

**CITY OF ONTARIO  
CITY COUNCIL AND HOUSING AUTHORITY  
AGENDA  
SEPTEMBER 1, 2020**

**Paul S. Leon**  
Mayor

**Debra Dorst-Porada**  
Mayor pro Tem

**Alan D. Wapner**  
Council Member

**Jim W. Bowman**  
Council Member

**Ruben Valencia**  
Council Member



**Scott Ochoa**  
City Manager

**Ruben Duran**  
City Attorney

**Sheila Mautz**  
City Clerk

**James R. Milhiser**  
Treasurer

**SPECIAL AND URGENT NOTICE**

In accordance with the Governor's Declarations of Emergency for the State of California (Executive Orders N-25-20 and N-29-20), the Ontario City Council Meetings are being conducted via teleconference to limit in-person attendance at the upcoming meeting of the City of Ontario City Council and Housing Authority.

Members of the public may utilize alternative measures established by the City of Ontario to view the City Council meetings and/or to address the Mayor and City Council Members.

The meeting will be live broadcast on local cable Channel 3 as well as live streamed at: [www.ontarioca.gov/Agendas/CityCouncil](http://www.ontarioca.gov/Agendas/CityCouncil), [YouTube.com/CityofOntario](https://www.youtube.com/CityofOntario); or Zoom.

**TO PROVIDE PUBLIC COMMENT:** Those wishing to speak during the "Public Comment" portion for any Closed Session item must call 909-395-2900 between 5:45 p.m. and 6:00 p.m. the day of the meeting. Those wishing to speak during the "Public Comment" portion of the meeting or any item on "Consent Calendar" must call 909-395-2900 between 6:00 p.m. and 6:30 p.m. the day of the meeting.

**TO COMMENT BY E-MAIL:** Submit your comments by email no later than 4:00 p.m. on the day of the meeting by emailing your name, agenda item you are commenting on and your comments to [publiccomments@ontarioca.gov](mailto:publiccomments@ontarioca.gov) . All comments received by the deadline will be forwarded to the City Council for consideration before action is taken on the matter.

**TO COMMENT BY MAIL:** To submit your comments by mail, provide your name, agenda item you are commenting on, and your comments by mailing to Records Management, Ontario City Hall, 303 East “B” Street, Ontario, CA 91764. Comments by mail must be received in the Records Management Department no later than 4:00 p.m. on the day of the meeting. Postmarks are not accepted. All comments received by the deadline will be provided to the City Council for consideration before action is taken on the matter.

We appreciate your understanding during this unprecedented time of social distancing under the Emergency Declaration Order. These procedures may be modified in the future as social and public gathering protocols change.

**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 provide public comment or to address the City Council have been provided alternative measures including U.S. mail, email, a website comment form, and the ability to call in and speak to the City Council. All public comments received by the established deadline for this meeting will be included as part of the official meeting record.

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.

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

**CALL TO ORDER (OPEN SESSION)**

**6:00 p.m.**

**ROLL CALL**

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

**CLOSED SESSION PUBLIC COMMENT**

Members of the public who wish to address a closed session agenda item may do so by mailing comments to the City Clerk's Office, or by calling (909) 395-2900 between 5:45 - 6:00 p.m. or by emailing [PublicComments@ontarioca.gov](mailto:PublicComments@ontarioca.gov) no later than 4:00 p.m. on the day of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests.

**CLOSED SESSION**

- GC 54957, PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Title: City Manager

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

**PLEDGE OF ALLEGIANCE**

Council Member Wapner

**INVOCATION**

**REPORT ON CLOSED SESSION**

City Attorney

**PUBLIC COMMENTS**

**6:30 p.m.**

Members of the public who wish to provide a general comment or address a specific agenda item may do so by mailing comments to the City Clerk's Office, or by calling (909) 395-2900 between 6:00 – 6:30 p.m. for "Consent Calendar" items or by emailing [PublicComments@ontarioca.gov](mailto:PublicComments@ontarioca.gov) no later than 4:00 p.m. on the day of the meeting. Under provisions of the Brown Act, Council is prohibited from taking action on oral requests.

**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 and Housing Authority of August 4, 2020, approving same as on file in the Records Management Department.

### **2. BILLS/PAYROLL**

**Bills** July 31, 2020 through August 13, 2020 and **Payroll** July 19, 2020 through August 1, 2020, when audited by the Finance Committee.

### **3. AN ORDINANCE REPEALING URGENCY ORDINANCE NO. 3163, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL AND COMMERCIAL TENANTS, AND ENACTING A MORATORIUM ON RESIDENTIAL FORECLOSURES DUE TO LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC**

That the City Council consider and adopt an ordinance that repeals City of Ontario Ordinance No. 3163 for the purpose of winding down the City's existing temporary regulations on the eviction of storage unit patrons experiencing a loss of income due to the COVID-19 pandemic; and places a sunset date on the City's moratorium on eviction of residential and commercial tenants as well as residential foreclosures.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, REPEALING URGENCY ORDINANCE NO. 3163, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL AND COMMERCIAL TENANTS, AND ENACTING A MORATORIUM ON RESIDENTIAL FORECLOSURES DUE TO LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC.

**4. RECOGNITION OF SEPTEMBER 2020 AS ONTARIO PREPAREDNESS MONTH**

That the City Council recognize the month of September 2020 as Ontario Preparedness Month in the City of Ontario.

**5. A CONSTRUCTION CONTRACT FOR TWO NEW TRAFFIC SIGNAL SYSTEMS AT THE INTERSECTIONS OF MCCLEVE WAY/PARKPLACE AVENUE AT MERRILL AVENUE AND COLONIAL AVENUE AT RIVERSIDE DRIVE/KDC, INC. DBA DYNALECTRIC**

That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) with KDC, Inc. dba Dynalectric of Los Alamitos, California, for the construction of two new traffic signal systems at the subject intersections in the bid amount of \$550,957 plus a fifteen percent (15%) contingency of \$82,644 for a total authorized expenditure of \$633,601; authorize the City Manager to execute said contract and all related documents and file a notice of completion at the conclusion of all construction activities.

**6. RESOLUTION APPROVING FINAL PARCEL MAP NO. 19936 LOCATED AT 5171 EAST FRANCIS STREET**

That the City Council adopt a resolution approving Final Parcel Map No. 19936 located at 5171 East Francis Street.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL PARCEL MAP NO. 19936 LOCATED AT 5171 FRANCIS STREET.

**7. AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 3131 LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES)**

That the City Council consider and adopt an ordinance amending and restating Ordinance No. 3131 authorizing the levy of special taxes within City of Ontario Community Facilities District No. 40 (Emerald Park Facilities).

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING AND RESTATING ORDINANCE NO. 3131, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES).

**8. ONTARIO HOUSING AUTHORITY ANNUAL REPORT FOR FISCAL YEAR 2019-20**

That the Board of the Ontario Housing Authority (“OHA”) approve the OHA Annual Report for the Fiscal Year 2019-20 (“OHA Annual Report”) (on file in the Records Management Department) and authorize the Executive Director of the OHA to transmit to the California Department of Housing and Community Development the OHA Annual Report as required by State law.

**9. AN INFORMATIONAL REPORT CONCERNING THE CURRENT DEMOGRAPHICS OF THE CITY OF ONTARIO**

That the City Council receive an informational report (on file in the Records Management Department) concerning the current demographics of the City of Ontario.

**10. APPROVAL OF ALLOCATION AND SPENDING PLAN FOR THE BUREAU OF JUSTICE ASSISTANCE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM FOR FY 2020**

That the City Council approve and authorize the City Manager to execute all documents necessary to participate in the Bureau of Justice Assistance (BJA) Edward Byrne Memorial Justice Assistance Grant (JAG) Program and approve the proposed \$39,860 grant spending plan.

**11. A PROFESSIONAL SERVICES AGREEMENT FOR BOOKING, JAIL AND TRANSPORTATION SERVICES/G4S SECURE SOLUTIONS (USA), INC.**

That the City Council approve and authorize the City Manager, or his designee, to negotiate and execute a three-year Professional Services Agreement with G4S Secure Solutions (USA), Inc of Jupiter, Florida for booking, jail, and transportation services for the Police Department.

**12. AWARD OF A CONSTRUCTION CONTRACT FOR THE FIRE STATION NO. 9 OFFSITE IMPROVEMENTS/BOUDREAU PIPELINE**

That the City Council take the following actions:

- (A) Reject Kern Construction’s bid for D&C19-005FS09 Offsites as being nonresponsive;
- (B) Authorize the City Manager to execute Construction Contract No. D&C19-005 FS09 Offsites (on file in the Records Management Department) with Boudreau Pipeline of Norco, California, for the construction of street and traffic signal improvements required for the development of Fire Station No. 9 in the amount of \$2,173,971;
- (C) Authorize a 15% contingency of \$326,096 to address any unforeseen issues that may arise during construction;

- (D) Establish an umbrella contingency of pooled Fire Station No. 9 contingencies and reserves; and
- (E) Authorize the City Manager or his designee to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

## **ADMINISTRATIVE REPORTS/DISCUSSION/ACTION**

### **13. ESTABLISHMENT OF POSITION CLASSIFICATION FOR EXECUTIVE DIRECTOR COMMUNITY DEVELOPMENT AND MODIFY AND APPROVE SALARY RANGE COMPENSATION FOR UTILITIES COMPANY GENERAL MANAGER**

That the City Council approve the establishment of the new executive position classification of Executive Director Community Development and associated salary range to reflect expansion of job scope and responsibilities; and approve a proposed base salary range modification for the Utilities General Manager to minimize disparity with salary ranges as compared to similarly situated classifications as well as maintain the City's competitiveness in attracting and retaining highly qualified individuals.

## **STAFF MATTERS**

City Manager Ochoa

## **COUNCIL MATTERS**

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

## **ADJOURNMENT**

**CITY OF ONTARIO  
CLOSED SESSION REPORT**  
City Council // Housing Authority // Other // (GC 54957.1)  
**September 1, 2020**

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

**STAFF:** City Manager / Executive Director \_\_, City Attorney \_\_

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

- GC 54957, PUBLIC EMPLOYEE PERFORMANCE EVALUATION, Title: City Manager

<b>No Reportable Action</b>	<b>Continue</b>	<b>Approved</b>
/ /	/ /	/ /

Disposition: \_\_\_\_\_

Reported by:

\_\_\_\_\_  
City Attorney / City Manager / Executive Director



# CITY OF ONTARIO

Agenda Report  
September 1, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN ORDINANCE REPEALING URGENCY ORDINANCE NO. 3163, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL AND COMMERCIAL TENANTS, AND ENACTING A MORATORIUM ON RESIDENTIAL FORECLOSURES DUE TO LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC**

**RECOMMENDATION:** That the City Council consider and adopt an ordinance that repeals City of Ontario Ordinance No. 3163 for the purpose of winding down the City's existing temporary regulations on the eviction of storage unit patrons experiencing a loss of income due to the COVID-19 pandemic; and places a sunset date on the City's moratorium on eviction of residential and commercial tenants as well as residential foreclosures.


**COUNCIL GOALS:** Maintain the Current High Level of Public Safety  
Operate in a Businesslike Manner  
Focus Resources in Ontario's Commercial and Residential Neighborhoods

**FISCAL IMPACT:** None.

**BACKGROUND:** On April 7, 2020, the City Council adopted Ordinance No. 3159, which along with other protections for residential and commercial tenants, prohibited the eviction of storage unit patrons experiencing a loss of income due to the COVID-19 pandemic. On May 19, 2020, the City Council adopted Ordinance No. 3163, which amended Ordinance No. 3159 to add in protections for homeowners vulnerable to foreclosure but left unchanged the protections offered for storage unit patrons.

Ordinance No. 3163 is currently effective through the term of the state of local emergency caused by COVID-19. Under the ordinance, qualifying storage unit patrons remain responsible to pay all fees incurred within six months of the expiration of the protection. Violation of the ordinance carries a misdemeanor penalty.

**STAFF MEMBER PRESENTING:** David Sheasby, Deputy City Manager

Prepared by: David Sheasby  
Department: Management Services  
City Manager Approval: 

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

3

On August 18, 2020, City Council introduced and waived further reading of an ordinance repealing City of Ontario Ordinance No. 3163 to wind down the City's existing temporary regulations on the eviction of storage unit patrons experiencing a loss of income due to the COVID-19 pandemic and to place a sunset date on the City's moratorium on eviction of residential and commercial tenants as well as residential foreclosures.

During the shutdown of the local economy during "Stage 1" of the Governor's state at home order, moving of items was not readily feasible for residents of all income levels. As such, the unnecessary displacement of stored items posed a threat to the public health and welfare as unmoved items could have been sold at auction, depriving residents of belongings needed for their well-being. Additionally, unwanted items could have been discarded into the public right of way.

Circumstances have changed considerably since the initial adoption of protections for storage unit patrons, with some businesses having reopened on a restricted basis. The number of inquiries that staff receives regarding the ordinance has decreased in recent weeks, and there have not been significant reports of storage unit patrons continuing to need the protections. However, storage unit operators have questioned the need to continue the protections and have requested that they be repealed.

The proposed ordinance would remove the protections for storage unit patrons but would leave intact protections offered for residential/commercial tenants, as well as homeowners. To allow for a measured transition, the proposed ordinance would become effective October 1, 2020, meaning that any fees deferred by a storage unit patron under the protection of the ordinance will be due in full by April 1, 2021, unless otherwise agreed upon by the parties.

In addition to these changes, the proposed ordinance would make technical changes to several recitals in the ordinance, while also placing a sunset date of November 30, 2020 for the moratorium on residential and commercial evictions and for the moratorium on residential foreclosures. Finally, the proposed ordinance would clarify in its operative provisions that the temporary eviction moratorium does not affect any other legal remedies available to landlords.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, REPEALING URGENCY ORDINANCE NO. 3163, ADOPTING TEMPORARY REGULATIONS PROHIBITING THE EVICTION OF RESIDENTIAL AND COMMERCIAL TENANTS, AND ENACTING A MORATORIUM ON RESIDENTIAL FORECLOSURES DUE TO LOSS OF INCOME DURING THE STATE OF LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC.

WHEREAS, the City of Ontario, California (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

WHEREAS, Article XI, section 7 of the California Constitution grants the City broad discretionary power to “make and enforce within its limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws”; and

WHEREAS, Executive Order N-28-20, issued by Governor Gavin Newsom on March 16, 2020, suspended any provision of state law that would preempt or otherwise restrict the City’s exercise of its police powers to impose substantive limitations on evictions based on nonpayment of rent arising out of a substantial decrease in household or business income caused by the Coronavirus Disease 2019 (COVID-19) pandemic, and further authorized cities to enact legislation that (i) prevents eviction based on foreclosure arising out of a substantial decrease in income due to COVID-related reasons, and (ii) that suspends judicial foreclosures “and any other statutory cause of action that could be used to evict or eject a residential or commercial tenant after foreclosure”; and

WHEREAS, Executive Order N-71-20 extended the eviction and foreclosure protections of Executive Order N-28-20 through September 30, 2020; and

WHEREAS, City of Ontario Ordinance 2990 empowers the City Manager, acting as the Director of Emergency Services, to proclaim the existence or threatened existence of a local emergency when the City is affected or likely affected by a public calamity and the City Council is not in session; and

WHEREAS, the City Manager exercised his right as Director of Emergency Services to proclaim a local emergency on March 14, 2020; and

WHEREAS, the Ontario City Council ratified the proclamation by a unanimous vote of the four Council Members in attendance at the March 17, 2020 meeting of the Ontario City Council; and

WHEREAS, the declaration of a statewide “stay at home” order by Governor Gavin Newsom via Executive Order N-33-20 on March 19, 2020, has required the closure of businesses within “non-essential” industries, and has led to severe economic impacts across the state, including the lay off or a reduction in income for many California residents; and

WHEREAS, on June 18, 2020, California Governor Gavin Newsom issued a statewide order mandating the wearing of face masks or coverings for the public which the City of Ontario followed by requiring face masks or coverings for city employees; and

WHEREAS, on June 28, 2020, California Governor Gavin Newsom issued an order closing bars and restricting indoor restaurant operations for seven counties, including the County of San Bernardino; and

WHEREAS, on July 13, 2020, California Governor Gavin Newsom issued an order closing additional businesses, including gyms, worship services, personal care services, hair salons, and malls; and

WHEREAS, further economic impacts are anticipated, leaving residential tenants, and commercial tenants vulnerable to eviction; and

WHEREAS, the economic impacts may extend to certain residential property owners leaving them vulnerable to foreclosure by lenders; and

WHEREAS, there is evidence that COVID-19 is active and substantially increasing in the State of California, and the City of Ontario; and

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing and business displacement to protect the City's affordable housing stock, to prevent housed individuals from falling into homelessness, to prevent the displacement and closure of local and small businesses, during the statewide "stay at home" order issued by the Governor; and

WHEREAS, in the interest of public peace, health, and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary for the City Council to exercise its authority, including but not limited to its authority under Government Code Section 8634, to issue these regulations related to the protection of the public peace, health, and safety; and

WHEREAS, the City Council finds and determines eviction of residential tenants, and commercial tenants must be regulated in order to protect the public health, safety, and welfare; and

WHEREAS, the City Council passed Urgency Ordinance No. 3159 on April 7, 2020 which adopted temporary regulations prohibiting the eviction of residential tenants, commercial tenants, and storage unit patrons experiencing loss of income related to the COVID-19 pandemic; and

WHEREAS, the City Council passed Urgency Ordinance No. 3163 on May 19, 2020, which repealed and replaced Urgency Ordinance 3159 to expand the scope of the ordinance to include protections against residential foreclosures, among other things; and

WHEREAS, there has been continuing interest and request for protections for residential and commercial tenants; and

WHEREAS, there has been diminishing interest and request for protections for storage unit patrons.

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

SECTION 1. Urgency Ordinance No. 3163 adopted by the Ontario City Council on May 19, 2020 is hereby repealed in its entirety.

SECTION 2. The recitals set forth above are true and correct and are hereby adopted as findings in support of this Ordinance as if fully set forth herein.

SECTION 3. Temporary Moratorium on Evictions. A temporary moratorium on eviction for non-payment of rent by residential tenants and commercial tenants impacted by the COVID-19 crisis is imposed as follows:

A. Until the period of local emergency proclaimed in response to COVID-19 concludes, no landlord shall endeavor to evict a residential tenant or commercial tenant, in accordance with this Ordinance, if the tenant demonstrates that the inability to pay rent or fees is due to the COVID-19, the state of emergency regarding COVID-19, or following government recommended COVID-19 precautions. To take advantage of the protections afforded under this subsection A, a tenant must satisfy all of the following requirements:

1. Prior to the date of this Order, the tenant paid rent due to the landlord pursuant to an agreement.

2. The tenant notifies the landlord in writing before the rent is due, or within a reasonable period of time afterwards not to exceed 7 days, that the tenant needs to delay all or some payment of rent because of an inability to pay the full amount due to reasons related to COVID-19, including but not limited to the following:

(a) The tenant was unavailable to work because the tenant was sick with a suspected or confirmed case of COVID-19 or caring for a household or family member who was sick with a suspected or confirmed case of COVID-19;

(b) The tenant experienced a lay-off, loss of hours, or other income reduction resulting from COVID-19, the state of emergency, or related government response; or

(c) The tenant needed to miss work to care for a child whose school was closed in response to COVID-19.

(d) substantial decrease in business income resulting from the COVID-19 pandemic;

3. The tenant retains verifiable documentation, such as termination notices, payroll checks, pay stubs, bank statements, medical bills, signed letters or statements from an employer or supervisor explaining the tenant's changed financial circumstances, business balance sheets, profit and loss statements, income statements, or cash flow statements to support the tenant's assertion of an inability to pay. This documentation may be provided to the landlord no later than the time of payment of back-due rent.

B. If a residential or commercial tenant complies with the requirements of subsection A, a landlord shall not do any of the following:

1. Initiate a cause of action for judicial foreclosure pursuant to Code of Civil Procedure Section 725a et seq.;

2. Initiate a cause of action for unlawful detainer pursuant to Code of Civil Procedure Section 1161 et seq.;

3. Initiate any other statutory cause of action that could be used to evict or otherwise eject a residential tenant or occupant of residential real property;

4. Serve a notice to terminate tenancy pursuant to Code of Civil Procedure Section 1161 et seq., to evict for nonpayment of rent; or

5. Otherwise seek to evict for nonpayment of rent.

C. For purposes of this Ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

D. Nothing in this Ordinance shall relieve a commercial tenant from timely paying for electricity, water, sewer, garbage, HVAC, property tax, or other common area maintenance fees and/or charges that are required pursuant to a valid lease. Any modification of these as to the payment of the fees and charges is at the discretion of the parties to the valid lease.

E. Nothing in this Ordinance shall relieve the tenant of liability for the unpaid rent, which the landlord may seek after expiration of the local emergency and the tenant must pay within six months of the expiration of the local emergency. Six months after the end of the emergency, if the rent or any portion thereof remains unpaid, a landlord may charge or collect a late fee for rent that is delayed for the reasons stated in this Ordinance; or a landlord may seek rent that is delayed for the reasons stated in this Ordinance through the eviction or other appropriate legal process.

F. This Ordinance applies to evictions and unlawful detainer actions served or filed on or after the date of adoption of this Ordinance.

G. No other legal remedies available to a landlord are affected by this Ordinance.

SECTION 4. Temporary Moratorium on Foreclosures. A temporary moratorium on foreclosures related to the COVID-19 pandemic resulting from nonpayment of mortgages on residential properties of four (4) units or less located in the City of Ontario is imposed as follows:

A. Notwithstanding the provisions authorizing nonjudicial foreclosure in Division 3, Part 4 of the Civil Code (commencing with section 2920, et seq.), the provisions authorizing judicial foreclosure in Chapter 1 of Title 10 of the Code of Civil Procedure, or any other general or special law authorizing nonjudicial or judicial foreclosure, no person or entity shall take any action to foreclose on residential real property consisting of four (4) units or less, including, but not limited to, the following actions:

- (1) Causing or conducting the sale of real property pursuant to a power of sale.
- (2) Causing recordation of notice of default pursuant to Civil Code section 2924.
- (3) Causing recordation, posting, or publication of a notice of sale pursuant to Civil Code section 2924f.
- (4) Recording a trustee's deed upon sale pursuant to Civil Code section 2924h.
- (5) Initiating or prosecuting an action to foreclose, including, but not limited to, actions pursuant to Section 725a of the Code of Civil Procedure.
- (6) Enforcing a judgment by sale of real property pursuant to Civil Code section 680.010.

B. This temporary moratorium on foreclosures shall terminate immediately upon rescission of this Ordinance or upon termination of the state of emergency declared by the Governor, whichever is earlier.

SECTION 5. Violations

A. Violation of this Ordinance shall be punishable as a misdemeanor as set forth in Chapter 1-2.01(c) of the Ontario Municipal Code. Nothing in this Ordinance shall be construed to diminish or supersede the provisions of Penal Code Section 396.

B. This Ordinance grants a defense to a tenant in the event that an unlawful detainer or other legal action is commenced in violation of this Ordinance.

SECTION 6. Term. This Ordinance shall terminate on November 30, 2020, unless extended earlier.

SECTION 7. Effective Date. This Ordinance shall become effective on October 1, 2020.

SECTION 8. Uncodified. This Ordinance shall not be codified.

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 City Council of the City of Ontario hereby declares that it 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. CEQA Exemption. This Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment. 14 Cal. Code Regs. § 15378(a). Further, this Ordinance is exempt from CEQA as there is no possibility that this Ordinance or its implementation would have a significant negative effect on the environment. 14 Cal. Code Regs. § 15061(b)(3).

SECTION 11. Publication and Posting. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption of this Ordinance and shall cause a copy 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 1<sup>st</sup> day of September 2020.

\_\_\_\_\_  
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. 3167 was duly introduced at a regular meeting of the City Council of the City of Ontario held August 18, 2020 and adopted at their regular meeting held September 1, 2020 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. 3167 duly passed and adopted by the Ontario City Council at their regular meeting held September 1, 2020 and that Summaries of the Ordinance were published on August 25, 2020 and September 8, 2020, in the Inland Valley Daily Bulletin newspaper.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

# CITY OF ONTARIO

*Agenda Report*  
September 1, 2020

**SECTION:  
CONSENT CALENDAR**

**SUBJECT: RECOGNITION OF SEPTEMBER 2020 AS ONTARIO PREPAREDNESS MONTH**

**RECOMMENDATION:** That the City Council recognize the month of September 2020 as Ontario Preparedness Month in the City of Ontario.

**COUNCIL GOALS:** Maintain the Current High Level of Public Safety  
Encourage, Provide, or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

**FISCAL IMPACT:** None.

**BACKGROUND:** For the sixteenth consecutive year, the Federal Emergency Management Agency (FEMA) has announced September as National Preparedness Month (NPM). The goal of NPM is to build awareness and encourage Americans to prepare for emergencies in their homes, businesses, schools, and communities. NPM is managed and sponsored by FEMA's Ready Campaign. The Ready Campaign works closely with Citizen Corps and the Ad Council to increase national emergency preparedness awareness across the nation.

During NPM residents are encouraged to plan for an emergency by making a family emergency plan, becoming informed about the different types of emergencies and disasters that could occur in the community, building an emergency supply kit, and getting their families, friends, and neighbors prepared. All residents are encouraged to visit the ReadyOntario.com website for information regarding emergency plans, hazard mitigation, family emergency kits, and general emergency preparedness guidance. Residents and businesses should also register their cell phones with AlertOntario, the City's emergency notification system, by texting "ONTARIO" to 888777 or by visiting ReadyOntario.com.

**STAFF MEMBER PRESENTING:** Jordan Villwock, Fire Administrative Director

Prepared by: Raymond Cheung  
Department: Fire

City Manager  
Approval: 

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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# CITY OF ONTARIO

Agenda Report  
September 1, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: A CONSTRUCTION CONTRACT FOR TWO NEW TRAFFIC SIGNAL SYSTEMS AT THE INTERSECTIONS OF MCCLEVE WAY/PARKPLACE AVENUE AT MERRILL AVENUE AND COLONIAL AVENUE AT RIVERSIDE DRIVE**

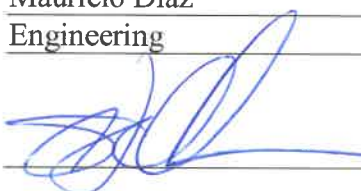
**RECOMMENDATION:** That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) with KDC, Inc. dba Dynalectric of Los Alamitos, California, for the construction of two new traffic signal systems at the subject intersections in the bid amount of \$550,957 plus a fifteen percent (15%) contingency of \$82,644 for a total authorized expenditure of \$633,601; authorize the City Manager to execute said contract and all related documents and file a notice of completion at the conclusion of all construction activities.

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

**FISCAL IMPACT:** The Fiscal Year 2019-20 Adopted Budget allocated funds for the McCleve/Merrill (Project No. TR1901) and Colonial/Riverside (Project No. TR1902) signal projects in the amount of \$653,500 from Road Maintenance and Rehabilitation Account funds (SB1) and \$102,500 from the Capital Projects Fund for a total combined allocation of \$756,000. The total recommended expenditure authorization consists of \$550,957 plus a 15% contingency of \$82,644 for a total authorized expenditure of \$633,601, consistent with the adopted budget.

**BACKGROUND:** This contract is to construct two new traffic signal systems at the intersections of McCleve Way/Parkplace Avenue at Merrill Avenue and Colonial Avenue at Riverside Drive. In June 2020, the City solicited bids for the project, and eleven bids were received. The following is a summary of the bid results:

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

Prepared by: Mauricio Diaz  
Department: Engineering  
City Manager Approval: 

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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<b>COMPANY</b>	<b>LOCATION</b>	<b>AMOUNT</b>
KDC, Inc. dba Dynalectric	Los Alamitos, CA	\$ 550,957
California Professional Engineering, Inc.	La Puente, CA	\$ 578,136
PTM General Engineering Services, Inc.	Riverside, CA	\$ 603,039
Crosstown Electrical & Data, Inc.	Irwindale, CA	\$ 604,336
Elecnor Belco Electric, Inc.	Chino, CA	\$ 610,000
Asplundh Construction Corp.	Anaheim, CA	\$ 628,126
Select Electric, Inc	Vista, CA	\$ 645,656
Sturgeon Electric California, Inc.	Chino, CA	\$ 653,500
DBX, Inc	Temecula, CA	\$ 668,358
Sierra Pacific Electrical	Jurupa Valley, CA	\$ 696,923
Calpromax Engineering, Inc.	Placentia, CA	\$ 823,000

KDC, Inc., has submitted all the required documents and is deemed to be the lowest responsive bidder.

This bidder has performed similar work in the City in the past in a satisfactory manner. The requested contingency is to cover potential unforeseen costs in dealing with underground infrastructure.

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were reviewed, and staff determined that the project is categorically exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301 (Class 1, Existing Facilities) of the California Environmental Quality Act, whereas the project consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of lead agency's determination; Section 15302(c) (Class 2, Replacement or Reconstruction) of the California Environmental Quality Act, whereas the project consists of replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity; and, Section 15303 (Class 3, New Construction or Conversion of Small Structures) of the California Environmental Quality Act, whereas the project consists of construction and location of limited numbers of new, small facilities or structures; and installation of small new equipment and facilities in small structures.

# CITY OF ONTARIO

Agenda Report  
September 1, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: RESOLUTION APPROVING FINAL PARCEL MAP NO. 19936 LOCATED AT 5171 EAST FRANCIS STREET**

**RECOMMENDATION:** That the City Council adopt a resolution approving Final Parcel Map No. 19936 located at 5171 East Francis Street.

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

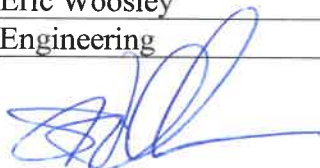
**FISCAL IMPACT:** None. All public infrastructure improvements required for this subdivision were constructed with the previous development project (PDEV15-025).

**BACKGROUND:** Final Parcel Map No. 19936, consisting of two parcels with two (2) existing industrial buildings on 49.66 acres, as shown on the attached Exhibit A, has been submitted by New-Indy Ontario, LLC (Schwarz Partners), a Delaware Limited Company (Mr. Thomas E. Bennett, Secretary).

Tentative Parcel Map No. 19936 was approved by the Planning Commission on June 25, 2019.

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

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

Prepared by: Eric Woosley  
Department: Engineering  
City Manager Approval: 

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

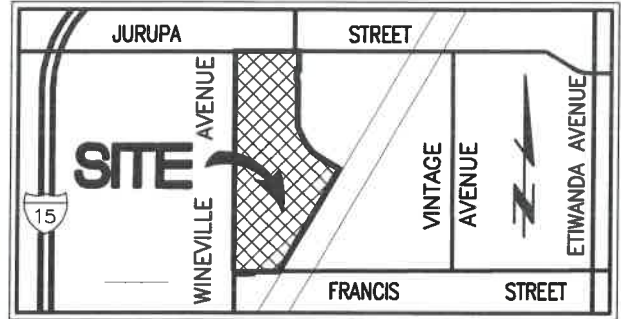
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# EXHIBIT A PM 19936

## VICINITY MAP

SHEET 1 OF 1

N.T.S.



PREPARED BY:

**Thienes Engineering, Inc.**  
 CIVIL ENGINEERING • LAND SURVEYING  
 14349 FIRESTONE BOULEVARD  
 LA MIRADA, CALIFORNIA 90638  
 PH.(714)521-4811 FAX(714)521-4173

**CITY OF ONTARIO  
 ENGINEERING DEPARTMENT**

FILE NO. PM - 19936

APPLICANT: NEW-INDY  
 ONTARIO, LLC

PROJECT: PARCEL MAP  
 NO. 19936

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FINAL PARCEL MAP NO. 19936 LOCATED AT 5171 FRANCIS STREET.

WHEREAS, Tentative Parcel Map No. 19936, submitted for approval by the developer, New-Indy Ontario, LLC/Schwarz Partners, a Delaware Limited Liability Company (Mr. Thomas E. Bennett, Secretary) was approved by the Planning Commission of the City of Ontario on June 25, 2019; and

WHEREAS, Tentative Parcel Map No. 19936 in the City of Ontario, County of San Bernardino California consists of two (2) industrial lots, being a subdivision of parcel 1 of Lot Line Adjustment No. LLA 12-001, recorded June 28, 2012 as Document No. 2012-0260578 of Official Records of said County, lying within the Northwest Quarter of Section 32, Township 1 South, Range 6 West, San Bernardino Meridian; and

WHEREAS, all necessary public improvements for said map required as prerequisite to final approval of a final map have been previously constructed and accepted as complete by the City; and

WHEREAS, said developer has prepared Covenants, Conditions and Restrictions (CC&R's), approved by the City Attorney's Office, to ensure the right to mutual ingress and egress and continued maintenance of common facilities by the commonly affected property owners.

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

1. That Final Parcel Map No. 19936 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

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

PASSED, APPROVED, AND ADOPTED this 1<sup>st</sup> day of September 2020.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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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. 2020-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held September 1, 2020 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. 2020-    duly passed and adopted by the Ontario City Council at their regular meeting held September 1, 2020.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)

# CITY OF ONTARIO

Agenda Report  
September 1, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 3131 LEVYING SPECIAL TAXES WITHIN CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES)**

**RECOMMENDATION:** That the City Council consider and adopt an ordinance amending and restating Ordinance No. 3131 authorizing the levy of special taxes within City of Ontario Community Facilities District No. 40 (Emerald Park Facilities).

**COUNCIL GOALS: Operate in a Businesslike Manner**

**Focus Resources in Ontario's Commercial and Residential Neighborhoods**

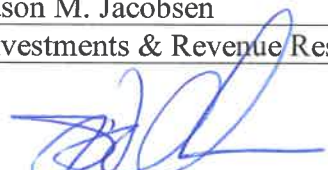
**Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)**

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

**FISCAL IMPACT:** At a public hearing conducted by the City Council on August 18, 2020, the City Council introduced and waived further reading of the ordinance amending and restating Ordinance No. 3131 levying special taxes within Community Facilities District No. 40. As the special taxes assessed for debt service on Mello-Roos bonds are not a direct obligation of the City and are paid from special taxes levied on each taxable parcel in the Community Facilities District, there is no General Fund impact from amending and restating the ordinance.

**BACKGROUND:** The initial RMA provided for a revised price study at least 30 days prior to the scheduled issuance of Mello-Roos bonds by the Community Facilities District. The study disclosed that the total tax burden applicable to some units within the Community Facilities District did then exceed 1.95% of the minimum sales prices in effect at that time. As such, certain of the Assigned Special Tax rates, as well as the corresponding Backup Special Tax, was required to be reduced in order to comply with the Initial RMA. Goodwin Consulting Group, the CFD Administrator for the Community Facilities District, completed a Certificate of Modification of Special Tax to the Initial RMA (the "Amendment Certificate"), to reflect such reductions, and such Amendment Certificate has been executed by the

**STAFF MEMBER PRESENTING:** Armen Harkalyan, Executive Director of Finance

Prepared by: Jason M. Jacobsen  
Department: Investments & Revenue Resources  
City Manager Approval: 

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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Community Facilities District, and the Community Facilities District has caused an amended notice of special tax lien to be recorded to reflect such reductions. The Initial RMA, together with such Amendment Certificate, are attached as Exhibit A to the amended and restated ordinance. Adoption of the ordinance will recognize the reduction of certain Special Tax rates for the Community Facilities District to comply with the Initial RMA.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING AND RESTATING ORDINANCE NO. 3131, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 40 (EMERALD PARK FACILITIES).

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"), established City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) (the "Community Facilities District") to finance certain public facilities (the "Facilities") and services (the "Services"); and

WHEREAS, pursuant to the Act, the qualified electors of the Community Facilities District authorized the levy of special taxes (the "Special Taxes") within the Community Facilities District to finance the Facilities and Services; and

WHEREAS, pursuant to Section 53340 of the Act, the City Council, on June 4, 2019, adopted Ordinance No. 3131, entitled "An Ordinance of the City Council of the City of Ontario, California, Levying Special Taxes Within the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities)" (the "Levy Ordinance"), levying the Special Taxes at the rates and in accordance with the method of apportionment referenced therein (the "Initial Rate and Method") (capitalized undefined terms used herein have the meanings ascribed thereto in the Initial Rate and Method); and

WHEREAS, the Initial Rate and Method provides that at least 30 days prior to the issuance of Bonds, the Assigned Special Tax on Developed Property (set forth in Table 1 to the Rate and Method) is to be analyzed in accordance with and subject to the conditions set forth therein, that at such time, the Community Facilities District is to select and engage a Price Point Consultant and the CFD Administrator is to request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class, that 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 the Community Facilities District exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax is to 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, that each Assigned Special Tax reduction for a Land Use Class is to be calculated by the CFD Administrator separately, and such reduction is not required to be proportionate among Land Use Classes, that in connection with any reduction in the Assigned Special Tax, the CFD Administrator is to also reduce the Backup Special Tax based on the percentage reduction in the Maximum Special Tax revenues within the Tentative Tract Map area(s) where the Assigned Special Tax reductions occurred, that upon determining the reductions in the Assigned Special Tax and Backup Special Tax required pursuant to the Rate and

Method, the CFD Administrator is to complete, execute and deliver a Certificate of Modification to the Community Facilities District, that upon receipt thereof, if in satisfactory form, the Community Facilities District is to execute such Certificate of Modification, that the reduced Assigned Special Tax and Backup Special Tax specified in such Certificate of Modification is to become effective upon the execution of such Certificate of Modification by the Community Facilities District, that the Special Tax reductions required pursuant to the Rate and Method are to be reflected in an amended notice of Special Tax lien which the Community Facilities District is to cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by the Community Facilities District, and that such reductions apply to Single Family Property, but not to Other Residential Property or Non-Residential Property; and

WHEREAS, such Price Point Study has been prepared, the CFD Administrator has calculated that the Total Tax Burden applicable to Units within one or more Land Use Classes of Single Family Property to be constructed within the Community Facilities District exceeds 1.95% of the Minimum Sale Price of such Units, the CFD Administrator has reduced the Assigned Special Tax for such Land Use Classes in accordance with the Initial Rate and Method, the CFD Administrator has reduced the Backup Special Tax in accordance with the Initial Rate and Method, the CFD Administrator has completed, executed and delivered a Certificate of Modification to the Community Facilities District to reflect the Assigned Special Tax and the Backup Special Tax as so modified, that such Certificate of Modification so received is in form satisfactory to the Community Facilities District, and the Community Facilities District has executed such Certificate of Modification (such Certificate of Modification, as so completed and executed, the "Amendment Certificate") and caused an amended notice of Special Tax lien to be recorded with the County Recorder; and

WHEREAS, the City Council desires to amend and restate the Levy Ordinance in order to reflect the amendments to the Initial Rate and Method made thereto pursuant to the Amendment Certificate.

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

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

SECTION 2. The Levy Ordinance is hereby amended and restated to read in full as set forth herein.

SECTION 3. The City Council hereby authorizes and levies Special Taxes within the Community Facilities District pursuant to Sections 53328 and 53340 of the Act, at the rates and in accordance with the method of apportionment set forth in the Initial Rate and Method, as amended by the Amendment Certificate (as so amended, the "Rate and Method"), a copy of which is attached hereto as Exhibit A. The Special Taxes are hereby levied commencing in Fiscal Year 2019-20 and in each fiscal year thereafter until the last fiscal year in which such Special Taxes are authorized to be levied pursuant to the Rate and Method.

SECTION 4. The City Council may, in accordance with subdivision (b) of Section 53340 of the Act, provide, by resolution, for the levy of the Special Tax in future tax years at the same rate or at a lower rate than the rate provided by this Ordinance. In no event shall the Special Tax be levied on any parcel within the Community Facilities District in excess of the maximum tax specified therefor in the Rate and Method.

SECTION 5. The Special Tax shall be levied on all parcels in the Community Facilities District, unless exempted by law or by the Rate and Method.

SECTION 6. The proceeds of the Special Tax shall only be used to pay, in whole or in part, the cost of providing the Facilities and Services and incidental expenses pursuant to the Act.

SECTION 7. The Special Tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in the case of delinquency as is provided for *ad valorem* taxes, unless another procedure is adopted by the City Council.

SECTION 8. If for any reason any portion of this Ordinance is found to be invalid, or if the Special Tax is found inapplicable to any particular parcel within the Community Facilities District, by a court of competent jurisdiction, the balance of this Ordinance and the application of the Special Tax to the remaining parcels within the Community Facilities District shall not be affected.

SECTION 9. 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 1<sup>st</sup> day of September 2020.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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COLE HUBER, 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. 3166 was duly introduced at a regular meeting of the City Council of the City of Ontario held August 18, 2020 and adopted at the regular meeting held September 1, 2020 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. 3166 duly passed and adopted by the Ontario City Council at their regular meeting held September 1, 2020 and that Summaries of the Ordinance were published on August 25, 2020 and September 8, 2020 in the Inland Valley Daily Bulletin newspaper.

\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)



EXHIBIT A  
RATE AND METHOD

**EXHIBIT B**

**CITY OF ONTARIO  
COMMUNITY FACILITIES DISTRICT NO. 40  
(EMERALD PARK FACILITIES)**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

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A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 40 (Emerald Park Facilities) ("CFD No. 40") and collected each Fiscal Year, commencing in Fiscal Year 2019-20, 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. 40, 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. 40: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 40 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. 40 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 40 of complying with City, CFD No. 40, 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. 40 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. 40 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. 40; and amounts estimated or advanced by the City or CFD No. 40 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. 40 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. 40 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. 40"** means City of Ontario Community Facilities District No. 40 (Emerald Park Facilities).

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

**"City Council"** means the City Council of the City, acting as the legislative body of CFD No. 40.

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

**"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, 2018, and before May 1 of the prior Fiscal Year.

**“Expected Residential Lot Count”** means 265 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. 40.

**“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.

**“Price Point Consultant”** means any consultant or firm of such consultants selected by CFD No. 40 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. 40 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 40, (ii) the City, (iii) any owner of real property in CFD No. 40, or (iv) any real property in CFD No. 40, and (e) is not connected with CFD No. 40 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 40 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. 40 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. 40 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. 40. 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. 40.

**“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. 40 to be levied within the boundaries of CFD No. 40.

**“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. 40 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) without duplicating any amounts described in clause (iv), above, provide an amount equal to reasonably anticipated Special Tax delinquencies based on the delinquency rate for the Special Tax in the previous Fiscal Year as determined by the CFD Administrator, as limited by the Act.

**“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. 40, 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. 40 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 a Unit within a Land Use Class, for the Fiscal Year in which Total Tax Burden is being calculated, the sum of (a) the Assigned Special Tax for such Fiscal Year, plus (b) the *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities districts, and any other governmental fees, charges (other than fees or charges for services such as sewer and trash), taxes, and assessments (which do not include Contractual Impositions) collected by the County on *ad valorem* tax bills and that the CFD Administrator estimates would be levied or imposed on such Unit in such Fiscal Year if the residential dwelling unit thereon or therein had been completed and sold, and was subject to such fees, charges, taxes, and assessments in such Fiscal Year.

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

“**TTM 18937**” means Tentative Tract Map No. 18937, the area of which is located within CFD No. 40.

“**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 2019-20, all Taxable Property within CFD No. 40 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 13, and Assessor’s Parcels of Single Family Attached Property shall be assigned to Land Use Classes 14 through 21, 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 22, and Non-Residential Property shall be assigned to Land Use Class 23.

**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. 40 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. 40 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. 40. Upon receipt thereof, if in satisfactory form, CFD No. 40 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. 40.

The Special Tax reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien, which CFD No. 40 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 40. 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 Detached Property	< 1,701	\$2,073 per Unit
2	Single Family Detached Property	1,701 – 1,900	\$2,147 per Unit
3	Single Family Detached Property	1,901 – 2,100	\$2,305 per Unit

4	Single Family Detached Property	2,101 – 2,300	\$2,508 per Unit
5	Single Family Detached Property	2,301 – 2,500	\$2,626 per Unit
6	Single Family Detached Property	2,501 – 2,700	\$2,793 per Unit
7	Single Family Detached Property	2,701 – 2,900	\$2,942 per Unit
8	Single Family Detached Property	2,901 – 3,100	\$3,100 per Unit
9	Single Family Detached Property	3,101 – 3,300	\$3,258 per Unit
10	Single Family Detached Property	3,301 – 3,500	\$3,416 per Unit
11	Single Family Detached Property	3,501 – 3,700	\$3,574 per Unit
12	Single Family Detached Property	3,701 – 3,900	\$3,732 per Unit
13	Single Family Detached Property	> 3,900	\$3,890 per Unit
14	Single Family Attached Property	< 801	\$1,211 per Unit
15	Single Family Attached Property	801 – 950	\$1,289 per Unit
16	Single Family Attached Property	951 – 1,100	\$1,429 per Unit
17	Single Family Attached Property	1,101 – 1,300	\$1,779 per Unit
18	Single Family Attached Property	1,301 – 1,500	\$1,931 per Unit
19	Single Family Attached Property	1,501 – 1,700	\$2,125 per Unit
20	Single Family Attached Property	1,701 – 1,900	\$2,309 per Unit
21	Single Family Attached Property	> 1,900	\$2,430 per Unit
22	Other Residential Property		\$46,243 per Acre
23	Non-Residential Property		\$46,243 per Acre

### 3) *Backup Special Tax*

The Backup Special Tax shall be \$2,603 per Unit for Single Family Detached Property and \$1,948 per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 48 for Single Family Detached Property or 217 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

$$\text{Backup Special Tax} = \$124,944 \div \text{Expected Residential Lot Count for Single Family Detached Property}$$

$$\text{or } \$422,763 \div \text{Expected Residential Lot Count for Single Family Attached Property}$$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 40 to become Final Mapped Property, such as the area within TTM 18937 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 Detached Property or Single Family Attached 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 Single Family Detached Property and Single Family Attached Property, 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 Single Family Detached Property and Single Family Attached Property, 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 Single Family Detached Property or Single Family Attached 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 \$46,243 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 2019-20, 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. 40 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 4.85 Acres of Public Property and up to 5.69 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. 40 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 \$6,933,000 for each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 40.

**“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, 2019, through June 30, 2053.

**“Prepayment Period 2”** means July 1, 2053, through June 30, 2086.

**“Prepayment Period 3”** means July 1, 2086, through June 30, 2120.

**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, 2018, 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. 40 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. 40, 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. 40, 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. 40, 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. 40.

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. 40 (after excluding 4.85 Acres of Public Property and 5.69 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, 2018, 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. 40 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 2119-2120, 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. 40 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. 40 (Emerald Park Facilities) ("CFD No. 40"), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 40 has been modified.
  - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 40, 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**

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

EXHIBIT A

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

14	Single Family Attached Property	< 801	\$[ ] per Unit
15	Single Family Attached Property	801 – 950	\$[ ] per Unit
16	Single Family Attached Property	951 – 1,100	\$[ ] per Unit
17	Single Family Attached Property	1,101 – 1,300	\$[ ] per Unit
18	Single Family Attached Property	1,301 – 1,500	\$[ ] per Unit
19	Single Family Attached Property	1,501 – 1,700	\$[ ] per Unit
20	Single Family Attached Property	1,701 – 1,900	\$[ ] per Unit
21	Single Family Attached Property	> 1,900	\$[ ] per Unit
22	Other Residential Property		\$[ ] per Acre
23	Non-Residential Property		\$[ ] per Acre

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

The Backup Special Tax shall be \$[ ] per Unit for Single Family Detached Property and \$[ ] per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 48 for Single Family Detached Property or 217 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

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

or 
$$\frac{\$[\ ]}{\text{Expected Residential Lot Count for Single Family Attached Property}}$$

**EXHIBIT A**

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

- 2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 40 Bonds.
- 3. Upon execution of this certificate by CFD No. 40, CFD No. 40 shall cause an amended notice of Special Tax lien for CFD No. 40 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. 40  
(EMERALD PARK FACILITIES)

By: \_\_\_\_\_ Date: \_\_\_\_\_

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

**CFD No. 40 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. 40 (Emerald Park Facilities) ("CFD No. 40"), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 40 has been modified.
  - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 40, 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	\$2,073 per Unit
2	Single Family Detached Property	1,701 – 1,900	\$2,147 per Unit
3	Single Family Detached Property	1,901 – 2,100	\$2,305 per Unit
4	Single Family Detached Property	2,101 – 2,300	\$2,508 per Unit
5	Single Family Detached Property	2,301 – 2,500	\$2,626 per Unit
6	Single Family Detached Property	2,501 – 2,700	\$2,793 per Unit
7	Single Family Detached Property	2,701 – 2,900	\$2,942 per Unit
8	Single Family Detached Property	2,901 – 3,100	\$3,100 per Unit
9	Single Family Detached Property	3,101 – 3,300	\$3,258 per Unit
10	Single Family Detached Property	3,301 – 3,500	\$3,416 per Unit
11	Single Family Detached Property	3,501 – 3,700	\$3,574 per Unit
12	Single Family Detached Property	3,701 – 3,900	\$3,732 per Unit
13	Single Family Detached Property	> 3,900	\$3,890 per Unit

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

14	Single Family Attached Property	< 801	\$966 per Unit
15	Single Family Attached Property	801 – 950	\$1,079 per Unit
16	Single Family Attached Property	951 – 1,100	\$1,276 per Unit
17	Single Family Attached Property	1,101 – 1,300	\$1,459 per Unit
18	Single Family Attached Property	1,301 – 1,500	\$1,655 per Unit
19	Single Family Attached Property	1,501 – 1,700	\$1,905 per Unit
20	Single Family Attached Property	1,701 – 1,900	\$2,144 per Unit
21	Single Family Attached Property	> 1,900	\$2,319 per Unit
22	Other Residential Property		\$46,243 per Acre
23	Non-Residential Property		\$46,243 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 \$2,603 per Unit for Single Family Detached Property and \$1,709 per Unit for Single Family Attached Property. However, if the Expected Residential Lot Count does not equal 48 for Single Family Detached Property or 217 for Single Family Attached Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated separately for Single Family Detached Property and Single Family Attached Property according to the following formula:

$$\text{Backup Special Tax} = \$124,944 \div \text{Expected Residential Lot Count for Single Family Detached Property}$$

or  $\$370,763 \div \text{Expected Residential Lot Count for Single Family Attached Property}$

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

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 40 Bonds.
3. Upon execution of this certificate by CFD No. 40, CFD No. 40 shall cause an amended notice of Special Tax lien for CFD No. 40 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: 05/28/2020

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. 40  
(EMERALD PARK FACILITIES)

By:  \_\_\_\_\_ Date: 7/6/20



# CITY OF ONTARIO

Agenda Report  
September 1, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: ONTARIO HOUSING AUTHORITY ANNUAL REPORT FOR FISCAL YEAR 2019-20**

**RECOMMENDATION:** That the Board of the Ontario Housing Authority (“OHA”) approve the OHA Annual Report for the Fiscal Year 2019-20 (“OHA Annual Report”) (on file in the Records Management Department) and authorize the Executive Director of the OHA to transmit to the California Department of Housing and Community Development the OHA Annual Report as required by State law.

**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:** None.

**BACKGROUND:** In accordance with Health and Safety Code (“HSC”) Sections 34328 and 34328.1, the Authority must prepare a complete report of its activities during the previous fiscal year. The OHA Annual Report must be filed with the City Clerk and submitted to the California Department of Housing and Community Development (“HCD”).

The OHA Annual Report has been prepared to comply with the requirements of HSC Sections 34328, 34328.1, and 34312.3, which require the following information:

- A complete report of activities taken during the prior fiscal year;
- Verification of compliance with the following requirements:
  - Minimum amount of housing units affordable to lower income households in housing projects assisted;

**STAFF MEMBER PRESENTING:** Julie Bjork, Executive Director Housing and Neighborhood Preservation

Prepared by: Katryna Gonzalez  
Department: Housing & Neighborhood Preservation

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_

City Manager Approval: 

Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

8

- Documentation regarding any minimum and maximum rent requirement for lower income households pursuant to state and federal requirements; and
- Data on termination of tenancies due to domestic violence in housing authority units and a summary of actions taken to address termination of tenancies resulting from domestic violence.

All Ontario Housing Authority properties meet all affordability requirements.



# **ONTARIO HOUSING AUTHORITY**

## **Annual Report for Fiscal Year 2019-20**

**Prepared by the  
Ontario Housing Authority  
208 West Emporia Street  
Ontario, CA 91762  
(909) 395-2006**

**Ontario Housing Authority  
Annual Report for FY 2019-20**

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# ONTARIO HOUSING AUTHORITY

## Annual Report for Fiscal Year 2019-20

### I. INTRODUCTION

Pursuant to California Health and Safety Code (“HSC”) 34328, all housing authorities must file annually with their respective City or County Clerk and with the California Department of Housing and Community Development (“HCD”) a report (“Annual Report”) of its activities for the preceding year.

#### A. ANNUAL REPORT CONTENTS

This Annual Report has been developed to comply with the reporting requirements of HSC 34328 and 34328.1, including:

- i. To provide a complete report of activities during FY 2019-20 including: any bond issuances; loans, or finance agreements that the Ontario Housing Authority (“Authority”) has entered into; and properties acquired, sold, developed, rehabilitated, or leased;
- ii. To report on compliance with the requirements of HSC 34312.3 such as the minimum amount of housing units affordable to lower income households in projects assisted by the Authority, and establishment of base rents and/or maximum rental payments for lower income households; and
- iii. To document any domestic violence tenancy terminations or Section 8 voucher terminations as required by HSC 34328.1

### II. AUTHORITY ACTIVITIES SUBJECT TO HSC 34312.3

Pursuant to HSC Section 34312.3, the Authority must provide a complete report of its activities taken during the prior fiscal year, which includes bonds, loans, and financing agreements for multi-family rental projects.

#### A. BONDS FOR MULTI-FAMILY HOUSING

During FY 2019-20, the Authority did not issue any bonds.

#### B. LOANS FOR MULTI-FAMILY HOUSING

During FY 2019-20, the Authority did not enter into any loan agreements for Multi-Family Housing.

## C. FINANCING AGREEMENTS

During FY 2016-17, the Authority entered into two housing agreements including: Emporia Multi-Family Development, and Guadalupe Residence (411 N. Parkside). During FY 2017-18, the Authority entered into a financing agreement for the Virginia-Holt Multi-Family Development. During FY 2018-19, the Authority closed escrow and entered into financing agreements for the Emporia Place Development and the Virginia-Holt Multi-Family Development (a/k/a Vista Verde Apartments).

Listed below is a summary of all the financing agreements and the actions that occurred during FY 2019-20:

### 1. Emporia Place Development

On February 20, 2018, the Authority approved a Disposition and Development Agreement (DDA) with Ontario Emporia Housing Partners, L.P. (Developer), to construct a 75-unit housing development. The Authority provided a gap loan of \$15.7 million to the Developer and the Developer secured an allocation of 9% tax credits. The Authority's loan is a residual receipt note that will be paid back over a 65-year term and includes \$3.4 million for the acquisition of the land and \$12.3 million for project costs.

Escrow closed on December 3, 2018, transferring the land from the Authority to Ontario Emporia Housing Partners, L.P. The \$32.1 million development began construction in December 2018 and was substantially completed and leased up in June 2020. The project provides the following affordable housing units:

Emporia Place Affordability Restrictions					
	1BR	2BR	3BR	4BR	Total Number of Units
30% of AMI Units					
# of Units	1	4	2	1	8
40% of AMI Units					
# of Units	2	7	3	0	12
50% of AMI Units					
# of Units	6	16	7	1	30
60% of AMI Units					
# of Units	4	11	8	1	24
Property Manager Unit	0	1	0	0	1
<b>TOTAL UNITS</b>	<b>13</b>	<b>39</b>	<b>20</b>	<b>3</b>	<b>75</b>

### 2. Vista Verde Apartments (formerly known as Virginia Holt Apartments)

On November 7, 2017, the Authority approved a Disposition and Development Agreement (DDA) with National Community Renaissance of California (Developer), for the construction of a 101-unit housing development. As detailed in the DDA, the Authority will provide a gap loan of \$4,420,000.

This development is a key component of the City of Ontario's Transformative Climate Communities (TCC) Program funding for the implementation of a variety of community development activities within and around downtown Ontario. 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 (CCI). During January 2018, the SGC awarded \$33.2 million to Ontario, one of only three projects within the State to be funded.

In addition, on March 19, 2019, the City of Ontario approved the issuance of multifamily housing bonds in the amount of \$21,000,000 and a loan agreement for TCC funds in the amount of \$14,729,325 to support the development of this project. On October 17, 2018, the Developer was awarded a \$13.5 million 4% Low Income Tax Credit allocation.

Escrow closed on April 25, 2019, transferring the land from the Authority to Virginia-Holt Housing LP. This \$36.7 million development began construction during Fiscal Year 2018-19 and is expected to be completed in winter 2020. The project will provide the following affordable housing units:

<b>Vista Verde Affordability Restrictions</b>			
	<b>2BR</b>	<b>3BR</b>	<b>Total Number of Units</b>
<b>30% of AMI Units</b>			
<b># of Units</b>	15	6	21
<b>50% of AMI Units</b>			
<b># of Units</b>	22	15	37
<b>60% of AMI</b>			
<b># of Units</b>	32	10	42
<b>Property Manager Unit</b>	0	1	1
<b>TOTAL UNITS</b>	<b>69</b>	<b>32</b>	<b>101</b>

### 3. Guadalupe Residence (411 N. Parkside)

On June 20, 2017, the Authority approved the HOME Partnership Agreement with the City of Ontario and Mercy House CHDO for the sale of an affordable housing project, located at 411 N. Parkside Avenue. As part of this project, Mercy House CHDO will purchase the property, located at 411 N. Parkside from the Ontario Housing Authority.

Escrow was closed on February 14, 2018, transferring the property to Mercy House CHDO. All units were previously restricted to moderate-income households and have now been converted to provide five units restricted to low-income households and three units to very low-income households. The rehabilitation scope of work has been developed and construction is expected to begin in fall/winter 2020 and be completed by spring 2021.

## D. AUTHORITY OWNED ASSETS

The Authority owns 61 rental units, a former mobile home park, three sites with long term ground leases for affordable housing, and various parcels for future housing development.

Listed on the table on the following page is all the Authority owned real estate assets:

Authority Owned Assets			
Development Name	Site Address	APN	Current Use
Continuum of Care Permanent Housing Units	Begonia Apartments (209, 216, 217, 222, 223, 228, & 231 N. Begonia Ave.)	1010-521-15, -18, -14, -19, -13, -20, and -12	Affordable Housing
	Begonia Apartments (305 N. Begonia Ave.)	1010-521-11	Leased to Mercy House CHDO
	Francis Apartments (307-311 W. Francis St.)	1050-371-24	Leased to Mercy House CHDO
Euclid In-Fill	110 E. Maitland St.	1049-511-03	Vacant Land
	1004 S. Euclid Ave.	1049-563-10	
	1325 S. Euclid Ave.	1049-531-02	
	1329 S. Euclid Ave.	1049-531-01	
Hollowell Apartments	1165 W. Hollowell St.	1010-521-03	Affordable Housing
Ideal Mobile Home Park	905 E. Holt Blvd.	1048-481-08	Vacant Land
Infill Housing	115-115 1/2 S. Sultana Ave.	1049-091-11	Vacant Land
	1038 E. Fourth St.	1048-131-52	Vacant Land
Mountain View Senior Apartments Phase II	511 N. Palmetto Ave.	1010-461-08	Ground Lease
Ontario Town Square A-1	0 N. Euclid Ave.	1048-553-01	Vacant Land
	115 N. Lemon Ave.	1048-553-05	
	127 E. Holt Blvd.	1048-553-06	
	123 E. Holt Blvd.	1048-553-07	
	117 E. Holt Blvd..	1048-553-08	
	115 E. Holt Blvd.	1048-553-09	
	0 N. Euclid Ave.	1048-553-10	
	110 N. Euclid Ave.	1048-553-11	
	110, 110 1/2, 112, 114 N. Euclid Ave.	1048-553-12	
	114-116 N. Euclid Ave.	1048-553-13	
	118 N. Euclid Ave.	1048-553-14	
	120 N. Euclid Ave.	1048-553-15	
Ontario Town Square B-1	"C" Street	1048-552-15	Various Uses
	224 N. Euclid Ave.	1048-552-16	
	240 N. Euclid Ave.	1048-552-17	
Ontario Town Square C-1	308 N. Euclid Ave.	1048-551-11	Vacant Land and Parking Lots
	334 N. Euclid Ave.	1048-551-12	
Palm Terrace Senior Apartments Phase II	127 E. "C" St.	1048-551-13	Ground Lease
	1449 E. "D" St.	0110-254-78	
Seasons at Gateway	955 N. Palmetto Ave	1010-141-08	Ground Lease
Vesta Apartments	520 – 526 ½ W. Vesta St.	1048-581-58	Affordable Housing
Vesta Apartments	1164 W. Vesta St.	1010-521-02	Affordable Housing



## **E. DEVELOPED AND/OR REHABILITATED HOUSING PROJECTS**

During this reporting period, the Authority performed the following rehabilitation activities:

- **520-526 West Vesta Street:** A fire occurred at this Ontario Housing Authority-owned property on July 5, 2017. During the reporting period demolition and lead-based paint remediation work was performed at the property. Additional minor repair work and painting of the structures began in June 2019 and was completed in December 2019.

## **F. SPECIAL PROGRAMS**

During this reporting period, the Authority was one of the lead agencies in operating Ontario's Continuum of Care. Listed below is a description of the special programs:

### **i. Continuum of Care**

Through a partnership with the City of Ontario and Mercy House, the Authority is implementing Ontario's Continuum of Care, which has been designed to provide a comprehensive homeless strategy to assist homeless individuals and families in becoming self-sufficient. This comprehensive Continuum of Care was developed during FY 2004-05. The final component of the Continuum of Care, the Ontario Access Center was completed during FY 2013-14. The City, the Authority, and Mercy House continue to work together to implement this strategy to address homelessness within Ontario. This strategy provides for a full-service intake center, up to 34 transitional housing beds, and 76 permanent housing units for homeless individuals and families.

In addition, the Authority worked cooperatively with the Housing Authority of the County of San Bernardino, the County of San Bernardino Department of Behavioral Health, and Mercy House to administer 12 Permanent Supportive Housing (PSH) vouchers that are available to provide rental subsidies and wrap around supportive services for mentally ill homeless individuals and families. These 12 PSH vouchers are restricted to 12 units within the Continuum of Care's permanent housing unit inventory. With all the agencies working together, the Housing Authority of the County of San Bernardino continues to work with the U.S. Department of Housing and Urban Development to renew this contract.

## **III. HOUSING COMPLIANCE**

As set forth by HSC Sections 34328 and 34328.1, the Authority is required to:

- Show compliance with requirements of HSC Section 34312.3 such as the minimum amount of housing units affordable to lower income in projects assisted by the Authority, and document established base rents and/or maximum rental payment for lower income households; and
- Document any domestic violence tenancy or Section 8 voucher termination as required by HSC Section 34328.1.

## **A. HOUSING AFFORDABILITY REQUIREMENT**

Pursuant to HSC Section 34312.3, not less than 20 percent of the units assisted by the Authority, or 15 percent in targeted areas, as defined by Section 103(b) (12)(A) of Title 26 of the United States Code, must be affordable to persons of low income. Of that amount, not less than one-half must be available to persons of very low-income, if the housing development is financed by bonds.

As shown in the tables on the following pages, the Authority complies with the established affordability requirements of HSC Section 34312.3.

DRAFT

Multi-Family Residential Real Estate Assets (Owned or assisted by the Authority)										
Project Name	Location	Funding Source	Building Owner	Project Type	Affordability Restrictions					
					ELI	VL	Low	Mod	PM	Total
Continuum of Care Permanent Housing Units (Begonia Apartments) <sup>1, 2</sup>	209, 216, 217, 222, 223, 228, and 231 N. Begonia Ave.	HOME, Low and Moderate Income Housing Funds (LMIHF), Neighborhood Stabilization Program (NSP) NSP1, and NSP3	Authority	Family Rental	0	14	11	2	1	28
Continuum of Care Permanent Housing Units (Begonia Apartments)	305 N. Begonia Ave.	HOME, and LMIHF	Leased to Mercy House CHDO	Family Rental	0	0	4	0	0	4
Emporia Place	220 South Fern Avenue	LIHTC, Low and Moderate Income Housing Agency Funds (LMIHAF), and OHA funds.	Ontario Emporia Housing Partners, L.P.	Family Housing	8	42	24	0	1	75
Homeless Continuum of Care Permanent Housing Units (Francis Apartments) <sup>3</sup>	307, 309, 311 W. Francis St.	HOME and LMIHF	Leased to Mercy House CHDO	Family Rental	0	3	8	4	0	15
Hollowell Apartments	1165 W. Hollowell St.	HOME and NSP3	Authority	Family Rental	0	2	1	1	0	4
Ideal Mobile Home Park	905 E. Holt Blvd.	LMIHF	Authority	Former Mobile Home Park	0	0	0	0	0	0
Mountain View Senior Apartments Phase II (Ground Lease)	511 N. Palmetto Ave.	Low Income Housing Tax Credits (LIHTC), LMIHF, and Private Financing	Ontario Housing Investors II, LP	Senior Rental	0	16	4	0	0	20
Palm Terrace Senior Apartments (Ground Lease)	1449 E. "D" St.	HOME and HUD Section 202	D Street Senior Housing, Inc.	Senior Rental	0	47	0	0	1	48
Vesta Apartments	520 W. Vesta St.	HOME and Community Development Block Grant (CDBG)	Authority	Family Rental	0	2	2	2	0	6
Vesta Apartments	1164 W. Vesta St.	HOME and NSP3	Authority	Family Rental	0	0	4	0	0	4
<b>TOTAL</b>					<b>8</b>	<b>126</b>	<b>58</b>	<b>9</b>	<b>3</b>	<b>204</b>
<b>Percentages</b>					<b>4%</b>	<b>62%</b>	<b>28%</b>	<b>4%</b>	<b>2%</b>	<b>100%</b>
<sup>1</sup> Seven moderate-income units are being assisted through Project Gateway (S+C) rental subsidies, which allows those units to be classified as very low-income units pursuant to Section 34312.3(c)(6)(A)										
<sup>2</sup> Two moderate-income units are being assisted through HOME Tenant Based Rental Assistance (TBRA) rental subsidies, which allows those units to be classified as a very low-income unit pursuant to Section 34312.3(c)(6)(A)										
<sup>3</sup> One moderate-income unit is being assisted through TBRA rental subsidies being assisted through TBRA rental subsidies, which allows those units to be classified as a very low-income units pursuant to Section 34312.3(c)(6)(A)										

Multi-Family Residential Real Estate Assets (Transferred to the Authority from the former Agency)									
Project Name	Location	Funding Source	Building Owner	Project Type	Affordability Restrictions				
					VL	Low	Mod	PM	Total
Seasons at Ontario (Ground Lease)	955 N. Palmetto Ave.	LIHTC, LMIHF, and Tax Exempt Bonds	LINC Ontario Apartments LP	Senior Housing	32	46	0	2	80
<b>TOTAL</b>					<b>32</b>	<b>46</b>	<b>0</b>	<b>2</b>	<b>80</b>
<b>Percentages</b>					<b>40%</b>	<b>58%</b>	<b>0%</b>	<b>2%</b>	<b>100%</b>

Multi-Family Residential Real Estate Assets (Pending Projects - Assisted by the Ontario Housing Authority)										
Project Name	Location	Funding Source	Building Owner	Project Type	Affordability Restrictions					
					ELI	VL	Low	Mod	PM	Total
Vista Verde Apartments (formerly known as Virginia Holt Apartments)	110 and 112 North Virginia Avenue	LIHTC, Tax Exempt Bonds, Transformative Climate Communities (TCC), and OHA funds.	National Community Renaissance	Family Housing	21	37	42	0	1	101
<b>TOTAL</b>					<b>21</b>	<b>37</b>	<b>42</b>	<b>0</b>	<b>1</b>	<b>101</b>
<b>Percentages</b>					<b>21%</b>	<b>37%</b>	<b>41%</b>	<b>0%</b>	<b>1%</b>	<b>100%</b>

## B. MINIMUM AND MAXIMUM RENTS

HSC Section 34312.3(c) establishes a set of guidelines to determine base and maximum rents that a housing authority can charge for units reserved for lower income households. According to HSC Section 34312.3(c)(2)(B), rental payments for very low-income units shall not exceed the amount derived by multiplying 30 percent times 50 percent of the median adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f). At this time, the Authority has not established a schedule of base rental payment.

Listed in the table below are the 2020-maximum gross rents that were established for Successor Housing Entities monitoring projects that were previously funded with LMIHF unless there were other affordable housing definitions included in the regulatory agreements transferred to the Authority:

LMIHF-FUNDED PROJECTS					
	Studio	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom
<b>Extremely Low Income (30% of AMI)</b>	\$395	\$452	\$508	\$565	\$610
<b>Very Low Income (50% of AMI)</b>	\$659	\$753	\$847	\$941	\$1,016
<b>Low Income (80% of AMI)</b>	\$791	\$904	\$1,016	\$1,130	\$1,220
<b>Moderate Income (120% of AMI)</b>	\$1,449	\$1,657	\$1,863	\$2,071	\$2,236

In general, the above rental amounts are calculated as follows:

- For extremely low income units, the maximum rental amount is the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit;
- For very low income units, the maximum rental amount is the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit;
- For low income units, the maximum rental amount is the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit; and
- For moderate income units, the maximum rental amount is the product of 30 percent times 110 percent of the area median income adjusted for family size appropriate for the unit.

Listed in the table below are the maximum gross rents that were established for 2020 HOME funded projects:

HOME-FUNDED PROJECTS					
	Studio	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom
<b>Low HOME Rent</b>	\$668	\$706	\$847	\$979	\$1,092
<b>High HOME Rent</b>	\$838	\$899	\$1,081	\$1,239	\$1,363

#### **IV. DOMESTIC VIOLENCE**

State law requires that a housing authority annually disclose data related to domestic violence incidents in units owned or operated by the housing authority. Specifically, the data must include:

- Data on termination of tenancies and/or Section 8 vouchers of victims of domestic violence in housing authority units; and
- Summary of steps taken by the housing authority to address any termination of tenancies and/or Section 8 vouchers of victims of domestic violence.

The Authority did not terminate tenancies for domestic violence during FY 2019-20. In the future, information on any terminations of this kind will be presented under separate cover to protect the privacy of the parties involved.

# CITY OF ONTARIO

Agenda Report  
September 1, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN INFORMATIONAL REPORT CONCERNING THE CURRENT DEMOGRAPHICS OF THE CITY OF ONTARIO**

**RECOMMENDATION:** That the City Council receive an informational report (on file in the Records Management Department) concerning the current demographics of the City of Ontario.

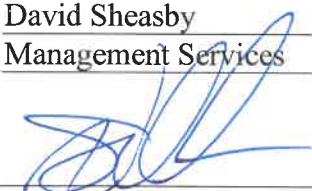
**COUNCIL GOALS:** Operate in a Businesslike Manner

**FISCAL IMPACT:** None.

**BACKGROUND:** On February 27, 2020, the City Council adopted Resolution No. 2020-014, which expressed the City Council's intention to initiate procedures for establishing and implementing by-district elections for Council Members. In that resolution, the City Council directed the City Manager to retain a qualified demographer to assist the City in the establishment of a by-district election system, and to place on a future agenda an informational report from the retained demographer concerning current demographics in the City. The timelines called for in the resolution have been slightly impacted due to COVID-19.

Pursuant to the City Council's direction, the City has retained Dr. Justin Levitt to assist with the study of a by-district election system. The report from Dr. Levitt, on file in the Records Management Department, details current demographics in the City, which will help form the basis for future analysis and discussions of potential City Council election districts.

**STAFF MEMBER PRESENTING:** Scott Ochoa, City Manager

Prepared by: David Sheasby  
Department: Management Services  
City Manager Approval: 

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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# CITY OF ONTARIO

Agenda Report  
September 1, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: APPROVAL OF ALLOCATION AND SPENDING PLAN FOR THE BUREAU OF JUSTICE ASSISTANCE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM FOR FY 2020**

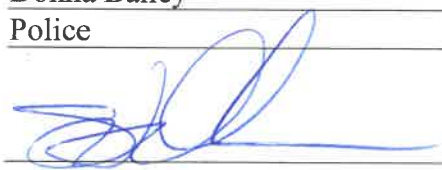
**RECOMMENDATION:** That the City Council approve and authorize the City Manager to execute all documents necessary to participate in the Bureau of Justice Assistance (BJA) Edward Byrne Memorial Justice Assistance Grant (JAG) Program and approve the proposed \$39,860 grant spending plan.

**COUNCIL GOALS:** Maintain the Current High Level of Public Safety  
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

**FISCAL IMPACT:** Upon approval and receipt of the grant award, a separate Grant Identification Number will be established to record, monitor and report on the financial activities of this grant award. The total grant award is \$41,958, of which 5% (\$2,098) will be assigned to the Law & Justice Group of San Bernardino County for administrative fees, resulting in a net award to the City in the amount of \$39,860. This is a one-time allocation with no local matching funds requirement, and grant expenditures must be completed within the four-year grant period. If approved, budget adjustments for appropriations and revenue will be included in the First Quarter Budget Update Report to the City Council.

**BACKGROUND:** The Bureau of Justice Assistance has announced the availability of grant funds through the Edward Byrne Memorial JAG Program. Ontario has participated in the JAG Program (formerly the Local Law Enforcement Block Grant) since 1997. Grant allocations are predetermined through a formula based on population and crime statistics. Ontario has been allocated \$41,958 for FY 2020-21. The grant award along with JAG FY 2017, JAG FY 2018 and JAG FY 2019 grants, previously approved by City Council, have been on hold due to a nationwide injunction by a U.S. District Court on September 15, 2017. With the long-awaited legislative approval, the County of San Bernardino intends to accept all pending JAG awards. Under the JAG legislation, the County will act as the fiscal agent for disbursement of the funds.

**STAFF MEMBER PRESENTING:** Derek Williams, Chief of Police

Prepared by: Donna Bailey  
Department: Police  
City Manager Approval: 

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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Based on current law enforcement operational needs, the Police Department proposes the following grant spending plan: Hand-held radios - \$39,860.

INTERLOCAL AGREEMENT  
BETWEEN THE TOWN OF APPLE VALLEY, THE CITIES OF ADELANTO, BARSTOW,  
CHINO, COLTON, FONTANA, HESPERIA, HIGHLAND, MONTCLAIR, ONTARIO, RANCHO  
CUCAMONGA, REDLANDS, RIALTO, SAN BERNARDINO, UPLAND, VICTORVILLE,  
AND THE COUNTY OF SAN BERNARDINO, CA

CONCERNING DISTRIBUTION OF THE  
2020 JUSTICE ASSISTANCE GRANT AWARD

This Agreement is made and entered into this 11th day of August, 2020, by and between THE COUNTY OF SAN BERNARDINO, acting by and through its governing body, the Board of Supervisors (hereinafter referred to as "COUNTY"), and the aforementioned TOWN (hereinafter referred to as "TOWN") and named CITIES (hereinafter referred to as "CITIES"), acting by and through their respective governing bodies, the Town Council and City Councils, all of whom are situated within the County of San Bernardino, State of California, as follows:

**WHEREAS**, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

**WHEREAS**, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

**WHEREAS**, the COUNTY agrees to release to TOWN and CITIES their respective grant allocation from the JAG Award within sixty (60) days upon receipt of funds, less five percent (5%) for administrative fees, as reflected on Appendix 1 here attached and hereby incorporated by reference as part of this agreement; and COUNTY agrees to use the five percent (5%) of JAG award funds received from TOWN and CITIES under this agreement for administrative fees toward the administration of TOWN's and CITIES' programs during the entire permissible duration of said programs; and TOWN and CITIES agree to deposit their JAG award funds into a separate trust account in accordance with JAG guidelines; and TOWN and CITIES each agree to the five percent (5%) reduction of their respective grant allocation from the JAG award, as reflected on Appendix 1 for administrative fees toward the administration of this program; and additionally the TOWN and CITIES each agree that it is their responsibility to ensure these funds are expended in accordance with JAG guidelines, and that the interest generated from such funds shall be solely applied and expended in accordance with these same JAG guidelines; and

**WHEREAS**, the TOWN, CITIES and COUNTY believe it to be in their best interests to reallocate the JAG funds,

**NOW THEREFORE, the COUNTY and TOWN and CITIES agree as follows:**

**Section 1.**

COUNTY agrees to release to TOWN and CITIES their respective grant allocation from the JAG Award within sixty (60) days upon receipt of funds, less five percent (5%) for administrative fees, as reflected in Appendix 1 here attached and hereby incorporated by reference as part of this Agreement, and; COUNTY agrees to use the five percent (5%) of JAG award funds received from

TOWN and CITIES under this agreement for administrative fees toward the administration of the TOWN's and CITIES' programs during the entire permissible duration of said programs.

**Section 2.**

TOWN and CITIES agree to deposit their JAG award funds into a separate trust account in accordance with the JAG guidelines; and TOWN and CITIES agree to the five percent (5%) reduction of their respective grant allocation from the JAG award, as reflected in Appendix 1, for administrative fees toward the administration of this program, and; TOWN and CITIES each agree that it is their responsibility to ensure these funds are expended in accordance with JAG guidelines and that all interest generated from such funds shall be solely applied and expended in accordance with these same JAG guidelines.

**Section 3.**

TOWN and CITIES agree to enter into a sub-award grant agreement with the COUNTY in order to acknowledge receipt of the federal award information and applicable compliance requirements, including special conditions for each sub-award, before receiving grant funds.

**Section 4.**

TOWN and CITIES agree to provide COUNTY with sufficient timely information as necessary within five business days after receiving written request from COUNTY to meet JAG requirements for quarterly and annual financial and performance reports.

**Section 5.**

Nothing arising from this Agreement shall impose any liability for claims or actions against COUNTY other than what is authorized by law.

**Section 6.**

Nothing arising from this Agreement shall impose any liability for claims or actions against TOWN and/or CITIES other than what is authorized by law.

**Section 7.**

Each party to this Agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable to any other party to this Agreement for any claim or action arising from the services provided under this Agreement.

**Section 8.**

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

**Section 9.**

By entering into this Agreement, the parties do not intend to create any obligations, either express or implied, other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

**WHEREFORE**, all parties freely and voluntarily agree to all of the above terms.

TOWN OF APPLE VALLEY, CA

COUNTY OF SAN BERNARDINO, CA

\_\_\_\_\_  
Town Manager

\_\_\_\_\_  
Curt Hagman  
Chair, County Board of Supervisors

ATTEST:

SIGNED AND CERTIFIED THAT A COPY  
OF THIS HAS BEEN DELIVERED TO THE  
CHAIRMAN OF THE BOARD:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Lynna Monell  
Clerk of the Board of Supervisors  
of the County of San Bernardino

\_\_\_\_\_  
Town Attorney

APPROVED AS TO FORM:

\_\_\_\_\_  
\*Michelle Blakemore  
County Counsel

\_\_\_\_\_  
by: Katherine Hardy, Deputy

\*By law, the County Counsel's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our view of this document was conducted solely from the legal perspective of our clients. Our approval of this document was offered solely for the benefit of our clients. Other parties should not rely on this approval and should seek review and approval by their own respective attorneys.



































**2020 Justice Assistance Grant  
Appendix 1**

<b>Jurisdiction</b>	<b>Allocation</b>	<b>5% Administrative Fee</b>	<b>Award</b>
San Bernardino County	\$60,951	(\$3,047)	\$57,904
Adelanto	\$16,161	(\$808)	\$15,353
Apple Valley	\$16,568	(\$828)	\$15,740
Barstow	\$20,346	(\$1,017)	\$19,329
Chino	\$14,873	(\$744)	\$14,129
Colton	\$13,778	(\$689)	\$13,089
Fontana	\$49,212	(\$2,461)	\$46,751
Hesperia	\$24,037	(\$1,202)	\$22,835
Highland	\$13,585	(\$679)	\$12,906
Montclair	\$14,572	(\$728)	\$13,844
Ontario	\$41,958	(\$2,098)	\$39,860
Rancho Cucamonga	\$18,994	(\$950)	\$18,044
Redlands	\$15,130	(\$756)	\$14,374
Rialto	\$29,896	(\$1,495)	\$28,401
San Bernardino	\$184,334	(\$9,217)	\$175,117
Upland	\$16,418	(\$821)	\$15,597
Victorville	\$51,916	(\$2,596)	\$49,320
<b>Total</b>	<b>\$602,729</b>	<b>(\$30,136)</b>	<b>\$572,593</b>

# CITY OF ONTARIO

Agenda Report  
September 1, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: A PROFESSIONAL SERVICES AGREEMENT FOR BOOKING, JAIL AND TRANSPORTATION SERVICES**

**RECOMMENDATION:** That the City Council approve and authorize the City Manager, or his designee, to negotiate and execute a three-year Professional Services Agreement with G4S Secure Solutions (USA), Inc of Jupiter, Florida for booking, jail, and transportation services for the Police Department.


**COUNCIL GOALS: Maintain the Current High Level of Public Safety  
Operate in a Businesslike Manner**

**FISCAL IMPACT:** The FY 2020-21 Adopted Operating Budget includes appropriations of \$542,775 for booking, jail, and transportation services. The estimated annual cost for FY2021-22 is \$573,831 and FY2022-23 is \$601,574. Appropriations for future years of the agreement will be included in respective annual budgets to be approved by the City Council. The City will be billed for actual services provided in an amount not to exceed the total annual contract value.

**BACKGROUND:** Booking, jail, and transportation services are essential to Ontario Police Department's operational efficiency by reducing by thousands of hours per year the amount of time spent by sworn officers transporting prisoners to the West Valley Detention Center. On June 16, 2020, the City Council approved a three-year extension of the existing Professional Services Agreement for booking, jail, and transportation services with GEO Correction and Detention, LLC (GEO) of Boca Raton, Florida. In early July 2020, GEO notified the Ontario Police Department of their intention to withdraw from the Agreement and cease all operations within the State of California.

In response to the notification to withdraw from the agreement, the City issued a Request for Proposal (RFP) for companies to provide booking, jail, and transportation services. G4S Secure Solutions (USA) Inc. of Jupiter, Florida and Starside Security & Investigation, Inc. of Diamond Bar, California submitted proposals. A panel of Police Department personnel reviewed the responses and recommends award of the Professional Services Agreement to G4S Secure Solutions.

**STAFF MEMBER PRESENTING:** Derek Williams, Chief of Police

Prepared by: Douglas Sorel  
Department: Police  
City Manager Approval: 

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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The following is a summary of the responding firms:

**RFP No. 1344 – Booking, Jail, and Transportation Services**

<u>Vendor</u>	<u>Location</u>
<b>G4S Secure Solutions (USA), Inc.</b> Starside Security & Investigation, Inc.	<b>Jupiter, FL</b> Diamond Bar, CA

G4S Secure Solutions (USA), Inc. has been in operation in the United States for 66 years and has extensive experience providing support services and operating temporary holding facilities to 15 police departments in Southern California. The second vendor has seven years of experience in armed and unarmed security services, detentions, and transportation services as a Federal contractor but did not detail any experience or track record of successfully operating temporary holding facilities at the local government level.

This action, if approved by the City Council, will authorize the City Manager, or his designee, to conclude negotiations of agreement terms with G4S Secure Solutions (USA), Inc. and execute a new three-year Professional Services Agreement within the financial terms and appropriations caps approved by the City Council.

# CITY OF ONTARIO

Agenda Report  
September 1, 2020

SECTION:  
CONSENT CALENDAR

**SUBJECT: AWARD OF A CONSTRUCTION CONTRACT FOR THE FIRE STATION NO. 9 OFFSITE IMPROVEMENTS**

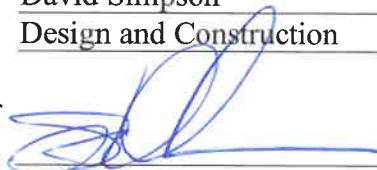
**RECOMMENDATION:** That the City Council take the following actions:

- (A) Reject Kern Construction's bid for D&C19-005FS09 Offsites as being nonresponsive;
- (B) Authorize the City Manager to execute Construction Contract No. D&C19-005 FS09 Offsites (on file in the Records Management Department) with Boudreau Pipeline of Norco, California, for the construction of street and traffic signal improvements required for the development of Fire Station No. 9 in the amount of \$2,173,971;
- (C) Authorize a 15% contingency of \$326,096 to address any unforeseen issues that may arise during construction;
- (D) Establish an umbrella contingency of pooled Fire Station No. 9 contingencies and reserves; and
- (E) Authorize the City Manager or his designee to execute all documents required for the completion of the project including, but not limited to, contracts, agreements, assessments, easements, reduction of retention accounts, and filing a notice of completion at the conclusion of all construction related activities.

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

**FISCAL IMPACT:** The scope of the estimated construction costs of the street and traffic signal improvements is \$2,500,067 including a fifteen percent (15%) contingency of \$326,096. The total construction costs will be funded from the NMC Fire Impact Fund (Fund 190), which will be included as part of the Fiscal Year 2020-21 First Quarter Budget Update Report to the City Council. Pursuant to

**STAFF MEMBER PRESENTING:** Tito Haes, Executive Director Public Works

Prepared by: David Simpson  
Department: Design and Construction  
City Manager Approval: 

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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the Construction Agreement with NMC Builders, LLC (NMC Builders), NMC Builders is required to reimburse the City for the costs to design, construct, and complete Fire Station No. 9 and the off-site improvements associated with its operation. The construction of the street and traffic signal improvements has no immediate impact or obligation on the City's General Fund.

**BACKGROUND:** On December 17, 2019 the City Council approved a construction contract with Act 1 Construction Services of Norco, California; for the construction of Fire Station No. 9 to be located on undeveloped land on the south west corner of Ontario Ranch Road and Archibald Avenue. The scope of work was limited to the onsite work required to build the station. Additional scope was added to rough grade the road serving the station; but the finished road, utilities, landscaping and traffic signal were to be built under a subsequent contract.

On July 22, 2020 the City solicited bids for the offsite improvements required for the operation of Fire Station No. 9 (D&C19-005-FS09 Offsites). Eight bids were received and Kerns Inc. of Hesperia, California, was the apparent low bidder at \$2,151,363. Kerns was disqualified when it was established that one of their subcontractors was not properly licensed. Boudreau Pipeline (Boudreau) was then the new apparent low bidder at \$2,173,971 just ahead of Act 1 at \$2,189,587. Act 1 protested Boudreau's bid stating that Boudreau failed to list certified contractors as required for the utility work. After an investigation, the City Attorney wrote Act 1 a letter on August 10, 2020, stating that Boudreau's utility contractors were certified, and Boudreau remains the lowest responsive bidder.

All the bids received are listed below:

<u>Vendor</u>	<u>Location</u>	<u>Amount</u>
*Kerns Inc.	Norco, CA	\$2,151,363
Boudreau Pipeline	Corona, CA	\$2,173,971
Act 1 Construction	Norco, CA	\$2,189,589
CS Legacy	Chino, CA	\$2,201,157
Trinity Construction	Cedar Glen, CA	\$2,203,449
Los Angeles	Covina, CA	\$2,293,500
Aramexx Group Inc.	Riverside, CA	\$2,299,000
Caliba Inc.	Stanton, CA	\$2,583,000

*\*Proposal was incomplete or did not meet bid specifications and therefore deemed non-responsive*

Boudreau Pipeline Services located in Norco, California, submitted the lowest bid that met all the required specifications with a base cost of \$2,173,971. Based on the bid, credentials, pricing and favorable reference checks, staff recommends awarding Construction Contract No. D&C19-005-FS09 Offsites to Boudreau Pipeline Services.

Originally the Fire Station No. 9 project included the Fire Station (D&C19-005-FS09) and the offsite improvements (D&C19-005-FS09 Offsites) as one project. The project was split to allow the more involved station construction to begin ahead of the offsite improvements. Now that the offsite improvements are starting, staff recommends the establishment of a project wide umbrella contingency to facilitate overall coordination. All Fire Station No. 9 related architect, contractor and consultant contingencies, remaining balances and reserve funds would be pooled to address shortfalls across the combined project. Establishment of such a fund would facilitate overall coordination and contribute to the Fire station becoming operational by Summer of 2021.



# CITY OF ONTARIO

Agenda Report  
September 1, 2020

SECTION:  
ADMINISTRATIVE REPORTS/  
DISCUSSION/ACTION

**SUBJECT: ESTABLISHMENT OF POSITION CLASSIFICATION FOR EXECUTIVE DIRECTOR COMMUNITY DEVELOPMENT AND MODIFY AND APPROVE SALARY RANGE COMPENSATION FOR UTILITIES COMPANY GENERAL MANAGER**

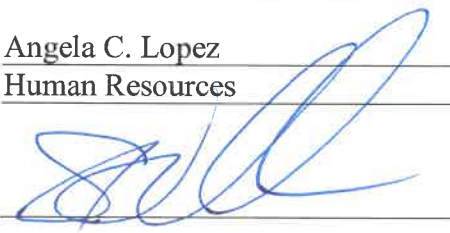
**RECOMMENDATION:** That the City Council approve the establishment of the new executive position classification of Executive Director Community Development and associated salary range to reflect expansion of job scope and responsibilities; and approve a proposed base salary range modification for the Utilities General Manager to minimize disparity with salary ranges as compared to similarly situated classifications as well as maintain the City's competitiveness in attracting and retaining highly qualified individuals.

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

**FISCAL IMPACT:** There is no net fiscal impact directly associated with the creation of Executive Director Community Development nor the modification to the base salary range for the Utilities General Manager. These items are part of a larger organizational realignment and the consolidation of position classifications. Which will result in an overall budgetary savings in the General Fund and affected Enterprise Funds (Water, Sewer, and Integrated Waste).

**BACKGROUND:** As part of a budget-reduction process due to the financial impact of the COVID-19 pandemic, the City offered a retirement incentive of two-years' service credit to eligible employees. As a result of this offering, a reduction in the workforce has created personnel and organizational changes that include the consolidation of agencies to maintain program operations and efficiencies. This recommendation includes organizational changes to consolidate the Housing and Neighborhood

**STAFF MEMBER PRESENTING:** Angela C. Lopez, Executive Director Human Resources

Prepared by: Angela C. Lopez  
Department: Human Resources  
City Manager Approval: 

Submitted to Council/O.H.A. 09/01/2020  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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Preservation Agency and Development Agency as well as alignment of the Utilities General Manager salary range with the new classification Executive Director Community Development salary range. The upcoming retirement of the Executive Director Housing & Neighborhood Preservation provides an opportunity to consolidate the Housing and Neighborhood Preservation Agency with the Development Agency and create the Community Development Agency. The Continuum of Care responsibilities of Housing will move to the Community Life and Culture Agency. The Community Development Agency will consist of Building, Engineering, Planning, Housing, and Community Improvement. The new executive position classification of Executive Director Community Development will reflect the considerable expansion of scope and complexity in responsibilities through the consolidation of these agencies. The proposed base salary range for Executive Director Community Development is \$16,102 - \$21,574/month.

Subsequently, staff proposes adjusting the salary range for the Utilities General Manager to \$16,102 - \$21,574/month to align with the new Executive Director Community Development base salary range. This adjustment will alleviate the gap in salary ranges between the classifications that are similar in their broad scope and complexity in responsibility.

The City recognizes the importance of maintaining its fiscally conservative approach while attempting to provide a competitive compensation and benefits package to its employees to attract and retain a highly qualified and productive workforce committed to serving our community. The appropriations associated with the new classification and salary range adjustment are offset by the salary savings created by the retirement of incumbents in other executive position classifications. The funding allocation will be re-examined in the First Quarter Budget Report to the City Council.