maximum beyond runway ends; 125 to 500 feet from centerline adjacent to runway (zone dimensions established by FAA standards) Acreage (one runway end): 8 to 79 (RPZ only)	Very High	Landing undershoots and overshoots; overruns on aborted takeoffs; loss of control on takeoff	Arrivals: 28%–56% Departures: 23%–29% Total: 33%–39%
2	Inner Safety Zone	Along extended runway centerline, to a distance of 2,000 feet minimum, 6,000 feet maximum beyond runway ends Acreage (one runway end): 44 to 114	High	Aircraft at low altitude with limited directional options in emergencies; typically under 400 feet on landing; on takeoff, engine at maximum stress	Arrivals: 9%–15% Departures: 3%–28% Total: 8%–22%
3	Inner Turning Zone	Fan-shaped area adjacent to Zone 2 extending 2,000 feet minimum, 4,000 feet maximum from runway ends Acreage (one runway end): 50 to 151	Moderate	Turns at low altitude on arrival for aircraft flying tight base leg present stall-spin potential; likely touchdown area if emergency at low altitude on takeoff, especially to left of centerline	Arrivals: 2%–6% Departures: 5%–8% Total: 4%–7%
4	Outer Safety Zone	Along extended runway centerline extending 3,500 feet minimum, 10,000 feet maximum beyond runway ends Acreage (one runway end): 35 to 92	Low to Moderate	Low altitude overflight for aircraft on straight-in approaches, especially instrument approaches; on departure, aircraft normally complete transition from takeoff power and flap settings to climb mode and begin turns to en route heading	Arrivals: 3%–8% Departures: 2%–4% Total: 2%–6%
5	Sideline Zone primarily on airport property	Adjacent to runway, 500 feet minimum, 1,000 feet maximum from centerline Acreage: varies with runway length	Low to Moderate	Low risk on landing; moderate risk from loss of directional control on takeoff, especially with twin-engine aircraft	Arrivals: 1%–3% Departures: 5%–8% Total: 3%–5%
6	Traffic Pattern Zone (applicable only to general aviation runways)	Oval area around other zones: 5,000 feet minimum, 10,000 feet maximum beyond runway ends; 4,500 feet minimum, 6,000 feet maximum from runway centerline Acreage: varies with runway length	Low	Significant percentage of accidents, but spread over wide area; widely varied causes	Arrivals: 10%–21% Departures: 24%–39% Total: 18%–29%

Figure C1

Noise Footprints of Selected Aircraft



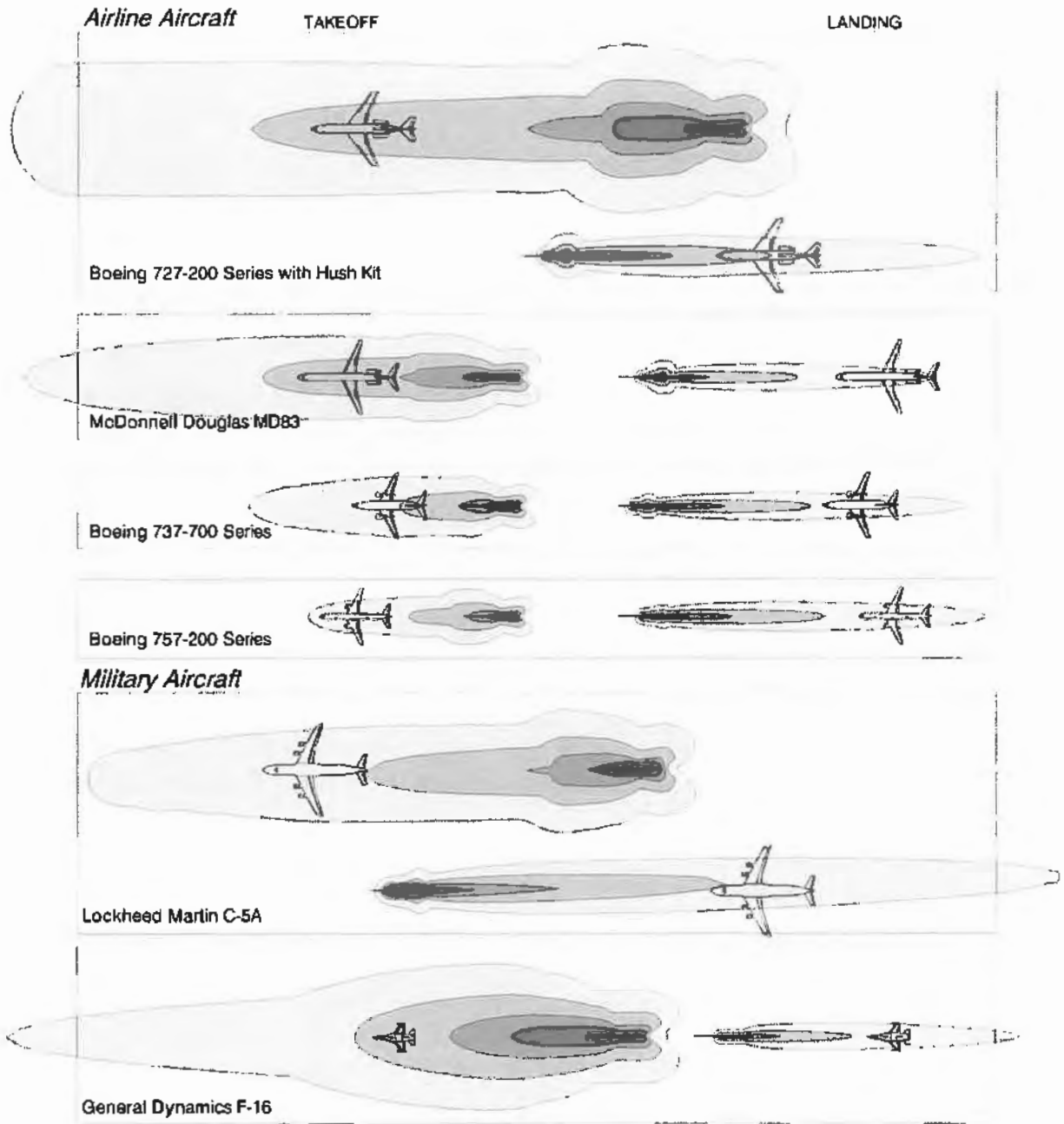


Figure C1, continued

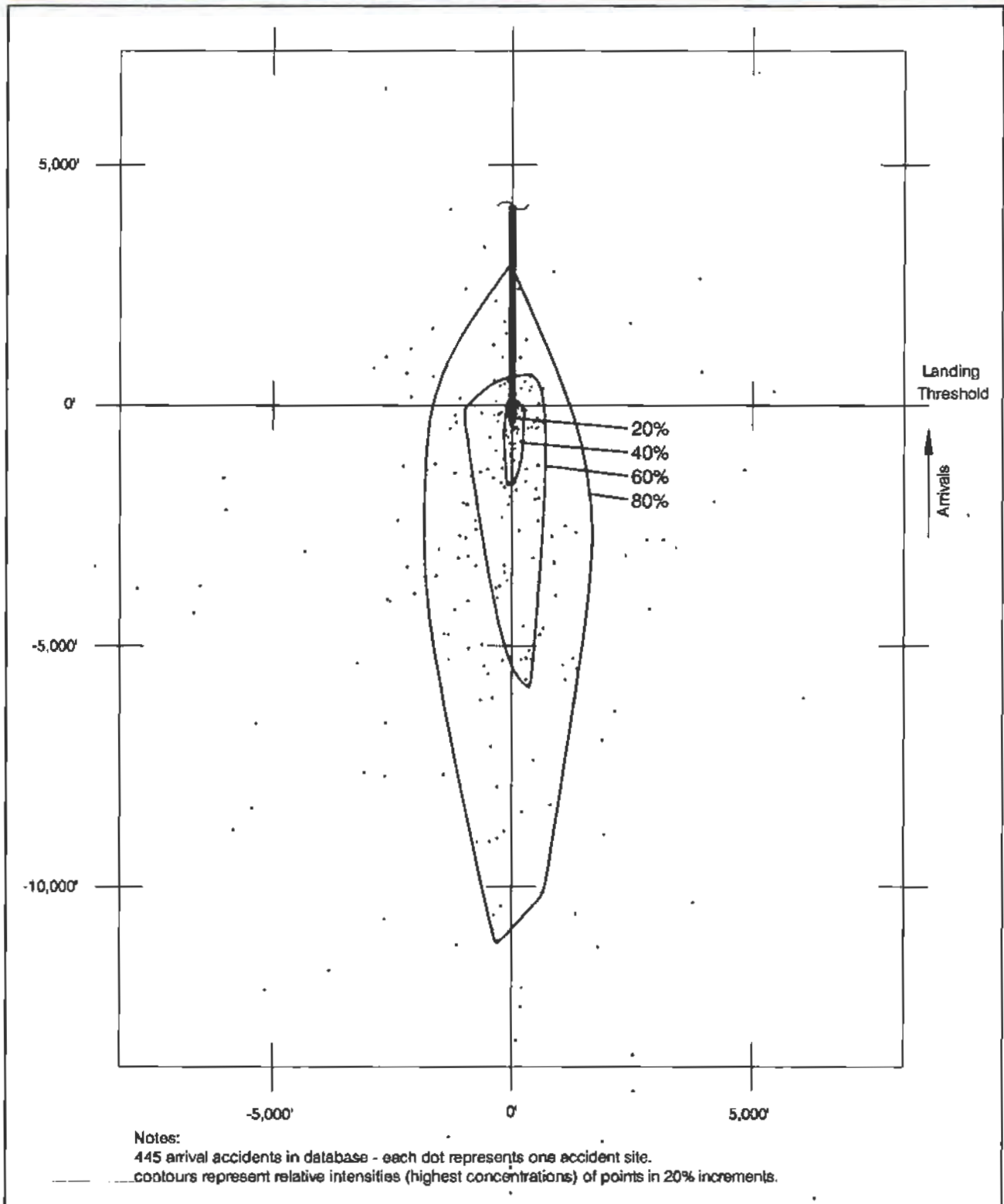


Figure C2

General Aviation Accident Distribution Contours

All Arrivals

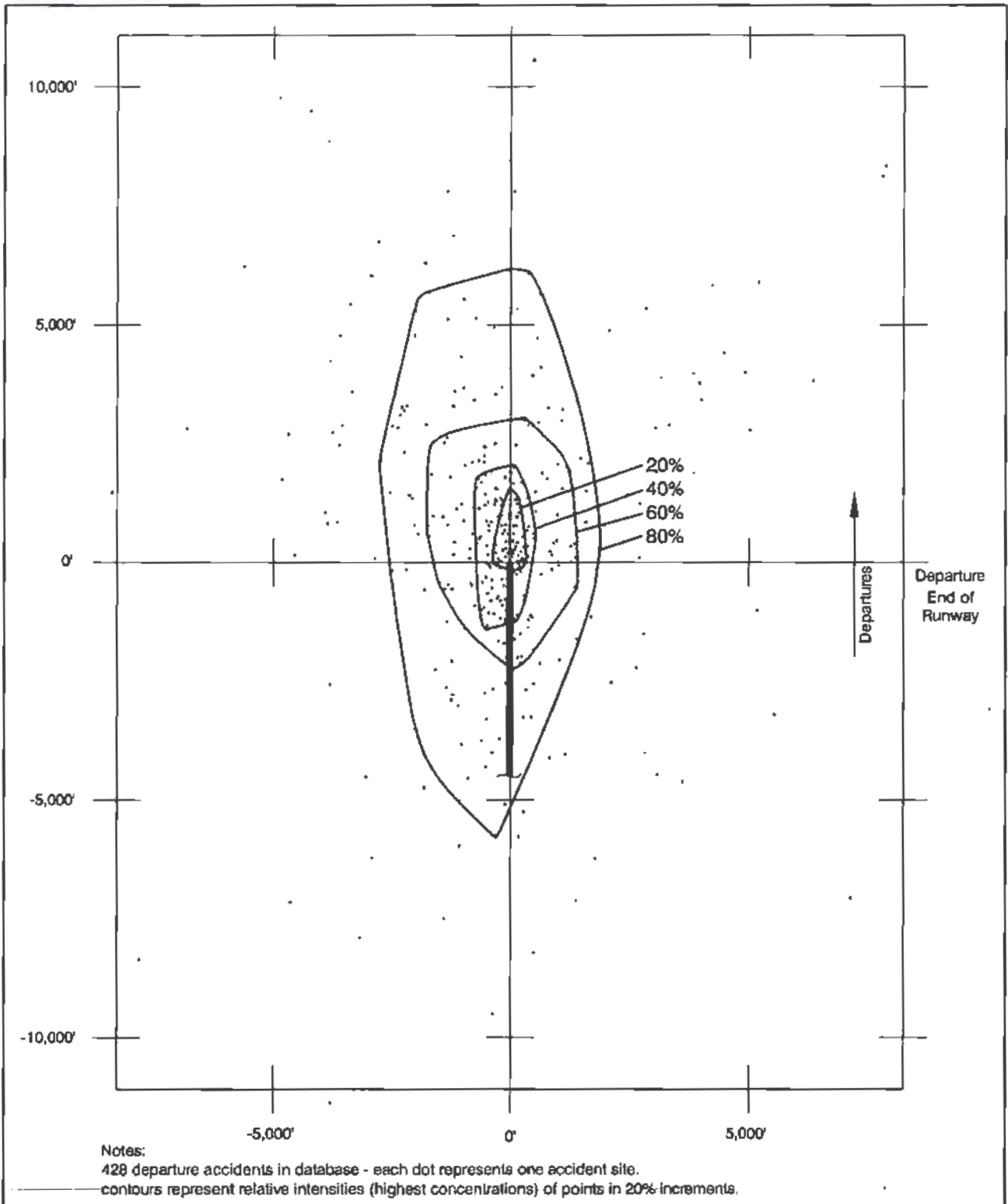


Figure C3
General Aviation Accident Distribution Contours
All Departures

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APPENDIX D

METHODS FOR DETERMINING CONCENTRATIONS OF PEOPLE

INTRODUCTION

The underlying safety compatibility criteria utilized in this *Compatibility Plan* is “usage intensity”—the maximum number of people per acre that can be present in a given area at any one time. If a proposed use exceeds the maximum intensity, it is considered incompatible and inconsistent with the compatibility planning policies. The usage intensity concept is identified in the *California Airport Land Use Planning Handbook* as the measure best suited for assessment of land use safety compatibility with airports. The *Handbook* is published by the California Division of Aeronautics and is required under state law to be used as a guide in preparation of airport land use compatibility plans.

It is recognized, though, that “people per acre” is not a common measure in other facets of land use planning. This *Compatibility Plan* therefore also utilizes the more common measure of floor area ratio (FAR) as a means of implementing the usage intensity criteria on the local level. This appendix both provides guidance on how the usage intensity determination can be made and defines the relationships between this measure, FAR, and other measures found in land use planning. For a discussion of the rationale for use of people per acre as a measure of risk exposure, see Appendix C.

COUNTING PEOPLE

The most difficult part about calculating land use intensity is estimating the number of people expected to use a particular facility under normal circumstances. All people—not just employees, but also customers and visitors—who may be on the property at any single point in time, whether indoors or outdoors, must be counted. The only exceptions are for rare special events, such as an air show at an airport, for which a facility is not designed and normally not used and for which extra safety precautions can be taken as appropriate.

Ideally, the actual number of people for which the facility is designed would be known. For example, the number of seats in a proposed movie theater can be determined with high accuracy once the theater size is decided. Other buildings, though, may be built as a shell and the eventual number of occupants not known until a specific tenant is found. Furthermore, even then, the number of occupants can change as future tenants change. Even greater uncertainty is involved with relatively open uses not having fixed seating—retail stores or sports parks, for example.

When a clear number of measurable occupancy does not exist, other sources must be relied upon to estimate the number of people in a proposed development.

Survey of Similar Uses

A survey of similar uses already in existence is one option, however gathering data can be time-consuming and costly. Also, unless the survey sample is sufficiently large enough and conducted at

various times, inconsistent numbers may result. Except for uncommon uses for which occupancy levels cannot be estimated through other means, surveys may not be appropriate.

Maximum Occupancy

A second option for estimating the number of people who will be on a site is to rely upon data indicating the maximum occupancy of a building measured in terms of occupancy load factors—the number of square feet per occupant. The number of people on the site, assuming limited outdoor or peripheral uses, can be calculated by dividing the total floor area of a proposed use by the occupancy load factor. The challenge of this methodology lies in establishing realistic figures for square feet per occupant. The number varies greatly from one use to another and, for some uses, occupancy load factors can change over time as well.

A commonly used source of maximum occupancy data is the standards set in the California Building Code (CBC). The chart reproduced as Table D1 indicates the occupancy load factors for various types of uses. The CBC is intended primarily for purposes of structural design, fire and safety and represents a legal maximum occupancy in most jurisdictions. A CBC-based methodology consequently results in occupancy numbers that are higher than normal maximum usage in most instances. The numbers also are based upon usable floor area and do not take into account corridors, stairs, building equipment rooms, and other functions that are part of a building's gross square footage. Surveys of actual occupancy load factors conducted by various agencies have indicated that many retail and office uses are generally occupied at no more than 50% of their maximum occupancy levels, even at the busiest times of day. Therefore, the *Handbook* indicates that the number of people calculated for office and retail uses can usually be divided in half to reflect the actual occupancy levels before making the final people-per-acre determination. Even with this adjustment, the CBC-based methodology typically produces intensities at the high end of the likely range.

Another source of data on square footage per occupant comes from the facility management industry. The data is used to help businesses determine how much building space they need to build or lease and thus tends to be more generous than the CBC standards. The numbers vary not only by the type of facility, as with the CBC, but also by type of industry. The following are selected examples of square footage per *employee* gathered from a variety of sources.

→ Call centers	150 – 175
→ Typical offices	180 – 250
→ Law, finance, real estate offices	300 – 325
→ Research & development, light industry	300 – 500
→ Health services	500

The numbers above do not take into account the customers who may also be present for certain uses. For retail business, dining establishments, theaters, and other uses where customers outnumber employees, either direct measures of occupancy—the number of seats, for example—or other methodologies must be used to estimate the potential number of people on the site.

Parking Space Requirements

For many jurisdictions and a wide variety of uses, the number of people present on a site can be calculated based upon the number of automobile parking spaces that are required. Certain limitations and assumptions must be considered when applying this methodology, however. An obvious limitation is that parking space requirements can be correlated with occupancy numbers only where nearly all

users arrive by private vehicle rather than by public transportation, walking, or other method. Secondly, the jurisdiction needs to have a well-defined parking ordinance that lists parking space requirements for a wide range of land uses. For most uses, these requirements are typically stated in terms of the number of parking spaces that must be provided per 1,000 square feet of gross building size or a similar ratio. Lastly, assumptions must be made with regard to the average number of people who will arrive in each car.

Both of the critical ratios associated with this methodology—parking spaces to building size and occupants to vehicles—vary from one jurisdiction to another even for the same types of uses. Research of local ordinances and other sources, though, indicates that the following ratios are typical.

➔ **Parking Space Ratios**—These examples of required parking space requirements are typical of those found in ordinances adopted by urban and suburban jurisdictions. The numbers are ratios of spaces required per 1,000 square feet of gross floor area. Gross floor area is normally measured to the outside surfaces of a building and includes all floor levels as well as stairways, elevators, storage, and mechanical rooms.

• Small Restaurants	10.0
• Medical Offices	4.0 – 5.7
• Shopping Centers	4.0 – 5.0
• Health Clubs	3.3 – 5.0
• Business Professional Offices	3.3 – 4.0
• Retail Stores	3.0 – 3.5
• Research & Development	2.5 – 4.0
• Manufacturing	2.0 – 2.5
• Furniture, Building Supply Stores	0.7 – 1.0

➔ **Vehicle Occupancy**—Data indicating the average number of people occupying each vehicle parking at a particular business or other land use can be found in various transportation surveys. The numbers vary both from one community or region to another and over time, thus current local data is best if available. The following data represent typical vehicle occupancy for different trip purposes.

• Work	1.05 – 1.2
• Education	1.2 – 2.0
• Medical	1.5 – 1.7
• Shopping	1.5 – 1.8
• Dining, Social, Recreational	1.7 – 2.3

USAGE INTENSITY RELATIONSHIP TO OTHER DEVELOPMENT MEASURES

Calculating Usage Intensities

Once the number of people expected in a particular development—both over the entire site and within individual buildings—has been estimated, the usage intensity can be calculated. The criteria in Chapter 2 of this *Compatibility Plan* are measured in terms of the average intensity over the entire project site.

The average intensity is calculated by dividing the total number of people on the site by the site size. A 10-acre site expected to be occupied by as many as 1,000 people at a time, thus would have an average intensity of 100 people per acre. The site size equals the total size of the parcel or parcels to be developed.

Having calculated the usage intensities of a proposed development, a comparison can be made with the criteria set forth in the *Compatibility Plan* to determine whether the proposal is consistent or inconsistent with the policies.

Comparison with Floor Area Ratio

As noted earlier, usage intensity or people per acre is not a common metric in land use planning. Floor area ratio or FAR—the gross square footage of the buildings on a site divided by the site size—is a more common measure in land use planning. Some counties and cities adopt explicit FAR limits in their zoning ordinance or other policies. Those that do not set FAR limits often have other requirements such as, a maximum number of floors a building can have, minimum setback distances from the property line, and minimum number of parking spaces. These requirements effectively limit the floor area ratio as well.

To facilitate local jurisdiction implementation, the Safety Compatibility Criteria table in Chapter 2 has been structured around FAR measures to determine usage intensity limits for many types of nonresidential land use development. To utilize FAR in this manner, a critical additional piece of information is necessary to overcome the major shortcoming of FAR as a safety compatibility measure. The problem with FAR is that it does not directly correlate with risks to people because different types of buildings with the same FAR can have vastly different numbers of people inside—a low-intensity warehouse versus a high-intensity restaurant, for example. For FAR to be applied as a factor in setting development limitations, assumptions must be made as to how much space each person (employees and others) in the building will occupy. The Safety Compatibility Criteria table therefore indicates the assumed occupancy load factor for various land uses. Mathematically, the relationship between usage intensity and FAR is:

$$\text{FAR} = \frac{\text{(allowable usage intensity)} \times \text{(occupancy load factor)}}{43,560}$$

Where *usage intensity* is measured in terms of people per acre and *occupancy load factor* as square feet per person.

Selection of the usage intensity, occupancy level, and FAR numbers that appear in the Safety Compatibility Criteria table was done in an iterative manner that considered each of the components both separately and together. Usage intensities were initially set with respect to guidelines provided in the *California Airport Land Use Planning Handbook* (see Appendix C of this *Compatibility Plan*). Occupancy levels were derived from the CBC, but were adjusted based upon additional research from both local and national sources in the manner discussed earlier in this appendix. The FAR limits were initially calculated from these other two numbers using the formula above.

Comparison with Parking Space Requirements

As discussed above, many jurisdictions have adopted parking space requirements that vary from one land use type to another. Factoring in an estimated vehicle occupancy rate for various land uses as described earlier, the occupancy load factor can be calculated. For example, a typical parking space requirement for office uses is 4.0 spaces per 1,000 square feet or 1 space per 250 square feet. If each

vehicle is assumed to be occupied by 1.1 persons, the equivalent occupancy load factor would be 1 person per 227 square feet. This number falls squarely within the range noted above that was found through separate research of norms used by the facility management industry.

As an added note, the occupancy load factor of 215 square feet per person indicated in the Safety Compatibility Criteria table for office uses is slightly more conservative than the above calculation produces. This means that, for a given usage intensity standard, the FAR limit in the table is slightly more restrictive than would result from a higher occupancy load factor.

Table D1
Occupant Load Factors

California Building Code

<i>Use</i>	<i>Minimum Square Feet per Occupant</i>
1. Aircraft Hangars (no repair)	500
2. Auction Rooms	7
3. Assembly Areas, Concentrated Use (without fixed seats)	7
Auditoriums	
Churches and Chapels	
Dance Floors	
Lobby Accessory to Assembly Occupancy	
Lodge Rooms	
Reviewing Stands	
Stadiums	
Waiting Areas	3
4. Assembly Areas, Less Concentrated Use	15
Conference Rooms	
Dining Rooms	
Drinking Establishments	
Exhibit Rooms	
Gymnasiums	
Lounges	
Stages	
Gaming	11
5. Bowling Alley (assume no occupant load for bowling lanes)	4
6. Children's Homes and Homes for the Aged	80
7. Classrooms	20
8. Congregate Residences	200
9. Courtrooms	40
10. Dormitories	50
11. Dwellings	300
12. Exercising Rooms	50
13. Garage, Parking	200
14. Health-Care Facilities	80
Sleeping Rooms	120
Treatment Rooms	240
15. Hotels and Apartments	200
16. Kitchen - Commercial	200
17. Library Reading Room	50
Stack Areas	100
18. Locker Rooms	50
19. Malls	Varies
20. Manufacturing Areas	200
21. Mechanical Equipment Room	300
22. Nurseries for Children (Daycare)	35
23. Offices	100
24. School Shops and Vocational Rooms	50
25. Skating Rinks	50 on the skating area; 15 on the deck
26. Storage and Stock Rooms	300
27. Stores - Retail Sales Rooms	
Basements and Ground Floors	30
Upper Floors	60
28. Swimming Pools	50 for the pool area; 15 on the deck
29. Warehouses	500
30. All Others	100

Source: California Building Code (2001), Table 10-1



APPENDIX E

SAMPLE IMPLEMENTATION DOCUMENTS

The City of Ontario is responsible for compatibility planning around ~~LA~~/Ontario International Airport and implementing the compatibility criteria set forth in the ~~LA~~/*Ontario International Airport Land Use Compatibility Plan*. Chapter 1 describes how general plans and specific plans can be modified to achieve consistency with compatibility plans. However, implementation of airport land use compatibility plans go beyond general plan consistency, other types of documents are also needed to assist with implementing *Compatibility Plan* policies. Samples of such implementation documents are included in this appendix.

General Plan Consistency Checklist

A *Compatibility Plan* is separate and distinct from a jurisdiction's other land use policy documents—general plans, specific plans, and zoning ordinances—yet all of the documents are expected to be made consistent with each other through incorporation of the compatibility policies into the general plans and zoning ordinances. To meet the consistency test, a general plan/policy document must do two things:

- It must specifically address compatibility planning issues, either directly or through reference to a zoning ordinance or other policy document; and
- It must avoid direct conflicts with compatibility planning criteria.

Table E1 provides counties and cities with modifications necessary to make their general plans and other local policies consistent with the compatibility plan.

Airport Combining Zone Ordinance

Chapter 1 of this *Compatibility Plan* describes one option for achieving consistency, the adoption of an airport overlay zone. An airport overlay zone is one way of collecting various airport-related development conditions into one local policy document. Adoption of an airport overlay zone is not required, but is suggested as an option. Table E2 describes some of the potential components of an airport overlay zone.

Buyer Awareness Measures

Buyer awareness is an umbrella category for several types of implementation documents all of which have the objective of ensuring that prospective buyers within an airport influence area, particularly residential property, are informed about the airport's impact on the property. The ~~LA~~/*Ontario International Airport Land Use Compatibility Plan* policies include each of these measures.

- **Avigation Easement**—Avigation easements transfer certain property rights from the owner of the underlying property to the owner of an airport or, in the case of military airports, to a local government agency on behalf of the federal government (the U.S. Department of Defense is not

authorized to accept aviation easements). Specific easement dedication requirements are set forth in Chapter 2. Also, airports may require aviation easements in conjunction with programs for noise insulation of existing structures in the airport vicinity. A sample of a standard aviation easement is included in Table E3.

- **Recorded Overflight Notification**— A recorded overflight notification informs property owners that the property is subject to aircraft overflight and generation of noise and other impacts. No restrictions on the heights of objects, requirements for marking or lighting of objects, or access to the property for these purposes are included. An overflight notification serves only as buyer acceptance of overflight conditions. Suggested wording of an overflight notification is included in Table E4. Unlike an aviation easement, overflight easement, or other type of easement, an overflight notification is not a conveyance of property rights. However, like an easement, an overflight notification is recorded on the property deed and therefore remains in effect with sale of the property to subsequent owners. Overflight notifications are generally appropriate in areas outside the 65 dB CNEL noise contour, outside Safety Zones, and within areas where the height of structures and other objects would not pose a significant potential of being airspace obstruction hazards.
- **Real Estate Disclosure**—Local jurisdictions can also establish a policy indicating that information about an airport's influence area should be disclosed to prospective buyers for all properties within an airport-vicinity as part of a title transfer. The advantage of this type of program is that it applies to previously existing land uses as well as to new development. The requirement for disclosure of information about the proximity of an airport has been present in state law for some time, but legislation adopted in 2002 and effective in January 2004 explicitly ties the requirement to the airport influence areas established by airport land use commissions (see Appendix A for excerpts from sections of the Business and Professions Code and Civil Code that define these requirements). With certain exceptions, these statutes require disclosure of a property's location within an airport influence area under any of the following three circumstances: (1) sale or lease of subdivided lands; (2) sale of common interest developments; and (3) sale of residential real property. In each case, the disclosure statement to be used is defined by state law as follows:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

Project Comment Worksheet Submittal Information

As described in Chapter 2, proposed major land use actions submitted through the ONT Inter-Agency Notification Process must include sufficient information to enable a comprehensive review of the proposed action. Table E5 provides a sample of the type of information needed for project submittals.

Table E1

General Plan Consistency Checklist

This checklist is intended to assist counties and cities with modifications necessary to make their general plans and other local policies consistent with the compatibility plan. It is also designed to facilitate compatibility reviews of these local plans and policies.

COMPATIBILITY CRITERIA

General Plan Document

The following items typically appear directly in a general plan document. Amendment of the general plan will be required if there are any conflicts with the compatibility plan.

- **Land Use Map**—No direct conflicts should exist between proposed new land uses indicated on a general plan land use map and the land use compatibility criteria.
 - Residential densities (dwelling units per acre) should not exceed the set limits. Differences between gross and net densities and the potential for secondary dwellings on single parcels (see below) may need to be taken into account.
 - Proposed nonresidential development needs to be assessed with respect to applicable intensity limits (see below).
 - No new land uses of a type listed as specifically prohibited should be shown within affected areas.

- **Noise Element**—General plan noise elements typically include criteria indicating the maximum noise exposure for which residential development is normally acceptable. This limit must be made consistent with the equivalent compatibility plan criteria.

- **Hazard Element**—Incorporate airspace protection policies. These should be based upon Part 77 of the Federal Aviation Regulations, but may include exceptions for objects within the high terrain zone.

Table E2

Sample Airport Overlay Zone Components

An airport overlay zone might include some or all of the following components:

- **Airspace Protection**—An airport overlay district should include airspace protection policies that establish restrictions on the height of buildings, antennas, trees, and other objects as necessary to protect the airspace needed for operation of the airport. These restrictions should be based upon the current version of the Federal Aviation Regulations (FAR) Part 77, *Objects Affecting Navigable Airspace*, Subpart C. Additions or adjustment to take into account instrument approach (TERPS) surfaces should be made as necessary. Provisions prohibiting smoke, glare, bird attractions, and other hazards to flight should also be included.
- **FAA Notification Requirements**—An airport overlay zone can be used to ensure that project developers are informed about the need for compliance with the notification requirements of FAR Part 77, Subpart B of the regulations requires that the proponent of any project which exceeds a specified set of height criteria submit a Notice of Proposed Construction or Alteration (Form 7460-1) to the Federal Aviation Administration prior to commencement of construction. The height criteria associated with this notification requirement are lower than those spelled out in Part 77, Subpart C, which define airspace obstructions. The purpose of the notification is to determine if the proposed construction would constitute a potential hazard or obstruction to flight. Notification is not required for proposed structures that would be shielded by existing structures or by natural terrain of equal or greater height, where it is obvious that the proposal would not adversely affect air safety.
- **State Regulation of Obstructions**—State law prohibits anyone from constructing or altering a structure or altering a structure or permitting an object of natural growth to exceed the heights established by FAR Part 77, Subpart C, unless the FAA has determined the object would or does not constitute a hazard to air navigation (Public Utilities Code, Section 21659). Additionally, a permit from the Department of Transportation is required for any structure taller than 500 feet above the ground unless the height is reviewed and approved by the Federal Communications Commission or the FAA (Section 21656).
- **Designation of High Noise-Impact Areas**—California state statutes require that multi-family residential structures in high-noise exposure areas be constructed so as to limit the interior noise to a Community Noise Equivalent Level of no more than 45 dB. An airport overlay district can be used to indicate the locations where special construction techniques may be necessary in order to ensure compliance with this requirement. This requirement also includes single-family dwellings.
- **Maximum Densities/Intensities**—Airport noise and safety compatibility criteria are frequently expressed in terms of dwelling units per acre for residential uses and people per acre for other land uses. These standards can either be directly included in an airport overlay zone or used to modify the underlying land use designations. For residential land uses, the correlation between the compatibility criteria and land use designations is direct. For other land uses, the method of calculating the intensity limitations needs to be defined. Alternatively, a matrix can be established indicating whether each specific type of land use is compatible with each compatibility zone. To be useful, the land use categories need to be more detailed than typically provided by general plan or zoning ordinance land use designations.
- **Real Estate Disclosure Policies**—The geographic extent and specific language of recommended real estate disclosure statements can be described in an airport overlay zone.

Source: *California Airport Land Use Planning Handbook* (January 2002)

Table E3

Typical Avigation Easement

AVIGATION EASEMENT

This indenture made this ____ day of _____, 20__, between _____ hereinafter referred to as Grantor, and the ~~City of Los Angeles, Los Angeles World Airports (LAWA)~~OIAA, a political subdivision in the State of California, that owns and operates LA/Ontario International Airport in the City of Ontario, State of California, hereinafter referred to as Grantee.

The Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to the Grantee, its successors and assigns, a perpetual and assignable easement over the following described parcel of land in which the Grantor holds a fee simple estate. The property which is subject to this easement is depicted as _____ on "Exhibit A" attached and is more particularly described as follows:

[Insert legal description of real property]

The easement applies to the Airspace above an imaginary plane over the real property. The plane is described as follows:

The imaginary plane above the hereinbefore described real property, as such plane is defined by Part 77 of the Federal Aviation Regulations, and consists of a plane [describe approach, transition, or horizontal surface]; the elevation of said plane being based upon the LA/Ontario International Airport official runway end elevation of 944 feet Above Mean Sea Level (AMSL), as determined by the LA/Ontario International Airport Layout Plan, the approximate dimensions of which said plane are described and shown on Exhibit A attached hereto and incorporated herein by reference.

The aforesaid easement and right-of-way includes, but is not limited to:

- (1) For the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons, or any aircraft, of any and all kinds now or hereafter known, in, through, across, or about any portion of the Airspace hereinabove described; and
- (2) The easement and right to cause or create, or permit or allow to be caused and created within all space above the existing surface of the hereinabove described real property and any and all Airspace laterally adjacent to said real property, such noise, vibration, currents and other effects of air illumination and fuel consumption as may be inherent in, or may arise or occur from or during the operation of aircraft of any and all kinds, now or hereafter known or used, for navigation of or flight in air; and
- (3) A continuing right to clear and keep clear from the Airspace any portions of buildings, structures or improvements of any kinds, and of trees or other objects, including the right to remove or demolish those portions of such buildings, structures, improvements, trees, or other things which extend into or above said Airspace, and the right to cut to the ground level and remove, any trees which extend into or above the Airspace; and
- (4) The right to mark and light, or cause or require to be marked and lighted, as obstructions to air navigation, any and all buildings, structures or other improvements, and trees or other objects, which extend into or above the Airspace; and
- (5) The right of ingress to, passage within, and egress from the hereinabove described real property, for the purposes described in subparagraphs (3) and (4) above at reasonable times and after reasonable notice.

For and on behalf of itself, its successors and assigns, the Grantor hereby covenants with the ~~Los Angeles World Airports (LAWA)OIAA~~, for the direct benefit of the real property constituting the ~~LA/Ontario International Airport~~ hereinafter described, that neither the Grantor, nor its successors in interest or assigns will construct, install, erect, place or grow, in or upon the hereinabove described real property, nor will they permit or allow any building structure, improvement, tree, or other object to extend into or above the Airspace so as to constitute an obstruction to air navigation or to obstruct or interfere with the use of the easement and rights-of-way herein granted.

The easements and rights-of-way herein granted shall be deemed both appurtenant to and for the direct benefit of that real property which constitutes the ~~LA/Ontario International Airport~~, in the City of Ontario, State of California; and shall further be deemed in gross, being conveyed to the Grantee for the benefit of the Grantee and any and all members of the general public who may use said easement or right-of-way, in landing at, taking off from or operating such aircraft in or about the ~~LA/Ontario International Airport~~, or in otherwise flying through said Airspace.

Grantor, together with its successors in interest and assigns, hereby waives its right to legal action against Grantee, its successors or assigns for monetary damages or other redress due to impacts, as described in paragraph (2) of the granted rights of easement, associated with aircraft operations in the air or on the ground at the airport, including future increases in the volume or changes in location of said operations. Furthermore, Grantee, its successors, and assigns shall have no duty to avoid or mitigate such damages through physical modification of airport facilities or establishment or modification of aircraft operational procedures or restrictions. However, this waiver shall not apply if the airport role or character of its usage (as identified in an adopted airport master plan, for example) changes in a fundamental manner which could not reasonably have been anticipated at the time of the granting of this easement and which results in a substantial increase in the in the impacts associated with aircraft operations. Also, this grant of easement shall not operate to deprive the Grantor, its successors or assigns of any rights which may from time to time have against any air carrier or private operator for negligent or unlawful operation of aircraft.

These covenants and agreements run with the land and are binding upon the heirs, administrators, executors, successors and assigns of the Grantor, and, for the purpose of this instrument, the real property firstly hereinabove described is the servient tenement and said ~~Los Angeles World Airports (LAWA)OIAA~~ is the dominant tenement.

DATED:

STATE OF }

s

COUNTY OF }

On _____, before me, the undersigned, a Notary Public in and for said County and State personally appeared _____, and _____ known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

Notary Public

Source: California Airport Land Use Planning Handbook (January 2002)

Table E3, continued

Sample Overflight Notification

OVERFLIGHT NOTIFICATION

This *Overflight Notification* concerns the real property situated in the City of _____, State of California, described as _____ [APN No.: _____].

This *Overflight Notification* provides notification of the condition of the above described property in recognition of, and in compliance with, CALIFORNIA BUSINESS & PROFESSIONS CODE Section 11010 and CALIFORNIA CIVIL CODE Sections 1102.6, 1103.4 and 1353, effective January 1, 2004, and related state and local regulations and consistent with policies of the Alternative Process for the City of Ontario and other participating local jurisdictions for overflight notification provided in the ~~LA~~/Ontario International Airport Land Use Compatibility Plan.

NOTICE OF AIRPORT IN VICINITY: This property is located in the vicinity of an airport and within the airport influence area. The property may be subject to some of the annoyances or inconveniences associated with proximity to an airport and aircraft operations (for example: noise, vibration, overflights or odors). Individual sensitivities to those annoyances can vary from person to person. You should consider what airport annoyances, if any, affect the Property before you complete your purchase and whether they are acceptable to you.

The Federal Aviation Administration (FAA) has regulatory authority over the operation of aircraft in flight and on the runway and taxiway surfaces at ~~LA~~/Ontario International Airport. The FAA is, therefore, exclusively responsible for airspace and air traffic management, including ensuring the safe and efficient use of navigable airspace, developing air traffic rules, assigning the use of airspace and controlling air traffic. Please contact the FAA for more detailed information regarding overflight and airspace protection issues associated with the operation of military aircraft.

Airport maintains information regarding hours of operation and other relevant information regarding airport operations. Please contact your local airport operator for more detailed information regarding airport specific operational issues including hours of operation.

This *Overflight Notification* shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property.

Effective Date: _____, 20__

Table E5

Sample Project Submittal Information

- Property location data (assessor's parcel number, street address, subdivision lot number).
- An accurately scaled map depicting the project site location in relationship to the L_{AV} Ontario International Airport boundary and runways.
- A description of the proposed use(s), current general plan and zoning designations, and the type of land use action being sought from the local agency (e.g., zoning variance, special use permit, building permit).
- If applicable, a detailed site plan and supporting data showing: site boundaries and size; existing uses that will remain; location of existing and proposed structures, open spaces, and water bodies; ground elevations (above mean sea level) and elevations of tops of structures and trees. Additionally:
 - For residential uses, an indication of the potential or proposed number of dwelling units per acre (excluding any secondary units).
 - For nonresidential uses, the total floor area for each type of proposed use, the number of auto parking spaces, and, if known, the number of people potentially occupying the total site or portions thereof at any one time.
- Identification of any features, during or following construction that would increase the attraction of birds or cause other wildlife hazards to aircraft operations on the airport or in its environs. Such features include, but are not limited to the following:
 - Open water areas.
 - Sediment ponds, retention basins.
 - Detention basins that hold water for more than 48 hours.
 - Artificial wetlands.
- Identification of any characteristics that could create electrical interference, confusing or bright lights, glare, smoke, or other electrical or visual hazards to aircraft flight.
- Any environmental document (initial study, draft environmental impact report, etc.) that may have been prepared for the project.
- Any staff reports regarding the project that may have been presented to local agency decision makers.
- Other relevant information that is determined to be necessary by the affected agency to enable a comprehensive review of the proposed action.



APPENDIX F

Exhibit F1

Alternative Process Resolution No. 95-34

RESOLUTION NO. 95-34

**A RESOLUTION OF THE CITY OF ONTARIO, CALIFORNIA,
ESTABLISHING ALTERNATIVE PROCEDURES FOR LAND USE
PLANNING WITHIN THE SPHERE OF INFLUENCE OF THE ONTARIO
INTERNATIONAL AIRPORT IN LIEU OF REINSTATING THE WEST
VALLEY AIRPORT LAND USE COMMISSION**

WHEREAS, Public Utilities Code Section 21670 et. seq. provides for the establishment of an Airport Land Use Commission (ALUC) in every county in which there is a public use airport served by a scheduled airline; and

WHEREAS, prior to passage of Senate Bill No. 443 (effective June 30, 1993), Public Utilities Code Section 21670 (b) required each county to establish an ALUC in such circumstances; and

WHEREAS, Senate Bill No. 443 amended Public Utilities Code Section 21670 (b) by eliminating the mandate for ALUC's in order to relieve counties and other public agencies supporting ALUC's of the duty to incur unnecessary expenses in certain aspects of airport land use planning; and

WHEREAS, the Ontario City Council adopted Resolution 93-120 in November of 1993 withdrawing from the West Valley ALUC; and

WHEREAS, the West Valley ALUC was disbanded in response to Senate Bill No. 443 after all affected public agencies, including the City of Ontario, withdrew from the Joint Powers Agreement, which had established individual ALUC's for the East, West, and Mountain/Desert planning areas of the County of San Bernardino; and

WHEREAS, the State of California no longer reimburses the County of San Bernardino for administration of the ALUC program, and

WHEREAS, Assembly Bill No. 2831 (effective January 1, 1995), amended Public Utilities Code Section 21670 (b) by reinstating the requirement that local agencies, such as the County of San Bernardino, establish an ALUC; and

WHEREAS, Assembly Bill No. 2831 also provided the option of establishing an alternative procedure to the establishment of an ALUC which allows local jurisdictions to make land use decisions for areas within a public use airport sphere of influence as designated by the Comprehensive Airport Land Use Plan; and

WHEREAS, establishment of the alternative procedure set forth in Public Utilities Code Section 21670.1 rather than reinstating the West Valley ALUC will eliminate redundant reviews and streamline processes; and

Exhibit F1, Continued

WHEREAS, the City of Ontario is in compliance with all applicable airport land use planning regulations and requirements, with the exception of the recently enacted changes to the Public Utilities Code requiring reinstatement of an ALUC or establishment of an alternative procedure for making land use planning decisions within the sphere of influence of the Ontario International Airport; and

WHEREAS, verification of this compliance is set forth in the Certificate of Consistency issued by the West Valley ALUC prior to its dissolution; and

WHEREAS, the West Valley ALUC adopted the Airport Environs Element of the Ontario General Plan as the Comprehensive Airport Land Use Plan for the Ontario International Airport; and

WHEREAS, the City of Ontario is obligated under the new provisions of the Public Utilities Code to establish alternative procedures for the review and processing of amendments to the adopted Comprehensive Airport Land Use Plan for the sphere of influence of the Ontario International Airport or defer local land use authority to an ALUC.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby adopts the alternative procedures set forth in Subdivision (c) of Public Utilities Code Section 21670.1 for review and processing of amendments to the adopted Comprehensive Airport Land Use Plan for the sphere of influence of the Ontario International Airport, and for voluntary mediation of disputes. It is further resolved that:

1. Proper land use planning will be accomplished for areas within the sphere of influence of the Ontario International Airport pursuant to Article 3.5 of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code in accordance with Subdivision (c) of Section 21670.1; and

2. Proper land use planning will be accomplished for areas within the sphere of influence of the Ontario International Airport by using as guidelines the Airport Land Use Planning Handbook published by Division of Aeronautics of the State Department of Transportation and any other applicable federal aviation regulations; and

3. Proper land use planning will be accomplished for areas within the sphere of influence of the Ontario International Airport through adherence to the Airport Environs Element of the Ontario General Plan; and

4. Any amendments of the Airport Environs Element of the Ontario General Plan, including amendment of the Airport Environs Land Use Plan, will be processed in accordance with the State Planning, Zoning, and Development Laws and any other applicable laws, ordinances, and/or resolutions regulating airport land use planning; and

5. The City's planning efforts for areas within the sphere of influence of the Ontario International Airport, including amendment of the Comprehensive Airport Land Use Plan, will involve notification of the general public, landowners, interested groups, and other public agencies; and

Exhibit F1, Continued

6. The Airport Mediation Board would serve as the mediator of disputes arising from the amendment of the adopted Comprehensive Airport Land Use Plan; and

7. No mediation will be required because no other City has standing to pursue mediation; and

8. The entire area of the 65 CNEL contour for the Ontario International Airport lies within the City of Ontario; and

9. The City's General Plan and Specific Plans are consistent with the adopted Comprehensive Airport Land Use Plan; and

10. The Planning Department shall be responsible for preparing and processing amendments to the adopted Comprehensive Airport Land Use Plan where necessary; and

11. The City Council will be responsible for approving these amendments; and

12. The adoption of the foregoing alternative procedures are exempt from the provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et. seq.

I hereby certify that the above-resolution was duly passed and approved by the City Council of the City of Ontario at a regular meeting thereof held on the 2nd day of May, 1995.



L. L. Curtis
City Clerk of the City of Ontario

Exhibit F2**Alternative Process Language Approval Letter from California Division of Aeronautics**

STATE OF CALIFORNIA — BUSINESS, TRANSPORTATION AND HOUSING AGENCY

POMPEO G. BROWN, JR., Governor

DEPARTMENT OF TRANSPORTATION
 DIVISION OF AERONAUTICS – M.S.#40
 1120 N STREET
 P. O. BOX 942874
 SACRAMENTO, CA 94274-0001
 PHONE (916) 654-1959
 FAX (916) 653-9531
 TTY 711



*Use your power!
 Be energy efficient!*

March 18, 2011

Mr. Jerry L. Blum
 Planning Director
 Ontario Planning Department
 303 East B Street
 Ontario, CA 91764

Dear Mr. Blum:

The California Department of Transportation (Caltrans), Division of Aeronautics (Division), received a letter from your office dated February 15, 2011, regarding the amendment of the alternative process for LA/Ontario International Airport. Your letter mentions the background with respect to the approval of the San Bernardino County Alternative process by the Division in 1995. Since that time, the impacts from Ontario International Airport have grown to affect neighboring jurisdictions. The amended alternative process outlined in Chapter 2, Sections 2-4 of the February 2011 Public Draft LA/Ontario International Airport Land Use Compatibility Plan (ALUCP) have been reviewed and are consistent with the processes outlined in Public Utilities Code Section 21670.1. The Division will give our final approval of the amended alternative process once we can determine the affected jurisdictions will within a reasonable amount of time prepare, adopt, and implement the policies and procedures outlined in the ALUCP.

Thank you and if you should have any questions, please contact me at (916) 654-7075 or by email at ron.bolyard@dot.ca.gov.

Sincerely,

RON BOLYARD, Aviation Planner
 Office of Aviation Planning

Exhibit F – 3

Alternative Process Final Approval Letter from California Division of Aeronautics
(Pending)



APPENDIX G

GLOSSARY OF TERMS

Above Ground Level (AGL): An elevation datum given in feet above ground level.

Accident Potential Zones (APZs): A set of safety-related zones defined by AICUZ studies for areas beyond the ends of military airport runways. Typically, three types of zones are established: a clear zone closest to the runway end, then APZ I and APZ II. The potential for aircraft accidents and the corresponding need for land use restrictions is greatest with the clear zone and diminishes with increased distance from the runway.

Air Carriers: The commercial system of air transportation, consisting of the certificated air carriers, air taxis (including commuters), supplemental air carriers, commercial operators of large aircraft, and air travel clubs.

Air Installation Compatible Use Zones (AICUZ): A land use compatible plan prepared by the U.S. Department of Defense for military airfields. AICUZ plans serve as recommendations to local governments bodies having jurisdiction over land uses surrounding these facilities.

Aircraft Accident: An occurrence incident to flight in which, as a result of the operation of an aircraft, a person (occupant or nonoccupant) receives fatal or serious injury or an aircraft receives substantial damage.

- Except as provided below, *substantial damage* means damage or structural failure that adversely affects the structural strength, performance, or flight characteristics of the aircraft, and that would normally require major repair or replacement of the affected component.
- Engine failure, damage limited to an engine, bent fairings or cowling, dented skin, small puncture holes in the skin or fabric, ground damage to rotor or propeller blades, damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wingtips are not considered substantial damage.

Aircraft Incident: A mishap associated with the operation of an aircraft in which neither fatal or serious injuries nor substantial damage to the aircraft occur.

Aircraft Mishap: The collective term for an aircraft accident or an incident.

Aircraft Operation: The airborne movement of aircraft at an airport or about an en route fix or at other point where counts can be made. There are two types of operations: local and itinerant. An operation is counted for each landing and each departure, such that a touch-and-go flight is counted as two operations. (FAA Stats)

Airport: An area of land or water that is used or intended to be used for the landing and taking off of aircraft, and includes its buildings and facilities if any. (FAR 1)

Airport Elevation: The highest point of an airport's useable runways, measured in feet above mean sea level. (AIM)

Airport Land Use Commission (ALUC): A commission authorized under the provisions of California Public Utilities Code, Section 21670 et seq. and established (in any county within which a public-use airport is located) for the purpose of promoting compatibility between airports and the land uses surrounding them.

Airport Layout Plan (ALP): A scale drawing of existing and proposed airport facilities, their location on an airport, and the pertinent clearance and dimensional information required to demonstrate conformance with applicable standards.

Airport Master Plan (AMP): A long-range plan for development of an airport, including descriptions of the data and analyses on which the plan is based.

Airport Reference Code (ARC): A coding system used to relate airport design criteria to the operation and physical characteristics of the airplanes intended to operate at an airport. (Airport Design AC)

Airports, Classes of: For the purposes of issuing a Site Approval Permit, The California Department of Transportation, Division of Aeronautics classifies airports into the following categories: (CCR)

- *Agricultural Airport or Heliport:* An airport restricted to use only by agricultural aerial applicator aircraft (FAR Part 137 operators).
- *Emergency Medical Services (EMS) Landing Site:* A site used for the landing and taking off of EMS helicopters that is located at or as near as practical to a medical emergency or at or near a medical facility and
 - (1) has been designated an EMS landing site by an officer authorized by a public safety agency, as defined in PUC Section 21662.1, using criteria that the public safety agency has determined is reasonable and prudent for the safe operation of EMS helicopters and
 - (2) is used, over any twelve month period, for no more than an average of six landings per month with a patient or patients on the helicopter, except to allow for adequate medical response to a mass casualty event even if that response causes the site to be used beyond these limits, and
 - (3) is not marked as a permitted heliport as described in Section 3554 of these regulations and
 - (4) is used only for emergency medical purposes.
- *Heliport on Offshore Oil Platform:* A heliport located on a structure in the ocean, not connected to the shore by pier, bridge, wharf, dock or breakwater, used in the support of petroleum exploration or production.
- *Personal-Use Airport:* An airport limited to the non-commercial use of an individual owner or family and occasional invited guests.
- *Public-Use Airport:* An airport that is open for aircraft operations to the general public and is listed in the current edition of the *Airport/Facility Directory* that is published by the National Ocean Service of the U.S. Department of Commerce.
- *Seaplane Landing Site:* An area of water used, or intended for use, for landing and takeoff of seaplanes.
- *Special-Use Airport or Heliport:* An airport not open to the general public, access to which is controlled by the owner in support of commercial activities, public service operations, and/or personal use.

- **Temporary Helicopter Landing Site:** A site, other than an emergency medical service landing site at or near a medical facility, which is used for landing and taking off of helicopters and
- (1) is used or intended to be used for less than one year, except for recurrent annual events and
 - (2) is not marked or lighted to be distinguishable as a heliport and
 - (3) is not used exclusively for helicopter operations.

Ambient Noise Level: The level of noise that is all encompassing within a given environment for which a single source cannot be determined. It is usually a composite of sounds from many and varied sources near to and far from the receiver.

Approach Protection Easement: A form of easement that both conveys all of the rights of an aviation easement and sets specified limitations on the type of land uses allowed to be developed on the property.

Approach Speed: The recommended speed contained in aircraft manuals used by pilots when making an approach to landing. This speed will vary for different segments of an approach as well as for aircraft weight and configuration. (AIM)

Aviation-Related Use: Any facility or activity directly associated with the air transportation of persons or cargo or the operation, storage, or maintenance of aircraft at an airport or heliport. Such uses specifically include runways, taxiways, and their associated protected areas defined by the Federal Aviation Administration, together with aircraft aprons, hangars, fixed base operations, terminal buildings, etc.

Aviation Easement: A type of easement that typically conveys the following rights:

- A right-of-way for free and unobstructed passage of aircraft through the airspace over the property at any altitude above a surface specified in the easement (usually set in accordance with FAR Part 77 criteria).
- A right to subject the property to noise, vibrations, fumes, dust, and fuel particle emissions associated with normal airport activity.
- A right to prohibit the erection or growth of any structure, tree, or other object that would enter the acquired airspace.
- A right-of-entry onto the property, with proper advance notice, for the purpose of removing, marking, or lighting any structure or other object that enters the acquired airspace.
- A right to prohibit electrical interference, glare, misleading lights, visual impairments, and other hazards to aircraft flight from being created on the property.

Based Aircraft: Aircraft stationed at an airport on a long-term basis.

California Environmental Quality Act (CEQA): Statutes adopted by the state legislature for the purpose of maintaining a quality environment for the people of the state now and in the future. The Act establishes a process for state and local agency review of projects, as defined in the implementing guidelines, that may adversely affect the environment.

Ceiling: Height above the earth's surface to the lowest layer of clouds or obscuring phenomena. (AIM)

Circling Approach/Circle-to-Land Maneuver: A maneuver initiated by the pilot to align the aircraft with a runway for landing when a straight-in landing from an instrument approach is not possible or not desirable. (AIM)

Clear Zone: The military airport equivalent of runway protection zones at civilian airports.

Combining District: A zoning district that establishes development standards in areas of special concern over and above the standards applicable to basic underlying zoning districts.

Commercial Activities: Airport-related activities that may offer a facility, service or commodity for sale, hire or profit. Examples of commodities for sale are: food, lodging, entertainment, real estate, petroleum products, parts and equipment. Examples of services are: flight training, charter flights, maintenance, aircraft storage, and tiedown. (CCR)

Commercial Operator: A person who, for compensation or hire, engages in the carriage by aircraft in air commerce of persons or property, other than as an air carrier. (FAR 1)

Community Noise Equivalent Level (CNEL): The noise metric adopted by the State of California for evaluating airport noise. It represents the average daytime noise level during a 24-hour day, adjusted to an equivalent level to account for the lower tolerance of people to noise during evening and nighttime periods relative to the daytime period. (State Airport Noise Standards)

Compatibility Plan: As used herein, a plan, usually adopted by an Airport Land Use Commission that sets forth policies for promoting compatibility between airports and the land uses that surround them. Often referred to as a *Comprehensive Land Use Plan (CLUP)*.

Controlled Airspace: Any of several types of airspace within which some or all aircraft may be subject to air traffic control. (FAR 1)

Day-Night Average Sound Level (DNL): The noise metric adopted by the U.S. Environmental Protection Agency for measurement of environmental noise. It represents the average daytime noise level during a 24-hour day, measured in decibels and adjusted to account for the lower tolerance of people to noise during nighttime periods. The mathematical symbol is L_{dn} .

Decibel (dB): A unit measuring the magnitude of a sound, equal to the logarithm of the ratio of the intensity of the sound to the intensity of an arbitrarily chosen standard sound, specifically a sound just barely audible to an unimpaired human ear. For environmental noise from aircraft and other transportation sources, an *A-weighted sound level* (abbreviated dBA) is normally used. The A-weighting scale adjusts the values of different sound frequencies to approximate the auditory sensitivity of the human ear.

Deed Notice: A formal statement added to the legal description of a deed to a property and on any subdivision map. As used in airport land use planning, a deed notice would state that the property is subject to aircraft overflights. Deed notices are used as a form of buyer notification as a means of ensuring that those who are particularly sensitive to aircraft overflights can avoid moving to the affected areas.

Designated Body: A local government entity, such as a regional planning agency or a county planning commission, chosen by the county board of supervisors and the selection committee of city mayors to act in the capacity of an airport land use commission.

Displaced Threshold: A landing threshold that is located at a point on the runway other than the designated beginning of the runway (see *Threshold*). (AIM)

Easement: A less-than-fee-title transfer of real property rights from the property owner to the holder of the easement.

Equivalent Sound Level (L_{eq}): The level of constant sound that, in the given situation and time period, has the same average sound energy as does a time-varying sound.

FAR Part 77: The part of the Federal Aviation Regulations that deals with objects affecting navigable airspace.

FAR Part 77 Surfaces: Imaginary airspace surfaces established with relation to each runway of an airport. There are five types of surfaces: (1) primary; (2) approach; (3) transitional; (4) horizontal; and (5) conical.

Federal Aviation Administration (FAA): The U.S. government agency that is responsible for ensuring the safe and efficient use of the nation's airports and airspace.

Federal Aviation Regulations (FAR): Regulations formally issued by the FAA to regulate air commerce.

Findings: Legally relevant subconclusions that expose a government agency's mode of analysis of facts, regulations, and policies, and that bridge the analytical gap between raw data and ultimate decision.

Fixed Base Operator (FBO): A business that operates at an airport and provides aircraft services to the general public including, but not limited to, sale of fuel and oil; aircraft sales, rental, maintenance, and repair; parking and tiedown or storage of aircraft; flight training; air taxi/charter operations; and specialty services, such as instrument and avionics maintenance, painting, overhaul, aerial application, aerial photography, aerial hoists, or pipeline patrol.

General Aviation: That portion of civil aviation that encompasses all facets of aviation except air carriers. (FAA Stats)

Glide Slope: An electronic signal radiated by a component of an ILS to provide vertical guidance for aircraft during approach and landing.

Global Positioning System (GPS): A navigational system that utilizes a network of satellites to determine a positional fix almost anywhere on or above the earth. Developed and operated by the U.S. Department of Defense, GPS has been made available to the civilian sector for surface, marine, and aerial navigational use. For aviation purposes, the current form of GPS guidance provides en route aerial navigation and selected types of nonprecision instrument approaches. Eventual application of GPS as the principal system of navigational guidance throughout the world is anticipated.

Helipad: A small, designated area, usually with a prepared surface, on a heliport, airport, landing/takeoff area, apron/ramp, or movement area used for takeoff, landing, or parking of helicopters. (AIM)

Heliport: A facility used for operating, basing, housing, and maintaining helicopters. (FAI)

Infill: Development that takes place on vacant property largely surrounded by existing development, especially development that is similar in character.

Instrument Approach Procedure: A series of predetermined maneuvers for the orderly transfer of an aircraft under instrument flight conditions from the beginning of the initial approach to a landing or

to a point from which a landing may be made visually. It is prescribed and approved for a specific airport by competent authority (refer to *Nonprecision Approach Procedure* and *Precision Approach Procedure*). (AIM)

Instrument Flight Rules (IFR): Rules governing the procedures for conducting instrument flight. Generally, IFR applies when meteorological conditions with a ceiling below 1,000 feet and visibility less than 3 miles prevail. (AIM)

Instrument Landing System (ILS): A precision instrument approach system that normally consists of the following electronic components and visual aids: (1) Localizer; (2) Glide Slope; (3) Outer Marker; (4) Middle Marker; (5) Approach Lights. (AIM)

Instrument Operation: An aircraft operation in accordance with an IFR flight plan or an operation where IFR separation between aircraft is provided by a terminal control facility. (FAA ATA)

Instrument Runway: A runway equipped with electronic and visual navigation aids for which a precision or nonprecision approach procedure having straight-in landing minimums has been approved. (AIM)

Inverse Condemnation: An action brought by a property owner seeking just compensation for land taken for a public use against a government or private entity having the power of eminent domain. It is a remedy peculiar to the property owner and is exercisable by that party where it appears that the taker of the property does not intend to bring eminent domain proceedings.

Land Use Density: A measure of the concentration of land use development in an area. Mostly the term is used with respect to residential development and refers to the number of dwelling units per acre. Unless otherwise noted, policies in this compatibility plan refer to *gross* rather than *net* acreage.

Land Use Intensity: A measure of the concentration of nonresidential land use development in an area. For the purposes of airport land use planning, the term indicates the number of people per acre attracted by the land use. Unless otherwise noted, policies in this compatibility plan refer to *gross* rather than *net* acreage.

Large Airplane: An airplane of more than 12,500 pounds maximum certificated takeoff weight. (Airport Design AC)

Localizer (LOC): The component of an ILS that provides course guidance to the runway. (AIM)

Mean Sea Level (MSL): An elevation datum given in feet from mean sea level.

Minimum Descent Altitude (MDA): The lowest altitude, expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure where no electronic glide slope is provided. (FAR 1)

Missed Approach: A maneuver conducted by a pilot when an instrument approach cannot be completed to a landing. (AIM)

National Transportation Safety Board (NTSB): The U.S. government agency responsible for investigating transportation accidents and incidents.

Navigational Aid (Navaid): Any visual or electronic device airborne or on the surface that provides point-to-point guidance information or position data to aircraft in flight. (AIM)

Noise Contours: Continuous lines of equal noise level usually drawn around a noise source, such as an airport or highway. The lines are generally drawn in 5-decibel increments so that they resemble elevation contours in topographic maps.

Noise Level Reduction (NLR): A measure used to describe the reduction in sound level from environmental noise sources occurring between the outside and the inside of a structure.

Nonconforming Use: An existing land use that does not conform to subsequently adopted or amended zoning or other land use development standards.

Nonprecision Approach Procedure: A standard instrument approach procedure in which no electronic glide slope is provided. (FAR 1)

Nonprecision Instrument Runway: A runway with an approved or planned straight-in instrument approach procedure that has no existing or planned precision instrument approach procedure. (Airport Design AC)

Obstruction: Any object of natural growth, terrain, or permanent or temporary construction or alteration, including equipment or materials used therein, the height of which exceeds the standards established in Subpart C of Federal Aviation Regulations Part 77, *Objects Affecting Navigable Airspace*.

Overflight: Any distinctly visible and/or audible passage of an aircraft in flight, not necessarily directly overhead.

Overflight Easement: An easement that describes the right to overfly the property above a specified surface and includes the right to subject the property to noise, vibrations, fumes, and emissions. An overflight easement is used primarily as a form of buyer notification.

Overflight Zone: The area(s) where aircraft maneuver to enter or leave the traffic pattern, typically defined by the FAR Part 77 horizontal surface.

Overlay Zone: See *Combining District*.

Planning Area Boundary: An area surrounding an airport designated by an ALUC for the purpose of airport land use compatibility planning conducted in accordance with provisions of the State Aeronautics Act.

Precision Approach Procedure: A standard instrument approach procedure where an electronic glide slope is provided. (FAR 1)

Precision Instrument Runway: A runway with an existing or planned precision instrument approach procedure. (Airport Design AC)

Referral Area: The area around an airport defined by the planning area boundary adopted by an airport land use commission within which certain land use proposals are to be referred to the commission for review.

Runway Protection Zone (RPZ): An area (formerly called a *clear zone*) off the end of a runway used to enhance the protection of people and property on the ground. (Airport Design AC)

Safety Zone: For the purpose of airport land use planning, an area near an airport in which land use restrictions are established to protect the safety of the public from potential aircraft accidents.

Single-Event Noise: As used in herein, the noise from an individual aircraft operation or overflight.

Single Event Noise Exposure Level (SENEL): A measure, in decibels, of the noise exposure level of a single event, such as an aircraft flyby, measured over the time interval between the initial and final times for which the noise level of the event exceeds a threshold noise level and normalized to a reference duration of one second. SENEL is a noise metric established for use in California by the state Airport Noise Standards and is essentially identical to *Sound Exposure Level (SEL)*.

Site Approval Permit: A written approval issued by the California Department of Transportation authorizing construction of an airport in accordance with approved plans, specifications, and conditions. Both public-use and special-use airports require a site approval permit. (CCR)

Small Airplane: An airplane of 12,500 pounds or less maximum certificated takeoff weight. (Airport Design AC)

Sound Exposure Level (SEL): A time-integrated metric (i.e., continuously summed over a time period) that quantifies the total energy in the A-weighted sound level measured during a transient noise event. The time period for this measurement is generally taken to be that between the moments when the A-weighted sound level is 10 dB below the maximum.

Straight-In Instrument Approach: An instrument approach wherein a final approach is begun without first having executed a procedure turn; it is not necessarily completed with a straight-in landing or made to straight-in landing weather minimums. (AIM)

Taking: Government appropriation of private land for which compensation must be paid as required by the Fifth Amendment of the U.S. Constitution. It is not essential that there be physical seizure or appropriation for a *taking* to occur, only that the government action directly interferes with or substantially disturbs the owner's right to use and enjoyment of the property.

Terminal Instrument Procedures (TERPS): Procedures for instrument approach and departure of aircraft to and from civil and military airports. There are four types of terminal instrument procedures: precision approach, nonprecision approach, circling, and departure.

Threshold: The beginning of that portion of the runway usable for landing (also see *Displaced Threshold*). (AIM)

Touch-and-Go: An operation by an aircraft that lands and departs on a runway without stopping or exiting the runway. (AIM)

Traffic Pattern: The traffic flow that is prescribed for aircraft landing at, taxiing on, or taking off from an airport. The components of a typical traffic pattern are upwind leg, crosswind leg, downwind leg, base leg, and final approach. (AIM)

Visual Approach: An approach where the pilot must use visual reference to the runway for landing under VFR conditions.

Visual Flight Rules (VFR): Rules that govern the procedures for conducting flight under visual conditions. VFR applies when meteorological conditions are equal to or greater than the specified minimum—generally, a 1,000-foot ceiling and 3-mile visibility.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA-approved airport layout plan. (Airport Design AC)

Zoning: A police power measure, enacted primarily by units of local government, in which the community is divided into districts or zones within which permitted and special uses are established, as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts. A zoning ordinance consists of two parts: the text and a map.

Glossary Sources

FAR 1: Federal Aviation Regulations Part 1, Definitions and Abbreviations

AIM: Aeronautical Information Manual

Airport Design AC: Federal Aviation Administration, *Airport Design Advisory Circular 150/5300-13*

CCR: California Code of Regulations, Title 21, Section 3525 et seq., *Division of Aeronautics*

FAA ATA: Federal Aviation Administration, *Air Traffic Activity*

FAA Stats: Federal Aviation Administration, *Statistical Handbook of Aviation*

HAI: Helicopter Association International

NTSB: National Transportation and Safety Board

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APPENDIX H

**California Environmental Quality Act
Environmental Checklist Forms**

City of Ontario
Planning Department
303 East "B" Street
Ontario, California
Phone: (909) 395-2036
Fax: (909) 395-2420



Project Name: LA/Ontario International Airport Land Use Compatibility Plan ("ALUCP or Compatibility Plan")

Project Sponsor: City of Ontario – Planning Department, 303 East "B" Street, Ontario, California, 91764

Contact Person: Lorena Mejia, Associate Planner, (909) 395-2276

Project Location: LA/Ontario International Airport (ONT) is located in southwestern San Bernardino County, within the City of Ontario. The City of Ontario is located approximately 40 miles from downtown Los Angeles, 20 miles from downtown San Bernardino, and 30 miles from Orange County as illustrated on **Figure H1**. ONT is classified as a primary commercial service airport, owned by the City of Los Angeles and operated by Los Angeles World Airports (LAWA).

The geographic scope of the Airport Land Use Compatibility Plan (ALUCP) is the Airport Influence Area (AIA), the area in which current or future airport-related noise, safety, airspace protection and/or overflight factors may affect land uses or necessitate restrictions on those uses. The AIA includes portions of the Cities of Ontario, Fontana, Upland, Montclair, Rancho Cucamonga, Chino, Pomona, Claremont and unincorporated portions of San Bernardino, Riverside and Los Angeles Counties as illustrated in **Figure H2**.

Project Description: The function of the ALUCP is to promote compatibility between ONT and surrounding land uses as provided in the State Aeronautics Act (Public Utilities Code, section 21670 *et seq.*). The proposed ALUCP provides specific limitations and conditions for developing future residential, commercial and other noise and risk sensitive uses surrounding ONT. The proposed ALUCP consists of several components including: airport and land use information, compatibility policies and criteria, compatibility zone maps and procedural policies. The proposed ALUCP for ONT would supplement the Airport Environs section of The Ontario Plan (Ontario's General Plan), which currently serves as ONT's airport land use plan, by providing land use compatibility policies and criteria for ONT and surrounding areas. The preparation of the proposed ALUCP was guided by the California Department of Transportations' California Airport Land Use Planning Handbook (January 2002).

It is important to note that the ALUCP only governs future land uses within the AIA; it does not regulate existing uses. Further, the ALUCP does not propose any physical or operational changes to LA/Ontario International Airport (ONT) nor has any authority over operations; all authority over ONT rests with Los Angeles World Airports (LAWA) and Federal Aviation Administration (FAA). LAWA began the master planning process for ONT, but suspended that effort in 2008. Before its planning process was suspended, LAWA developed a tentative proposal for reconfiguration of the runway system that would

accommodate potential future passenger and air cargo volume in 2030. The State Aeronautics Act requires that the ALUCP “be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation that reflects the anticipated growth of the airport during at least the next 20 years.” (Pub. Utilities Code, § 21675(a).) Therefore, while the ALUCP includes an airport layout plan that shifts ONT’s runways to the east and south for airport land use planning purposes, the City has no approval authority over that layout, nor does inclusion of that layout in the ALUCP facilitate expansion of ONT’s operations. Any such expansion would have to be approved by LAWA as part of an Airport Master Plan.

General Plan Designation: General Plan Designations vary within ONT’s AIA.

Zoning: Zoning varies within ONT’s AIA.

Other public agencies whose approval is required (e.g., permits, financing approval or participation agreement): The Airport Land Use Compatibility Plan requires approval from the California Division of Aeronautics and participation agreements from the affected jurisdictions within the County of San Bernardino.

Environmental Factors Potentially Affected: The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology / Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality |
| <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation / Traffic | <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION (To be completed by the Lead Agency):

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

- I find that the proposed project MAY have a "potentially significant" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature:  Date: January 26, 2011
Name (print or type): Lorena Mejía Title: Associate Planner

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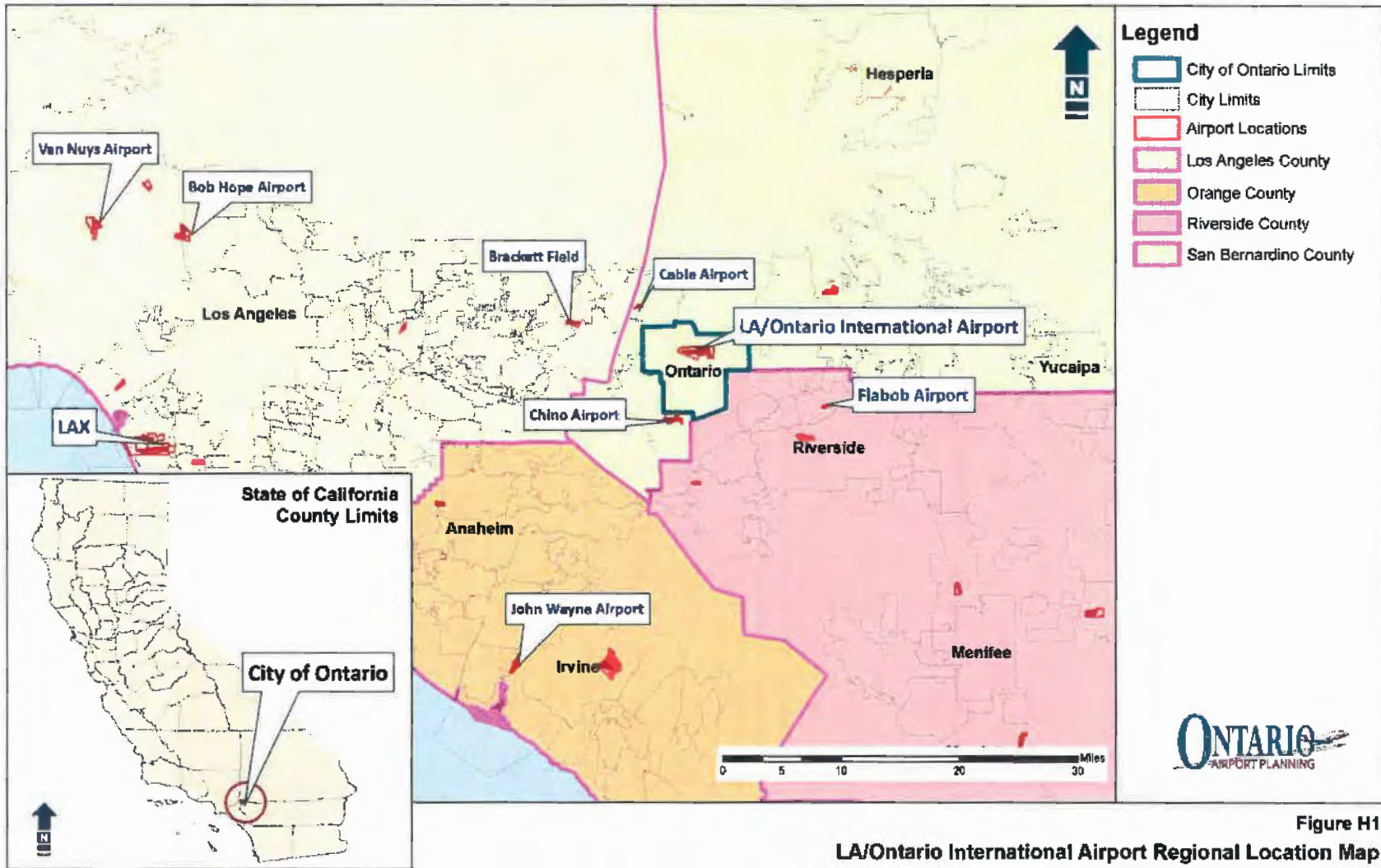


Figure H1
LA/Ontario International Airport Regional Location Map

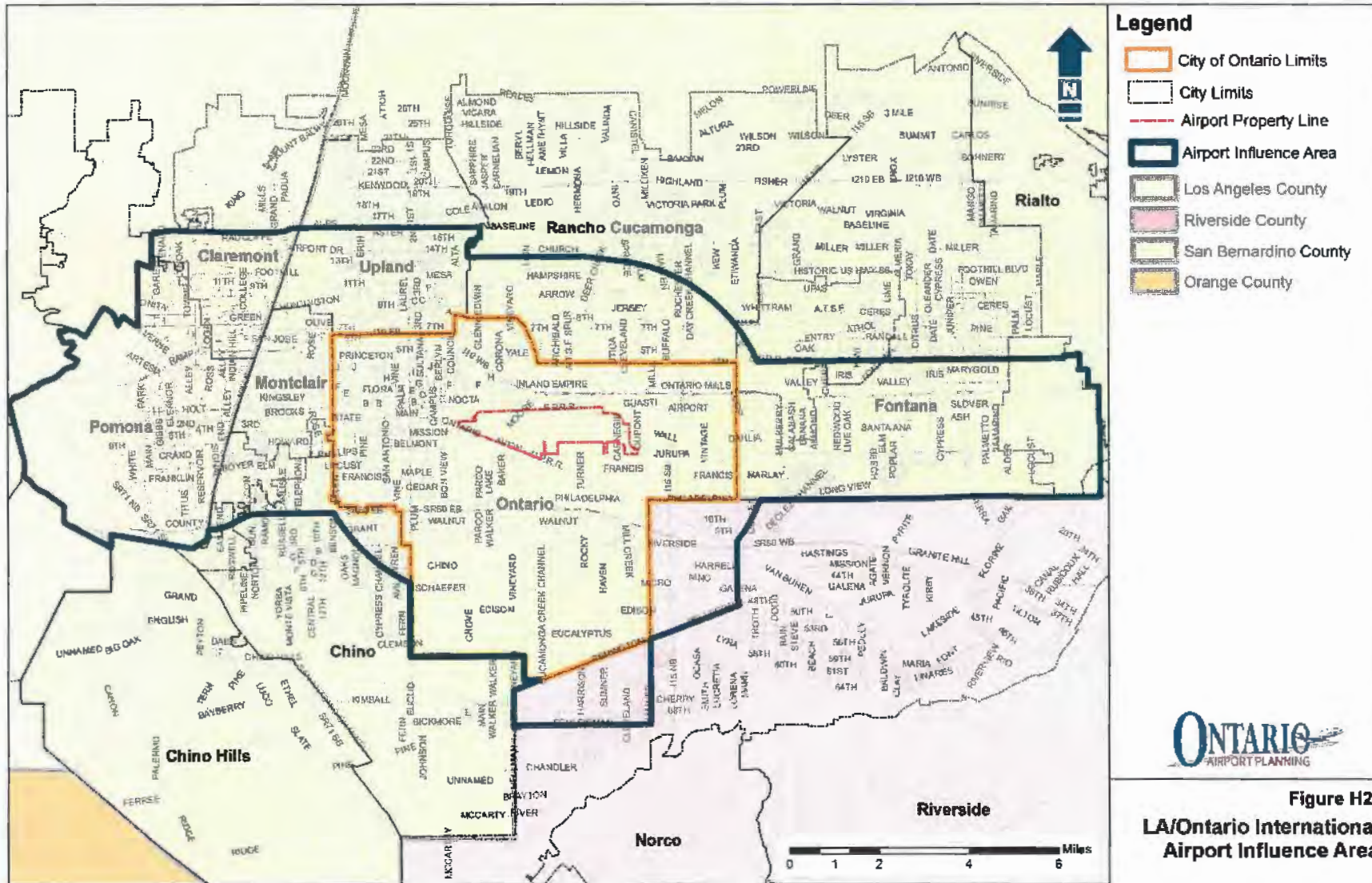


Figure H2
LA/Ontario International
Airport Influence Area

EVALUATION OF ENVIRONMENTAL IMPACTS

1. AESTHETICS

Would the proposed project:	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
(a) Have a substantial adverse effect on a scenic vista?				X
(b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
(c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
(d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X

DISCUSSION OF EFFECTS

Thresholds (a) – (d): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction’s general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Therefore, the proposed ALUCP would not directly or indirectly affect a scenic vista, damage scenic resources, degrade the existing visual character or quality of the site or its surroundings, or create a new source of light or glare, and, as such, would not directly impact the environment or result in any direct impacts to aesthetics. Also, the proposed ALUCP would not encourage levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies’ general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impact.

MITIGATION

None Required.

2. AGRICULTURAL & FOREST RESOURCES

(In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evolution and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest protocols adopted by the California Air Resources Board.)

Would the proposed project:	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
(a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
(b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
(c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X
(d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
(e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X

DISCUSSION OF EFFECTS

Thresholds (a) – (e): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Therefore, the proposed ALUCP would not: (a) directly or indirectly convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (collectively, "Farmland") to a non-agricultural use; or (b) conflict with existing zoning for agricultural use, or a Williamson Act contract; or (c) conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g)); (d) result in the loss of forest land or conversion of forest land to non-forest use, since there is no forest land within the Airport Influence Area (AIA); (e) involve other changes in the existing environment that, due to their location or nature, could result in the conversion of Farmland to a non-agricultural

use. The proposed ALUCP would not encourage levels of development in any area located within the AIA above those projected within the affected agencies general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. In addition, the *General Plan Land Use Designation Consistency Analysis* (Appendix I) evaluated potential general plan inconsistencies with the proposed ALUCP and did not identify any agricultural or forest general plan land use designations within the AIA. Therefore, there would be no impact.

MITIGATION

None Required.

3. AIR QUALITY

(Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.)

Would the proposed project:	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
(a) Conflict with or obstruct implementation of the applicable air quality plan?				X
(b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
(c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?				X
(d) Expose sensitive receptors to substantial pollutant concentrations?				X
(e) Create objectionable odors affecting a substantial number of people?				X

DISCUSSION OF EFFECTS

Thresholds (a) – (e): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Additionally, the proposed ALUCP does not propose any physical or operational changes to LA/Ontario International Airport (ONT) nor does the City have any authority over operations; all authority over ONT rests with Los Angeles World Airports (LAWA) and Federal Aviation Administration (FAA).

Although the City of Ontario, the City of Fontana and the County of San Bernardino will have to adjust their General Plan policies to account for the additional development restrictions contained in the ALUCP, those adjustments will not authorize development beyond what was assumed in the development of the South Coast Air Quality Management Plan. Therefore, the ALUCP would not directly or indirectly conflict with or obstruct implementation of the applicable air quality plan; violate any air quality standard or contribute substantially to an existing or projected air quality violation; result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standards; expose sensitive receptors to substantial pollutant concentrations; or create objectionable odors affecting a substantial number of people; and, as such, would not impact the environment or result in any impacts to air quality. The proposed ALUCP would not encourage levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies' general plans, of

which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

MITIGATION

None Required.

4. BIOLOGICAL RESOURCES

Would the proposed project:	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
(a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
(b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
(c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
(d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
(e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
(f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan?				X

DISCUSSION OF EFFECTS

Thresholds (a) – (f): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction’s general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Additionally, the proposed ALUCP does not propose any physical or operational changes to LA/Ontario International Airport (ONT) nor does the City have any authority over operations; all authority over ONT rests with Los Angeles World Airports (LAWA) and Federal Aviation Administration (FAA). Therefore, the ALUCP would not directly or indirectly impact biological resources or their habitat, or conflict with applicable policies protecting biological resources or an adopted or approved habitat conservation plan, and, as such, would not directly impact the environment or result in any direct impacts to biological resources. The proposed ALUCP would not encourage levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies’ general plans, of which the environmental effects were already adequately

analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

MITIGATION

None Required.

5. CULTURAL RESOURCES

Would the proposed project:	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
(a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?				X
(b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?				X
(c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
(d) Disturb any human remains, including those interred outside of formal cemeteries?				X

DISCUSSION OF EFFECTS

Thresholds (a) – (d): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Therefore, the proposed ALUCP would not directly or indirectly cause a substantial adverse change in the significance of a historical resource or an archaeological resource; directly destroy a unique paleontological resource or site or unique geologic feature; or disturb any human remains, including those interred outside of formal cemeteries, and, as such, would not directly impact the environment or result in any direct impacts to cultural resources. The proposed ALUCP would not encourage levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies' general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

MITIGATION

None Required.

6. GEOLOGY AND SOILS

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
Would the proposed project:				
(a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:				X
(i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
(ii) Strong seismic ground shaking?				X
(iii) Seismic-related ground failure, including liquefaction?				X
(iv) Landslides?				X
(b) Result in substantial soil erosion or the loss of topsoil?				X
(c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
(d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
(e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X

DISCUSSION OF EFFECTS

Thresholds (a) – (e): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Therefore, the proposed ALUCP would not expose people or structures to potential substantial adverse effects involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, liquefaction, or landslides; result in substantial soil erosion or the loss of topsoil; be located on a geologic unit or soil that is unstable, potentially resulting in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse; be located on expansive soil; or have soils incapable of adequately supporting the use of septic tanks; and, as such, would not directly impact the environment or result in any direct impacts to geology and soils. The proposed ALUCP would not encourage levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies' general plans, of which the environmental effects

were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

MITIGATION

None Required.

7. GREENHOUSE GAS EMISSIONS

Would the proposed project:	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
(a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?				X
(b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases?				X

DISCUSSION OF EFFECTS

Thresholds (a) & (b): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Additionally, the proposed ALUCP does not propose any physical or operational changes to LA/Ontario International Airport (ONT) nor does the City have any authority over operations; all authority over ONT rests with Los Angeles World Airports (LAWA) and Federal Aviation Administration (FAA). The proposed ALUCP would not encourage levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, the proposed ALUCP will not cause any increase in greenhouse gas emissions, and there would be no impacts.

MITIGATION

None Required.

8. HAZARDS AND HAZARDOUS MATERIALS

Would the proposed project	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
(a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?				X
(b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
(c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste within one-quarter mile of an existing or proposed school?				X
(d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
(e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?			X	
(f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
(g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
(h) Expose people or structures to a significant risk of loss, injury or death involving wildfires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

DISCUSSION OF EFFECTS

Thresholds (a) – (d) & (f) – (h): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Additionally, the proposed ALUCP does not propose any physical or operational changes to LA/Ontario International Airport (ONT) nor does the City have any authority over operations; all authority over ONT rests with Los Angeles World Airports (LAWA) and Federal Aviation Administration (FAA). Also, the proposed ALUCP does not involve the transport, use, or disposal of hazardous materials; the emission or handling of hazardous or acutely hazardous materials, substances, or waste; or the location of a building, structure, or public facility on a hazardous materials site compiled by the State of California pursuant to Government Code section 65962.5. The proposed ALUCP would not affect the incidence of hazardous material safety hazards in the area;

result in hazardous emissions within one-quarter mile of an existing or proposed school; affect any sites included on a list of hazardous materials sites; create a significant hazard to the public or the environment; or affect emergency response plans or the incidence of wildland fires in the area. The proposed ALUCP would not encourage levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies' general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

Threshold (e): Pursuant to the State Aeronautics Act, the proposed ALUCP establishes criteria and Safety Zones by which safety hazards relating to aircraft activity would be evaluated. The criteria are intended to reduce the risk of exposure to the hazards of an off-airport aircraft accident by limiting residential densities and concentrations of people within the Safety Zones. The Safety Zones are completely contained within the City of Ontario and land uses were designated in the Ontario Plan to be consistent with airport operations. The proposed ALUCP further reduces risks of aircraft accident occurrence by setting policies that, consistent with existing federal regulations, limit the height of structures, trees, and other objects that might penetrate the airport's airspace as defined by Part 77 of the Federal Aviation Regulations, TERPS and FAA criteria. The extent of the areas where regulations apply are illustrated in Appendix I.

The proposed ALUCP would also decrease airport-related safety hazards by limiting incompatible development within the Safety Zones. The proposed ALUCP would result in a beneficial impact by reducing the number of people exposed to airport-related safety hazards, including aircraft accidents, consistent with the objectives of the State Aeronautics Act. Due to the reasons stated above, the proposed ALUCP would not directly or indirectly impact the environment or result in any direct or indirect impacts relating to hazards and hazardous materials, but could limit development in areas of concern. Therefore, any potential impact would be less than significant.

MITIGATION

None Required.

9. HYDROLOGY AND WATER QUALITY

Would the proposed project:	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
(a) Violate any water quality standards or waste discharge requirements?				X
(b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
(c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				X
(d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				X
(e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?				X
(f) Otherwise substantially degrade water quality?				X
(g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
(h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
(i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
(j) Expose people or structures to inundation by seiche, tsunami, or mudflow?				X

DISCUSSION OF EFFECTS

Thresholds (a) - (j): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Therefore, the proposed ALUCP would not violate any water quality standards; affect

groundwater supplies; substantially alter drainage patterns; or expose people or structures to a significant risk involving flooding, seiche, tsunami or mudflow; and, as such, would not directly impact the environment or result in any direct impacts to hydrology and water quality. The proposed ALUCP would not encourage levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies' general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

MITIGATION

None Required.

10. LAND USE PLANNING

Would the proposed project:	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
(a) Physically divide an established community?				X
(b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
(c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

DISCUSSION OF EFFECTS

Thresholds (a) & (c): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction’s general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. ONT has operated as an airport since the 1920s, and the City has long planned for appropriate land uses surrounding ONT. Therefore, the proposed ALUCP would not physically divide an established community or conflict with any applicable habitat conservation plan or natural community conservation plan, and would not directly or indirectly impact the environment or result in any direct or indirect impacts to land use and planning. Also, the proposed ALUCP would not encourage levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies’ general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

Threshold (b): The proposed ALUCP may require that affected agencies alter their general plans and zoning to reflect the noise and safety restrictions set forth in its policies.

The proposed ALUCP is a mitigating document that establishes land use measures designed to minimize the public’s exposure to excessive noise and safety hazards around the ONT. Appendix I evaluates potential inconsistencies between the proposed ALUCP and the general plan land use designations of affected agencies and did not identify any general plan land use inconsistencies. Moreover, state law (Gov. Code §65302.3) requires that applicable general plans be revised if necessary to be consistent with an adopted ALUCP.

It is important to note that the ALUCP is intended, pursuant to Public Utilities Code section 21670 et seq., to protect public health, safety, and welfare, through the adoption of land use measures that

minimize the public's exposure to excessive noise and safety hazards; and is guided by the California Airport Land Use Planning Handbook. As required by state law, the proposed ALUCP for ONT sets policies and criteria consistent with the State Aeronautics Act and within the parameters identified in the California Airport Land Use Planning Handbook. Therefore, any potential impacts would be less than significant.

MITIGATION

None Required.

11. MINERAL RESOURCES

Would the proposed project:	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
(a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
(b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

DISCUSSION OF EFFECTS

The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Further, no mineral resources are located within the noise and safety zones potentially affected by the ALUCP. Therefore, the proposed ALUCP would not cause the loss of availability of a known mineral resource that would be of value to the region and the residents of the state, or result in the loss of availability of a locally-important mineral resource recovery site. As such, the proposed ALUCP would not directly or indirectly impact the environment or result in any direct or indirect impacts to mineral resources. The proposed ALUCP would not encourage levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies' general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

MITIGATION

None Required.

12. NOISE

Would the proposed project:	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
(a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
(b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
(c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
(d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X
(e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X	
(f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

DISCUSSION OF EFFECTS

Thresholds (b) - (d) & (f): The proposed ALUCP does not propose or entail any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Additionally, the proposed ALUCP does not propose any physical or operational changes to LA/Ontario International Airport (ONT) nor does the City have any authority over operations; all authority over ONT rests with Los Angeles World Airports (LAWA) and Federal Aviation Administration (FAA). Pursuant to the State Aeronautics Act, the proposed ALUCP establishes the criteria by which the public's exposure to airport-related noise would be evaluated and reduced by limiting the development of noise sensitive land uses within the 65 + dB CNEL. Therefore, the proposed ALUCP would not result in the exposure of people to increased noise or vibration levels, and, as such, would not impact their respective environment or result in any impacts related to noise.

Thresholds (a) & (e): The proposed ALUCP is a mitigating document that addresses land use measures to minimize the public's exposure to excessive noise and safety hazards around the ONT. Appendix I evaluated potential inconsistencies between the proposed ALUCP and the general plan land use designations of affected agencies and did not identify any general plan land use inconsistencies. Moreover, state law (Gov. Code §65302.3) requires that applicable general plans be revised as necessary to be consistent with an adopted ALUCP.

It is important to note that the ALUCP is intended, pursuant to Public Utilities Code section 21670 et seq., to protect public health, safety, and welfare, through the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards; and is guided by the California Airport Land Use Planning Handbook. As required by state law, the proposed ALUCP for ONT sets policies and criteria consistent with the State Aeronautics Act and within the parameters identified in the California Airport Land Use Planning Handbook. Therefore, any potential impacts would be less than significant.

MITIGATION

None Required.

13. POPULATION AND HOUSING

Would the proposed project:	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
(a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of road or other Infrastructure)?				X
(b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
(c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

DISCUSSION OF EFFECTS

Thresholds (a) - (c): The proposed ALUCP would not directly or indirectly induce population growth; rather, it would limit the location and distribution of residential and non-residential land uses within the Noise and Safety Zones to minimize potential noise impacts and safety concerns.

The Noise impact Zones limits new residential development within 65 db CNEL and prohibits new residential land uses within the 70 dB CNEL noise contour. To evaluate the potential population and housing displacement the *General Plan Land Use Designation Consistency Analysis* (Appendix I) identified and evaluated potential land use inconsistencies within the Noise Impact Zones. The Noise Analysis identified one jurisdiction, the City of Ontario, to have a Low Density Residential general plan land use designation within the 65 dB CNEL. However, because the areas identified are already developed, the restriction on additional new development would not result in displacement of potential housing units since the proposed ALUCP does not apply to existing development and only addresses future development.

The Safety Zones identified within the proposed ALUCP are contained within the City of Ontario and Safety Analysis portion of Appendix I identified Low Density Residential general plan land use designations within the safety zones. However, because the areas identified are already developed, the restriction on additional new development within that zone would not result in displacement of potential housing units, since the proposed ALUCP does not apply to existing development and only addresses future development. Therefore, there is no impact since the proposed ALUCP would not result in any direct impacts to population and housing; create the displacement of existing residential dwelling units, commercial, industrial or public use structures thereby necessitating the construction of replacement housing, facilities, or infrastructure in other areas.

14. PUBLIC SERVICES

Would the proposed project:	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
(a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				X
(i) Fire protection?				X
(ii) Police protection?				X
(iii) Schools?				X
(iv) Parks?				X
(v) Other public facilities?				X

DISCUSSION OF EFFECTS

Thresholds (a): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction’s general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Additionally, the proposed ALUCP does not propose any physical or operational changes to LA/Ontario International Airport (ONT) nor does the City have any authority over operations; all authority over ONT rests with Los Angeles World Airports (LAWA) and Federal Aviation Administration (FAA). Therefore, the proposed ALUCP would not create a need for any new or physically altered governmental facilities. As such, the proposed ALUCP would not result in any direct or indirect impacts related to public services. The proposed ALUCP would not increase levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

MITIGATION

None Required.

15. RECREATION

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
(a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
(b) Does the project include recreational facilities or require the construction or expansion of recreational facilities that have an adverse physical effect on the environment?				X

DISCUSSION OF EFFECTS

Thresholds (a) & (b): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Therefore, the proposed ALUCP would not increase the use of existing neighborhood and regional parks or other recreational facilities and does not require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment, and, as such, would not result in any direct or indirect impacts to recreation. The proposed ALUCP would not increase levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

MITIGATION

None Required.

16. TRANSPORTATION/TRAFFIC

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
Would the proposed project: (a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				X
(b) Conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?				X
(c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
(d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
(e) Result in inadequate emergency access?				X
(f) Result in inadequate parking capacity?				X
(g) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?				X

DISCUSSION OF EFFECTS

Thresholds (a) - (g): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction’s general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Additionally, the ALUCP does not propose any physical or operational changes to LA/Ontario International Airport (ONT) nor does the City have any authority over operations; all authority over ONT rests with Los Angeles World Airports (LAWA) and Federal Aviation Administration (FAA). Therefore, the proposed ALUCP would not: (a) conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit; (b) conflict with an applicable congestion management program, including; but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways; (c) result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks; (d) increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm

equipment); (e) result in inadequate emergency access; (f) result in inadequate parking capacity or; (g) conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. As such, the proposed ALUCP would not result in any direct or indirect impacts related to transportation or traffic. The proposed ALUCP would not increase levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies' general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

MITIGATION

None Required.

17. UTILITIES AND SERVICE SYSTEMS

	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
Would the proposed project:				
(a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
(b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
(c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
(d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? In making this determination, the City shall consider whether the project is subject to the water supply assessment requirements of Water Code Section 10910, et. Seq. (SB 610), and the requirements of Government Code Section 664737 (SB 221).				X
(e) Result in a determination by the wastewater treatment provider, which serves or may serve the project, that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
(f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
(g) Comply with federal, state, and local statutes and regulations related to solid waste?				X

DISCUSSION OF EFFECTS

Thresholds (a) - (g): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Therefore, the proposed ALUCP would not result in the construction of new wastewater or stormwater facilities, and would not require additional water supplies, or wastewater or landfill capacity, and, as such, would not result in any direct or indirect impacts to utilities and service systems. The proposed ALUCP would not increase levels of development in any area located within the Airport Influence Area (AIA) above those projected within the affected agencies general plans, of which the environmental effects were already adequately analyzed in their respective certified general plan environmental documentation. Therefore, there would be no impacts.

MITIGATION

None Required.

18. MANDATORY FINDINGS OF SIGNIFICANCE

Would the proposed project:	<i>Potentially Significant Impact</i>	<i>Potentially Significant Unless Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
(a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat or a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
(b) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?			X	
(c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current project, and the effects of probable future projects.)			X	
(d) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?			X	

DISCUSSION OF EFFECTS

Thresholds (a): The proposed ALUCP does not propose or involve any new development, construction, or physical changes to existing land uses or the environment, nor would it authorize new forms of development that are not otherwise permitted by the relevant jurisdiction's general plan. Rather, it overlays further limitations on top of planned land use designations found in existing general plans. Additionally, the proposed ALUCP does not propose any physical or operational changes to LA/Ontario International Airport (ONT) nor does the City have any authority over operations; all authority over ONT rests with Los Angeles World Airports (LAWA) and Federal Aviation Administration (FAA). Therefore, the proposed ALUCP does not have the potential to degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; reduce the number or restrict the range of a rare or endangered plant or animal; or eliminate important examples of the major periods of California history or prehistory; have impacts that are individually limited, but cumulatively considerable; or have environmental effects which will cause substantial adverse effects on human beings. The proposed ALUCP would not increase levels of development in any area located within the AIA above those projected for these areas in the local

agencies respective general plans, of which the environmental effects were already adequately analyzed in the certified general plan environmental documentation.

Nothing in the proposed ALUCP would result in indirect impacts such as the construction of housing, development of other types of land uses, or the expansion of any infrastructure, that would require an analysis of potentially significant impacts to wildlife, their habitats, important examples of California history, or human beings. In addition, the proposed ALUCP would not result in the displacement of existing residential dwelling units, commercial, industrial, or public use structures thereby necessitating the construction of replacement housing, facilities, or infrastructure in other areas, which may result in potentially significant impacts to wildlife, their habitats, important examples of California history, or human beings. Therefore, there would be no impacts.

Thresholds (b) - (d): The proposed ALUCP regulates future incompatible land uses specific to noise, airspace protection, safety and overflight impacts around ONT. Moreover, because the proposed ALUCP is regulatory in nature and will not result in any new development, construction, or physical changes to existing land uses or the environment, it has no potential to create cumulatively significant environmental impacts. Indeed, the proposed ALUCP serves as a mitigation plan designed to avoid certain noise and safety impacts that might otherwise be cumulatively significant. Therefore, any potential impact would be less than significant.

MITIGATION

None Required.

REFERENCE MATERIALS

The following reference materials are hereby incorporated by reference and made a part of this Initial Study pursuant to State CEQA Guidelines section 15150:

1. State of California Department of Transportation Division of Aeronautics, California Airport Land Use Planning Handbook, (Last updated January 2002)
2. Proposed Airport Land Use Compatibility Plan for LA/Ontario International Airport
3. California State Aeronautics Act, Pub. Util. Code, §§ 21001 et seq.
4. Ontario General Plan Final EIR/Master Environmental Assessment
5. City of Ontario General Plan (The Ontario Plan) adopted January 2010
6. General Plan of the following cities: Fontana, Montclair, Upland, Rancho Cucamonga and Chino.
7. The General Plan of the Counties of Riverside and San Bernardino.

All documents listed above are on file, and are available for public review, with the City of Ontario Planning Department, 200 N. Cherry Avenue, Ontario, California 91764, (909) 395-2036.



APPENDIX I

APPENDIX I

GENERAL PLAN LAND USE DESIGNATION CONSISTENCY ANALYSIS

The General Plan Land Use Designation Consistency Analysis (GP Consistency Analysis) evaluates the potential for conflict with existing general plan land use designations that may result from implementing the proposed compatibility policies and criteria of the LA/ONT Airport Land Use Compatibility Plan (Compatibility Plan) within the Airport Influence Area (AIA). All four compatibility factors (overflight, airspace protection, noise, safety) were evaluated as part of the GP Consistency Analysis. A series of maps were created as part of the analysis evaluating potential general plan land use inconsistencies with the proposed Compatibility Plan.

Overflight Analysis Summary: None of ONT's overflight policies regulate the use or development of land but they do include provisions for real estate disclosure and/or overflight notification, consistent with state law.

Airspace Protection Analysis Summary: Federal Aviation Administration (FAA) FAR Part 77 airspace protection regulations were designed to ensure that structures and other uses do not cause hazards to aircraft in flight within the vicinity an airport. Hazards to flight include physical obstructions to the navigable airspace, wildlife hazards, particularly bird strikes, and land use characteristics that create visual or electronic interference with aircraft navigation or communication.

The policies that protect airspace protection surfaces implement existing federal and state law. Therefore, the Compatibility Plan addresses the Federal Aviation Administration's Part 77 notification requirements, as well as the obstruction criteria identified in Part 77 and the United States Standard for Terminal Instrument Procedures. These policies don't displace future development and/or land uses. Figure I8 illustrates the extent of airspace protection surfaces for ONT.

Noise Analysis Summary: The noise policies restrict the development of future noise-sensitive land uses within areas exposed to 65+ dB CNEL. Under the proposed Compatibility Plan, most noise-sensitive land uses, including low density residential land uses (less than 8 du/ac), would not be compatible within the 65+ CNEL noise contours and, therefore, could have the potential to be displaced in areas surrounding ONT that are exposed to 65 + dB CNEL. Noise Analysis Figures I 1 - I 7 represent those areas where general plan land use designations could be considered incompatible and future land uses could be potentially prohibited and displaced to areas outside of the impact area. Potential displacement was evaluated for residential and mixed-use general plan land use designations within the City of Ontario. Parcels that are contained within or traversed by the 65+ dB CNEL were evaluated for potential displacement. Within the City of Ontario, the analysis identified four areas labeled (A – D) where the 65+ db CNEL had a potential for displacement (Figure I 2).

Area A contains the Guasti and Multi-Modal Mixed Use Land Use Designations that allow multi-family residential uses with a density range of 25-65 du/ac and 20-80 du/ac respectively. The 65 dB CNEL contour traverses portions of the Guasti and Multi-Modal Mixed Use areas as

illustrated in Figure I 3. However, these Mixed Use areas can be developed by keeping the residential components out of the 65+ dB CNEL or may develop within by meeting the following requirements: (1) the residential development is more than 8 dwelling units per acre (Policy N1); (2) 45 dB interior noise levels are attained (Policy N4) and; (3) an aviation easement is dedicated to the Airport owner (Policy SP1). There is no displacement of potential housing units within Area A since development may still occur by implementing the Policies within the Compatibility Plan.

Area B contains sensitive land use designations (e.g., Low and Medium Density Residential) within the 65 dB CNEL contour that have already been developed. Since these land uses exist, the Compatibility Plan will not cause displacement in Area B as illustrated in Figure I 4.

Area C contains portions of the East Holt Mixed Use area that allows multi-family residential land uses with a density range of 14 – 40 du/ac (Figure I 5). East Holt Mixed Use area can also be developed by keeping the residential components out of the 65+ dB CNEL or developing within by meeting the following requirements: (1) the residential development is more than 8 dwelling units per acre (Policy N1); (2) 45 dB interior noise levels are attained (Policy N4) and; (3) an aviation easement is dedicated to the Airport owner (Policy SP1). There is no displacement of potential housing units within Area C since development may still occur by implementing the Policies within the Compatibility Plan.

Area D contains blocks of low density residential uses (2- 5 du/ac) that have already been developed. Since these areas have been developed the Compatibility Plan will not cause displacement in Area D (Figure I 6). This area does contain vacant parcels scattered throughout that are considered infill and would be allowed to develop with a residential use as long as a 45 dB interior noise level is attained (Policy N4) and an aviation easement is dedicated to the Airport owner (Policy SP1). Therefore there is no housing displacement within Area D.

The 65 dB CNEL noise contours also affect portions of the City of Fontana and unincorporated parts of San Bernardino County. The areas affecting Fontana and San Bernardino County contain Industrial general plan use designations which are consistent with the Compatibility Plan. Also, it is important to note that the majority of these affected areas are developed and the Compatibility Plan does not apply to existing land uses (Figure I 7).

Safety Analysis Summary: Five safety zones around ONT would affect both the intensity of development (i.e., number of people allowed per acre of land) and total permissible floor area of any future building developed. The five safety zones are based on criteria established by the California Department of Transportation (Caltrans), as described in the California Airport Land Use Handbook (January 2002), and intended to reduce risk to persons and property on the ground and in the air. The safety portion of this analysis is illustrated in Figures I 9 - I 11.

The objective of the Safety Analysis is to identify the Compatibility Plan's potential to displace future residential development within the reconfigured Safety Zones. The policies and criteria are intended to reduce risk by limiting land uses and concentrations of people within the immediate vicinity of ONT. The

Safety Zones identified within the proposed Compatibility Plan reconfigures and updates existing Safety Zones to be consistent with the 2002 California Airport Land Use Planning Handbook. The reconfigured Safety Zones are completely contained within the City of Ontario. The Safety Analysis identified Low Density Residential general plan land use designations within the Safety Zones; however, those areas have already been developed and, as existing uses, are not subject to the Compatibility Plan. Since the Compatibility Plan does not apply to existing land uses and only applies to future development, the reconfiguration of the Safety Zones will not result in the displacement of existing or future housing units. Consistent with state law the Compatibility Plan also restricts land uses such as schools within the safety zones. The GP Consistency Analysis identified the location of existing schools and found that there were no public schools currently located within the proposed safety zones.

GIS Data Sources

The GP Consistency Analysis was a Geographic Information System (GIS) based study, utilizing GIS data sets of general plan land use designations and Compatibility Plan policies and criteria to establish thresholds for the analysis. The GIS data utilized for the analysis was acquired from the cities of Ontario, Montclair, Upland, Rancho Cucamonga, Chino, counties of San Bernardino and Riverside, and Mead & Hunt, Inc.

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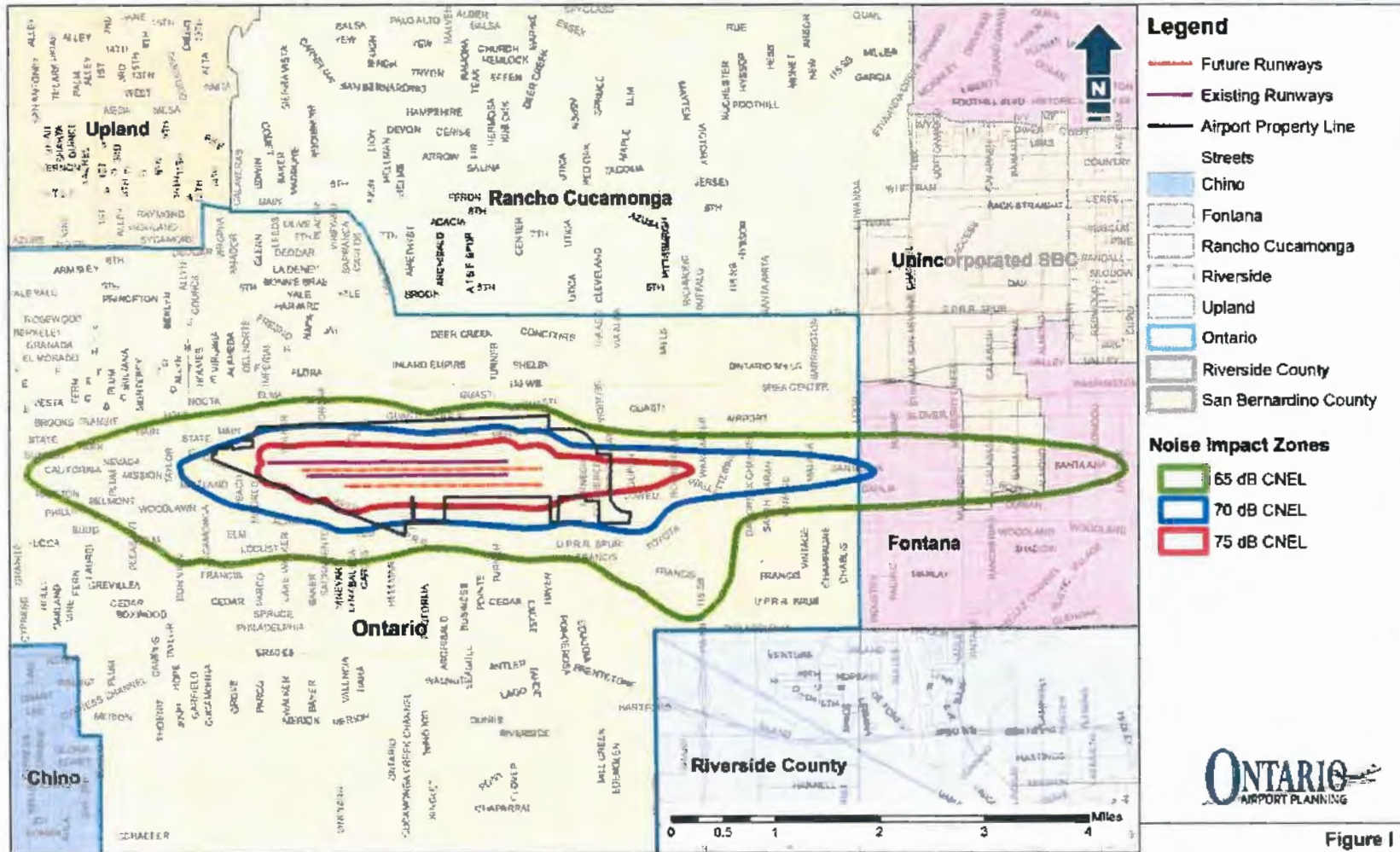


Figure I 1

Noise Impact Zones

Figure I 1 depicted above shows the overall extent of the noise impact zones. The first layer of the noise analysis began with identifying what jurisdictions may be subject to residential land use restrictions as outlined within the compatibility plan. Specifically, what undeveloped areas, if any, have a residential general plan land use designation and fall within the noise impact zones? Utilizing GIS the City of Ontario, Fontana and unincorporated areas of San Bernardino County were identified as being within the noise impact zones.

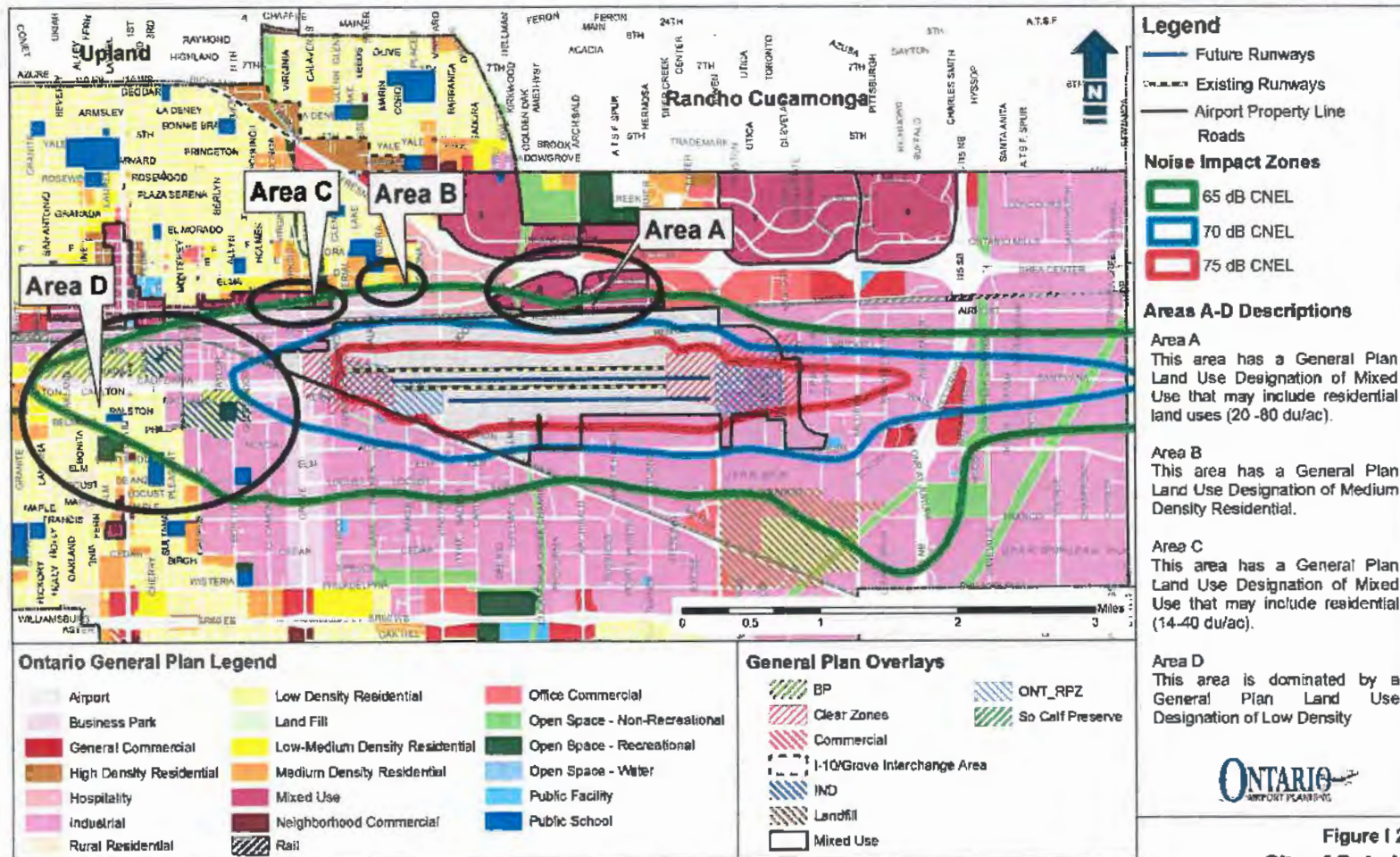


Figure 1 2
City of Ontario
General Plan and Noise Impact Consistency Analysis

Figure 1 2 illustrates the results of the general plan land use consistency analysis for the City of Ontario, focusing on noise impact zones. The GIS analysis concentrated on identifying areas within the noise impact zone that have a residential general plan land use designation and any other land use designations that have a residential component. The areas identified as having a residential land use designations are identified on the map and labeled A – D. Each area was analyzed further to account for any potential displacement of future residential development.

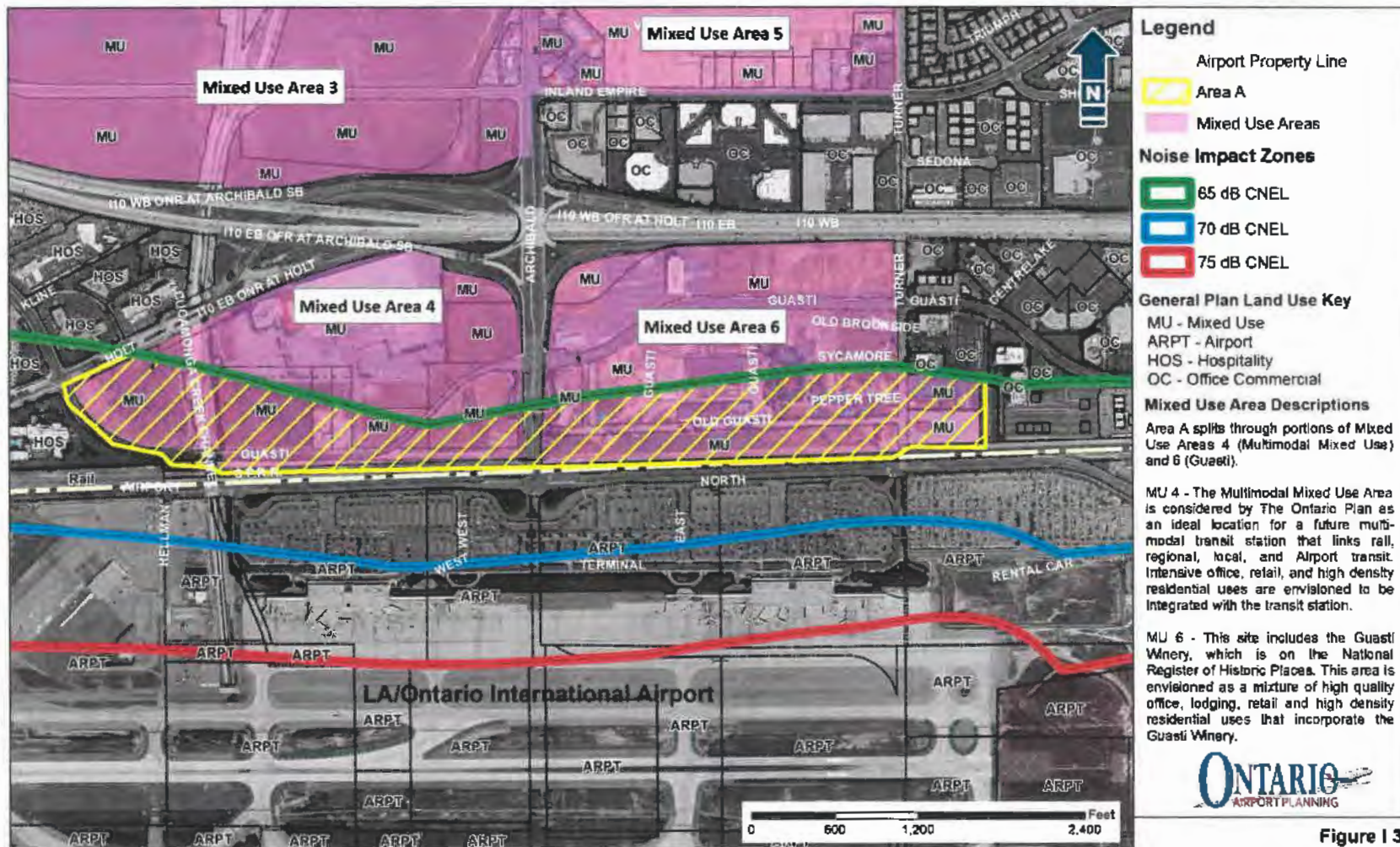


Figure 1 3
Area A - City of Ontario
General Plan and Noise Impact Consistency Analysis

Figure 1 3 Area A, shown in yellow hatched marks indicates that the 65 dB noise impact zone crosses through sections of Mixed Use Areas 4 and 6. These mixed use areas are described within the Ontario Plan as being able to develop with multi-family residential uses. There is no displacement of potential housing units within Area A since development may still occur by implementing policies set forth within the Compatibility Plan.



Figure I 4
Area B - City of Ontario
General Plan and Noise Impact Consistency Analysis

Figure I 4 Area B, shown in yellow hatched mark shows that the 65 dB noise impact zone, shown in green crosses through sections of residential general plan land use designations. Because these areas are built out they are not subject to the compatibility plan.

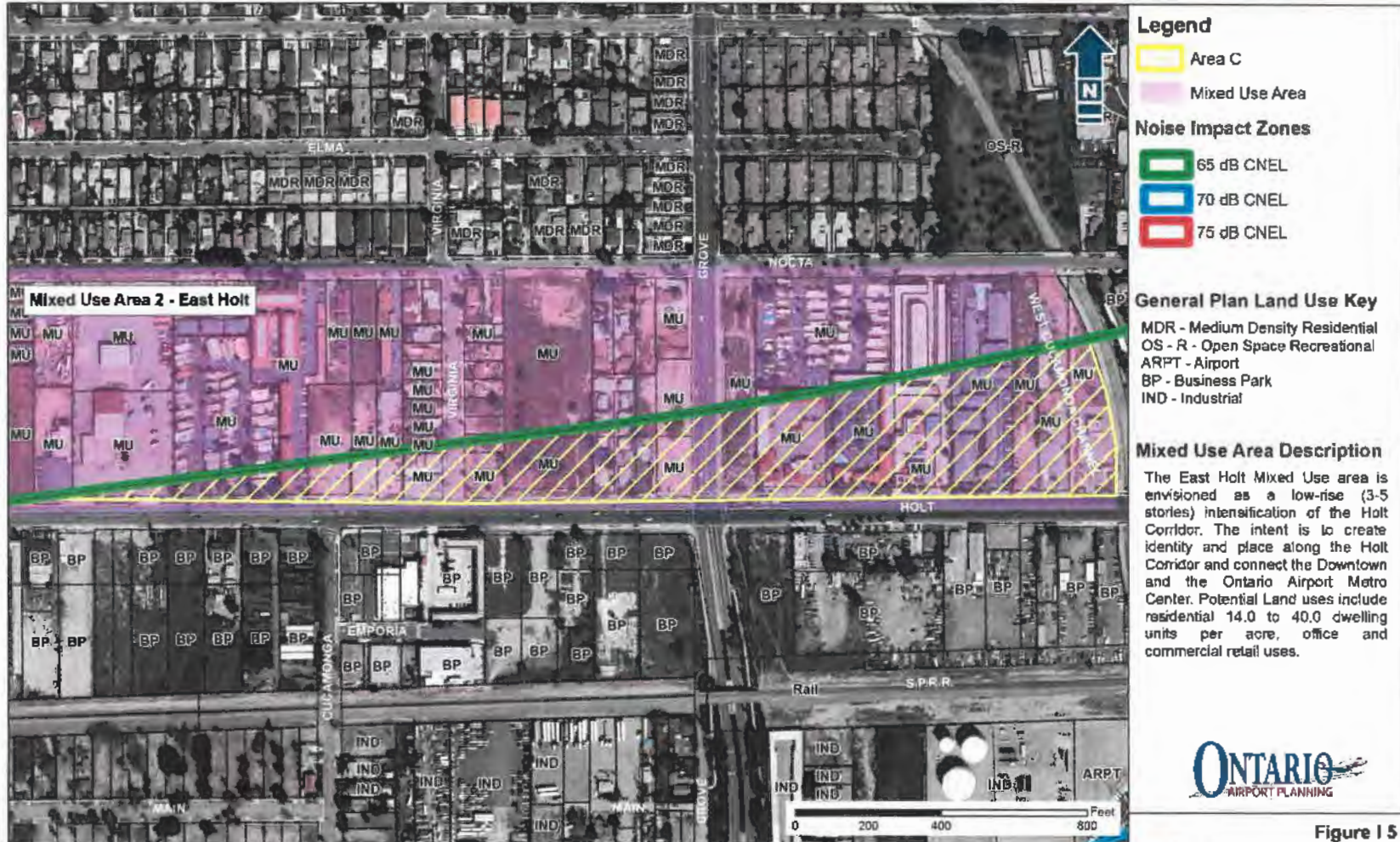


Figure I 5
Area C - City of Ontario
General Plan and Noise Impact Consistency Analysis

Figure I 5 Area C, shown in the yellow hatched mark shows that the 65 dB noise impact zone crosses through sections of Mixed Use Area 2. This mixed use area does allow multi-family residential development to occur. However, there is no displacement of potential housing units within Area C since residential uses may still occur by implementing the policies set forth within the Compatibility Plan.

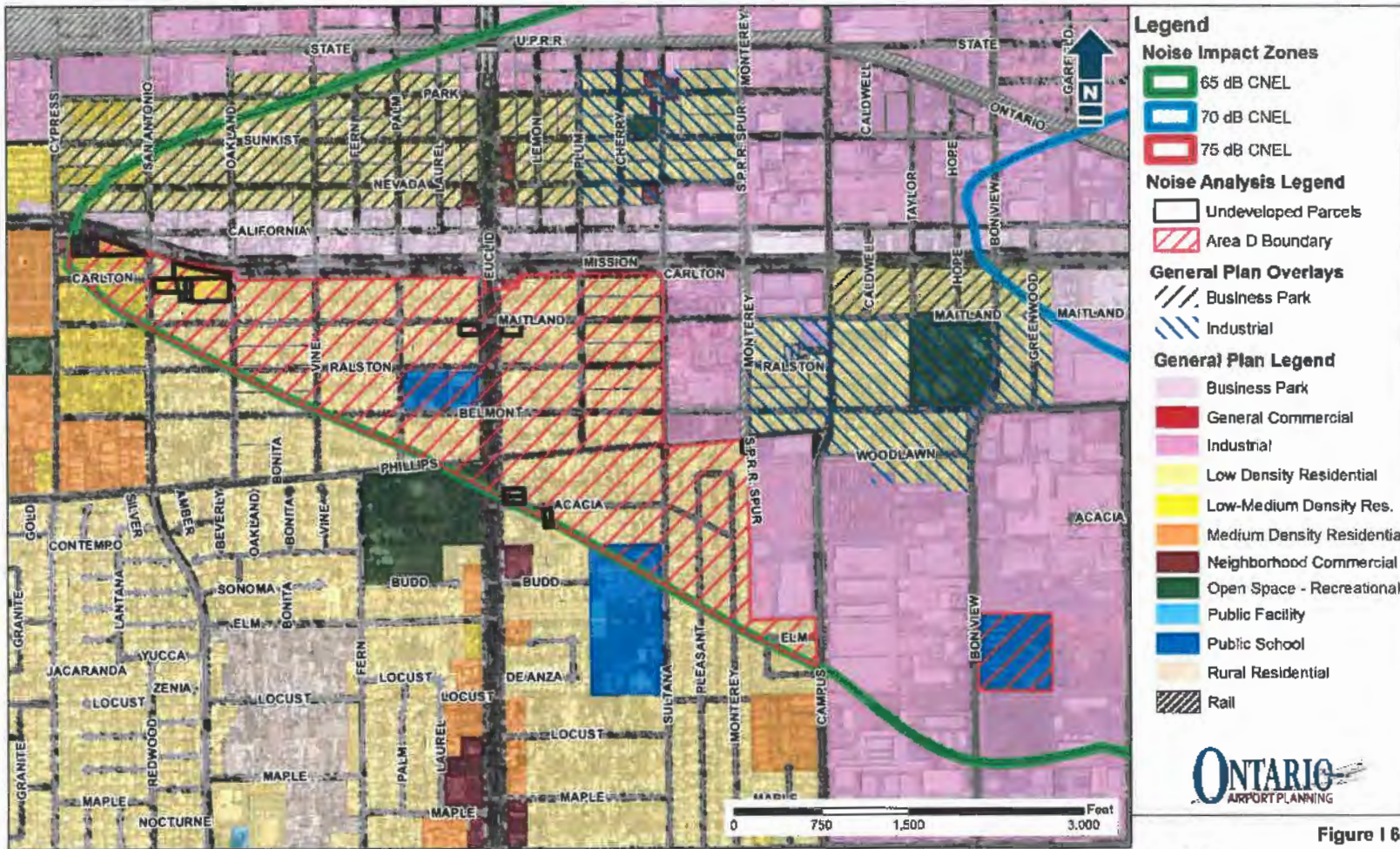


Figure I 6
**Area D - City of Ontario
 General Plan and Noise Impact Consistency Analysis**

Figure I 6 Area D, shown in red hatched marks shows that the 65 dB noise impact zone crosses through sections of residential general plan land use designations. However these areas are built out with residential land uses and are not subject to the compatibility plan. There are some scattered undeveloped parcels throughout the area that would be considered infill development as defined by the compatibility plan and therefore would be allowed to develop with residential uses consistent with existing surrounding conditions.

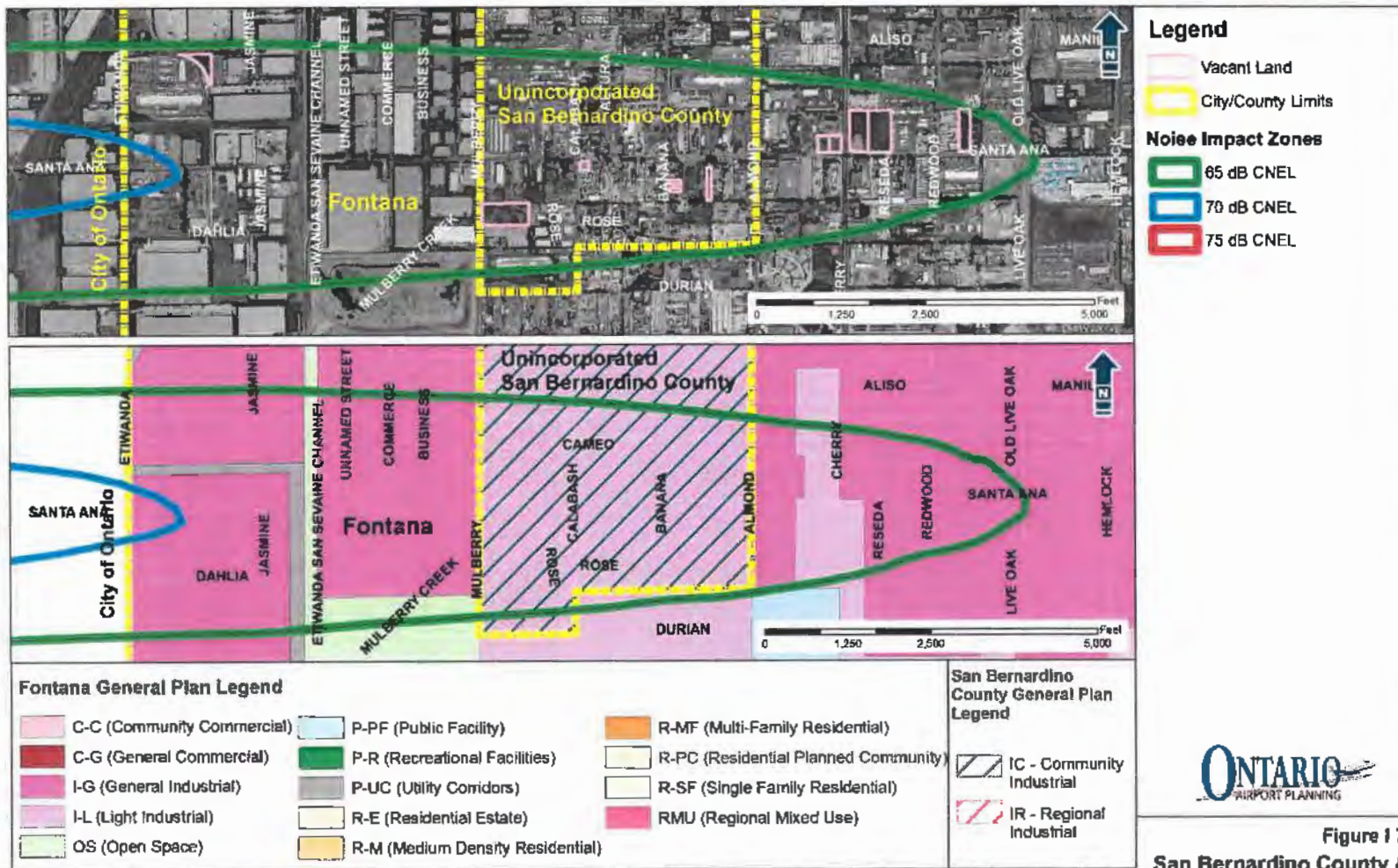


Figure 17
San Bernardino County &
Fontana's General Plan Land Use Designation and Noise Consistency Analysis

Figure 17 illustrates the results of the general plan land use consistency analysis for the City of Fontana and unincorporated areas of San Bernardino County which are in the sphere of influence of Fontana. The GIS analysis concentrated on identifying areas if any within the noise impact zone that have a residential general plan land use designation. There were no areas identified as having a residential land use designation within the noise impact zones. Therefore, there is no potential for displacement of future residential development. As shown above the land uses that fall within the noise impact zone are industrial land uses.

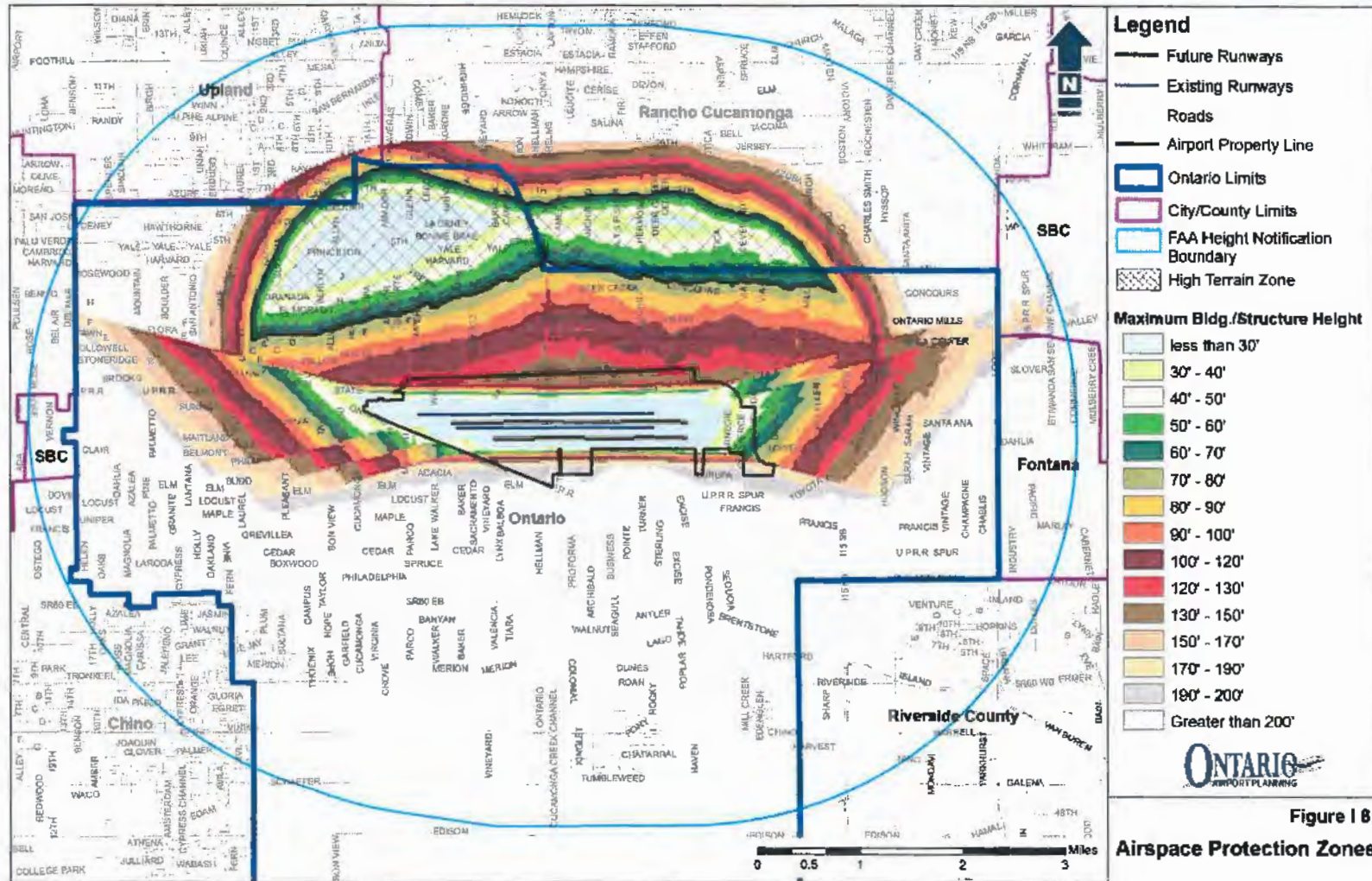


Figure 1 B illustrates allowable building heights that were calculated by utilizing FAR Part 77 standards, TERPS procedures and other FAA criteria. The airspace protection standards do not affect general plan land use designation types. These standards may require an aeronautical review by the FAA and may set height limitations on a proposed structure within the affected areas as shown above. Height limitations vary from parcel to parcel and new development throughout the affected areas must take into consideration height limitations set in place by the FAA, State of California and this compatibility plan.

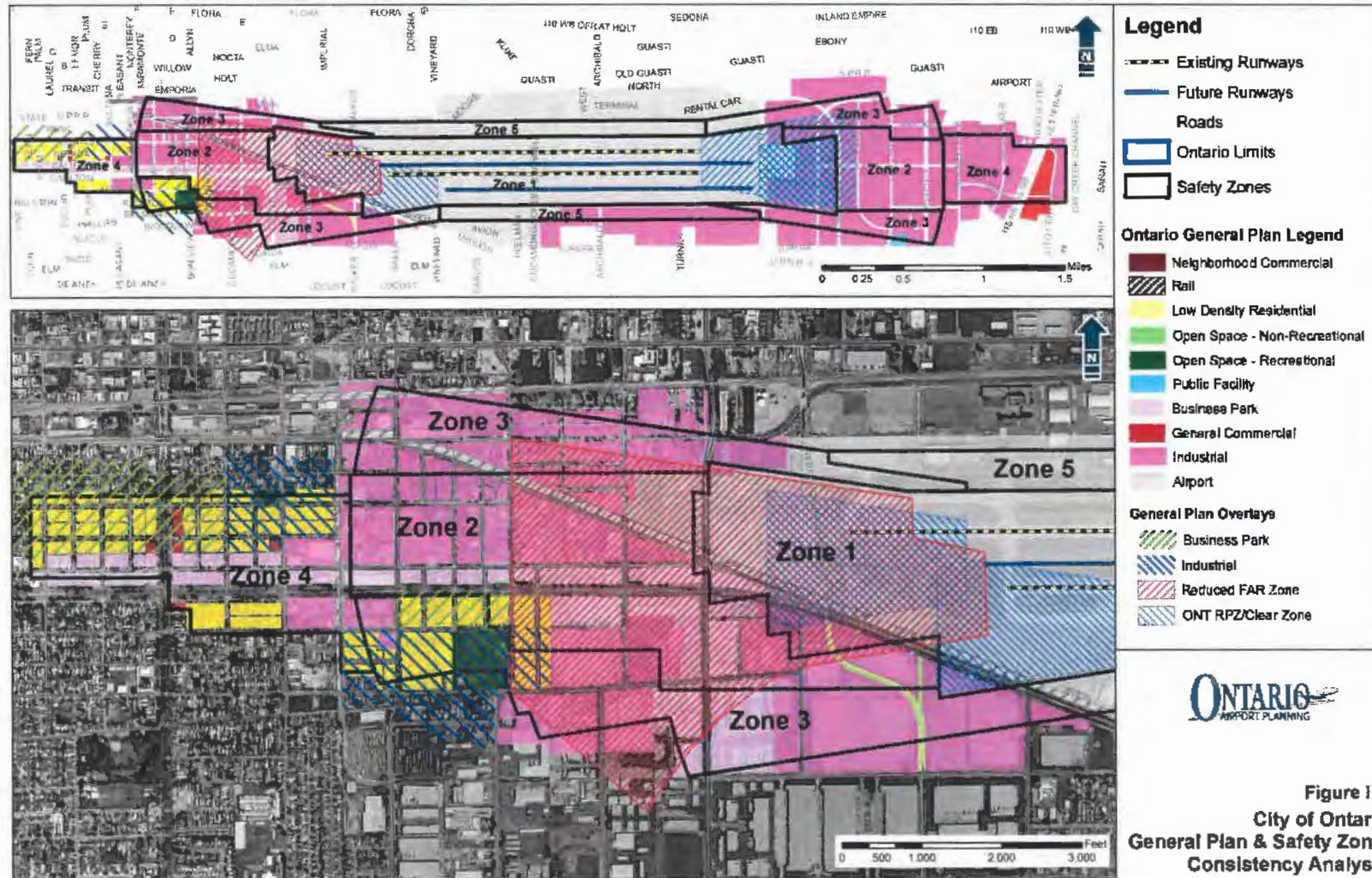


Figure 19 depicted above shows the overall extent of the safety zones within the City of Ontario. The first layer of the safety analysis began with identifying residential land use designations within the City of Ontario, since safety zone restrictions as outlined within the compatibility plan, do not support new residential development. As shown above Industrial general plan land use designations are dominant on the east side of the airport, but there were residential land uses identified on the west side of the airport.

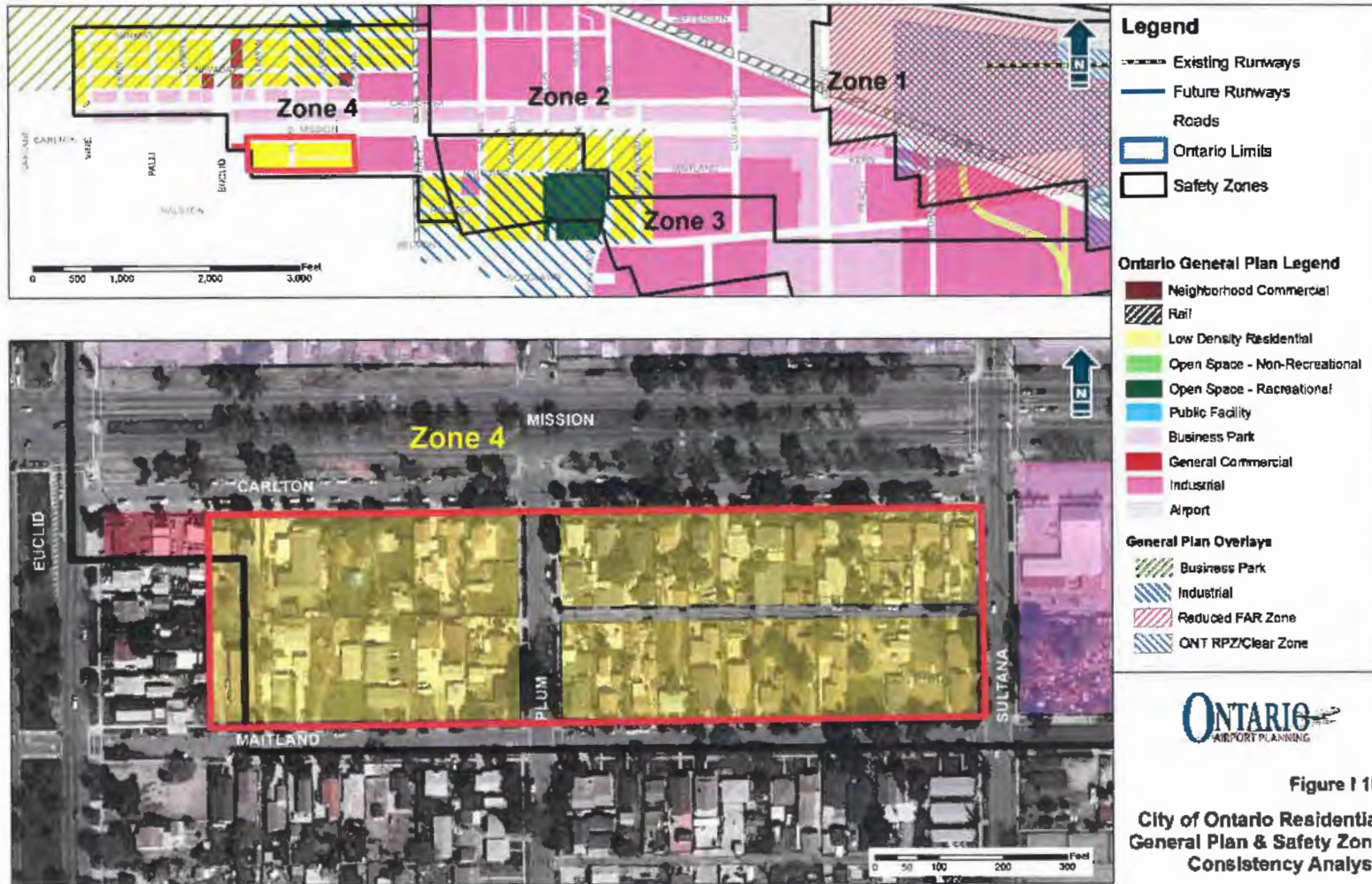


Figure I 10 depicts the second layer of the safety analysis focusing on the residential land use designations west of the airport. Some of the residential general plan designation areas shown above include an Industrial and Business Park overlay. These overlays were put in place to allow existing residential neighborhoods to transition into industrial areas over time. As shown above, area in red is developed with residential uses and therefore, there would be no displacement.

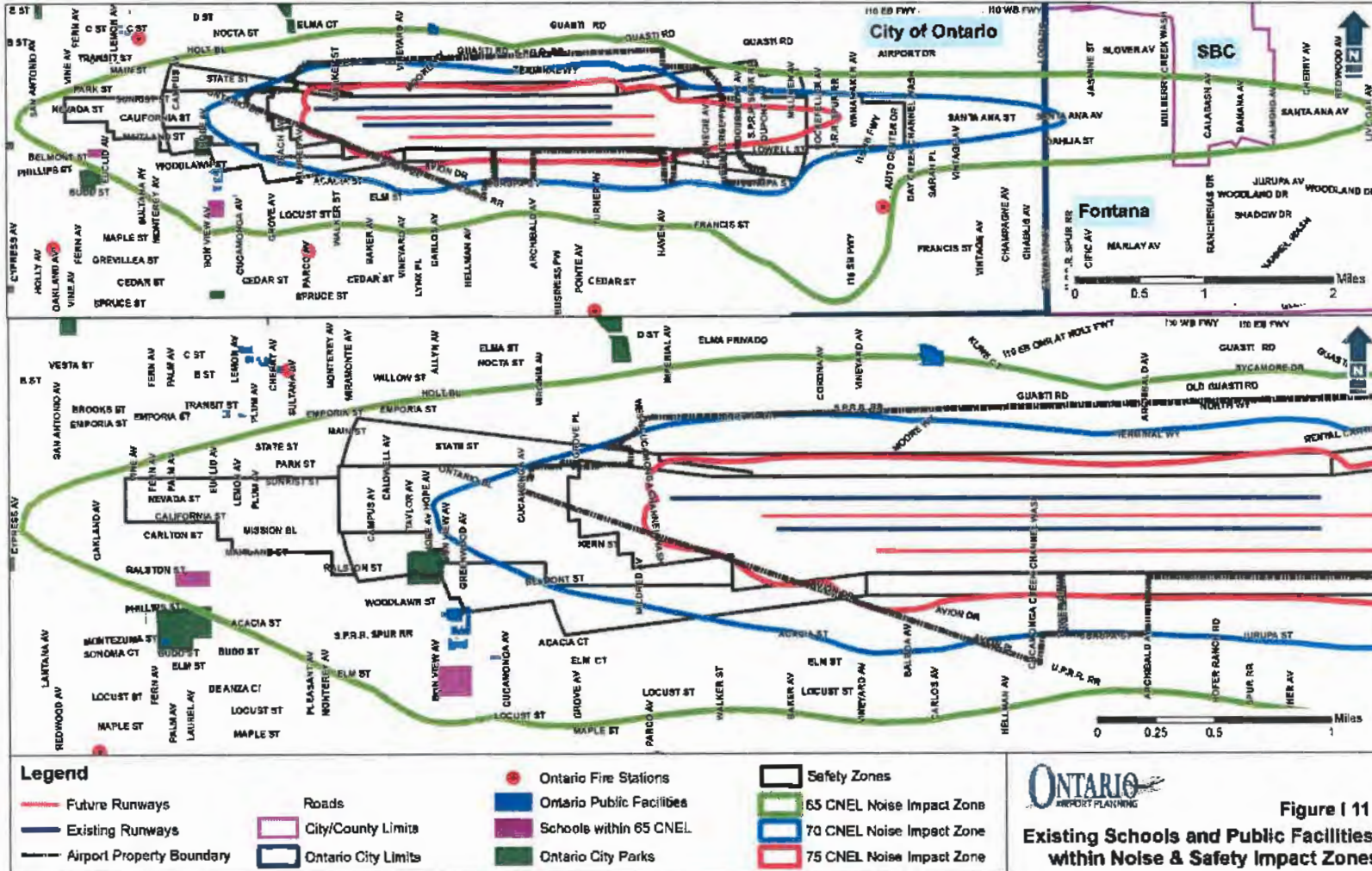


Figure I 11
Existing Schools and Public Facilities
within Noise & Safety Impact Zones

Figure I 11 depicted above shows the overall extent of the safety zones and noise impact zones in comparison to existing schools and public facilities within the City of Ontario. Consistent with state law, the compatibility plan sets policies against placing new or expanding existing schools and some public facilities within the noise and safety impact zones. This inventory shows that there are no schools currently located within the safety zones but there are two schools located within the noise impact zones, Euclid Elementary and R.O.P. Training Center .

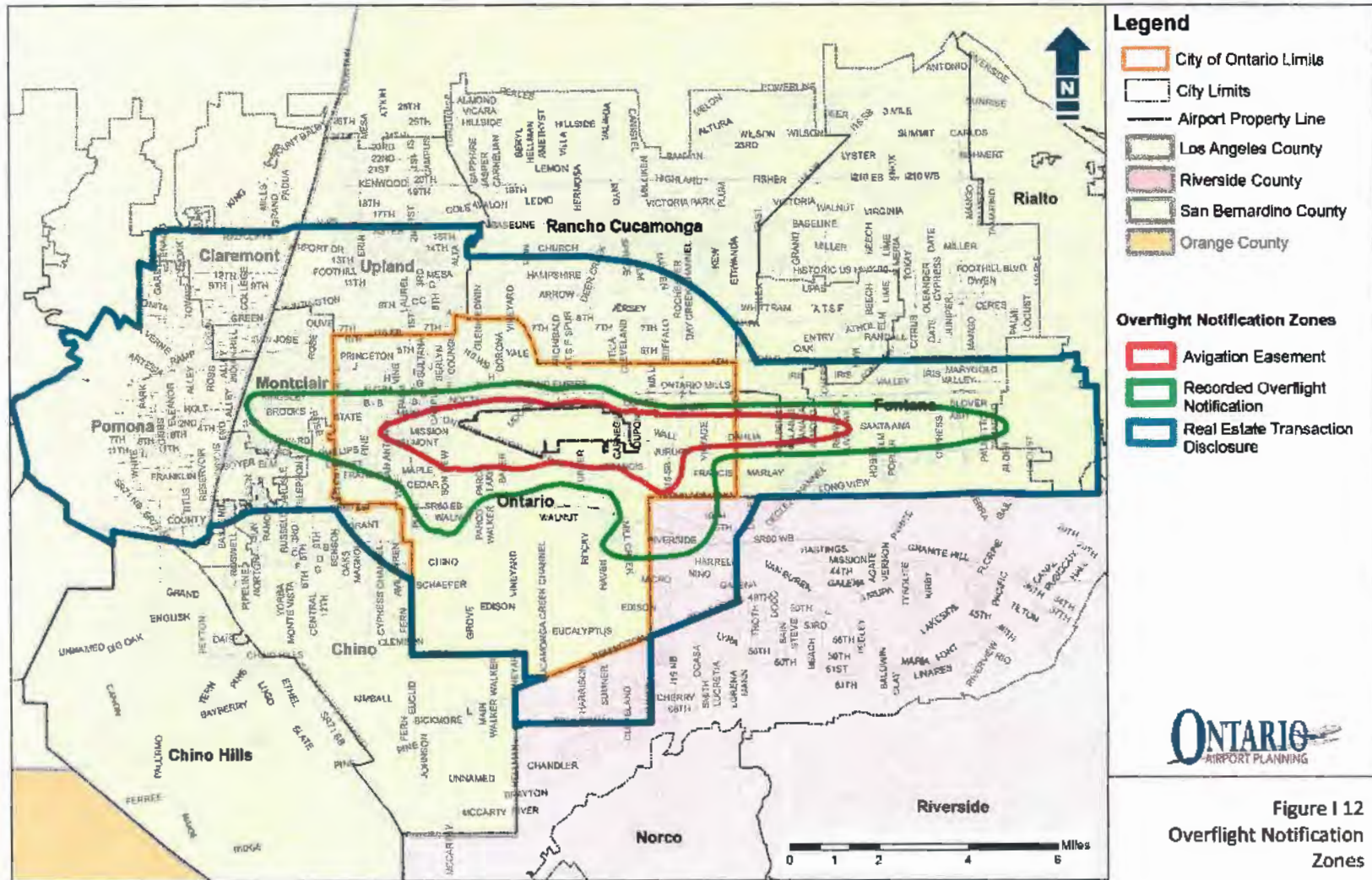


Figure I 12
Overflight Notification
Zones

Figure I 12 depicted above shows the extent of the overflight notification zones.



APPENDIX J

Introduction

Federal Aviation Administration (FAA) FAR Part 77 airspace protection regulations were designed to ensure that structures and other uses do not cause hazards to aircraft in flight within the vicinity of an airport. Hazards to flight include physical obstructions to the navigable airspace, wildlife hazards, particularly bird strikes, and land use characteristics that create visual or electronic interference with aircraft navigation or communication. Typically, proposed structures that penetrate FAR Part 77, Subpart B are considered an airspace obstruction and require an aeronautical review by the FAA. However, FAR Part 77, Subpart B, Section 77.15 of the regulations also stipulate that “FAA review is not required for new structures that would penetrate the airport’s airspace surfaces if the proposed structure would be shielded by existing structures of a permanent and substantial character of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.”

High Terrain Zone Study Area Setting

The underlying topography of an airport’s airspace imaginary surfaces can play a significant factor in determining the allowable height of a structure. Allowable heights north of ONT are reduced due to the rising terrain sloping upwards towards the San Gabriel Mountains and, in some areas, the natural terrain pierces the imaginary surfaces. The rising terrain area north of ONT, referred to as the High Terrain Zone within this study, is confined to portions of Upland, Ontario and Rancho Cucamonga. The High Terrain Zone study area is highly developed with a combination of residential, industrial and commercial land uses with a limited number of vacant parcels scattered throughout that could accommodate infill development.

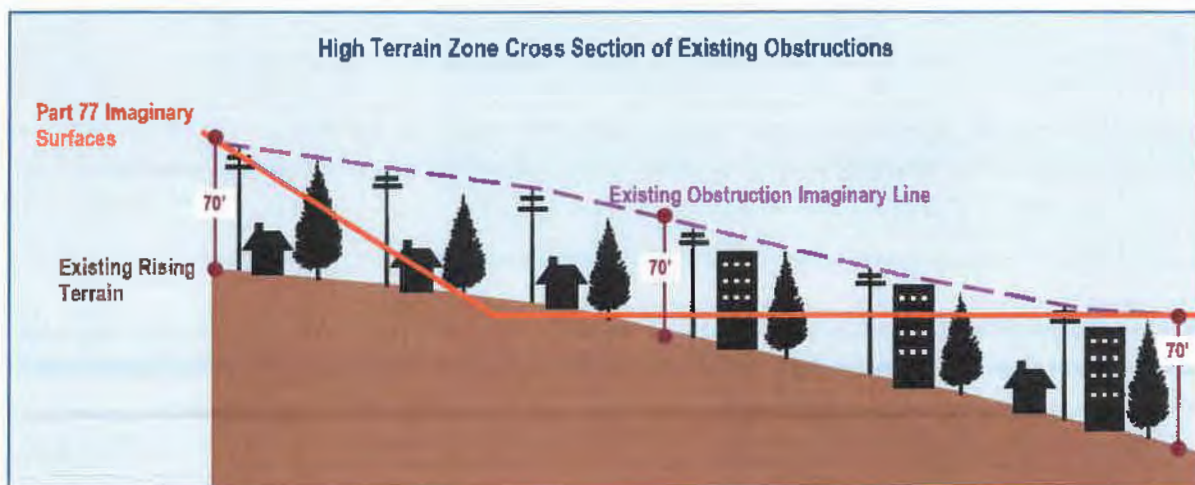
Methodology

This study utilized GIS methods and field surveys to identify existing obstructions within the High Terrain Zone study area. GIS 3D Analyst modeling techniques were utilized to calculate the allowable heights by taking the underlying ground elevation and comparing it to the elevation of the controlling portions of the FAR Part 77, TERPS, and OEI surfaces. The GIS 3D Analyst produced a 2-dimensional color-banded map with each color band representing a range of the distance, measured in vertical feet, between the ground and overlying surface. The map illustrates the allowable height range of a structure. The color coded bands are typically divided at 10 or 20 foot intervals as shown in Figure J-1. The areas north of ONT resulted in a series of concentric like elliptical shapes, with the inner-most elliptical shapes having allowable heights of less than 30

feet. The outer-most elliptical shapes have allowable heights of up to 120 feet. The 70 foot color-coded concentric elliptical shape was digitized into a shapefile and is identified as the High Terrain Zone and the project study area.

A windshield reconnaissance survey was conducted establishing that trees and Southern California Edison (SCE) power poles are the tallest objects in the vicinity. SCE was contacted for GIS pole height and location data but they did not have that data available. However, SCE did indicate that pole heights vary and SCE poles north of the airport varied in size, with some poles reaching heights greater than 80 feet. Since SCE pole data was not available, the City of Ontario conducted a sample survey of existing SCE pole heights within the High Terrain Zone study area. There were a total of 28 poles examined by City of Ontario surveyors. The City surveyors recorded an elevation height at the top and base of each pole to determine each SCE pole height. Figure J1 identifies the locations of the SCE poles surveyed and displays the allowable heights within the High Terrain Zone study area. The sample survey of SCE poles are cataloged on pages J9 - J17, showing a detail of the pole location and pole data. Figure J2 displays the entire study area and shows the location of each pole with the associated pole height labeled above its location. Figure J2 also demonstrates how existing SCE poles have heights of up to 70 feet within areas of allowable heights of less than 30 feet.

An important note to make regarding the High Terrain Zone study area is that the outermost concentric elliptical shape allows for heights of up to 70 feet and the inner most elliptical shape allows heights that are significantly reduced and, in some areas, less than 0 feet. The diagram below illustrates the rising terrain, the Part 77 imaginary airspace protection surfaces, and existing obstructions imaginary line.



This survey also focused on locating concentrations of trees that pierce the imaginary surfaces. Figures J3 and J4 show the tree locations within the public right-of-way in conjunction with the associated height range. Figures J3 and J4 reflect street tree information for the City of Ontario. The City of Rancho Cucamonga did not have GIS data available for street trees within the public

right-of-way but did provide their “Street Tree Designations per Street” document. This study relied on city street tree documents, SCE pole data and reconnaissance information to document existing airspace obstructions within the High Terrain Zone study area. The existing conditions and obstructions documented within the study area concentrated around major streets focusing on street trees, SCE Poles and any other obstructions can be found on pages J18 - J32. Street Tree information for the City of Rancho Cucamonga can be found on pages J33 - J36.

Findings/Recommendations

The City of Ontario conducted this study to document existing obstructions and help establish a threshold for new construction within the High Terrain Zone study area. Based on evidence provided in this study, it is recommended that a threshold of 70 feet be established within the High Terrain Zone study area for new construction due to the height of existing obstructions, which is consistent with FAR Part 77, Subpart B, Section 77.15. Therefore, a proposed structure of up to 70 feet in height (subject to local agency zoning limits) within the High Terrain Zone Study Area should be exempt from FAA aeronautical reviews.

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Pole ID	1
Pole #	748823E
Pole Height	53.10 ft
Pole MSL	1085.85 Top 1032.75 Base

Notes:



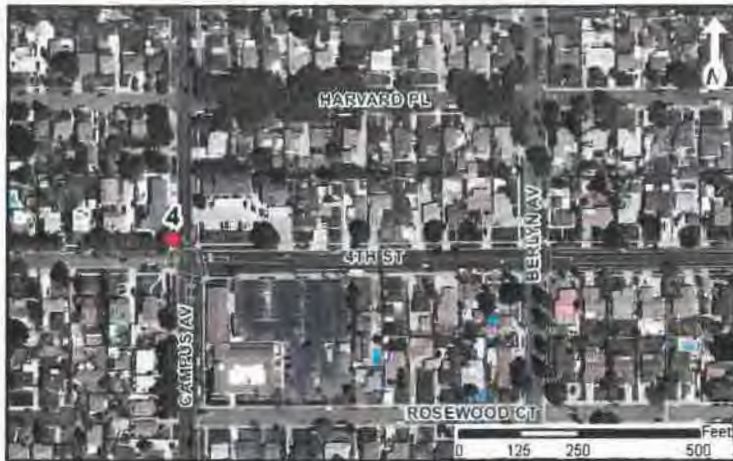
Pole ID	2
Pole #	748842
Pole Height	44.63 ft
Pole MSL	1148.46 Top 1103.83 Base

Notes:



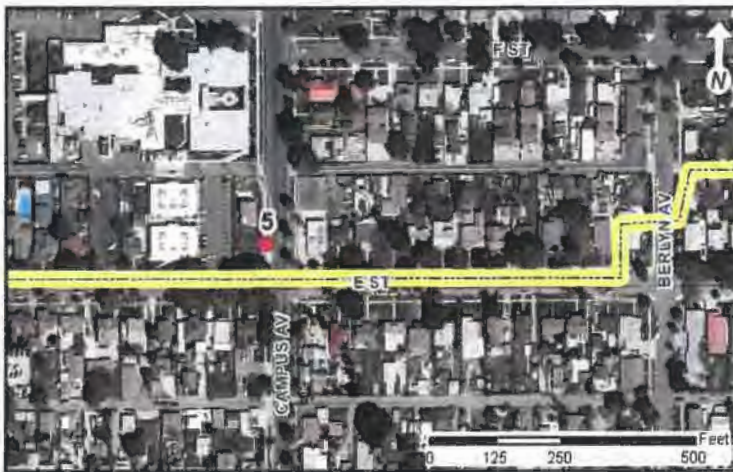
Pole ID	3
Pole #	4387034E
Pole Height	70.07 ft
Pole MSL	1210.42 Top 1140.35 Base

Notes:



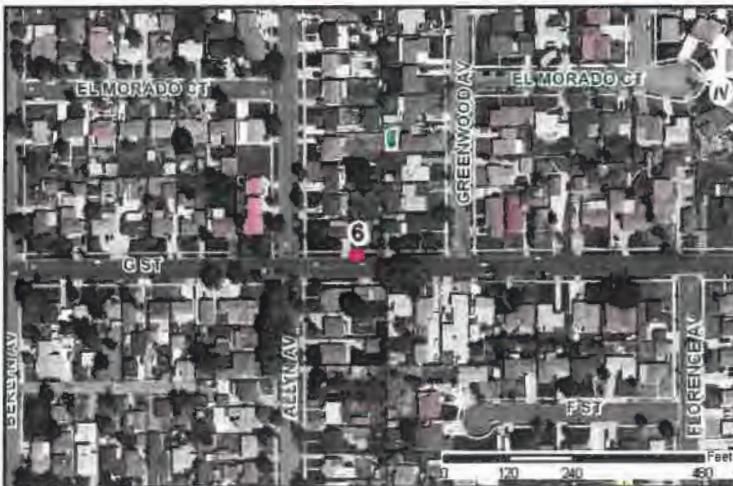
Pole ID	4
Pole #	870510E
Pole Height	68.93 ft
Pole MSL	1155.20 Top 1086.27 Base

Notes:



Pole ID	5
Pole #	1683056E
Pole Height	61.23 ft
Pole MSL	1086.77 Top 1025.54 Base

Notes:



Pole ID	6
Pole #	H4214V
Pole Height	34.19 ft
Pole MSL	1069.04 Top 1034.85 Base

Notes:



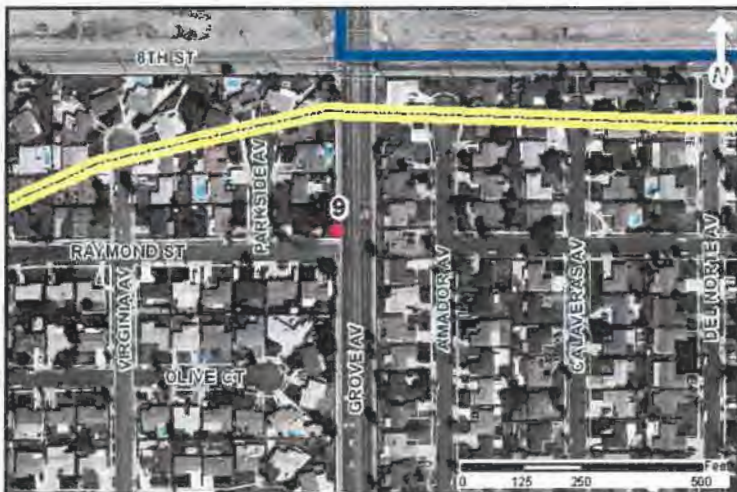
Pole ID	7
Pole #	1986184E
Pole Height	63.38 ft
Pole MSL	1194.70 Top 1131.32 Base

Notes:



Pole ID	8
Pole #	4310171E
Pole Height	48.44 ft
Pole MSL	1206.83 Top 1158.39 Base

Notes:



Pole ID	9
Pole #	1138368E
Pole Height	43.13 ft
Pole MSL	1202.98 Top 1159.85 Base

Notes:



Pole ID	10
Pole #	1527073E
Pole Height	56.26 ft
Pole MSL	1145.28 Top 1089.02 Base

Notes:



Pole ID	11
Pole #	1240442E
Pole Height	47.83 ft
Pole MSL	1119.37 Top 1071.54 Base

Notes:



Pole ID	12
Pole #	987288E
Pole Height	37.44 ft
Pole MSL	1085.18 Top 1047.72 Base

Notes:



Pole ID	13
Pole #	4568409E
Pole Height	38.84 ft
Pole MSL	1062.76 Top 1023.92 Base

Notes:



Pole ID	14
Pole #	H30853Y
Pole Height	38.71 ft
Pole MSL	1094.89 Top 1056.18 Base

Notes:



Pole ID	15
Pole #	309726E
Pole Height	69.42 ft
Pole MSL	1165.93 Top 1096.51 Base

Notes:



Pole ID	16
Pole #	H16749Y
Pole Height	37.87 ft
Pole MSL	1164.81 Top 1126.94 Base

Notes:



Pole ID	17
Pole #	4270031E
Pole Height	67.50 ft
Pole MSL	1157.08 Top 1089.58 Base

Notes:



Pole ID	18
Pole #	4439574E
Pole Height	71.78 ft
Pole MSL	1108.87 Top 1037.09 Base

Notes:



Pole ID	19
Pole #	4568409E
Pole Height	64.68 ft
Pole MSL	1122.78 Top 1058.10 Base

Notes:



Pole ID	20
Pole #	452282E
Pole Height	46.00 ft
Pole MSL	1124.13 Top 1078.13 Base

Notes:



Pole ID	21
Pole #	4168379E
Pole Height	80.38 ft
Pole MSL	1084.82 Top 1024.44 Base

Notes:



Pole ID	22
Pole #	4072044E
Pole Height	64.92 ft
Pole MSL	1134.83 Top 1069.91 Base

Notes:



Pole ID	23
Pole #	4428319E
Pole Height	60.86 ft
Pole MSL	1091.88 Top 1031.02 Base

Notes:



Pole ID	24
Pole #	4024696E
Pole Height	49.18 ft
Pole MSL	1078.32 Top 1029.14 Base

Notes:



Pole ID	25
Pole #	1377501E
Pole Height	58.64 ft
Pole MSL	1147.25 Top 1088.61 Base

Notes:



Pole ID	26
Pole #	4246899E
Pole Height	47.49 ft
Pole MSL	1114.70 Top 1067.21 Base

Notes:



Pole ID	27 28
Pole #	4632148E 4087861E
Pole Height	60.83 ft 56.75 ft
Pole MSL	1089.55 Top 1028.72 Base 1092.20 Top 1035.45 Base





Notes:

G Looking South on Campus Ave at H Street Intersection



H Looking East on 6th Street on Campus Ave Intersection



I Looking West on Yale St at Campus Ave Intersection



J Looking West on Princeton St at Campus Ave Intersection



K Looking East on 4th St at Campus Ave Intersection



L Looking East on F St at Campus Ave Intersection



Notes:

M Looking North on Campus Ave at E St Intersection



N Looking West on Granada Ct at Berlyn Ave Intersection



O Looking West on 5th St at Berlyn Ave Intersection



P Looking South on Berlyn Ave at 6th St Intersection



Q Looking East on 7th St at 11th Ave Intersection



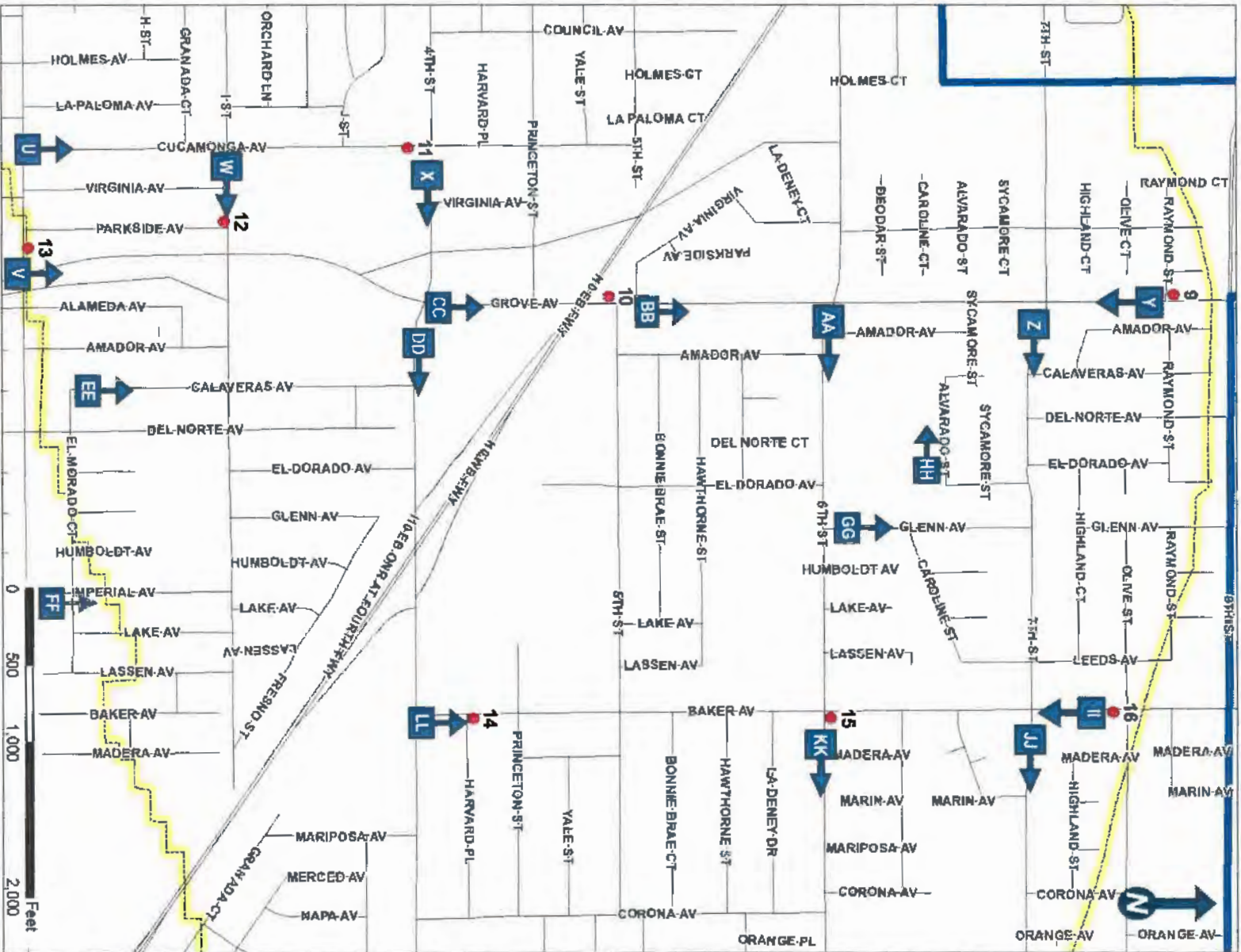
R Looking East on 6th St near Hope Ave Intersection



Notes:



Notes:





Notes:

EE Looking North on Calaveras Ave at El Morado Ct Intersection



FF Looking North on Imperial Ave at El Morado Ct Intersection



GG Looking North Glenn Ave at 6th St Intersection



HH Looking West on Alvarado St



II Looking South on Baker Av at Olive St Intersection



JJ Looking East on 7th St at Baker Av Intersection



Notes:



Notes:

KK Looking East on 6th St at Baker Ave Intersection



LL Looking North on Baker Ave at 4th St Intersection



MM Looking South on Sacramento Ave at 4th St Intersection



NN Looking North on Vineyard Ave at Jay St Intersection



OO Looking East on 5th St at Vineyard Ave Intersection



PP Looking East on 6th St at Vineyard Ave intersection



Notes:



QQ Looking West on 5th St at Vineyard Ave Intersection



RR Looking South on Vineyard Ave at 7th St Intersection



SS Looking East on 6th St at Cucamonga Canyon Wash Bridge



TT Looking South on Archibald Ave near 7th St Intersection



UU Looking East on 6th St at Archibald Ave Intersection



VV Looking North on Archibald Ave at 4th St Intersection



Notes:

WW Looking East on 4th St at Turner Ave Intersection



XX Looking North on Hermosa Ave at 4th St Intersection



YY Looking South on Hermosa Ave near 6th St Intersection



ZZ Looking North on Haven Ave at 4th St Intersection



AAA Looking East on 4th St at Haven Ave Intersection



BBB Looking South on Haven Ave at 7th St Intersection



Notes:

CCC Looking West on 6th St at Cleveland Ave Intersection



DDD Looking North on Cleveland Ave at 4th St Intersection



EEE Looking North on Milliken Ave at 4th St Intersection



FFF Looking West on 4th St at Milliken Ave Intersection



GGG Looking South on Milliken at 5th St Intersection



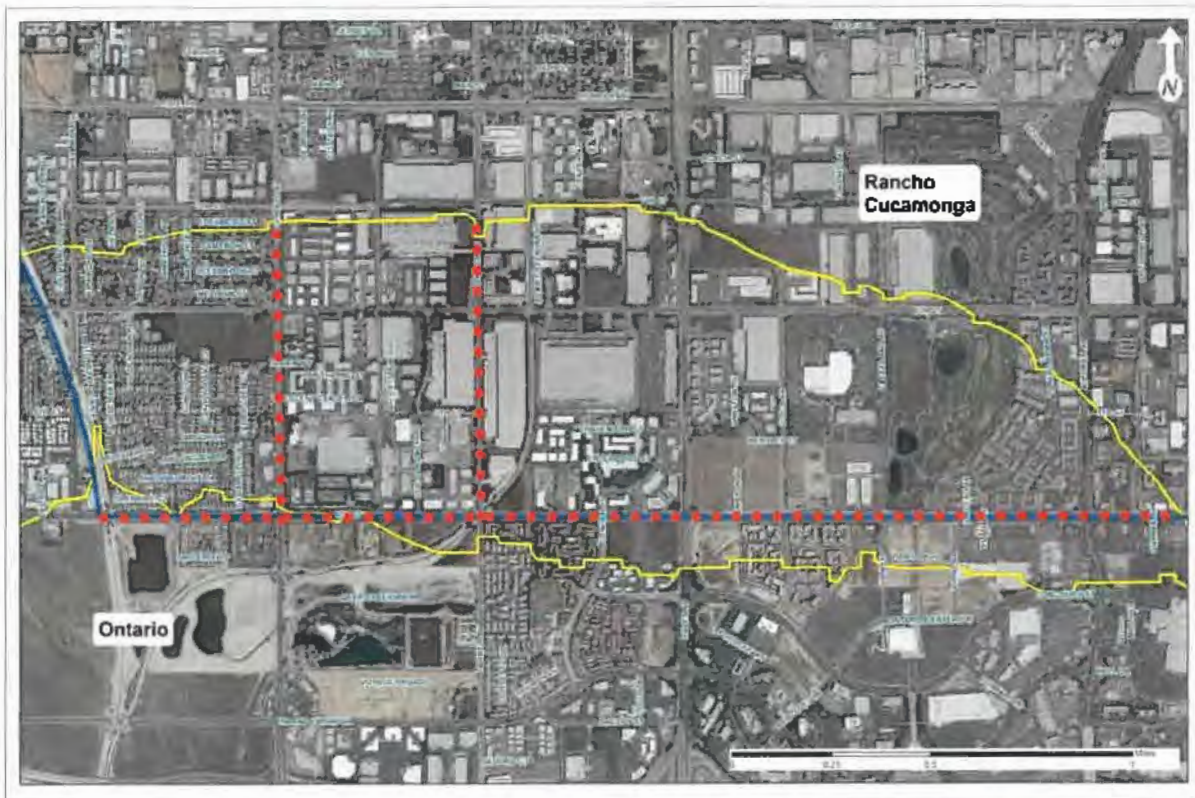
Notes:

Rancho Cucamonga Street Tree Information

Common Name:	London Plane Tree
Botanical Name:	Platanus acerifolia
Mature Height Range:	40 ft - 80 ft
Spread:	30 ft - 40 ft



The map below identifies the streets where the London Plane Tree can be found within the City of Rancho Cucamonga. Tree information was obtained from the *Sunset Western Garden Book*.

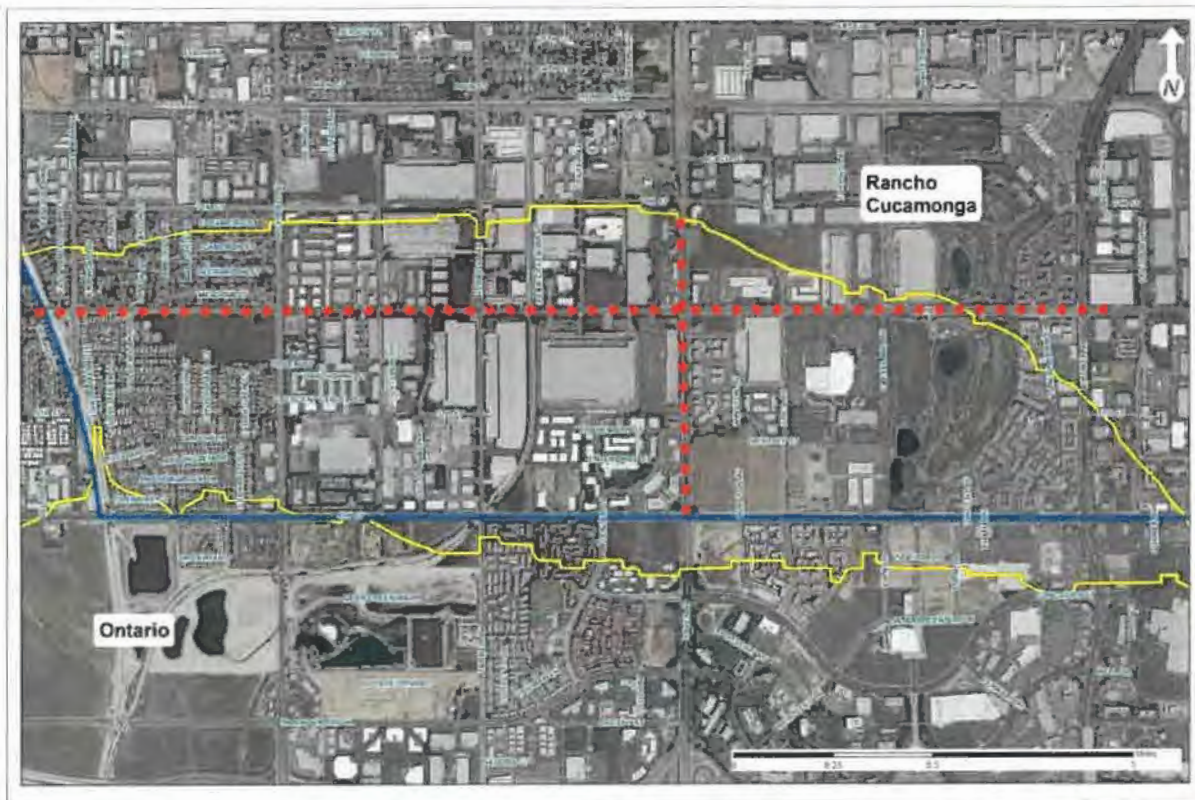


Rancho Cucamonga Street Tree Information

Common Name:	n/a
Botanical Name:	Magnolia Grandiflora 'Majestic Beauty'
Mature Height Range:	35 ft - 50 ft
Spread:	20 ft



The map below identifies the streets where the Magnolia Grandiflora can be found within the City of Rancho Cucamonga. Tree information was obtained from the *Sunset Western Garden Book*.



Rancho Cucamonga Street Tree Information

Common Name:	Bottle Tree
Botanical Name:	Brachychiton populneus
Mature Height Range:	30 ft - 50 ft
Spread:	30 ft



The map below identifies the streets where the Bottle Tree can be found within the City of Rancho Cucamonga. Tree information was obtained from the *Sunset Western Garden Book*.



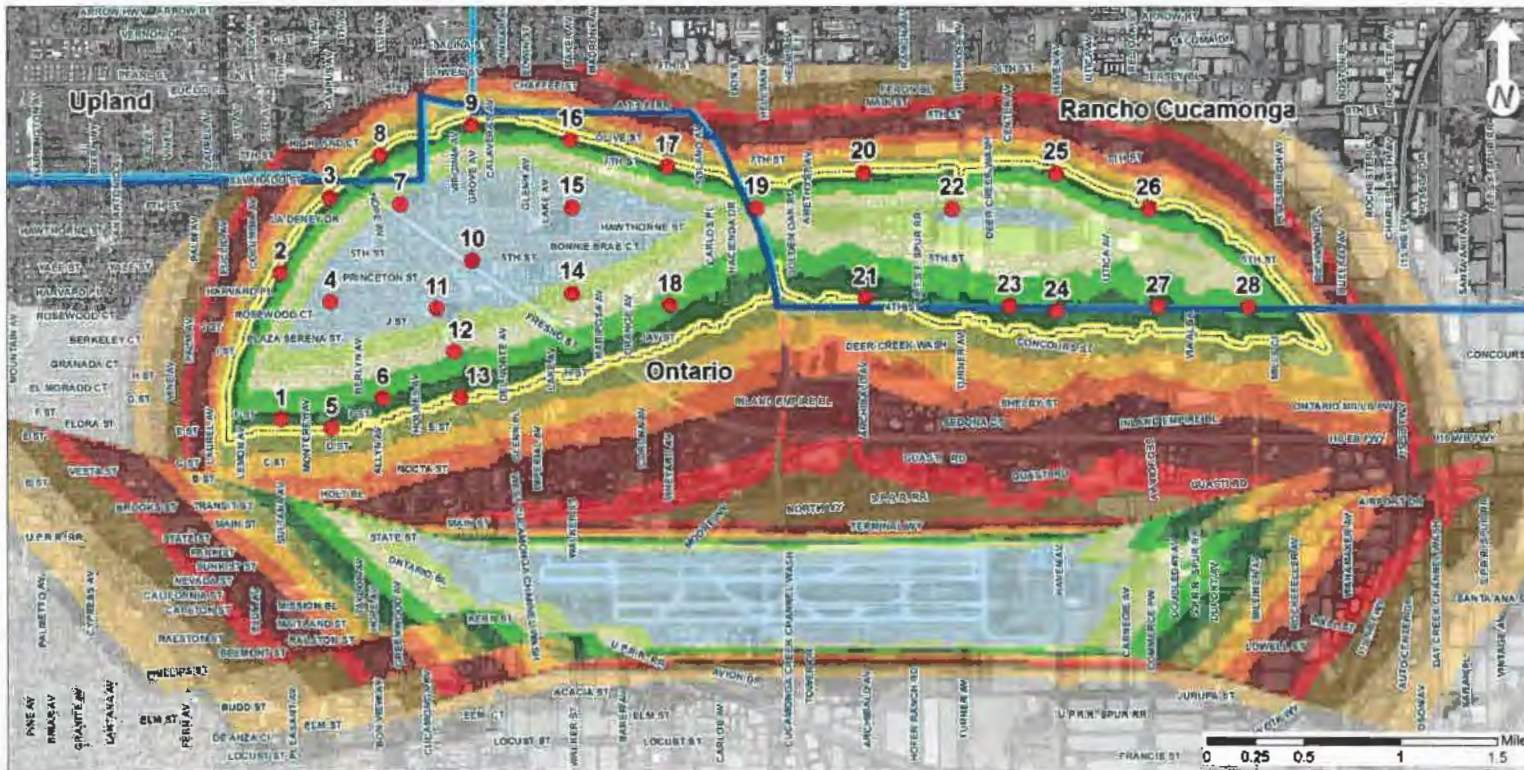
Rancho Cucamonga Street Tree Information

Common Name:	Canary Island Pine
Botanical Name:	Pinus canariensis
Mature Height Range:	50 ft - 80 ft
Spread:	20 ft - 35 ft



The map below identifies the streets where the Canary Island Pine can be found within the City of Rancho Cucamonga. Tree information was obtained from the *Sunset Western Garden Book*.





This figure, J1 shows the geographic location of each SCE Pole surveyed and outlines the High Terrain Zone study area. This figure also illustrates the results of the GIS 3D Analyst which calculated the allowable heights by taking the underlying ground elevation and comparing it to the elevation of the FAR Part 77, TERPS, and OEI surfaces. The 2-dimensional map produced a color banded map, with each color band representing a range of allowable heights.

Also, included as part of this exhibit is the table below which lists the average SCE pole separation on the major streets, where SCE poles were surveyed. The distance between SCE poles within the study area range from 100ft to 200ft apart. Although, the map only shows the location of poles surveyed, there is a multiple number of obstructions within the study area that are no more than 200 feet apart.

Legend

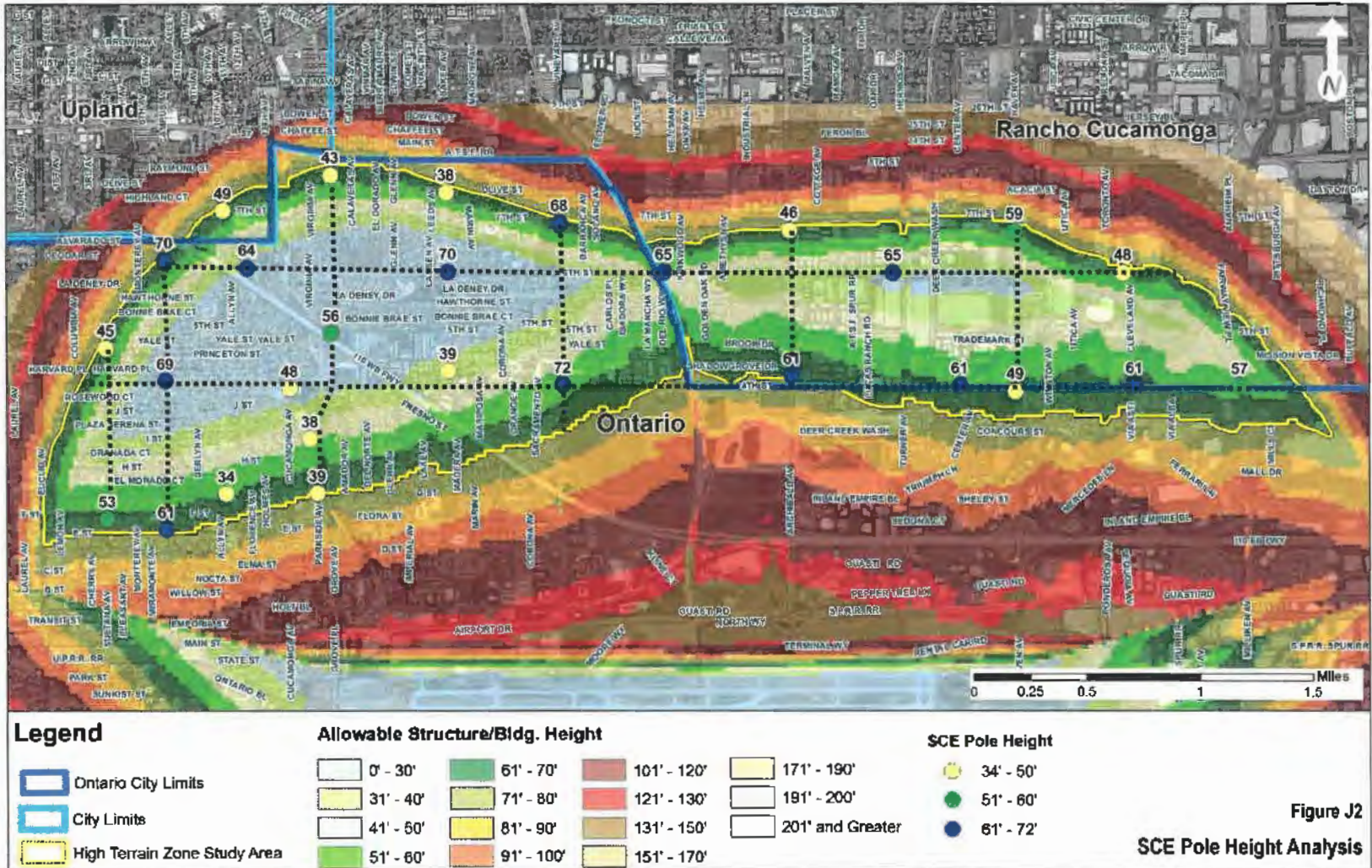
- SCE Pole Locations
 - ▭ Ontario City Limits
 - ▭ City Limits
 - ▭ High Terrain Zone Study Area
- Allowable Structure/Bldg. Height**
- | | | | |
|-----------|------------|-------------|------------------|
| 0' - 30' | 61' - 70' | 101' - 120' | 171' - 190' |
| 31' - 40' | 71' - 80' | 121' - 130' | 191' - 200' |
| 41' - 50' | 81' - 90' | 131' - 150' | 201' and Greater |
| 51' - 60' | 91' - 100' | 151' - 170' | |

Figure J1

High Terrain Zone Study Area & SCE Pole Locations

Street Name (Orientation)	Pole separations (average in feet)
Sufiana Avenue (North - South)	130 ft - 200 ft
Campus Avenue (North - South)	120 ft - 200 ft
Grove Avenue (North - South)	100ft - 150 ft
Vineyard Avenue (North - South)	200ft
Archibald Avonue (North - South)	150 ft - 200 ft
Haven Avenue (North - South)	150 ft
Sixth Street (East - West)	100ft - 230 ft
Fourth Street (East - West)	120ft - 190 ft

Figure J2, shows the geographic location of each SCE pole and its associated surveyed height. This figure only illustrates the location of poles surveyed, SCE pole distances were also examined and are listed on Figure J1. Although, this map does not show each SCE pole obstruction there is a multiple number of obstructions within the study area that are no more than approximately 200 feet apart. Also, the black dashed lines on the map highlight the major streets that were examined as part of this study.



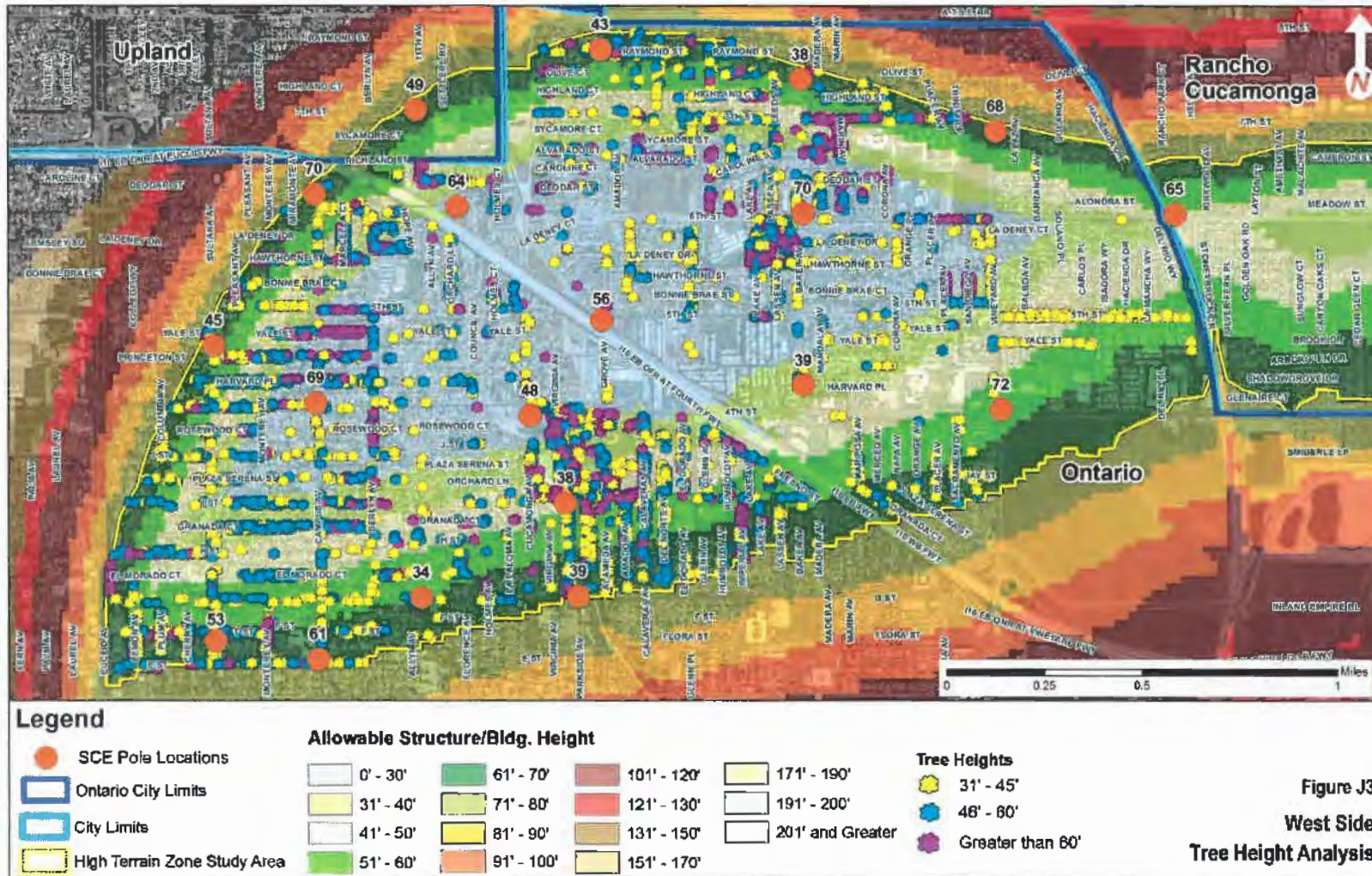


Figure J3. focuses on street trees within the public-right-of-way in conjunction with their associated heights. This map also includes SCE pole locations and surveyed height.

This figure also demonstrates the concentration of established street trees within areas of the western portion of the high terrain zone study area.

Figure J4, focuses on street trees within the public-right-of-way on the eastern half of the High Terrain Zone study area in conjunction with their associated heights. This figure only concentrates on street tree information for the City of Ontario. Information on street trees for the City of Rancho Cucamonga is provided on pages J33 - J36 of this appendix.

