

**CITY OF ONTARIO**  
**CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR**  
**AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY**  
**AGENDA**  
**FEBRUARY 21, 2017**

**Paul S. Leon**  
Mayor

**Debra Dorst-Porada**  
Mayor pro Tem

**Alan D. Wapner**  
Council Member

**Jim W. Bowman**  
Council Member

**Ruben Valencia**  
Council Member



**Al C. Boling**  
City Manager

**John E. Brown**  
City Attorney

**Sheila Mautz**  
City Clerk

**James R. Milhiser**  
Treasurer

**WELCOME to a meeting of the Ontario City Council.**

- All documents for public review are on file with the Records Management/City Clerk's Department located at 303 East B Street, Ontario, CA 91764.
- Anyone wishing to speak during public comment or on a particular item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Clerk will not accept blue slips after that time.
- Comments will be limited to 3 minutes. Speakers will be alerted when they have 1 minute remaining and when their time is up. Speakers are then to return to their seats and no further comments will be permitted.
- In accordance with State Law, remarks during public comment are to be limited to subjects within Council's jurisdiction. Remarks on other agenda items will be limited to those items.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council and Staff need to be recognized by the Chair before speaking.

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

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

**CALL TO ORDER (OPEN SESSION)**

**6:30 p.m.**

**ROLL CALL**

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

**PLEDGE OF ALLEGIANCE**

Council Member Wapner

**INVOCATION**

Rabbi David Mattis, Temple Sholom of Ontario

**PUBLIC COMMENTS**

**6:30 p.m.**

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

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

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

## **CONSENT CALENDAR**

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

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

### **1. APPROVAL OF MINUTES**

Minutes for the regular meeting of the City Council and Housing Authority of January 17, 2017, approving same as on file in the Records Management Department.

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

**Bills** January 8, 2017 through January 21, 2017 and **Payroll** January 8, 2017 through January 21, 2017, when audited by the Finance Committee.

### **3. RESOLUTIONS APPROVING PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENTS BETWEEN TNHYIF REIV INDIA, LLC, DB GRAND, LLC, LAMBERT BREA, LLC, AND STAFFORD, LLC (2007 OWNER PARTICIPATION AGREEMENT-ONTARIO AIRPORT TOWERS)**

That the Successor Agency to the Ontario Redevelopment Agency and City Council take the following actions:

- (A) The Successor Agency to the Ontario Redevelopment Agency adopt a resolution approving a Partial Assignment and Assumption of the 2007 Owner Participation Agreement (“OPA”) between TNHYIF REIV India, LLC and DB Grand, LLC (Ontario Airport Towers Vacant Land); and
- (B) The Successor Agency to the Ontario Redevelopment Agency adopt a resolution approving a Partial Assignment and Assumption of the 2007 Owner Participation Agreement (“OPA”) between TNHYIF REIV India, LLC and Lambert Brea, LLC (Ontario Airport Towers - Phase 1); and
- (C) The Successor Agency to the Ontario Redevelopment Agency adopt a resolution approving a Partial Assignment and Assumption of the 2007 Owner Participation Agreement (“OPA”) between TNHYIF REIV India, LLC and Stafford, LLC (Ontario Airport Tower - Phase 2 and 3); and
- (D) The City Council adopt a resolution approving a Partial Assignment and Assumption of the 2007 Owner Participation Agreement (“OPA”) between TNHYIF REIV India, LLC and DB Grand, LLC (Ontario Airport Tower Vacant Land).

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT (ONTARIO AIRPORT TOWERS VACANT LAND) FOR PARCELS 6, 7, 8 AND 9.

RESOLUTION NO. SA-\_\_\_\_\_

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF 2007 OWNER PARTICIPATION AGREEMENT (ONTARIO AIRPORT TOWERS VACANT LAND) FOR PARCELS 6, 7, 8 AND 9.

RESOLUTION NO. SA- \_\_\_\_\_

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (ONTARIO AIRPORT TOWERS) (PHASE 1).

RESOLUTION NO. SA- \_\_\_\_\_

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (ONTARIO AIRPORT TOWERS) (PHASES 2 AND 3).

**4. AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION ENGINEERING SUPPORT SERVICES FOR THE FRANCIS STREET STORM DRAIN PROJECT/DANKEN CONSTRUCTION ENGINEERING GROUP**

That the City Council approve an amendment to the Professional Services Agreement (on file in the Records Management Department) with Danken Construction Engineering Group of Ontario, California, for additional engineering construction support services for the Francis Street Storm Drain Project, in the amount of \$131,208 for a revised contract amount of \$314,383; and authorize the City Manager to execute said amendment and future amendments.

**5. RESOLUTION DEDICATING A RIGHT-OF-WAY EASEMENT OVER PORTIONS OF SEVEN CITY-OWNED PARCELS ALONG GROVE AVENUE BETWEEN FOURTH AND G STREETS**

That the City Council adopt a resolution dedicating a right-of-way easement (for public road and utility purposes) over the segment of Grove Avenue between Fourth and G streets; and authorize the City Manager to execute the easement deed.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEDICATING A RIGHT-OF-WAY EASEMENT OVER PORTIONS OF SEVEN CITY-OWNED PARCELS ALONG GROVE AVENUE BETWEEN FOURTH AND G STREETS.

**6. A FIRE MUTUAL AID & AUTOMATIC AID AGREEMENT WITH RANCHO CUCAMONGA FIRE PROTECTION DISTRICT**

That the City Council authorize the City Manager to execute an agreement with Rancho Cucamonga Fire Protection District (on file with the Records Management Department) for Fire Mutual Aid & Automatic Aid related to tactical incident response.

**7. FISCAL YEAR 2016-17 SECOND BUDGET UPDATE REPORT**

That the City Council approve the budget adjustments and recommendations as listed in the Fiscal Year 2016-17 Second Budget Update Report.

**8. ESTABLISHMENT OF A DEBT MANAGEMENT POLICY**

That the City Council approve a debt management policy for the City.

**9. MAINTENANCE SERVICE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR ONTARIO RANCH MEDIANS AND PARKWAYS/MERCHANTS LANDSCAPE SERVICES, INC.**

That the City Council approve and authorize the City Manager to execute a three-year Maintenance Service Agreement (on file with Records Management Department) for Contract No. PM 1617-1 with Merchants Landscape Services, Inc., located in Rancho Cucamonga, California, for an annual estimated cost of \$192,000 plus a 5% contingency of \$9,600; and authorize addition of future services; and authorize the option to extend the agreement for up to two additional years consistent with the City Council approved budgets.

**10. ACCEPTANCE OF GRANT AWARD FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY AND THE CALIFORNIA OFFICE OF EMERGENCY SERVICES PROVIDED THROUGH THE FY 2016 URBAN AREA SECURITY INITIATIVE (UASI) GRANT PROGRAM**

That the City Council authorize the City Manager to execute all documents necessary to accept a three-year sub-grant award in the amount of \$600,000 from the U.S. Department of Homeland Security and the California Office of Emergency Services provided through the FY 2016 UASI Grant Program.

## **PUBLIC HEARINGS**

**Pursuant to Government Code Section 65009, if you challenge the City's zoning, planning or any other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the public hearing.**

### **11. AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 3002 LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 24 (PARK PLACE FACILITIES PHASE I)**

That the City Council introduce and waive further reading of an ordinance amending and restating Ordinance No. 3002 levying special taxes within City of Ontario Community Facilities District No. 24 (Park Place Facilities Phase I).

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

Written communication.

Oral presentation.

Public hearing closed.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING AND RESTATING ORDINANCE NO. 3002, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 24 (PARK PLACE FACILITIES PHASE I).

### **12. A CITY INITIATED REQUEST TO CHANGE THE ZONING DESIGNATIONS (FILE NO. PZC16-005) ON 51 PROPERTIES AS FOLLOWS: 1) 34 PROPERTIES FROM MDR-18 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), 2) 16 PROPERTIES FROM MDR-25 (MEDIUM-HIGH DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), AND 3) ONE PROPERTY FROM CN (NEIGHBORHOOD COMMERCIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL WITH ICC (INTERIM COMMUNITY COMMERCIAL OVERLAY), FOR PROPERTIES GENERALLY LOCATED SOUTH OF D STREET, WEST OF VINE AVENUE, NORTH OF VESTA STREET AND EAST OF SAN ANTONIO AVENUE, IN ORDER TO MAKE THE ZONING CONSISTENT WITH THE ONTARIO PLAN LAND USE DESIGNATIONS OF THE PROPERTIES**

That City Council conduct a public hearing and introduce and waive further reading of an ordinance approving a Zone Change (File No. PZC16-005) to create consistency between the zoning and the General Plan land use designations of the subject properties.

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

Written communication.

Oral presentation.

Public hearing closed.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC16-005, A CITY INITIATED REQUEST TO CHANGE THE ZONING DESIGNATIONS (FILE NO. PZC16-005) ON 51 PROPERTIES AS FOLLOWS: 1) 34 PROPERTIES FROM MDR-18 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), 2) 16 PROPERTIES FROM MDR-25 (MEDIUM-HIGH DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), AND 3) ONE PROPERTY FROM CN (NEIGHBORHOOD COMMERCIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL) WITH ICC (INTERIM COMMUNITY COMMERCIAL OVERLAY), FOR PROPERTIES GENERALLY LOCATED SOUTH OF D STREET, WEST OF VINE AVENUE, NORTH OF VESTA STREET AND EAST OF SAN ANTONIO AVENUE, IN ORDER TO MAKE THE ZONING CONSISTENT WITH THE ONTARIO PLAN LAND USE DESIGNATIONS OF THE PROPERTIES, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: AS SHOWN IN EXHIBIT A (ATTACHED).

## ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

### **13. A RESOLUTION AUTHORIZING THE ISSUANCE OF SPECIAL TAX BONDS FOR COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES – AREA A)**

That the City Council adopt a resolution authorizing the issuance of special tax bonds for Community Facilities District No. 28 (New Haven Facilities – Area A). The resolution:

- (A) Authorizes the issuance of special tax bonds for public improvements required to facilitate the development of the New Haven Facilities – Area A project;
- (B) Approves the forms of the Indenture of Trust, the Bond Purchase Agreement, the Continuing Disclosure Agreement, and the Preliminary Official Statement;
- (C) Authorizes a negotiated sale of the special tax bonds to Stern Brothers & Co. (the “Underwriter”) in accordance with the terms of the Bond Purchase Agreement;
- (D) Authorizes the execution of the Indenture of Trust, the Bond Purchase Agreement, the Continuing Disclosure Agreement, and the Preliminary Official Statement by the City Manager, or his designee;
- (E) Authorizes the execution of the special tax bonds by the Mayor; and

(F) Authorizes the appointment by the City Manager of a trustee for the District.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE ISSUANCE OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES - AREA A) SPECIAL TAX BONDS, SERIES 2017, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$11,000,000, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION THEREWITH AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS.

**STAFF MATTERS**

City Manager Boling

**COUNCIL MATTERS**

***CITY COUNCIL COMMITTEE APPOINTMENTS***

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

**ADJOURNMENT**



# CITY OF ONTARIO

Agenda Report  
February 21, 2017

SECTION:  
CONSENT CALENDAR

**SUBJECT: RESOLUTIONS APPROVING PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENTS BETWEEN TNHYIF REIV INDIA, LLC, DB GRAND, LLC, LAMBERT BREA, LLC, AND STAFFORD, LLC (2007 OWNER PARTICIPATION AGREEMENT-ONTARIO AIRPORT TOWERS)**

**RECOMMENDATION:** That the Successor Agency to the Ontario Redevelopment Agency and City Council take the following actions:

- (A) The Successor Agency to the Ontario Redevelopment Agency adopt a resolution approving a Partial Assignment and Assumption of the 2007 Owner Participation Agreement (“OPA”) between TNHYIF REIV India, LLC and DB Grand, LLC (Ontario Airport Towers Vacant Land); and
- (B) The Successor Agency to the Ontario Redevelopment Agency adopt a resolution approving a Partial Assignment and Assumption of the 2007 Owner Participation Agreement (“OPA”) between TNHYIF REIV India, LLC and Lambert Brea, LLC (Ontario Airport Towers - Phase 1); and
- (C) The Successor Agency to the Ontario Redevelopment Agency adopt a resolution approving a Partial Assignment and Assumption of the 2007 Owner Participation Agreement (“OPA”) between TNHYIF REIV India, LLC and Stafford, LLC (Ontario Airport Tower - Phase 2 and 3); and
- (D) The City Council adopt a resolution approving a Partial Assignment and Assumption of the 2007 Owner Participation Agreement (“OPA”) between TNHYIF REIV India, LLC and DB Grand, LLC (Ontario Airport Tower Vacant Land)

**COUNCIL GOALS: Operate in a Businesslike Manner  
Invest in the Growth and Evolution of the City’s Economy**

**STAFF MEMBER PRESENTING:** John P. Andrews, Economic Development Director

Prepared by: Charity Hernandez  
Department: Economic Development

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/21/2017

Approved: \_\_\_\_\_

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

Denied: \_\_\_\_\_

3

**FISCAL IMPACT:** None.

**BACKGROUND:** Pursuant to Health and Safety Code Section 34172, the Ontario Redevelopment Agency (“Redevelopment Agency”) was dissolved as of February 1, 2012. The City of Ontario (“City”) elected to serve as the Successor Agency to the Ontario Redevelopment Agency (“Successor Agency”).

Prior to its dissolution, the Redevelopment Agency and Ontario Airport Center, LLC (“Prior Owner”) entered into a 2007 Owner Participation Agreement (Ontario Airport Towers), dated September 4, 2007, as amended pursuant to that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014 (collectively, the “OPA”) in which the Prior Owner agreed to develop and operate Private Works of Improvement (“PWI”) in three (3) different phases of development on that certain real property located along the south side of Interstate-10 Freeway between Archibald and Turner Avenues, consisting of approximately 21.46 acres (“Property”), for the completion of public improvements necessary for the development of the PWI, and to provide for the Redevelopment Agency to pay to Prior Owner an amount as further specified and defined in the OPA as the “Agency’s Yearly Tax Increment Payment” (“TIF”) as reimbursement for certain related costs.

In 2012, TNHYIF REIV India, LLC (“Owner”) acquired the Property from the Prior Owner and became the successor-in-interest to the OPA. Phase 1 development under the OPA was completed and a Certificate of Completion was recorded in the Official Records of the County of San Bernardino on April 17, 2009, as Document No. 2009-0163048. Phases 2 and 3 have not yet been completed.

The City and Prior Owner also entered into a Development Agreement, dated September 16, 2008, and recorded in the Official Records of County of San Bernardino as Document No. 2008-0544740 (“Development Agreement”), which contains certain rights, duties and obligations relating to the development of the Property. In 2012, when Owner acquired the Property from the Prior Owner, Owner additionally became the successor-in-interest to the Development Agreement.

Owner desires to assign, convey and transfer all rights and interests of Owner, as the “Owner” of the Property under the OPA and Development Agreement, solely to the extent such rights and interests relate to the Property, to DB Grand, LLC, a California limited liability company (“DB Grand”). Owner and DB Grand have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers Vacant Land) (Parcels 6, 7, 8, 9 and a Partial Assignment and Assumption of Development Agreement (Ontario Airport Towers Vacant Land) (Parcels 6, 7, 8, 9).

Owner desires to assign, convey and transfer all rights and interest of Owner, as the “Owner” under the OPA, solely to the extent such rights and interests relate to the TIF for Phase 1, to Lambert Brea LLC, a California limited liability company (“Lambert Brea”). Owner and Lambert Brea have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers) (Phase 1).

Owner additionally desires to assign, convey and transfer all rights and interest of Owner, as the “Owner” under the OPA, solely to the extent such rights and interest relate to the TIF for Phases 2 and 3, to Stafford LLC, a California limited liability company (“Stafford”). Owner and Stafford have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers) (Phase 2).

Pursuant to Section 9.3 of the OPA and Section 2.4 of the Development Agreement, the Successor Agency and City, respectively, must approve the assignment agreements for them to be valid.

If the assignment agreements for the OPA are approved by the Successor Agency, these agreements will then be submitted to and considered by the Oversight Board and the California Department of Finance for review and approval.

If the assignment agreement for the Development Agreement is approved by the City, no further action is required.

Due to the importance of the development of the site, staff recommends that the City Council and Successor Agency adopt resolutions assigning the OPA and Development Agreement to DB Grand, LLC, and the OPA to Lambert Brea, LLC and Stafford, LLC.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT (ONTARIO AIRPORT TOWERS VACANT LAND) FOR PARCELS 6, 7, 8 AND 9.

WHEREAS, prior to its dissolution, the Ontario Redevelopment Agency and Ontario Airport Center, LLC ("Prior Owner") entered into a 2007 Owner Participation Agreement (Ontario Airport Towers), dated September 4, 2007, as amended pursuant to that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014 (collectively, the "OPA") in which the Prior Owner agreed to develop and operate Private Works of Improvement, as further defined in the OPA ("PWI"), in three (3) different phases of development on that certain real property located in the City of Ontario, California and consisting of approximately 21.462 acres, as further described in the OPA ("Property"), for the completion of public improvements necessary for the development of the PWI, and to provide for the Redevelopment Agency to pay to Prior Owner an amount as further specified and defined in the OPA as the "Agency's Yearly Tax Increment Payment" as reimbursement for certain related costs; and

WHEREAS, City and Prior Owner entered into a Development Agreement, dated September 16, 2008, and recorded in the Official Records of County of San Bernardino as Document No. 2008-0544740 ("Development Agreement"), which contains certain rights, duties and obligations relating to the development of the Property; and

WHEREAS, in 2012, TNHYIF REIV India, LLC ("Owner") acquired the Property from the Prior Owner and became the successor-in-interest to the Development Agreement and OPA; and

WHEREAS, the Phase 1 development under the OPA was completed and a Certificate of Completion was recorded in the Official Records of the County of San Bernardino on April 17, 2009, as Document No. 2009-0163048 but Owner has not yet completed Phases 2 and 3; and

WHEREAS, Owner desires to assign, convey and transfer all rights and interests of Owner under the DA, to the extent such rights and interests relate to the Property, to DB Grand, LLC, a California limited liability company ("DB Grand") and Owner and DB Grand have entered into a Partial Assignment and Assumption of Development Agreement (Ontario Airport Towers Vacant Land) (Parcels 6, 7, 8, 9) ("Assignment Agreement"); and

WHEREAS, Section 2.4 of the Development Agreement requires the City's consent to the Assignment Agreement; and

WHEREAS, the Assignment Agreement has no effect on the rights and obligations of the City under the Development Agreement and is for the sole purpose of substituting DB Grand as the owner of the Property under the Development Agreement; and

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

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

SECTION 2. CEQA Compliance. City staff has determined that the City's approval of the Assignment Agreement is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Sections 15061(b)(3), because it can be seen with certainty that there is no possibility that the Assignment Agreement may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of CEQA. The City Clerk of the City of Ontario is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

SECTION 3. Approval of Agreement. The City Council hereby approves the Assignment Agreement, in substantially the form attached to this Resolution as Exhibit "A."

SECTION 4. Implementation. The City Manager or his or her designee is hereby authorized and directed to execute any and all documents, and take any and all action necessary to carry out the purposes of this Resolution in compliance with applicable law, including, authorizing non-substantive changes to the Assignment Agreement and executing the Assignment Agreement.

SECTION 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 6. Certification. The City Clerk shall certify to the adoption of this Resolution.

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

PASSED, APPROVED, AND ADOPTED this 21<sup>st</sup> day of February 2017.

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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. 2017- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 21, 2017 by the following roll call vote, to wit:

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

(SEAL)

The foregoing is the original of Resolution No. 2017- duly passed and adopted by the Ontario City Council at their regular meeting held February 21, 2017.

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

(SEAL)

EXHIBIT A

PARTIAL ASSIGNMENT AND ASSUMPTION OF  
DEVELOPMENT AGREEMENT  
(ONTARIO AIRPORT TOWERS VACANT LAND)  
(PARCELS 6, 7, 8, 9)

[Attached behind this cover page]



RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

TNHYIF REIV INDIA, LLC  
c/o True North Management Group  
10 Bank Street, 12<sup>th</sup> Floor  
White Plains, NY 10606  
Attention: Girard Tunney, Principal

(Space above this line for Recorder's use only)

PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT  
(Ontario Airport Towers Vacant Land)  
(Parcels 6, 7, 8, 9)

This PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT (this "Partial Assignment") dated as of \_\_\_\_\_, 2017, for reference purposes only, is made by and between TNH YIF REIV INDIA, LLC, a Delaware limited liability company ("Assignor"), and DB GRAND, LLC, a California limited liability company ("Assignee").

RECITALS

A. Assignor owns that certain real property located in the City of Ontario, County of San Bernardino, State of California, located at the northwest corner of Guasti Avenue and Turner Avenue, which real property is more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Property"). The Property is part of a larger development more particularly described in Exhibit B attached hereto and incorporated herein by this reference (the "Development").

B. The Development is subject to the terms of that certain Development Agreement, dated as of September 16, 2008, by and among the City of Ontario, a California municipal corporation (the "City"), and Ontario Airport Center, LLC, a Delaware limited liability company ("Ontario Airport Center"), and recorded in the Official Records of County of San Bernardino (the "Official Records") as Document No. 2008-0544740 (the "Development Agreement"), which Development Agreement contains certain rights, duties and obligations relating to the development of the Development. Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Development Agreement.

C. Assignor is the successor-in-interest to Ontario Airport Center for purposes of the Development Agreement as the Development Agreement pertains to the Property.

D. Concurrently with the recording of this Partial Assignment in the Official Records, Assignee is acquiring the Property from Assignor.

E. Assignor agreed to assign to Assignee certain of its rights and interests under the Development Agreement, as such rights and interests relate to the Property. In addition, Assignor and Assignee agreed that Assignor would delegate to Assignee certain of the obligations of Assignor under the Development Agreement, which obligations would be assumed by Assignee. Accordingly, Assignor desires to assign and delegate certain rights and obligations under the Development Agreement to Assignee, and Assignee desires to accept such assignment and assume such obligations under the Development Agreement, as more particularly provided below in this Partial Assignment.

F. The purpose of this Partial Assignment is to set forth the terms and provisions agreed upon between Assignor and Assignee with respect to the assignment of certain rights and interests and the delegation of certain duties and obligations of Assignor under the Development Agreement, as such rights, interests, duties and obligations relate to the Property.

NOW, THEREFORE, with reference to the foregoing Recitals, and in consideration of the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Partial Assignment. As of the Effective Date (as defined in Section 4.7), Assignor hereby assigns, conveys and transfers to Assignee the rights and interests of Assignor, as the "Owner" of the Property under the Development Agreement solely to the extent such rights and interests relate to the Property, and Assignee hereby accepts such assignment.

2. Delegation and Assumption of Obligations. From and after the Effective Date, Assignor hereby delegates to Assignee all of Assignor's duties and obligations, as the "Owner," under the Development Agreement solely to the extent such obligations relate to the Property, all of which obligations are hereby assumed by Assignee (collectively, the "Obligations").

3. Extension of Development Agreement. Assignee or any owner in the Development shall have the right, but not the obligation, to request an extension of the term of the Development Agreement as to the entire Development, including the Property.

4. Miscellaneous.

4.1 Interpretation; Governing Law. This Partial Assignment shall be construed according to its fair meaning and as prepared by both parties hereto. This Partial Assignment shall be construed in accordance with and governed by the laws of the State of California.

4.2 Attorneys' and Other Fees. Should any party institute any action or proceeding to enforce or interpret this Partial Assignment or any provision hereof, for damages by reason of any alleged breach of this Partial Assignment or of any provision

hereof, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including reasonable attorneys' and other fees, incurred by the prevailing party in connection with such action or proceeding. The term "attorneys' and other fees" shall mean and include attorneys' fees, accountants' fees, and any and all other similar fees incurred in connection with the action or proceeding and preparations therefor. The term "action or proceeding" shall mean and include actions, proceedings, suits, arbitrations, appeals and other similar proceedings.

4.3 Authority. Each of the parties hereto represents and warrants to the other that the person or persons executing this Partial Assignment on behalf of such party is or are authorized to execute and deliver this Partial Assignment and that this Partial Assignment shall be binding upon such party.

4.4 Further Assurances. Assignor and Assignee each agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably request to consummate, evidence, confirm or more fully implement the agreements of the parties as contained herein.

4.5 Execution in Counterparts. This Partial Assignment may be executed in several counterparts, and all originals so executed shall constitute one agreement between the parties hereto.

4.6 Conflict. As between Assignor and Assignee, in the event of any conflict or inconsistency between the provisions of this Partial Assignment and the provisions of the Development Agreement or any other documents, the provisions of this Partial Assignment shall govern and prevail.

4.7 Effective Date. The "Effective Date" shall mean the date upon which Assignee acquires fee title to the Property.

4.8 Recordation. The parties hereby authorize this Partial Assignment to be recorded in the Official Records upon the Effective Date.

4.9 Successors and Assigns. This Partial Assignment shall be binding upon and inure to the benefit of the respective successors, assigns, personal representatives, heirs and legatees of Assignor and Assignee.

(Signatures Follow on Next Page)

IN WITNESS WHEREOF, the parties have executed this Partial Assignment as of the date first set forth above, to be made effective as of the Effective Date.

**“ASSIGNOR”**

**TNHYIF REIV INDIA, LLC,  
a Delaware limited liability company**

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

**“ASSIGNEE”**

**DB GRAND, LLC, a California limited liability  
company**

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

CITY CONSENT

City of Ontario, a California municipal corporation (the "City"), as party to the Development Agreement, consents to the foregoing Partial Assignment and Assumption of Development Agreement pursuant to the provisions of Section 2.4 of the Development Agreement. Pursuant to Section 2.4.2 of the Development Agreement, the City hereby releases Assignor as the "Owner" under the Development Agreement of all Obligations relating to the Property arising prior to the Effective Date. Pursuant to Sections 2.4.2 and 2.4.3 of the Development Agreement, the City hereby agrees that from and after the Effective Date, Assignee shall be solely liable for the performance of all Obligations as the "Owner" under the Development Agreement as such Obligations relate to the Property, and in no event shall the City deem Assignor or any other owner of property within the Development in default under the Development Agreement as a result of a breach by Assignee of the Obligations Assignee has assumed in the foregoing Partial Assignment. City acknowledges that there are no development fees currently payable pursuant to the Development Agreement, pursuant to Section 3.1 or any other provision of the Development Agreement with respect to the Property. Finally, City acknowledges that to its best information and belief, no defaults exist under the Development Agreement and the Development Agreement remains in full force and effect.

Date: \_\_\_\_\_, 2017

"CITY"

CITY OF ONTARIO,  
a California municipal corporation

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

ACKNOWLEDGMENT

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose  
name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

ACKNOWLEDGMENT

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

ACKNOWLEDGMENT

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)



EXHIBIT "A"

Legal Description of the Property

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

PARCELS 6 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APNs: 0210-192-21-0-000 (Parcel 6), 0210-192-22-0-000 (Parcel 7), 0210-192-23-0-000 (Parcel 8) and 0210-192-24-0-000 (Parcel 9)

EXHIBIT "B"

Legal Description of the Development

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

PARCELS 1 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 0210-192-13-0-000 and 0210-192-16-0000 and 0210-192-17-0000 and 0210 192 18 0000 and 0210-192-19-0000 and 0210-192-20-0000 and 0210-192-21-0000 and 0210-192-22-0000 and 0210-192-23-0000 and 0210-192-24-0000 and 0210-192-14-0-000 and 0210-192-15-0-000

RESOLUTION NO. SA-\_\_\_\_\_

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF 2007 OWNER PARTICIPATION AGREEMENT (ONTARIO AIRPORT TOWERS VACANT LAND) FOR PARCELS 6, 7, 8 AND 9.

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Ontario ("City") elected to serve as the successor agency ("Successor Agency") to the former Ontario Redevelopment Agency ("Redevelopment Agency"), following dissolution of the Redevelopment Agency; and

WHEREAS, prior to its dissolution, the Redevelopment Agency and Ontario Airport Center, LLC ("Prior Owner") entered into a 2007 Owner Participation Agreement (Ontario Airport Towers), dated September 4, 2007, as amended pursuant to that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014 (collectively, the "OPA") in which the Prior Owner agreed to develop and operate Private Works of Improvement, as further defined in the OPA ("PWI"), in three (3) different phases of development on that certain real property located in the City of Ontario, California and consisting of approximately 21.462 acres, as further described in the OPA ("Property"), for the completion of public improvements necessary for the development of the PWI, and to provide for the Redevelopment Agency to pay to Prior Owner an amount as further specified and defined in the OPA as the "Agency's Yearly Tax Increment Payment" as reimbursement for certain related costs; and

WHEREAS, in 2012, TNHYIF REIV India, LLC ("Owner") acquired the Property from the Prior Owner and became the successor-in-interest to the OPA; and

WHEREAS, the Phase 1 development under the OPA was completed and a Certificate of Completion was recorded in the Official Records of the County of San Bernardino on April 17, 2009, as Document No. 2009-0163048 but Owner has not yet completed Phases 2 and 3; and

WHEREAS, Owner desires to assign, convey and transfer all rights and interests of Owner, as the "Owner" of the Property under the OPA, solely to the extent such rights and interests relate to the Property, to DB Grand, LLC, a California limited liability company ("DB Grand") and Owner and DB Grand have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers Vacant Land) (Parcels 6, 7, 8, 9) ("Assignment Agreement"); and

WHEREAS, Section 9.3 of the OPA requires the Successor Agency's consent to the Assignment Agreement; and

WHEREAS, the Assignment Agreement has no effect on the rights and obligations of the Successor Agency under the OPA and is for the sole purpose of substituting DB Grand for the Owner as the owner of the Property under the OPA; and

WHEREAS, the Successor Agency has determined that the Assignment Agreement is in the best interests of the Successor Agency, the community and the winding down of the Redevelopment Agency's businesses and desires to approve the Assignment Agreement.

NOW, THEREFORE, THE GOVERNING BOARD OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

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

SECTION 2. CEQA Compliance. Successor Agency staff has determined that the Successor Agency's approval of the Assignment Agreement is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Sections 15061(b)(3), because it can be seen with certainty that there is no possibility that the Assignment Agreement may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of CEQA. The City Clerk of the City of Ontario, acting on behalf of the Successor Agency, is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

SECTION 3. Approval of Agreement. The Successor Agency hereby approves the Assignment Agreement, in substantially the form attached to this Resolution as Exhibit "A."

SECTION 4. Implementation. The City Manager or his or her designee is hereby authorized and directed to, on behalf of the Successor Agency, execute any and all documents, and take any and all action necessary to carry out the purposes of this Resolution in compliance with applicable law, including, authorizing non-substantive changes to the Assignment Agreement, executing the Assignment Agreement, and taking any actions necessary to inform the Oversight Board and DOF of the transfer of the Property to Developer.

SECTION 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 6. Certification. The City Clerk, acting on behalf of the Successor Agency, shall certify to the adoption of this Resolution.

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

PASSED, APPROVED, AND ADOPTED this 21<sup>st</sup> day of February 2017.

---

PAUL S. LEON, CHAIRMAN

ATTEST:

---

SHEILA MAUTZ, AGENCY SECRETARY

APPROVED AS TO FORM:

---

AGENCY COUNSEL

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, in my official capacity as assistant secretary to the Successor Agency to the Ontario Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. SA-        was duly adopted by the Successor Agency to the Ontario Redevelopment Agency at a regular meeting held on February 21, 2017 by the following vote:

AYES:            AGENCY MEMBERS:

NOES:           AGENCY MEMBERS:

ABSENT:         AGENCY MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, AGENCY SECRETARY

(SEAL)

The foregoing is the original of Resolution No. SA-        duly passed and adopted by the Successor Agency to the Ontario Redevelopment Agency at their regular meeting held February 21, 2017.

\_\_\_\_\_  
SHEILA MAUTZ, AGENCY SECRETARY

(SEAL)

EXHIBIT "A"

PARTIAL ASSIGNMENT AND ASSUMPTION OF  
2007 OWNER PARTICIPATION AGREEMENT  
(ONTARIO AIRPORT TOWERS VACANT LAND)  
(PARCELS 6, 7, 8, 9)

[Attached behind this cover page]

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

TNHYIF REIV INDIA, LLC  
c/o True North Management Group  
10 Bank Street, 12<sup>th</sup> Floor  
White Plains, NY 10606  
Attention: Girard Tunney, Principal

---

(Space above this line for Recorder's use only)

**PARTIAL ASSIGNMENT AND ASSUMPTION OF 2007 OWNER PARTICIPATION  
AGREEMENT**

(Ontario Airport Towers Vacant Land)  
(Parcels 6, 7, 8, 9)

This PARTIAL ASSIGNMENT AND ASSUMPTION OF 2007 OWNER PARTICIPATION AGREEMENT (this "Partial Assignment") dated as of \_\_\_\_\_, 2017, for reference purposes only, is made by and between TNHYIF REIV INDIA, LLC, a Delaware limited liability company ("Assignor"), and DB GRAND, LLC, a California limited liability company ("Assignee"). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to such term in the Owner Participation Agreement (as defined in Recital B).

**RECITALS**

- A. Assignor owns that certain real property located in the City of Ontario, County of San Bernardino, State of California, located at the northwest corner of Guasti Avenue and Turner Avenue, which real property and is more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Property"). The Property is part of a larger development more particularly described in Exhibit B attached hereto and incorporated herein by this reference (the "Development").
- B. The Property is subject to the terms of that certain 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of September 4, 2007, by and between the Ontario Redevelopment Agency, a public body, corporate and politic, and Ontario Airport Center, LLC, a Delaware limited liability company ("OAC"), as amended by that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014, by and between the Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), and Assignor (collectively, the "Owner Participation Agreement"), which Owner Participation Agreement contains certain rights, duties and obligations relating to the development of the Development.



- C. The Phase 1 PWI was completed and a Certificate of Completion – Ontario Airport Center (Phase 1), contemplated by the provisions of Section 4.10 of the Owner Participation Agreement was recorded in the Official Records of the County of San Bernardino (the “Official Records”), on April 17, 2009, as Document No. 2009-0163048.
- D. Assignor is the successor-in-interest to OAC for purposes of the Owner Participation Agreement as the Owner Participation Agreement pertains to the Property.
- E. Concurrently with the recording of this Partial Assignment in the Official Records, Assignee is acquiring the Property from Assignor.
- F. Assignor agreed to assign to Assignee certain of its rights and interests under the Owner Participation Agreement, as such rights and interests relate to the Property. In addition, Assignor and Assignee agreed that Assignor would delegate to Assignee certain of the obligations of Assignor under the Owner Participation Agreement, which obligations would be assumed by Assignee. Accordingly, Assignor desires to assign and delegate certain rights and obligations under the Owner Participation Agreement to Assignee, and Assignee desires to accept such assignment and assume such obligations under the Owner Participation Agreement, as more particularly provided below in this Partial Assignment.
- G. The purpose of this Partial Assignment is to set forth the terms and provisions agreed upon between Assignor and Assignee with respect to the assignment of certain rights and interests and the delegation of certain duties and obligations of Assignor under the Owner Participation Agreement, as such rights, interests, duties and obligations relate to the Property.

NOW, THEREFORE, with reference to the foregoing Recitals, and in consideration of the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:.

1. Partial Assignment. As of the Effective Date (as defined in Section 3.7), Assignor hereby assigns, conveys and transfers to Assignee the rights and interests of Assignor, as the “Owner” of the Property under the Owner Participation Agreement solely to the extent such rights and interests relate to the Property, and Assignee hereby accepts such assignment. Notwithstanding the foregoing or anything to the contrary, this Partial Assignment shall not include any of the rights and interests of Assignor, as the “Owner” of the Property, or otherwise, under the Owner Participation Agreement, to receive “Yearly Tax Increment Payments” (as such term is defined in the Owner Participation Agreement) applicable to the Property or to any other portion of the Development. The assignment of any and all such rights shall be governed by separate Assignments of Yearly Tax Increment Payments under 2007 Owner Participation Agreement between the parties to be executed concurrently herewith.

2. Delegation and Assumption of Obligations. As of the Effective Date, Assignor hereby delegates to Assignee all of Assignor's duties and obligations, as the "Owner," under the Owner Participation Agreement solely to the extent such obligations relate to the Property, all of which obligations are hereby assumed by Assignee (collectively, the "Obligations").

3. Miscellaneous.

3.1 Interpretation; Governing Law. This Partial Assignment shall be construed according to its fair meaning and as prepared by both parties hereto. This Partial Assignment shall be construed in accordance with and governed by the laws of the State of California.

3.2 Attorneys' and Other Fees. Should any party institute any action or proceeding to enforce or interpret this Partial Assignment or any provision hereof, for damages by reason of any alleged breach of this Partial Assignment or of any provision hereof, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including reasonable attorneys' and other fees, incurred by the prevailing party in connection with such action or proceeding. The term "attorneys' and other fees" shall mean and include attorneys' fees, accountants' fees, and any and all other similar fees incurred in connection with the action or proceeding and preparations therefor. The term "action or proceeding" shall mean and include actions, proceedings, suits, arbitrations, appeals and other similar proceedings.

3.3 Authority. Each of the parties hereto represents and warrants to the other that the person or persons executing this Partial Assignment on behalf of such party is or are authorized to execute and deliver this Partial Assignment and that this Partial Assignment shall be binding upon such party.

3.4 Further Assurances. Assignor and Assignee each agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably request to consummate, evidence, confirm or more fully implement the agreements of the parties as contained herein.

3.5 Execution in Counterparts. This Partial Assignment may be executed in several counterparts, and all originals so executed shall constitute one agreement between the parties hereto.

3.6 Conflict. As between Assignor and Assignee, in the event of any conflict or inconsistency between the provisions of this Partial Assignment and the provisions of the Owner Participation Agreement or any other documents, the provisions of this Partial Assignment shall govern and prevail.

3.7 Effective Date. The "Effective Date" shall mean the date upon which Assignee acquires fee title to the Property.

3.8 Recordation. The parties hereby authorize this Partial Assignment to be recorded in the Official Records upon the Effective Date.

3.9 Successors and Assigns. This Partial Assignment shall be binding upon and inure to the benefit of the respective successors, assigns, personal representatives, heirs and legatees of Assignor and Assignee.

(Signatures Follow on Next Page)

IN WITNESS WHEREOF, the parties have executed this Partial Assignment as of the date first set forth above, to be made effective as of the Effective Date.

**“ASSIGNOR”**

TNHYIF REIV INDIA, LLC,  
a Delaware limited liability company

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

**“ASSIGNEE”**

DB GRAND, LLC, a California limited liability  
company

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

**SUCCESSOR AGENCY CONSENT**

The Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), as party to the Owner Participation Agreement, consents to the foregoing Partial Assignment and Assumption of 2007 Owner Participation Agreement ("Partial Assignment") pursuant to the provisions of Section 9.3 of the Owner Participation Agreement. The Successor Agency hereby releases Assignor as the "Owner" under the Owner Participation Agreement of all Obligations relating to the Property arising prior to the Effective Date. The Successor Agency hereby agrees that from and after the Effective Date, Assignee shall be solely liable for the performance of all Obligations as the "Owner" under the Owner Participation Agreement as such Obligations relate to the Property, and in no event shall the Successor Agency deem Assignor or any other owner of property within the Development in default under the Owner Participation Agreement as a result of a breach by Assignee of the Obligations Assignee has assumed in the foregoing Partial Assignment. Further, Successor Agency hereby confirms that pursuant to Section 8.4(c) of the Owner Participation Agreement, the Successor Agency's sole and exclusive remedy as a result of Assignee's failure to complete the PWI, or any Phase thereof, in accordance with the Schedule of Performance, is subject to the limitations set forth in Section 8.4(c) the Owner Participation Agreement. Finally, the Successor Agency acknowledges that to its best information and belief, no defaults exist under the Owner Participation Agreement and the Owner Participation Agreement remains in full force and effect.

Date: \_\_\_\_\_, 2017

"SUCCESSOR AGENCY"

THE SUCCESSOR AGENCY TO THE  
ONTARIO DEVELOPMENT AGENCY,  
a public body, corporate and politic

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

ACKNOWLEDGMENT

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

ACKNOWLEDGMENT

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State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
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WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

ACKNOWLEDGMENT

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State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)



EXHIBIT "A"

Legal Description of the Property

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

PARCELS 6 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APNs: 0210-192-21-0-000 (Parcel 6), 0210-192-22-0-000 (Parcel 7), 0210-192-23-0-000 (Parcel 8) and 0210-192-24-0-000 (Parcel 9)

EXHIBIT "B"

Legal Description of the Development

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

PARCELS 1 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 0210-192-13-0-000 and 0210-192-16-0000 and 0210-192-17-0000 and  
0210-192-18-0000 and 0210-192-19-0000 and 0210-192-20-0000 and  
0210-192-21-0000 and 0210-192-22-0000 and 0210-192-23-0000 and  
0210-192-24-0000 and 0210-192-14-0-000 and 0210-192-15-0-000

RESOLUTION NO. SA- \_\_\_\_\_

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (ONTARIO AIRPORT TOWERS) (PHASE 1).

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Ontario ("City") elected to serve as the successor agency ("Successor Agency") to the former Ontario Redevelopment Agency ("Redevelopment Agency"), following dissolution of the Redevelopment Agency; and

WHEREAS, prior to its dissolution, the Redevelopment Agency and Ontario Airport Center, LLC ("Prior Owner") entered into a 2007 Owner Participation Agreement (Ontario Airport Towers), dated September 4, 2007, as amended pursuant to that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014 (collectively, the "OPA") in which the Prior Owner agreed to develop and operate Private Works of Improvement, as further defined in the OPA ("PWI"), in three (3) different phases of development on that certain real property located in the City of Ontario, California and consisting of approximately 21.462 acres, as further described in the OPA ("Property"), for the completion of public improvements necessary for the development of the PWI, and to provide for the Redevelopment Agency to pay to Prior Owner an amount as further specified and defined in the OPA as the "Agency's Yearly Tax Increment Payment" as reimbursement for certain related costs ("TIF"); and

WHEREAS, in 2012, TNHYIF REIV India, LLC ("Owner") acquired the Property from the Prior Owner and became the successor-in interest to the OPA; and

WHEREAS, the Phase 1 development under the OPA was completed and a Certificate of Completion was recorded in the Official Records of the County of San Bernardino on April 17, 2009, as Document No. 2009-0163048 but Owner has not yet completed Phases 2 and 3; and

WHEREAS, Owner desires to assign, convey and transfer all rights and interests of Owner, as the "Owner" of the Property under the OPA, solely to the extent such rights and interests relate to the TIF, to Lambert Brea LLC, a California limited liability company ("Lambert Brea") and Owner and Lambert Brea have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers) (Phase 1) ("Assignment Agreement"); and

WHEREAS, Section 9.3 of the OPA requires the Successor Agency's consent to the Assignment Agreement; and

WHEREAS, the Assignment Agreement has no effect on the rights and obligations of the Successor Agency under the OPA and is for the sole purpose of substituting Lambert Brea for the Owner under the OPA regarding the receipt of TIF; and

WHEREAS, the Successor Agency has determined that the Assignment Agreement is in the best interests of the Successor Agency, the community and the winding down of the Redevelopment Agency's businesses and desires to approve the Assignment Agreement.

NOW, THEREFORE, THE GOVERNING BOARD OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

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

SECTION 2. CEQA Compliance. Successor Agency staff has determined that the Successor Agency's approval of the Assignment Agreement is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Sections 15061(b)(3), because it can be seen with certainty that there is no possibility that the Assignment Agreement may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of CEQA. The City Clerk of the City of Ontario, acting on behalf of the Successor Agency, is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

SECTION 3. Approval of Agreement. The Successor Agency hereby approves the Assignment Agreement, in substantially the form attached to this Resolution as Exhibit "A."

SECTION 4. Implementation. The City Manager or his or her designee is hereby authorized and directed to, on behalf of the Successor Agency, execute any and all documents, and take any and all action necessary to carry out the purposes of this Resolution in compliance with applicable law, including, authorizing non-substantive changes to the Assignment Agreement, executing the Assignment Agreement, and taking any actions necessary to inform the Oversight Board and DOF of the transfer of the Property to Developer.

SECTION 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 6. Certification. The City Clerk of the City of Ontario, acting on behalf of the Successor Agency as its Secretary, shall certify to the adoption of this Resolution.

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

PASSED, APPROVED, AND ADOPTED this 21<sup>st</sup> day of February 2017.

---

PAUL S. LEON, CHAIRMAN

ATTEST:

---

SHEILA MAUTZ, AGENCY SECRETARY

APPROVED AS TO FORM:

---

AGENCY COUNSEL

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, in my official capacity as assistant secretary to the Successor Agency to the Ontario Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. SA-        was duly adopted by the Successor Agency to the Ontario Redevelopment Agency at a regular meeting held on February 21, 2017 by the following vote:

AYES:            AGENCY MEMBERS:

NOES:           AGENCY MEMBERS:

ABSENT:         AGENCY MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, AGENCY SECRETARY

(SEAL)

The foregoing is the original of Resolution No. SA-        duly passed and adopted by the Successor Agency to the Ontario Redevelopment Agency at their regular meeting held February 21, 2017.

\_\_\_\_\_  
SHEILA MAUTZ, AGENCY SECRETARY

(SEAL)

EXHIBIT A

PARTIAL ASSIGNMENT AND ASSUMPTION OF  
2007 OWNER PARTICIPATION AGREEMENT  
(ONTARIO AIRPORT TOWERS)  
(Phase 1)

[Attached behind this cover page]

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

TNHYIF REIV INDIA, LLC  
c/o True North Management Group  
10 Bank Street, 12<sup>th</sup> Floor  
White Plains, NY 10606  
Attention: Girard Tunney, Principal

(Space above this line for Recorder's use only)

PARTIAL ASSIGNMENT OF YEARLY TAX INCREMENT PAYMENTS  
UNDER 2007 OWNER PARTICIPATION AGREEMENT  
(Ontario Airport Towers)  
(Phase 1)

This PARTIAL ASSIGNMENT OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (this "Assignment") dated as of \_\_\_\_\_, 2017, for reference purposes only, is made by and between TNH YIF REIV INDIA, LLC, a Delaware limited liability company ("Assignor"), and LAMBERT BREA LLC, a California limited liability company, ("Assignee"). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to such term in the Owner Participation Agreement (as defined in Recital B).

RECITALS

A. Assignor was the owner of certain rights to real property located in the City of Ontario, County of San Bernardino, State of California, located at the northwest corner of Guasti Avenue and Turner Avenue, which real property is more particularly described in Exhibit B attached hereto and incorporated herein by reference (the "Development").

B. The Development is subject to the terms of that certain 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of September 4, 2007, by and between the Ontario Redevelopment Agency, a public body, corporate and politic, and Ontario Airport Center, LLC, a Delaware limited liability company ("OAC"), as amended by that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014, by and between the Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), and Assignor (collectively, the "Owner Participation Agreement"), which Owner Participation Agreement contains certain rights, duties and obligations relating to the development of the Development.

C. The Phase 1 PWI was completed and a Certificate of Completion – Ontario Airport Center (Phase 1), contemplated by the provisions of Section 4.10 of the Owner Participation Agreement was recorded in the Official Records of the County of San Bernardino (the "Official Records"), on April 17, 2009, as Document No. 2009-0163048.



D. Assignor is the successor-in-interest to OAC for purposes of the "Yearly Tax Increment Payments" (as such term is defined in the Owner Participation Agreement).

E. Concurrently with the recording of this Assignment in the Official Records, Assignee, or an affiliate of Assignee, is acquiring a portion of the Development from Assignor.

F. Assignor agreed to assign to Assignee certain of its rights and interests under the Owner Participation Agreement, as such rights and interests relate to the TIF.

G. The purpose of this Assignment is to set forth the terms and provisions agreed upon between Assignor and Assignee with respect to the assignment of certain rights and interests of Assignor under the Owner Participation Agreement, as such rights, interests, duties and obligations relate to the TIF.

NOW, THEREFORE, with reference to the foregoing Recitals, and in consideration of the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment. As of the Effective Date (as defined in Section 3.7), Assignor hereby assigns, conveys and transfers to Assignee the rights and interests of Assignor, under the Owner Participation Agreement to the payment of Yearly Tax Increment Payments (as such term is defined in the Owner Participation Agreement) (the "TIF") to the extent of TIF payments applicable to Phase 1 due for the fiscal tax year ending June 2017, and each year thereafter, and Assignee hereby accepts such assignment. Should Assignor receive TIF payments due and owing for such tax year after the Effective Date of this Assignment, Assignor shall promptly remit such amounts to Assignee.

2. Delegation and Assumption of Obligations. As of the Effective Date, Assignor hereby delegates to Assignee all of Assignor's duties and obligations, as the "Owner," under the Owner Participation Agreement solely to the extent such obligations relate to the TIF, all of which obligations are hereby assumed by Assignee (collectively, the "Obligations"). Assignee acknowledges that the payment of TIF is subject to all of the terms and provisions of this OPA, and limitation on payment therein, including, without limitation, the effect of actions or inactions of third parties, the value of the Development, and the extent of the development of the Development. Assignor makes no representations or warranties regarding the amounts or payments of the TIF.

3. Miscellaneous.

3.1 Interpretation; Governing Law. This Assignment shall be construed according to its fair meaning and as prepared by both parties hereto. This Assignment shall be construed in accordance with and governed by the laws of the State of California.

3.2 Attorneys' and Other Fees. Should any party institute any action or proceeding to enforce or interpret this Assignment or any provision hereof, for damages by reason of any alleged breach of this Assignment or of any provision hereof, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including reasonable attorneys' and other fees, incurred by the prevailing party in connection with such action or proceeding. The term "attorneys' and other fees" shall mean and include attorneys' fees, accountants' fees, and any and all other similar fees incurred in connection with the action or proceeding and preparations therefor. The term "action or proceeding" shall mean and include actions, proceedings, suits, arbitrations, appeals and other similar proceedings.

3.3 Authority. Each of the parties hereto represents and warrants to the other that the person or persons executing this Assignment on behalf of such party is or are authorized to execute and deliver this Assignment and that this Assignment shall be binding upon such party.

3.4 Further Assurances. Assignor and Assignee each agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably request to consummate, evidence, confirm or more fully implement the agreements of the parties as contained herein.

3.5 Execution in Counterparts. This Assignment may be executed in several counterparts, and all originals so executed shall constitute one agreement between the parties hereto.

3.6 Conflict. As between Assignor and Assignee, in the event of any conflict or inconsistency between the provisions of this Assignment and the provisions of the Owner Participation Agreement or any other documents, the provisions of this Assignment shall govern and prevail.

3.7 Effective Date. The "Effective Date" shall mean the date upon which Assignee, or an affiliate of Assignee, acquires fee title to the Property.

3.8 Recordation. The parties hereby authorize this Assignment to be recorded in the Official Records upon the Effective Date.

3.9 Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the respective successors, assigns, personal representatives, heirs and legatees of Assignor and Assignee.

(Signatures Follow on Next Page)

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first set forth above, to be made effective as of the Effective Date.

“ASSIGNOR”

TNHYIF REIV INDIA, LLC,  
a Delaware limited liability company

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

“ASSIGNEE”

LAMBERT BREA LLC, a  
California limited liability company

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

## SUCCESSOR AGENCY CONSENT

The Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), as party to the Owner Participation Agreement, consents to the foregoing Assignment of Tax Increment Payments under 2007 Owner Participation Agreement ("Assignment") pursuant to the provisions of Section 9.3 of the Owner Participation Agreement. The Successor Agency acknowledges that to its best information and belief, no defaults exist under the Owner Participation Agreement and the Owner Participation Agreement remains in full force and effect.

Date: \_\_\_\_\_, 2017

"SUCCESSOR AGENCY"

THE SUCCESSOR AGENCY TO THE  
ONTARIO DEVELOPMENT AGENCY,  
a public body, corporate and politic

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

ACKNOWLEDGMENT

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved to me  
on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

ACKNOWLEDGMENT

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved to me  
on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

ACKNOWLEDGMENT

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved to me  
on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

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

PARCELS 6 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APNs: 0210-192-21-0-000 (Parcel 6), 0210-192-22-0-000 (Parcel 7), 0210-192-23-0-000 (Parcel 8) and 0210-192-24-0-000 (Parcel 9)



EXHIBIT "B"

LEGAL DESCRIPTION OF THE DEVELOPMENT

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

PARCELS 1 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 0210-192-13-0-000 and 0210-192-16-0000 and 0210-192-17-0000 and  
0210-192-18-0000 and 0210-192-19-0000 and 0210-192-20-0000 and  
0210-192-21-0000 and 0210-192-22-0000 and 0210-192-23-0000 and  
0210-192-24-0000 and 0210-192-14-0-000 and 0210-192-15-0-000

RESOLUTION NO. SA- \_\_\_\_\_

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A PARTIAL ASSIGNMENT AND ASSUMPTION OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (ONTARIO AIRPORT TOWERS) (PHASES 2 AND 3).

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Ontario ("City") elected to serve as the successor agency ("Successor Agency") to the former Ontario Redevelopment Agency ("Redevelopment Agency"), following dissolution of the Redevelopment Agency; and

WHEREAS, prior to its dissolution, the Redevelopment Agency and Ontario Airport Center, LLC ("Prior Owner") entered into a 2007 Owner Participation Agreement (Ontario Airport Towers), dated September 4, 2007, as amended pursuant to that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014 (collectively, the "OPA") in which the Prior Owner agreed to develop and operate Private Works of Improvement, as further defined in the OPA ("PWI"), in three (3) different phases of development on that certain real property located in the City of Ontario, California and consisting of approximately 21.462 acres, as further described in the OPA ("Property"), for the completion of public improvements necessary for the development of the PWI, and to provide for the Redevelopment Agency to pay to Prior Owner an amount as further specified and defined in the OPA as the "Agency's Yearly Tax Increment Payment" as reimbursement for certain related costs ("TIF"); and

WHEREAS, in 2012, TNHYIF REIV India, LLC ("Owner") acquired the Property from the Prior Owner and became the successor-in-interest to the OPA; and

WHEREAS, the Phase 1 development under the OPA was completed and a Certificate of Completion was recorded in the Official Records of the County of San Bernardino on April 17, 2009, as Document No. 2009-0163048 but Owner has not yet completed Phases 2 and 3; and

WHEREAS, Owner desires to assign, convey and transfer all rights and interests of Owner, as the "Owner" of the Property under the OPA, solely to the extent such rights and interests relate to the TIF, to Stafford LLC, a California limited liability company ("Stafford") and Owner and Stafford have entered into a Partial Assignment and Assumption of 2007 Owner Participation Agreement (Ontario Airport Towers) (Phases 2 and 3) ("Assignment Agreement"); and

WHEREAS, Section 9.3 of the OPA requires the Successor Agency's consent to the Assignment Agreement; and

WHEREAS, the Assignment Agreement has no effect on the rights and obligations of the Successor Agency under the OPA and is for the sole purpose of substituting Stafford for the Owner under the OPA regarding the receipt of TIF; and

WHEREAS, the Successor Agency has determined that the Assignment Agreement is in the best interests of the Successor Agency, the community and the winding down of the Redevelopment Agency's businesses and desires to approve the Assignment Agreement.

NOW, THEREFORE, THE GOVERNING BOARD OF THE SUCCESSOR AGENCY TO THE ONTARIO REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

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

SECTION 2. CEQA Compliance. Successor Agency staff has determined that the Successor Agency's approval of the Assignment Agreement is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Sections 15061(b)(3), because it can be seen with certainty that there is no possibility that the Assignment Agreement may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of CEQA. The City Clerk of the City of Ontario, acting on behalf of the Successor Agency, is authorized and directed to file a Notice of Exemption with the appropriate official of the County of San Bernardino, California, within five (5) days following the date of adoption of this Resolution.

SECTION 3. Approval of Agreement. The Successor Agency hereby approves the Assignment Agreement, in substantially the form attached to this Resolution as Exhibit "A."

SECTION 4. Implementation. The City Manager or his or her designee is hereby authorized and directed to, on behalf of the Successor Agency, execute any and all documents, and take any and all action necessary to carry out the purposes of this Resolution in compliance with applicable law, including, authorizing non-substantive changes to the Assignment Agreement, executing the Assignment Agreement, and taking any actions necessary to inform the Oversight Board and DOF of the transfer of the Property to Developer.

SECTION 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 6. Effective Date. This Resolution shall become effective immediately upon its adoption.

SECTION 7. Certification. The City Clerk, acting on behalf of the Successor Agency as its Secretary, shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 21<sup>st</sup> day of February 2017.

---

PAUL S. LEON, CHAIRMAN

ATTEST:

---

SHEILA MAUTZ, AGENCY SECRETARY

APPROVED AS TO FORM:

---

AGENCY COUNSEL

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, in my official capacity as assistant secretary to the Successor Agency to the Ontario Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. SA-        was duly adopted by the Successor Agency to the Ontario Redevelopment Agency at a regular meeting held on February 21, 2017 by the following vote:

AYES:            AGENCY MEMBERS:

NOES:           AGENCY MEMBERS:

ABSENT:         AGENCY MEMBERS:

\_\_\_\_\_  
SHEILA MAUTZ, AGENCY SECRETARY

(SEAL)

The foregoing is the original of Resolution No. SA-        duly passed and adopted by the Successor Agency to the Ontario Redevelopment Agency at their regular meeting held February 21, 2017.

\_\_\_\_\_  
SHEILA MAUTZ, AGENCY SECRETARY

(SEAL)

EXHIBIT A

PARTIAL ASSIGNMENT AND ASSUMPTION OF  
2007 OWNER PARTICIPATION AGREEMENT  
(ONTARIO AIRPORT TOWERS)  
(Phases 2 and 3)

[Attached behind this cover page]

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

TNHYIF REIV INDIA, LLC  
c/o True North Management Group  
10 Bank Street, 12<sup>th</sup> Floor  
White Plains, NY 10606  
Attention: Girard Tunney, Principal

(Space above this line for Recorder's use only)

PARTIAL ASSIGNMENT OF YEARLY TAX INCREMENT PAYMENTS  
UNDER 2007 OWNER PARTICIPATION AGREEMENT  
(Ontario Airport Towers)  
(Phases 2 and 3)

This PARTIAL ASSIGNMENT OF YEARLY TAX INCREMENT PAYMENTS UNDER 2007 OWNER PARTICIPATION AGREEMENT (this "Assignment") dated as of \_\_\_\_\_, 2017, for reference purposes only, is made by and between TNHYIF REIV INDIA, LLC, a Delaware limited liability company ("Assignor"), and STAFFORD LLC, a California limited liability company, ("Assignee"). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to such term in the Owner Participation Agreement (as defined in Recital B).

RECITALS

A. Assignor was the owner of certain rights to real property located in the City of Ontario, County of San Bernardino, State of California, located at the northwest corner of Guasti Avenue and Turner Avenue, which real property is more particularly described in Exhibit B attached hereto and incorporated herein by reference (the "Development").

B. The Development is subject to the terms of that certain 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of September 4, 2007, by and between the Ontario Redevelopment Agency, a public body, corporate and politic, and Ontario Airport Center, LLC, a Delaware limited liability company ("OAC"), as amended by that certain First Amendment to 2007 Owner Participation Agreement (Ontario Airport Towers), dated as of February 4, 2014, by and between the Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), and Assignor (collectively, the "Owner Participation Agreement"), which Owner Participation Agreement contains certain rights, duties and obligations relating to the development of the Development.

C. Phases 2 and 3 PWI were completed and a Certificate of Completion – Ontario Airport Center (Phases 2 and 3), contemplated by the provisions of Section 4.10 of the Owner Participation Agreement was recorded in the Official Records of the County of San Bernardino (the "Official Records"), on April 17, 2009, as Document No. 2009-0163048.

D. Assignor is the successor-in-interest to OAC for purposes of the "Yearly Tax Increment Payments" (as such term is defined in the Owner Participation Agreement).

E. Concurrently with the recording of this Assignment in the Official Records, Assignee, or an affiliate of Assignee, is acquiring a portion of the Development from Assignor.

F. Assignor agreed to assign to Assignee certain of its rights and interests under the Owner Participation Agreement, as such rights and interests relate to the TIF.

G. The purpose of this Assignment is to set forth the terms and provisions agreed upon between Assignor and Assignee with respect to the assignment of certain rights and interests of Assignor under the Owner Participation Agreement, as such rights, interests, duties and obligations relate to the TIF.

NOW, THEREFORE, with reference to the foregoing Recitals, and in consideration of the mutual covenants and agreements set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment. As of the Effective Date (as defined in Section 3.7), Assignor hereby assigns, conveys and transfers to Assignee the rights and interests of Assignor, under the Owner Participation Agreement to the payment of Yearly Tax Increment Payments (as such term is defined in the Owner Participation Agreement) (the "TIF") to the extent of TIF payments applicable to Phases 2 and 3 due for the fiscal tax year ending June 2017, and each year thereafter, and Assignee hereby accepts such assignment. Should Assignor receive TIF payments due and owing for such tax year after the Effective Date of this Assignment, Assignor shall promptly remit such amounts to Assignee.

2. Delegation and Assumption of Obligations. As of the Effective Date, Assignor hereby delegates to Assignee all of Assignor's duties and obligations, as the "Owner," under the Owner Participation Agreement solely to the extent such obligations relate to the TIF, all of which obligations are hereby assumed by Assignee (collectively, the "Obligations"). Assignee acknowledges that the payment of TIF is subject to all of the terms and provisions of this OPA, and limitation on payment therein, including, without limitation, the effect of actions or inactions of third parties, the value of the Development, and the extent of the development of the Development. Assignor makes no representations or warranties regarding the amounts or payments of the TIF.

3. Miscellaneous.

3.1 Interpretation; Governing Law. This Assignment shall be construed according to its fair meaning and as prepared by both parties hereto. This Assignment shall be construed in accordance with and governed by the laws of the State of California.



3.2 Attorneys' and Other Fees. Should any party institute any action or proceeding to enforce or interpret this Assignment or any provision hereof, for damages by reason of any alleged breach of this Assignment or of any provision hereof, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including reasonable attorneys' and other fees, incurred by the prevailing party in connection with such action or proceeding. The term "attorneys' and other fees" shall mean and include attorneys' fees, accountants' fees, and any and all other similar fees incurred in connection with the action or proceeding and preparations therefor. The term "action or proceeding" shall mean and include actions, proceedings, suits, arbitrations, appeals and other similar proceedings.

3.3 Authority. Each of the parties hereto represents and warrants to the other that the person or persons executing this Assignment on behalf of such party is or are authorized to execute and deliver this Assignment and that this Assignment shall be binding upon such party.

3.4 Further Assurances. Assignor and Assignee each agree to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably request to consummate, evidence, confirm or more fully implement the agreements of the parties as contained herein.

3.5 Execution in Counterparts. This Assignment may be executed in several counterparts, and all originals so executed shall constitute one agreement between the parties hereto.

3.6 Conflict. As between Assignor and Assignee, in the event of any conflict or inconsistency between the provisions of this Assignment and the provisions of the Owner Participation Agreement or any other documents, the provisions of this Assignment shall govern and prevail.

3.7 Effective Date. The "Effective Date" shall mean the date upon which Assignee, or an affiliate of Assignee, acquires fee title to the Property.

3.8 Recordation. The parties hereby authorize this Assignment to be recorded in the Official Records upon the Effective Date.

3.9 Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the respective successors, assigns, personal representatives, heirs and legatees of Assignor and Assignee.

(Signatures Follow on Next Page)

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first set forth above, to be made effective as of the Effective Date.

“ASSIGNOR”

TNHYIF REIV INDIA, LLC,  
a Delaware limited liability company

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

“ASSIGNEE”

STAFFORD LLC, a  
California limited liability company

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

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

**SUCCESSOR AGENCY CONSENT**

The Successor Agency to the Ontario Redevelopment Agency, a public body, corporate and politic (the "Successor Agency"), as party to the Owner Participation Agreement, consents to the foregoing Assignment of Tax Increment Payments under 2007 Owner Participation Agreement ("Assignment") pursuant to the provisions of Section 9.3 of the Owner Participation Agreement. The Successor Agency acknowledges that to its best information and belief, no defaults exist under the Owner Participation Agreement and the Owner Participation Agreement remains in full force and effect.

Date: \_\_\_\_\_, 2017

**"SUCCESSOR AGENCY"**

**THE SUCCESSOR AGENCY TO THE  
ONTARIO DEVELOPMENT AGENCY,  
a public body, corporate and politic**

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

Name: \_\_\_\_\_

Its: \_\_\_\_\_

ACKNOWLEDGMENT

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved to me  
on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

ACKNOWLEDGMENT

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved to me  
on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

ACKNOWLEDGMENT

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

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, 2017, before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_, who proved to me  
on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed  
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)  
on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

EXHIBIT "A"

Legal Description of the Property

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

PARCELS 6 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APNs: 0210-192-21-0-000 (Parcel 6), 0210-192-22-0-000 (Parcel 7), 0210-192-23-0-000 (Parcel 8) and 0210-192-24-0-000 (Parcel 9)

EXHIBIT "B"

Legal Description of the Development

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

PARCELS 1 THROUGH 9, INCLUSIVE OF PARCEL MAP NO. 19069, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 227 PAGES 94 TO 97 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 0210-192-13-0-000 and 0210-192-16-0000 and 0210-192-17-0000 and  
0210-192-18-0000 and 0210-192-19-0000 and 0210-192-20-0000 and  
0210-192-21-0000 and 0210-192-22-0000 and 0210-192-23-0000 and  
0210-192-24-0000 and 0210-192-14-0-000 and 0210-192-15-0-000



# CITY OF ONTARIO

*Agenda Report*  
February 21, 2017

**SECTION:**  
**CONSENT CALENDAR**

**SUBJECT: AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION ENGINEERING SUPPORT SERVICES FOR THE FRANCIS STREET STORM DRAIN PROJECT**

**RECOMMENDATION:** That the City Council approve an amendment to the Professional Services Agreement (on file in the Records Management Department) with Danken Construction Engineering Group of Ontario, California, for additional engineering construction support services for the Francis Street Storm Drain Project, in the amount of \$131,208 for a revised contract amount of \$314,383; and authorize the City Manager to execute said amendment and future amendments.

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

**FISCAL IMPACT:** None. The recommended action will add \$131,208, for a total agreement amount of \$314,383, and the additional costs will be reimbursed by the construction contractor. Appropriations of \$131,208 and corresponding revenue are included in the FY2016-17 Second Budget Update Report for City Council consideration.

**BACKGROUND:** The Francis Street Storm Drain Project is a regional Master Plan Facility that drains 670 acres of Ontario. The storm drain is located in Francis Street, from the West Cucamonga Creek Channel to Bon View Avenue. The construction contractor, Young & Associates, has fallen behind on the construction schedule with the storm drain installation; and in an effort to catch up, the contractor is adding a second shift. With the additional shift, more engineering support and inspection services will be needed on site during the night shift. The project is expected to be completed in June 2017.

**STAFF MEMBER PRESENTING:** Louis Abi-Younes, P.E., City Engineer

Prepared by: Tricia Espinoza  
Department: Engineering

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/21/2017  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

# CITY OF ONTARIO

Agenda Report  
February 21, 2017

SECTION:  
CONSENT CALENDAR

**SUBJECT: RESOLUTION DEDICATING A RIGHT-OF-WAY EASEMENT OVER PORTIONS OF SEVEN CITY-OWNED PARCELS ALONG GROVE AVENUE BETWEEN FOURTH AND G STREETS**

**RECOMMENDATION:** That the City Council adopt a resolution dedicating a right-of-way easement (for public road and utility purposes) over the segment of Grove Avenue between Fourth and G streets; and authorize the City Manager to execute the easement deed.

**COUNCIL GOALS:** Invest in the Growth and Evolution of the City's Economy  
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)  
Pursue City's Goals and Objectives by Working with Other Governmental Agencies

**FISCAL IMPACT:** None. The City will not incur any costs for dedicating the right-of-way easement.

**BACKGROUND:** State law requires public streets to be within rights-of-way that have been dedicated for public road and utility purposes.

Currently, Grove Avenue, between Fourth and G streets, was built upon portions of seven (7) parcels of City-owned land. However, said land was not specifically dedicated as public right-of-way.

Accordingly, the affected areas of the 7 City-owned parcels need to be dedicated as a right-of-way easement, as shown in Exhibit 1 and set forth in the proposed resolution. The new easement will accommodate not only the existing street, but also allow for future expansion in accordance with The Ontario Plan. The resolution authorizes the execution of the easement deeds that will ensure the San Bernardino County assessor maps are updated to reflect the City's ultimate needs for Grove Avenue.

The easement deed has been reviewed and approved as to form by the City Attorney.

**STAFF MEMBER PRESENTING:** Louis Abi-Younes, P.E., City Engineer

Prepared by: Larry Tay, P.E.  
Department: Engineering

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/21/2017

Approved: \_\_\_\_\_

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

Denied: \_\_\_\_\_

NOTE: PROPOSED ROADWAY RIGHT OF WAY IS WITHIN CITY OF ONTARIO PARCELS

# EXHIBIT 1

## LOCATION MAP

SCALE: 1" = 325'



## VICINITY MAP

NOT TO SCALE



### LEGEND



BOUNDARIES OF CITY-OWNED LAND

AREA TO BE DEDICATED AS PUBLIC RIGHT OF WAY

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEDICATING A RIGHT-OF-WAY EASEMENT OVER PORTIONS OF SEVEN CITY-OWNED PARCELS ALONG GROVE AVENUE BETWEEN FOURTH AND G STREETS.

WHEREAS, Grove Avenue, between Fourth and G streets, was constructed over portions of seven (7) parcels (APNs: 1048-141-01, 02, 03 & 04, APNs: 1048-161-22 & 23, and APN: 1048-161-43); and

WHEREAS, the City has all rights, title, and interest to said seven (7) parcels, from which necessary street right-of-way can be provided; and

WHEREAS, under state law, in order to create a public road, the law generally requires a right-of-way dedication of property by its owner and acceptance by the City; and

WHEREAS, The Ontario Plan identifies a future need to widen Grove Avenue between the aforementioned limits; and

WHEREAS, the City now seeks to dedicate portions of these seven (7) parcels for public road and utility purposes, to accommodate both its existing and ultimate right-of-way needs; and

WHEREAS, the City Council now seeks to approve the use of the City's property for this desired purpose in order to achieve the ultimate right-of-way required to accommodate the lane configurations necessary to be in conformance with the Ontario Plan.

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

1. The City Council of the City of Ontario hereby dedicates the property as depicted and described in Exhibits "A" and "B", for public road and utility purposes.
2. The City Clerk shall attest and cause the easement deed to be executed and recorded in the Office of the Recorder of the County of San Bernardino. An additional purpose for the easement deed is to ensure that future County assessor maps reflect the new right-of-way dedicated for public road and utility purposes.
3. The City Manager is authorized to execute the easement deed for the purposes stated herein.

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

PASSED, APPROVED, AND ADOPTED this 21<sup>st</sup> day of February 2017.

\_\_\_\_\_  
PAUL S. LEON, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2017-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 21, 2017 by the following roll call vote, to wit:

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

(SEAL)

The foregoing is the original of Resolution No. 2017-    duly passed and adopted by the Ontario City Council at their regular meeting held February 21, 2017.

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

(SEAL)

**EXHIBIT "A"**

**RIGHT-OF-WAY EASEMENT DEDICATION  
LEGAL DESCRIPTION**

That portion of Lots 815, 816, 857, 858, 874 and 915 of the Map of Ontario Colony Lands, filed in Book 11, page 6 of Maps, together with that portion of the Map of Raney's Subdivision of Lots 873 and 916 of the Ontario Colony Lands, filed in Book 17, page 68 of Maps, Records of San Bernardino County, lying in Section 20, Township 1 South, Range 7 West, S.B.M., located in the City of Ontario, County of San Bernardino, State of California, more particularly described as follows:

**Parcel A:**

That portion of the hereinafter described Strip #1, lying within the land described as Parcel 1 and Parcel 2 in Grant Deed recorded August 25, 1953, in Book 3230, page 568, of Official Records of said County;

Together with Parcels A-1, A-2, and A-3, being more particularly described as follows:

**Parcel A-1:**

Being a portion of said Parcel 1 in Grant Deed Book 3230, page 568, more particularly described as follows:

**Beginning** at the intersection of the northerly line of "G" Street (44.00 wide half width) as described in Book 6800, page 589 of Official Records with the westerly line of said Strip #1;

Thence along said northerly line South 89°39'36" West 15.86 feet;

Thence North 00°20'24" West 0.86 feet;

Thence North 37°25'14" East 19.05 feet to said westerly line of Strip #1;

Thence along said westerly line South 15°05'48" East 16.46 feet to the **Point of Beginning**;

**Parcel A-2:**

Being a portion of Lot 35 of Tract No. 4143 filed in Book 53, page 2 of Maps, Records of said County, more particularly described as follows:

**Beginning** at the intersection of the southerly line of "I" Street (66.00 feet wide) as shown on said Map of Ontario Colony Lands with the westerly line of said Strip #1;

Thence along said southerly line South 89°37'51" West 12.07 feet;

Thence South 45°38'50" East 16.99 feet to said westerly line of Strip #1;

Thence along said westerly line North 00°24'01" West 11.96 feet to the **Point of Beginning**;

**Parcel A-3:**

Being a portion of said Parcel 1 in Grant Deed Book 3230, page 568, more particularly described as follows:

**Beginning** at the intersection of the southerly line of "I" Street (66.00 feet wide) as shown on said Map of Ontario Colony Lands with the easterly line of said Strip #1;

Thence along said southerly line North 89°36'38" East 12.06 feet;

Thence South 45°01'49" West 16.93 feet to said easterly line of Strip #1;

Thence along said easterly line North 00°24'01" West 11.88 feet to the **Point of Beginning**;

The above described parcel contains 151,454 square feet (3.47 acres) more or less.

See Exhibit 'B' attached hereto and made a part hereof.

**Parcel B:**

That portion of the hereinafter described Strip #1, lying within the land described in Grant Deed recorded October 21, 1910, in Book 450 page 231, of Official Records of said County;

Together with Parcels B-1, B-2, B-3, and B-4, being those portions of said Grant Deed Book 450, page 231, more particularly described as follows:

**Parcel B-1:**

**Beginning** at the intersection of the northerly line of "I" Street (66.00 feet wide) as shown on said Map of Ontario Colony Lands with the westerly line of said Strip #1;

Thence along said northerly line South 89°37'51" West 11.65 feet;

Thence North 43°34'12" East 16.78 feet to said westerly line of Strip #1;

Thence along said westerly line South 00°24'01" East 12.09 feet to the **Point of Beginning**;

**Parcel B-2:**

**Beginning** at the intersection of the northerly line of "I" Street (66.00 feet wide) as shown on said Map of Ontario Colony Lands with the easterly line of said Strip #1;

Thence along said northerly line North 89°36'38" East 11.94 feet;

Thence North 45°20'13" West 16.90 feet to said easterly line of Strip #1;

Thence along said easterly line South 00°24'01" East 11.96 feet to the **Point of Beginning**;

**Parcel B-3:**

**Beginning** at the intersection of the southerly line of Fourth Street (44.00 half-width) as described in Book 6800, page 588 of Official Records with the westerly line of said Strip #1, said southerly line being a curve concave southerly having a radius of 430.98 feet, a radial line to said beginning bears North 17°25'14" East;

Thence westerly along said curve an arc length of 42.61 feet through a central angle of 05°39'53";

Thence South 17°28'02" West 8.76 feet;

R:\4PAR010400\SURVEY\LEGALS\Grove Exhibit A.docx



Thence South 29°02'44" East 50.93 feet to the beginning of a non-tangent curve concave westerly having a radius of 985.00 feet, a radial line to said beginning bears South 75°33'29" East;

Thence southerly along said curve an arc length of 252.39 feet through a central angle of 14°40'52" to the westerly line of said Strip #1;

Thence along said westerly line North 29°07'23" East 3.55 feet to the beginning of a curve concave westerly having a radius of 1205.00 feet;

Thence northerly along said curve an arc length of 295.16 feet through a central angle of 14°02'03" to the **Point of Beginning**;

**Parcel B-4:**

**Beginning** at the intersection of the southerly line of Fourth Street (44.00 half-width) as described in Book 6800, page 588 of Official Records with the easterly line of said Strip #1, said southerly line being a curve concave northerly having a radius of 518.97 feet, a radial line to said beginning bears South 23°56'53" West;

Thence easterly along said curve an arc length of 39.67 feet through a central angle of 04°22'45";

Thence South 18°26'36" West 8.95 feet;

Thence South 62°22'05" West 53.30 feet;

Thence North 73°42'26" West 1.42 feet to the easterly line of said Strip #1 and the beginning of a curve concave westerly having a radius of 1335.00, a radial line to said beginning bears South 11°52'30" East;

Thence northerly along said curve an arc length of 49.70 feet through a central angle of 02°07'59" to the **Point of Beginning**;

The above described parcel contains 159,988 square feet (3.60 acres) more or less.

See Exhibit 'B' attached hereto and made a part hereof.

**Strip #1**

Being a strip of land 120.00 feet wide lying southerly of the southerly line of said lots 816 and 815, and 130.00 feet wide lying northerly of said southerly line of Lots 816 and 815, the centerline of said strip more particularly described as follows:

**COMMENCING** at the centerline intersection of "G" Street (66.00 feet wide) and Alameda Avenue (formerly Grove Avenue 60.00 wide) as shown on Tract No. 4173, filed in Book 53 page 28 of Maps, Records of said County;

Thence along said centerline of "G" Street South 89°36'25" West 203.96 feet to the **POINT OF BEGINNING**;

Thence North 15°05'48" West 320.38 feet to the beginning of a curve concave easterly having a radius of 1150.00 feet;

R:\4PAR010400\SURVEY\LEGALS\Grove Exhibit A.docx

Thence northerly along said curve an arc length of 294.97 feet through a central angle of 14°41'47" to a line parallel with and distant 60.00 feet easterly, measured at right angles to the easterly line of Tract No. 4142, filed in Book 53, page 1 of Maps, Records of said County, and the northerly prolongation of said Tract, and the easterly line of Tract No. 4143, filed in Book 53, page 2 of Maps, Records of said County;

Thence along said parallel line North 00°24'01" West 1136.46 feet to the beginning of a curve, concave easterly, having a radius of 975.00 feet;

Thence northerly and northeasterly along said curve an arc length of 502.40 feet through a central angle of 29°31'24";

Thence North 29°07'23" East 69.34 feet to the beginning of a curve, concave northwesterly, having a radius of 1270.00 feet;

Thence northeasterly and northerly along said curve an arc length of 303.46 feet through a central angle of 13°41'26" to the southerly line of Fourth Street (44.00 feet half-width) as described in Book 6800, page 588 of Official Records of said County and the **POINT OF TERMINATION**.

The sidelines of said strip to be prolonged or shortened to terminate southerly on the north line of said "G" Street (44.00 foot half-width) as described in said Book 6800, page 589 of Official Records of said County, and northerly on said southerly line of Fourth Street.

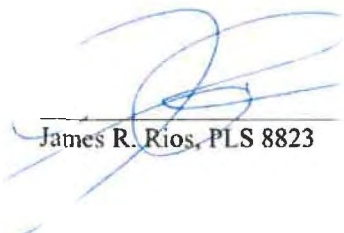
Excepting therefrom that portion lying within "I" Street (66.00 feet wide) as shown on said Map of Ontario Colony Lands.

The above described easement contains 311,442 square feet (7.15 acres) more or less.

The Basis of Bearings for this survey are based upon the North American Datum of 1983 (NAD83) of the California Coordinate System of 1983 (CCS83), Zone V, 2009.00 Epoch. Distances shown hereon are ground distances.

This description is not intended for use in the division and/or conveyance of land in violation of the Subdivision Map Act of the State of California

Prepared under the direction of:

  
James R. Rios, PLS 8823

10/18/2016

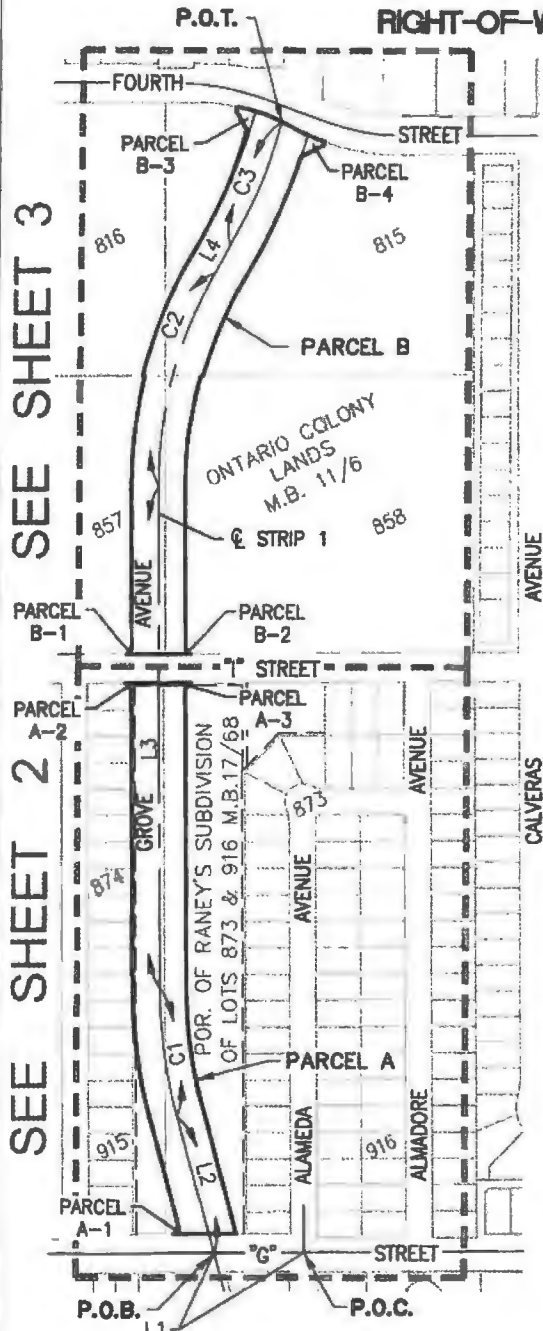
Date:



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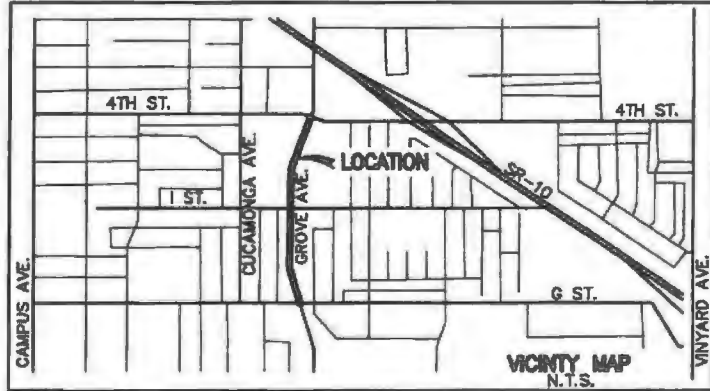
# EXHIBIT "B"

## RIGHT-OF-WAY EASEMENT DEDICATION



SEE SHEET 2  
SEE SHEET 3

| LINE & CURVE TABLE |                 |          |          |
|--------------------|-----------------|----------|----------|
| Line/Curve #       | Direction/Delta | Length   | Radius   |
| C1                 | 14°41'47"       | 294.97'  | 1150.00' |
| C2                 | 29°31'24"       | 502.40'  | 975.00'  |
| C3                 | 13°41'26"       | 303.46'  | 1270.00' |
| L1                 | S89°36'25"W     | 203.96'  |          |
| L2                 | N15°05'48"W     | 320.38'  |          |
| L3                 | N00°24'01"W     | 1136.46' |          |
| L4                 | N29°07'23"E     | 69.34'   |          |



### LEGEND

- INDICATES RIGHT-OF-WAY EASEMENT TO BE DEDICATED TO THE CITY OF ONTARIO FOR PUBLIC STREET AND PUBLIC UTILITY PURPOSES
- INDICATES PROPOSED EASEMENT CENTERLINE
- INDICATES EXISTING EASEMENT LINE
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- P.O.T. POINT OF TERMINATION

SCALE: N.T.S.

THE BASIS OF BEARINGS FOR THIS SURVEY ARE BASED UPON THE NORTH AMERICAN DATUM OF 1983 (NAD83) OF THE CALIFORNIA COORDINATE SYSTEM OF 1983 (CCS83), ZONE V, 2009.00 EPOCH. DISTANCES SHOWN HEREON ARE GROUND DISTANCES.

### INDEX MAP

| Area Table |         |       |
|------------|---------|-------|
| Parcel     | Sq. Ft. | Acres |
| A          | 151,454 | 3.47  |
| B          | 159,988 | 3.60  |
| Total      | 311,442 | 7.15  |



THIS EXHIBIT WAS PREPARED UNDER MY DIRECTION:  
 JAMES R. RIOS  
 DATE 10/18/2016

SHEET 1 OF 5

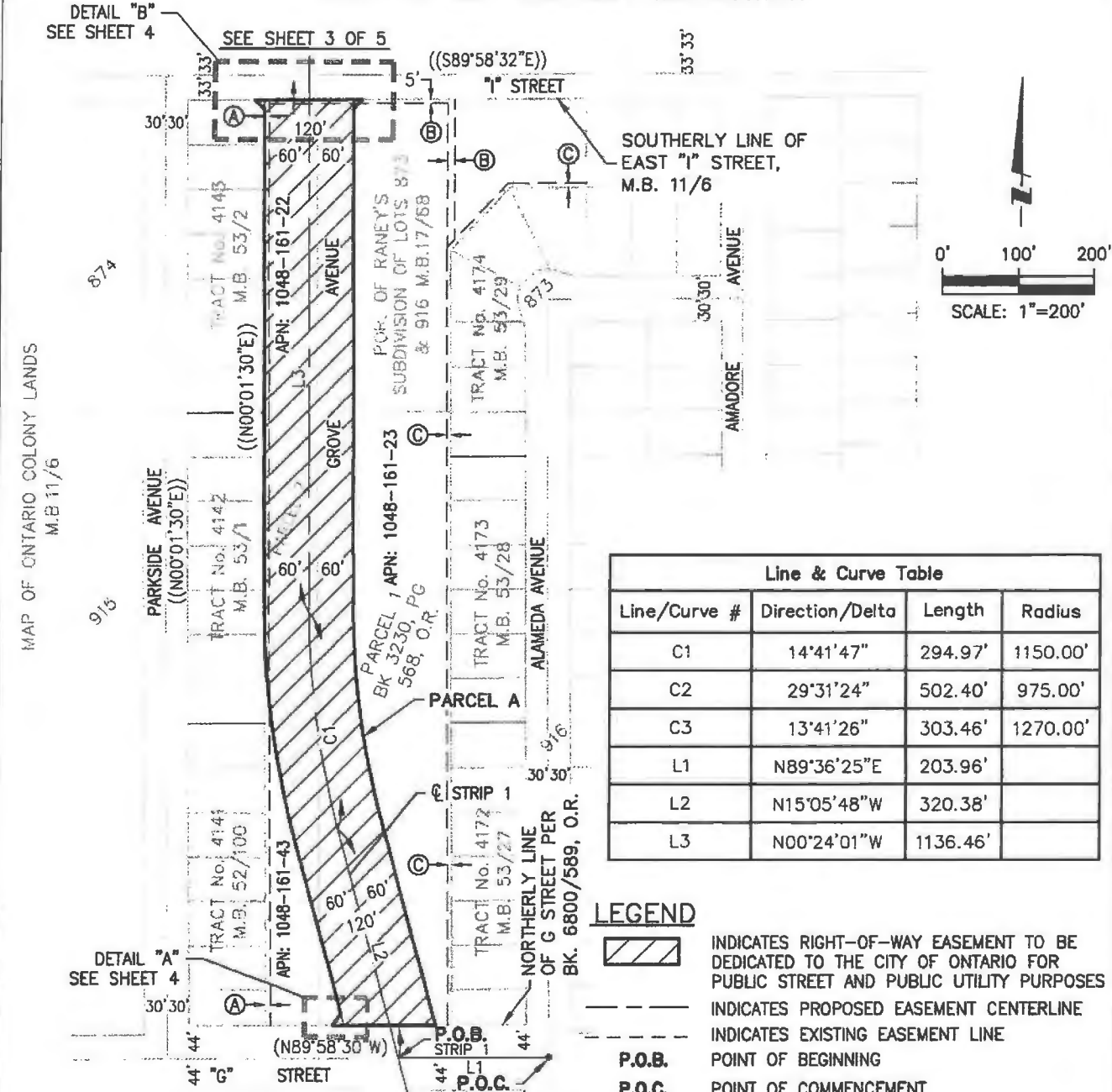
**PSOMAS**  
 1500 Iowa Avenue, Suite 210  
 Riverside, Ca 92507  
 (951) 787-8421 www.psomas.com

SCALE N.T.S.  
 DRAFTED MSL  
 CHECKED JRR  
 DATE MAY, 2016  
 JOB NUMBER 4PAR010400

n:\par010400\survey\legals\par010400 grove base.dwg

# EXHIBIT "B"

## RIGHT-OF-WAY EASEMENT DEDICATION



| Line/Curve # | Direction/Delta | Length   | Radius   |
|--------------|-----------------|----------|----------|
| C1           | 14°41'47"       | 294.97'  | 1150.00' |
| C2           | 29°31'24"       | 502.40'  | 975.00'  |
| C3           | 13°41'26"       | 303.46'  | 1270.00' |
| L1           | N89°36'25"E     | 203.96'  |          |
| L2           | N15°05'48"W     | 320.38'  |          |
| L3           | N00°24'01"W     | 1136.46' |          |

### EASEMENTS

- (A) 6' UTILITY EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY IN BOOK 3209 PAGE 497 O.R. SAN BERNARDINO COUNTY.
- (B) 10' UTILITY EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY IN BOOK 3263 PAGE 363 O.R. SAN BERNARDINO COUNTY.
- (C) 6' UTILITY EASEMENT IN FAVOR OF SOUTHERN CALIFORNIA EDISON COMPANY IN BOOK 3263 PAGE 363 O.R. SAN BERNARDINO COUNTY.

### LEGEND

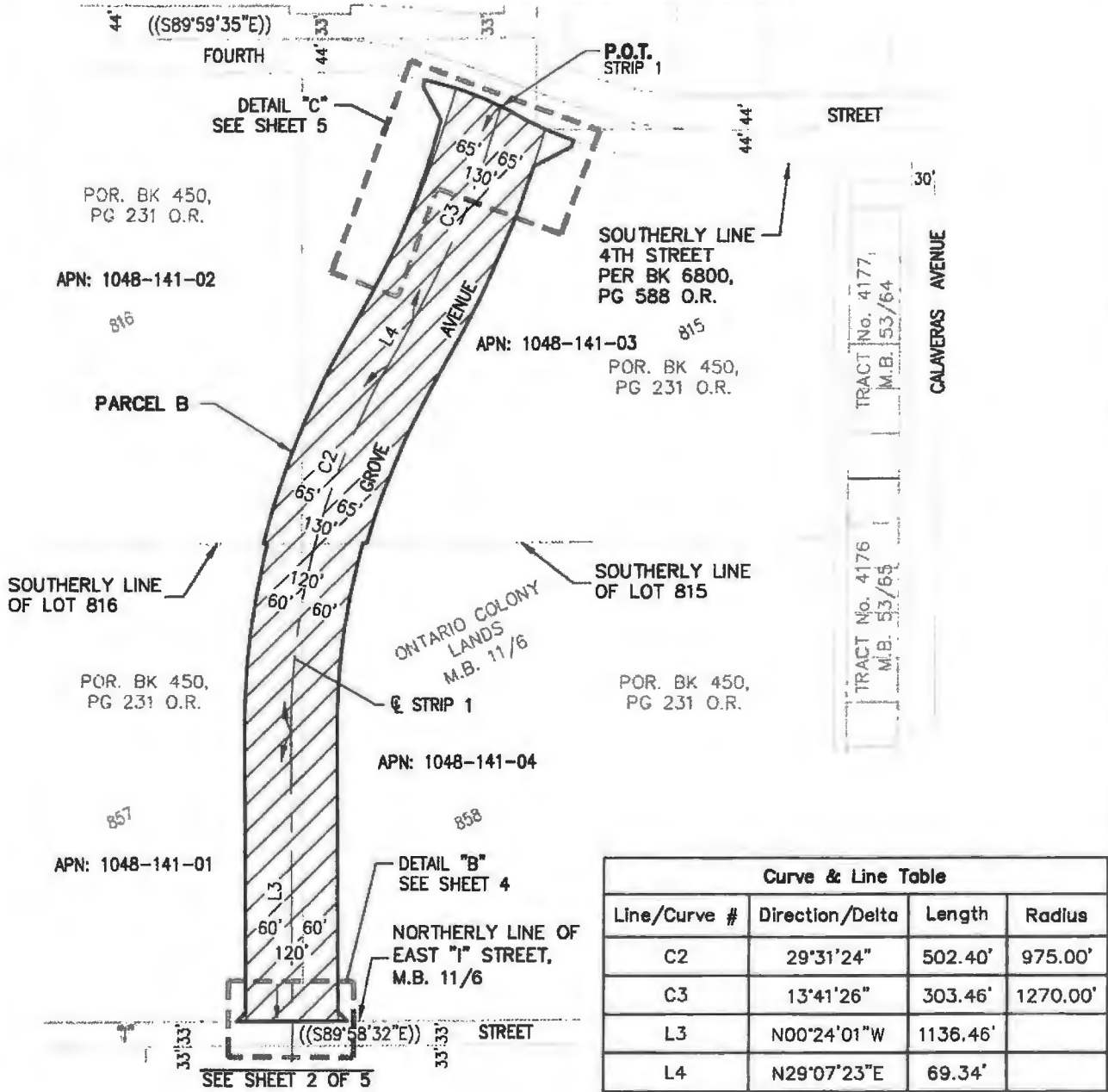
- INDICATES RIGHT-OF-WAY EASEMENT TO BE DEDICATED TO THE CITY OF ONTARIO FOR PUBLIC STREET AND PUBLIC UTILITY PURPOSES
- INDICATES PROPOSED EASEMENT CENTERLINE
- INDICATES EXISTING EASEMENT LINE
- P.O.B.** POINT OF BEGINNING
- P.O.C.** POINT OF COMMENCEMENT
- P.O.T.** POINT OF TERMINATION
- ( ) INDICATES RECORD DATA PER TRACT NO. 4173, M.B. 53/28
- (( )) INDICATES RECORD DATA PER TRACT NO. 4143, M.B. 53/02

|  |                       |
|--|-----------------------|
| <b>SHEET 2 OF 5</b>  | SCALE N.T.S.          |
| <b>PSOMAS</b><br>1500 Iowa Avenue, Suite 210<br>Riverside, Ca 92507<br>(951) 787-8421 www.psomas.com | DRAFTED MSL           |
|  | CHECKED JRR           |
|  | DATE MAY, 2016        |
|  | JOB NUMBER 4PAR010400 |

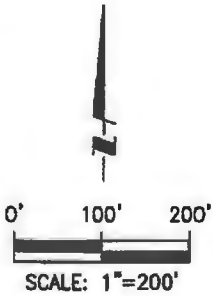
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# EXHIBIT "B"

## RIGHT-OF-WAY EASEMENT DEDICATION



| Curve & Line Table |                 |          |          |
|--------------------|-----------------|----------|----------|
| Line/Curve #       | Direction/Delta | Length   | Radius   |
| C2                 | 29°31'24"       | 502.40'  | 975.00'  |
| C3                 | 13°41'26"       | 303.46'  | 1270.00' |
| L3                 | N00°24'01"W     | 1136.46' |          |
| L4                 | N29°07'23"E     | 69.34'   |          |



### LEGEND

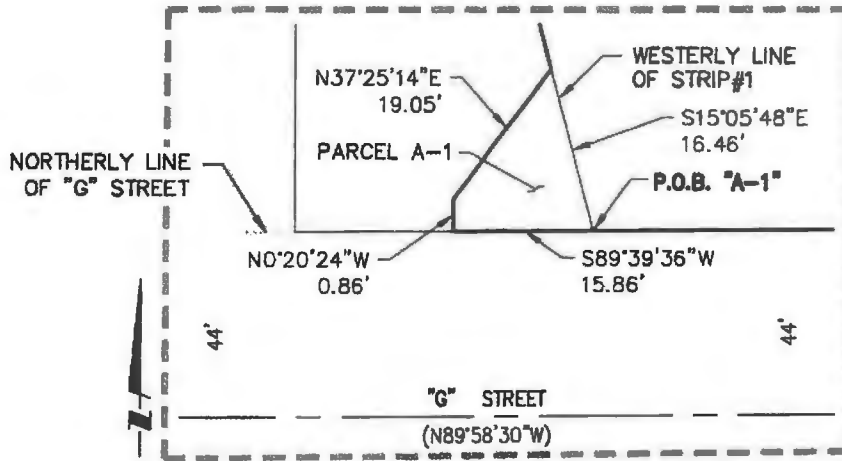
- INDICATES RIGHT-OF-WAY EASEMENT TO BE DEDICATED TO THE CITY OF ONTARIO FOR PUBLIC STREET AND PUBLIC UTILITY PURPOSES
- INDICATES PROPOSED EASEMENT CENTERLINE
- INDICATES EXISTING EASEMENT LINE
- P.O.T.** POINT OF TERMINATION
- ( ) INDICATES RECORD DATA PER TRACT NO. 4173, M.B. 53/28
- (( )) INDICATES RECORD DATA PER TRACT NO. 4143, M.B. 53/02

|  |   |                              |
|--|---|------------------------------|
| <p align="center"><b>PSOMAS</b></p> <p>1500 Iowa Avenue, Suite 210<br/>Riverside, Ca 92507<br/>(951) 787-8421 <a href="http://www.psomas.com">www.psomas.com</a></p> | <p align="center"><b>SHEET 3 OF 5</b></p> | <p>SCALE N.T.S.</p>          |
|  |   | <p>DRAFTED MSL</p>           |
|  |   | <p>CHECKED JRR</p>           |
|  |   | <p>DATE MAY, 2016</p>        |
|  |   | <p>JOB NUMBER 4PAR010400</p> |

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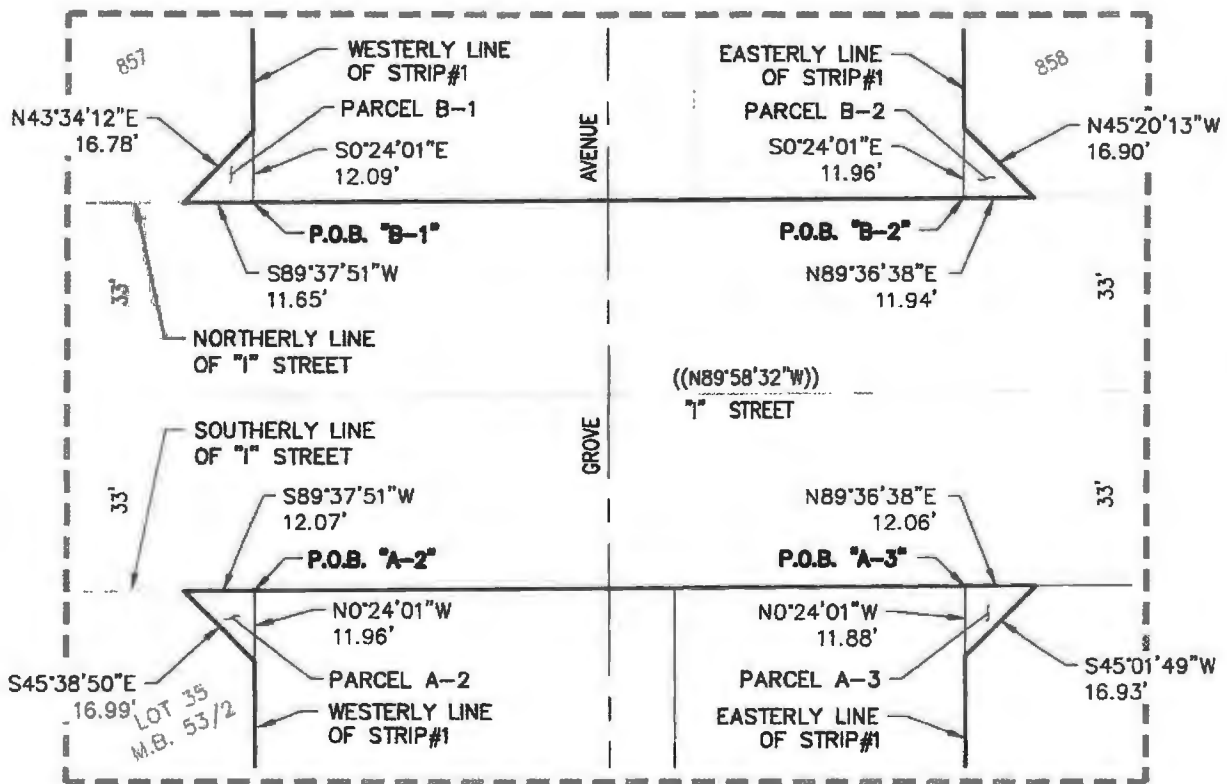
# EXHIBIT "B"

## RIGHT-OF-WAY EASEMENT DEDICATION



### DETAIL "A"

N.T.S.



### DETAIL "B"

N.T.S.

SHEET 4 OF 5

SCALE N.T.S.

**PSOMAS**

1500 Iowa Avenue, Suite 210  
 Riverside, Ca 92507  
 (951) 787-8421 www.psomas.com

DRAFTED MSL

CHECKED JRR

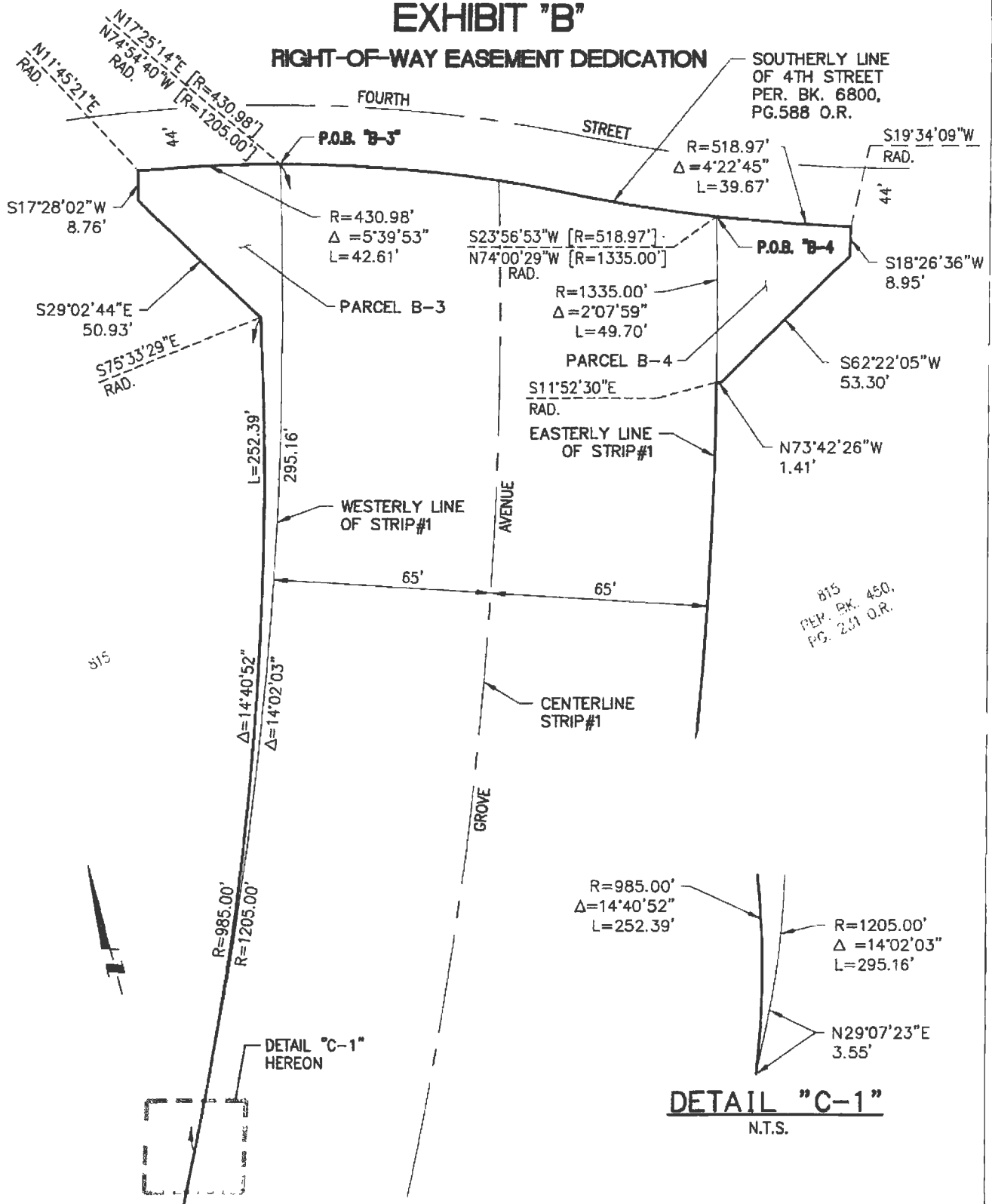
DATE MAY, 2016

JOB NUMBER 4PAR010400

# EXHIBIT "B"

## RIGHT-OF-WAY EASEMENT DEDICATION

SOUTHERLY LINE OF 4TH STREET PER. BK. 6800, PG.588 O.R.



815  
PER. BK. 450,  
PG. 231 O.R.

S15



**DETAIL "C"**  
N.T.S.

**DETAIL "C-1"**  
N.T.S.

|   |                       |
|---|-----------------------|
| <b>SHEET 5 OF 5</b>   | SCALE N.T.S.          |
| <b>PSOMAS</b>   | DRAFTED MSL           |
| 1500 Iona Avenue, Suite 210<br>Riverside, Ca 92507<br>(951) 787-8421 www.psomas.com | CHECKED JRR           |
|   | DATE MAY, 2016        |
|   | JOB NUMBER 4PAR010400 |

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# CITY OF ONTARIO

Agenda Report  
February 21, 2017

SECTION:  
CONSENT CALENDAR

**SUBJECT: A FIRE MUTUAL AID & AUTOMATIC AID AGREEMENT WITH RANCHO CUCAMONGA FIRE PROTECTION DISTRICT**

**RECOMMENDATION:** That the City Council authorize the City Manager to execute an agreement with Rancho Cucamonga Fire Protection District (on file with the Records Management Department) for Fire Mutual Aid & Automatic Aid related to tactical incident response.

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

**FISCAL IMPACT:** Approval of this agreement may have an indirect fiscal impact to the City according to the fundamentals of the California Master Mutual Aid System. Requests for mutual aid will be provided with no financial reimbursement; however, based on the duration and complexity of an incident, agencies receiving mutual aid are responsible for logistical support to all mutual aid personnel and equipment. There are also reciprocity benefits to the parties.

**BACKGROUND:** When the lives of multiple people are at stake, as in an active shooter environment, barricaded suspect, hostage situation, or terrorist attack, the need to enter a relatively safe scene under force protection may occur. In these situations, the primary objective is providing point of wound care to victims that otherwise would have perished from preventable death injuries. If a tactical incident should arise, this Agreement will expedite the approval and dispatch call processing timeframes allowing each city to call upon one another to respond with a Tactical Response Company. The Tactical Response Company must consist of a fire crew who are trained and equipped to respond to tactical response incidents.

Subject to other resource demands, the requesting city is responsible for providing force protection, which consists of law enforcement personnel trained to be deployed and provide assistance in an indirect threat area or warm zone of a tactical incident. This Agreement also calls for on-going training efforts and communication coordination amongst the parties.

**STAFF MEMBER PRESENTING:** Rob Elwell, Fire Chief

Prepared by: Cathy Thomas  
Department: Fire

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/21/2017

Approved: \_\_\_\_\_

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

Denied: \_\_\_\_\_

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In enacting AB 1598, (Emergency Response Services: Active Shooter Incidents) the Legislature prescribed that protocols and training for response to active shooter incidents must be established locally to work within the resource capabilities and limitations of each jurisdiction. The legislature intended AB 1598 to do the following:

- Require the development of collaborative protocols and relationships between local and state first response entities, including law enforcement agencies, fire departments, and emergency medical services providers and agencies, in order that those entities shall act effectively and in concert to address active shooter incidents across California.
- Require first response entities to seek collaborative training opportunities, including, but not limited to: table top or simulation exercises, to assess plan implementations, and to include other entities that may be involved in active shooter incidents in those trainings, such as schools, city or county personnel, and private businesses.
- Require basic and ongoing training for law enforcement agency personnel, fire department personnel, emergency medical services personnel, and the personnel for other first responders include, as appropriate, training and education on active shooter incidents and tactical casualty care.

In addition, protocols must be reviewed annually to ensure that they are current. At that time, any policy, geographic, or demographic changes that warrant a response strategy review will be addressed. The Legislature intended that the protocols address all of the following:

- The roles, responsibilities, and policies of each entity in responding to an active shooter incident.
- Pre-assessment and contingency planning that includes identification of potential targets within the jurisdiction.
- Implementation of an Incident Command System (ICS), including emergency protocols for a unified command structure for entities responding to an active shooter incident.
- Interagency communication issues and needs, including, but not limited to, radio interoperability and establishment of common language, terms, and definitions to be used on the scene of an active shooter incident.
- Identification of resources for responding to an active shooter incident, including, but not limited to, primary and secondary needs and hospitals.
- Tactical deployment of available resources for responding to an active shooter incident.
- Emergency treatment and extraction of persons injured in an active shooter incident.

This Agreement will support the intent of AB 1598 and will be utilized as the model for future similar agreements with other surrounding communities.

# CITY OF ONTARIO

Agenda Report  
February 21, 2017

SECTION:  
CONSENT CALENDAR

**SUBJECT: FISCAL YEAR 2016-17 SECOND BUDGET UPDATE REPORT**

**RECOMMENDATION:** That the City Council approve the budget adjustments and recommendations as listed in the Fiscal Year 2016-17 Second Budget Update Report.

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

**FISCAL IMPACT:** The recommended actions will affect several fund budgets as outlined in the FY 2016-17 Second Budget Update Report and supporting schedules.

**BACKGROUND:** This second budget update report for Fiscal Year 2016-17 reflects the Administrative Services Agency's continued efforts to provide timely, accurate, and understandable financial information to assist the City Council with decision making and achieve their core goals. All funds have been reviewed in preparing this report. The emphasis of this report is on the General Fund, which funds the majority of government services including public safety, recreation, library, museum, parks, building, and planning. This report also discusses prior year results, budget trends, and the economic outlook that may impact the City's resources.

The primary purposes of this report are to:

- Revise the City's budget to reflect the City Council's actions taken since the beginning of the current fiscal year;
- Recommend personnel and organizational changes to enhance program operations and efficiency;
- Recommend budget changes to align the budget with projected year-end results;
- Recommend budget adjustments that are consistent with City Council goals and objectives; and
- Comment on significant budget and economic trends which may impact next fiscal year's budget development.

**STAFF MEMBER PRESENTING:** Grant D. Yee, Administrative Services/Finance Director

Prepared by: Doreen M. Nunes  
Department: Fiscal Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/21/2017

Approved: \_\_\_\_\_

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

Denied: \_\_\_\_\_

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## **Second Budget Update Recommendations**

Second Budget Update recommendations are routine in nature and comprised predominately by City Council actions taken since the beginning of the fiscal year, adjustments in the revenue budget to reflect estimates based on current trends, and additional appropriations for new or ongoing programs/projects. For the General Fund, these actions will bring the General Fund estimated available ending fund balance to \$35,540,014; this amount achieves the 18% goal set by City Council.

Major items proposed for the Second Budget Update in the General Fund are: additional \$1.7 million for law enforcement and fire safety personnel and related costs for operations at the Ontario International Airport/ONT (funding provided by a reimbursement agreement with Ontario International Airport Authority/OIAA); \$500,000 for additional building plan check consulting services (offset with recent gains in Building Plan Check Fee revenue); \$311,892 and \$224,555 for environmental impact reports related to the Colony Commerce Center East Specific Plan and West Ontario Commerce Specific Plan, respectively (offset by pass-thru revenues collected from the property owners); and \$165,000 for three additional police vehicles for investigation operations (COPS/MET program).

Noteworthy budget adjustments in Other Funds include: \$400,000 for street and sidewalk safety infrastructure improvements by El Camino Elementary School (grant funding from the Safe Routes to School Program plus matching funds from Gas Tax revenues); \$350,000 for additional City facilities urgency repairs, including air conditioning and plumbing repairs, and roof replacement at the Ontario Municipal Services Center (funding through a combination of City Facilities Reserve and City Utilities Funds); additional \$214,525 for the Francis Street Storm Drain project (funding provided by a reimbursement agreement with the contractor); and \$153,405 for storm drain repairs on Hollowell Street (funding from Storm Drain Maintenance fees).

Interim budget updates also present recommendations for personnel and organizational changes necessary to enhance program operations and efficiency. Current recommendations include organizational changes to the Human Resources Department and the City Library. In addition, recommended personnel include additional staffing for the law enforcement and fire safety airport operations. The proposed recommendations will result in a net increase of 20 positions (17 positions are for the law enforcement and fire safety airport operations) and an overall annual increase of \$3.2 million to the General Fund (annually \$2.9 million is reimbursable for law enforcement and fire safety airport operations).

## **Economic Outlook**

The local economy is continuing to show signs of improvement, with continued growth in retail and motor vehicles sales as well as employment, combined with moderate gains in the housing market. Sales tax revenue for the third quarter 2016 grew 11.2% compared to the same quarter a year ago, with office equipment and new auto sales continuing to be the highest producing sectors, as well as light industry. Although the City has experienced strong gains in sales tax revenues, we anticipate a decline or flat growth for the calendar year 2017 due to a loss of major sales tax producers in the City. The Consumer Confidence Index of 111.8 for January 2017 was a slight decline from the reported 15 year high of 113.7 in December 2016.

Home values are improving as demonstrated by the strong gain of 6.9% compared to the prior year in the median sale price of single-family homes in the Inland Empire for December 2016. Home sales experience a moderate increase of 2.4%. This increase is primarily the result of home buyers being pushed out of the Los Angeles and Orange County housing market due to the higher home prices reflected in those regions.

Gross Domestic Product (GDP), the broadest measure of economic output, decreased to 1.9 for the fourth quarter 2016 as a result of the widening of the US trade deficit. In addition, the national labor market continues to create enough jobs to keep up with the population and labor force growth; job gains have averaged 180,000 for each month in 2016 through November. This is reflected in a steady unemployment rate for the State of California and the Inland Empire region.

### **CalPERS**

The California State Public Employees Retirement System (CalPERS) is considerably underfunded, primarily due to the lower than projected earning rates combined with significant investment losses incurred during the Great Recession. All of this has contributed to dramatic increases to the City's CalPERS contribution rates. With the recent adoption of amortization and smoothing policy changes by the CalPERS Board to address the severity of the underfunding, significant employer contribution rates increase have begun in this fiscal year. CalPERS' proposed rates will increase by approximately 50% by Fiscal Year 2019-20. In addition, the CalPERS Board of Administration approved in December 2016 lowering the discount rate assumption, the long-term rate of return, from 7.5 percent to 7.0 percent over the next three years. This will increase employer contribution costs beginning in Fiscal Year 2018-19 on top of the already planned increases.

### **Conclusion**

While the City is experiencing improvement during this economic recovery, challenges still remain. The economy is projected to grow slowly over the next couple of years due to a continued stagnant wage growth, the potential negative impact to the economy resulting from the unstable global economy, and the Federal Reserve's current actions to taper back its bond purchases (quantitative easing) which has kept borrowing costs low. In addition, Ontario needs to be cognizant of potential decline or flat growth in sales tax revenues in 2017 due to the relocation of major sales tax generators out of the City. This is only partially offset by new business attraction, and the City will continue its economic development strategies to bring new businesses and jobs to Ontario.

The Adopted Operating Budget for FY 2016-17, as modified through this Second Budget Update, reflects the City Council's continued commitment to foster steady, controlled growth and to provide the highest level of service to the community within the City's fiscal constraints. With the City Council's leadership and their prudent fiscal policies, the City's long-term fiscal health will further solidify its standing as the economic leader in the Inland Empire, and a formidable player in California and the nation.

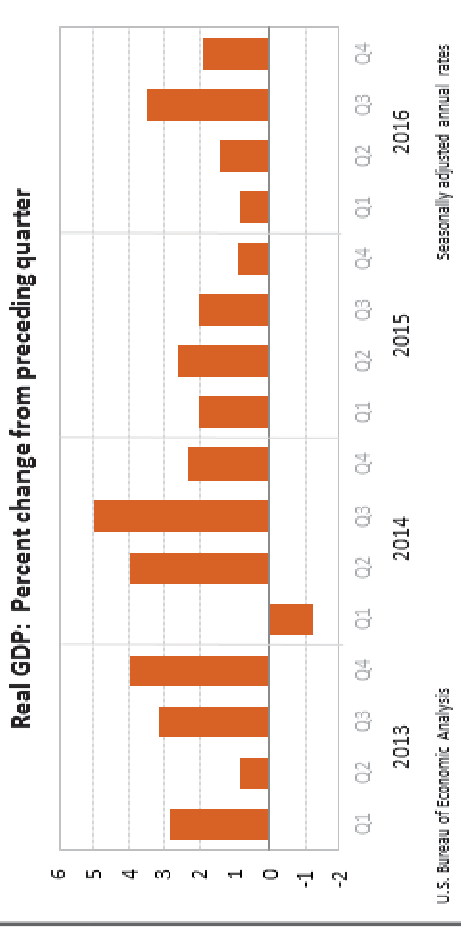
# FY 2016-17 Second Budget Update

February 21, 2017

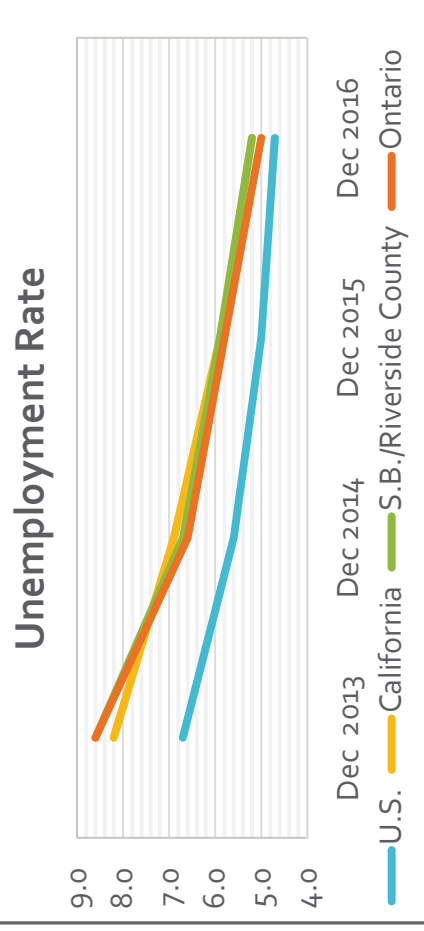


*Administrative Services /  
Fiscal Services*

# ECONOMIC INDICATORS



The U.S. economy lost momentum in the final three months of 2016. The biggest factor contributing to the slowdown was a widening in the trade deficit.



| December-16 State/Region/County | Median Sold Price of Existing Single-Family Homes |           |          | Sales YTY% Chg |
|---------------------------------|---|-----------|----------|----------------|
|                                 | Dec-16  | Dec-15    | YTY% Chg |                |
| Inland Empire                   | \$320,970   | \$300,130 | 6.9%     | 2.4%           |
| Los Angeles Metro               | \$463,380   | \$448,930 | 3.2%     | -1.4%          |
| <b>Southern California</b>      |   |           |          |                |
| Los Angeles                     | \$519,280   | \$502,750 | 3.3%     | -3.1%          |
| Orange                          | \$745,000   | \$700,000 | 6.4%     | 1.8%           |
| Riverside                       | \$360,000   | \$341,000 | 5.6%     | 5.5%           |
| San Bernardino                  | \$253,460   | \$234,080 | 8.3%     | -2.5%          |
| San Diego                       | \$568,000   | \$530,000 | 7.2%     | -2.9%          |
| Ventura                         | \$627,580   | \$601,910 | 4.3%     | -20.1%         |

California Association of Realtors



**Purchasing Manager's Index (Dec. 2016)**  
U.S. 54.7%  
I.E. 47.4%



**Consumer Confidence Index (Jan. 2017)**  
111.8

Consumer confidence decreased in January, after reaching a 15-year high of 113.3 in December.  
Conference Board

FY 2016-17

GENERAL  
FUND

Second Budget  
Update

|   |    |                             |
|---|----|-----------------------------|
| <b>Total Revenue Current Budget</b>     |    | <b>\$215,713,516</b>        |
| <u>Revenue Adjustments</u>              |    |                             |
| Development Related                     | \$ | 1,207,655                   |
| Miscellaneous & Reimbursables           |    | <u>106,972</u>              |
| <b>Revised Revenue Budget</b>           |    | <b><u>\$217,028,143</u></b> |
| <br>                                    |    |                             |
| <b>Total Expenditure Current Budget</b> |    | <b>\$229,002,103</b>        |
| <u>Expenditure Adjustments</u>          |    |                             |
| Public Safety                           | \$ | 1,903,515                   |
| Development Related                     |    | 1,250,972                   |
| Community & Public Services             |    | 142,180                     |
| Community Enhancement                   |    | 25,000                      |
| City Support Services                   |    | <u>97,610</u>               |
| <b>Revised Expenditure Budget</b>       |    | <b><u>\$232,421,380</u></b> |

# FY 2016-17 CITY BUDGET BY FUND TYPE

Second Budget Update  
Other Fund Highlights



Safe Routes to  
School Grant  
**\$368,000**



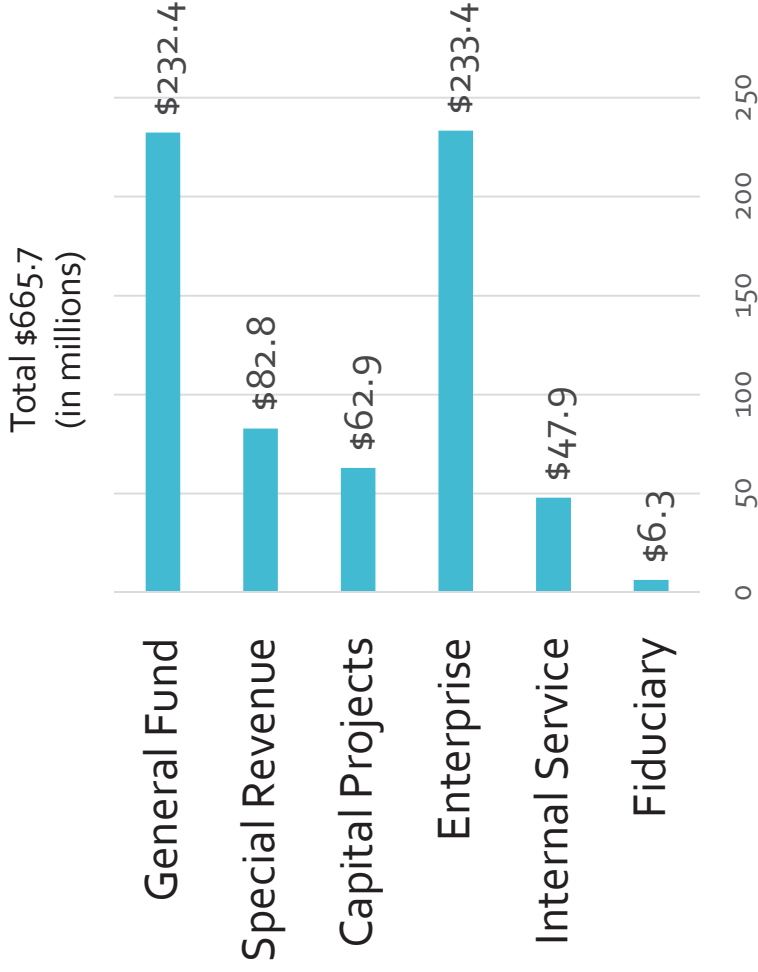
Storm Drains  
**\$376,980**



Safety Grant  
**\$55,812**



**James B. Bryant Park**  
Improvements of \$97,230 funded  
from approved Capital Projects  
appropriations.





# FY 2016-17 Second Budget Update

## Recommended Personnel Changes

### RECLASS/SALARY REALIGNMENTS

Title Change: Senior  
Police Dispatcher (2)  
to Senior Fire  
Dispatcher (2)

Reclass: Supervising  
Library Clerk (1) to  
Senior Library  
Assistant (1)

Salary Realignment:  
Senior Human  
Resources Analyst  
(4)

### DELETIONS

Supervising Library  
Clerk (1)

### ADDITIONS

Police Officer (12)  
Police Corporal (2)  
Police Detective (1)  
Police Sergeant (2)  
Senior Librarian (1)  
Human Resources  
Analyst (1)

**City of Ontario**  
**Summary of General Fund Recommended Revenue Adjustments**  
**Fiscal Year 2016-17**  
**Second Budget Update**

| Revenue Source                     | Original Budget       | Current Budget        | Recommended Second Budget Update Adjustments | Current Budget After Adjustments | Actuals As of 2/3/2017 | Percent of Budget Received |
|------------------------------------|-----------------------|-----------------------|--|----------------------------------|------------------------|----------------------------|
| Sales Tax                          | \$ 74,000,000         | \$ 74,000,000         | \$ -   | \$ 74,000,000                    | \$ 33,165,189          | 44.8%                      |
| Business License Tax               | 6,450,000             | 6,450,000             | -  | 6,450,000                        | 5,000,304              | 77.5%                      |
| Occupancy Tax                      | 12,500,000            | 12,500,000            | -  | 12,500,000                       | 6,559,572              | 52.5%                      |
| Parking Tax                        | 2,800,000             | 2,800,000             | -  | 2,800,000                        | 1,182,397              | 42.2%                      |
| Franchises                         | 3,250,000             | 3,250,000             | -  | 3,250,000                        | 380,583                | 11.7%                      |
| Property Tax                       | 51,000,000            | 51,000,000            | -  | 51,000,000                       | 28,790,791             | 56.5%                      |
| Development Related                | 6,785,000             | 6,918,844             | 1,076,447                                    | 7,995,291                        | 6,347,762              | 79.4%                      |
| Recreation Programs                | 901,000               | 901,000               | -  | 901,000                          | 576,751                | 64.0%                      |
| Interest & Rentals                 | 1,825,140             | 1,825,140             | -  | 1,825,140                        | -                      | 0.0%                       |
| Miscellaneous Revenues             | 7,971,169             | 17,240,841            | 5,000  | 17,245,841                       | 3,177,491              | 18.4%                      |
| <b>Total Recurring Revenues</b>    | <b>\$ 167,482,309</b> | <b>\$ 176,885,825</b> | <b>\$ 1,081,447</b>                          | <b>\$ 177,967,272</b>            | <b>\$ 85,180,840</b>   | <b>47.9%</b>               |
| Reimbursables                      | 2,648,021             | 3,654,021             | 214,525                                      | 3,868,546                        | 2,390,356              | 61.8%                      |
| <b>Total General Fund Revenues</b> | <b>\$ 170,130,330</b> | <b>\$ 180,539,846</b> | <b>\$ 1,295,972</b>                          | <b>\$ 181,835,818</b>            | <b>\$ 87,571,196</b>   | <b>48.2%</b>               |

**SCHEDULE II**

**City of Ontario  
 Summary of General Fund Recommended Expenditure Adjustments  
 Fiscal Year 2016-17  
 Second Budget Update**

|  | Expenditures          |
|--|-----------------------|
| Adopted Budget   | \$ 199,258,107        |
| Current Budget   | \$ 208,763,670        |
| Recommended Adjustments:   |                       |
| Building Plan Check Services (offset with Development Related Revenue)   | 500,000               |
| Other Professional Services ref: Colony Commerce Center East Specific Plan-Environmental Impact Report (pass-thru) | 311,892               |
| Other Professional Services ref: West Ontario Commerce Specific Plan-Environmental Impact Report (pass-thru)       | 224,555               |
| Additional Police vehicles for investigation operations (3)  | 165,000               |
| Streetlight vandalism repairs  | 70,000                |
| Fire Plan Check Services (offset with Development Related Revenue)   | 40,000                |
| Milliken/Mission Grade Separation landscape maintenance services   | 30,000                |
| Property rehabilitation agreement (Code Enforcement)   | 25,000                |
| Water rescue gear and equipment replacements - Fire  | 20,000                |
| Ontario Ranch (Archibald) median and parkway landscape maintenance services  | 18,725                |
| Whispering Lakes Golf Course maintenance and repairs (Transfer-in from Fund 098)                                   | 18,655                |
| Library copier (offset with Miscellaneous Revenues)  | 5,000                 |
| Airport related hand-held radios: Police (17) for new positions  | 97,750                |
| Airport related vehicles: Police (9) for new positions   | 605,000               |
| Recommended Personnel Changes  | 97,410                |
| Recommended Personnel Changes-Airport Related  | 975,765               |
| <b>Total Recommended Adjustments</b>   | <b>\$ 3,204,752</b>   |
| <b>Recommended Budget</b>  | <b>\$ 211,968,422</b> |

SCHEDULE III

**City of Ontario  
 Summary of General Fund Recommended Transfer Adjustments  
 Fiscal Year 2016-17  
 Second Budget Update**

|   | Operating<br>Transfers-In | Operating<br>Transfers-Out |
|---|---------------------------|----------------------------|
| Adopted Budget  | \$ 35,038,670             | \$ 6,029,933               |
| Current Budget  | \$ 35,173,670             | \$ 20,238,433              |
| Recommended Adjustments:  |                           |                            |
| Whispering Lakes Golf Course maintenance and repairs (Transfer-in from Fund 098)            | \$ 18,655                 | \$ -                       |
| Transfer-out (To Fund 173) Francis Street Storm Drain - Offset with Reimbursement Agreement | -                         | 214,525                    |
| Total Recommended Adjustments   | \$ 18,655                 | \$ 214,525                 |
| Recommended Budget  | \$ 35,192,325             | \$ 20,452,958              |

**City of Ontario  
General Fund Balance with Recommended Adjustments  
Fiscal Year 2016-17  
Second Budget Update**

| General Fund  | Actual<br>2015-16<br>Unaudited | Adopted<br>2016-17<br>Budget | Prior Budget Update<br>Approved<br>Adjustments | Current<br>2016-17<br>Budget | Second Budget Update<br>Recommended<br>Adjustments | Recommended<br>Budget<br>2016-17 |
|---|--------------------------------|------------------------------|--|------------------------------|--|----------------------------------|
| Total Revenues  | \$ 196,786,574                 | \$ 170,130,330               | \$ 10,409,516                                  | \$ 180,539,846               | \$ 1,295,972                                       | \$ 181,835,818                   |
| Total Expenditures  | (187,763,354)                  | (199,258,107)                | (9,505,563)                                    | (208,763,670)                | (3,204,752)  | (211,968,422)                    |
| Excess (Deficiency) of Revenues Over (Under) Expenditures   | \$ 9,023,220                   | \$ (29,127,777)              | \$ 903,953                                     | \$ (28,223,824)              | \$ (1,908,780)                                     | \$ (30,132,604)                  |
| Other Sources (Uses):   |                                |                              |  |                              |  |                                  |
| Operating Transfer In   | \$ 52,543,612                  | \$ 35,038,670                | \$ 135,000                                     | \$ 35,173,670                | \$ 18,655  | \$ 35,192,325                    |
| Operating Transfer Out  | (35,535,569)                   | (6,029,933)                  | (14,208,500)                                   | (20,238,433)                 | (214,525)  | (20,452,958)                     |
| Total Other Sources (Uses)  | \$ 17,008,043                  | \$ 29,008,737                | \$ (14,073,500)                                | \$ 14,935,237                | \$ (195,870)                                       | \$ 14,739,367                    |
| Excess (Deficiency) of Revenues and Other Financing Sources<br>Over (Under) Expenditures and Other Financing Uses | \$ 26,031,263                  | \$ (119,040)                 | \$ (13,169,547)                                | \$ (13,288,587)              | \$ (2,104,650)                                     | \$ (15,393,237)                  |
| Fund Balance, Beginning of Year   | 58,807,530                     | 84,838,793                   | -  | 84,838,793                   | -  | 84,838,793                       |
| Fund Balance, End of Year   | \$ 84,838,793                  | \$ 84,719,753                | \$ (13,169,547)                                | \$ 71,550,206                | \$ (2,104,650)                                     | \$ 69,445,556                    |
| <b>FUND BALANCE</b>   |                                |                              |  |                              |  |                                  |
| Non-Spendable:  |                                |                              |  |                              |  |                                  |
| Inventory   | \$ 148,673                     | \$ 148,673                   | \$ -   | \$ 148,673                   | \$ -   | \$ 148,673                       |
| Advanced to Other Funds (RDA Loan Repayment)  | 3,500,000                      | 3,500,000                    | -  | 3,500,000                    | -  | 3,500,000                        |
| Advanced to Other Funds (OIAA Advance)  | 30,000,000                     | 30,000,000                   | -  | 30,000,000                   | -  | 30,000,000                       |
| Long-Term Receivable  | 40,000                         | 40,000                       | -  | 40,000                       | -  | 40,000                           |
| Prepays   | 216,869                        | 216,869                      | -  | 216,869                      | -  | 216,869                          |
| Total Non-Spendable   | \$ 33,905,542                  | \$ 33,905,542                | \$ -   | \$ 33,905,542                | \$ -   | \$ 33,905,542                    |
| Assigned:   |                                |                              |  |                              |  |                                  |
| Continuing Appropriations   | 3,785,233                      | 3,785,233                    | (3,785,233)                                    | -                            | -  | -                                |
| 18% Stabilization Plan  | 47,148,018                     | 47,028,978                   | (9,384,314)                                    | 37,644,664                   | (2,104,650)  | 35,540,014                       |
| Total Assigned  | \$ 50,933,251                  | \$ 50,814,211                | \$ (13,169,547)                                | \$ 37,644,664                | \$ (2,104,650)                                     | \$ 35,540,014                    |
| Total Fund Balance (Non-Spendable, Assigned)  | 84,838,793                     | 84,719,753                   | (13,169,547)                                   | 71,550,206                   | (2,104,650)  | 69,445,556                       |
| <b>Total Available for Contingencies and Emergencies</b>  | <b>\$ 50,933,251</b>           | <b>\$ 50,814,211</b>         | <b>\$ (13,169,547)</b>                         | <b>\$ 37,644,664</b>         | <b>\$ (2,104,650)</b>                              | <b>\$ 35,540,014</b>             |

SCHEDULE V

City of Ontario  
**Unreserved Fund Balance with Recommended Adjustments for All Funds**  
**Fiscal Year 2016-17**  
**Second Budget Update**

| Funds/Sources                            | Total Unreserved Fund Balance July 1, 2016 | Current Budget Control |                        |                         | Total Available | Expenditures   | Estimated Total Unreserved Fund Balance June 30, 2017 | Recommended  |  |
|--|--|------------------------|------------------------|-------------------------|-----------------|----------------|---|--|--|
|  |  | Revenues               | Operating Transfers-In | Operating Transfers-Out |                 |                |   | Second Budget Update Adjustments Increase/(Decrease) to Fund Balance Net Adjustments | Adjusted Unreserved Fund Balance June 30, 2017 |
| <b>General Fund (incl. encumbrances)</b> |  |                        |                        |                         |                 |                |   |  |  |
| 001 General Fund                         | \$ 50,933,251                              | \$ 180,539,846         | \$ 35,173,670          | \$ 20,238,433           | \$ 246,408,334  | \$ 208,763,670 | \$ 37,644,664   | \$ (2,104,650)   | \$ 35,540,014                                  |
|  | \$ 50,933,251                              | \$ 180,539,846         | \$ 35,173,670          | \$ 20,238,433           | \$ 246,408,334  | \$ 208,763,670 | \$ 37,644,664   | \$ (2,104,650)   | \$ 35,540,014                                  |
| <b>Special Revenue Funds</b>             |  |                        |                        |                         |                 |                |   |  |  |
| 002 Quiet Home Program                   | \$ -                                       | \$ 1,052,902           | \$ -                   | \$ -                    | \$ 1,052,902    | \$ 1,052,902   | \$ -  | \$ -   | \$ -   |
| 003 Gas Tax                              | 4,366,346                                  | 4,051,465              | 900,000                | 2,503,722               | 6,814,089       | 5,680,895      | 1,133,194   | (32,000)   | 1,101,194                                      |
| 004 Measure I                            | 6,496,669                                  | 2,918,261              | -                      | -                       | 9,414,930       | 7,851,150      | 1,563,780   | -  | 1,563,780                                      |
| 005 Measure I - Valley Major Projects    | -  | 39,877,606             | -                      | -                       | -               | 39,877,606     | -   | -  | -  |
| 007 Park Impact/Quimby                   | (9,849,920)                                | -                      | -                      | -                       | (9,849,920)     | -              | (9,849,920)   | -  | (9,849,920)                                    |
| 008 C.D.B.G.                             | -  | 3,089,394              | -                      | -                       | 3,089,394       | 3,089,394      | -   | -  | -  |
| 009 HOME Grants                          | -  | 2,061,314              | -                      | -                       | 2,061,314       | 2,061,314      | -   | -  | -  |
| 010 Asset Seizure                        | 4,834,890                                  | -                      | -                      | -                       | 4,834,890       | 1,635,483      | 3,199,407   | -  | 3,199,407                                      |
| 011 Neighborhood Stabilization           | -  | -                      | -                      | -                       | -               | -              | -   | -  | -  |
| 013 A.D. Administration                  | 993,695                                    | 17,479                 | -                      | -                       | 1,011,174       | 274,088        | 737,086   | -  | 737,086  |
| 014 Mobile Source Air                    | 1,035,678                                  | 208,305                | -                      | 12,704                  | 1,231,279       | 713,776        | 517,503   | -  | 517,503  |
| 015 General Fund Grants                  | -  | 9,840,725              | 8,500                  | -                       | 9,849,225       | 9,840,725      | -   | -  | -  |
| 018 Building Safety                      | 24,777                                     | 910,000                | -                      | 54,611                  | 880,166         | 1,139,744      | (259,578)   | -  | (259,578)                                      |
| 019 Parkway Maintenance                  | 938,332                                    | 597,633                | 301,153                | 222,333                 | 1,614,785       | 738,575        | 876,210   | -  | 876,210  |
| 021 Storm Drain Fee District             | 68,846                                     | 597                    | -                      | -                       | 69,443          | -              | 69,443  | -  | 69,443   |
| 060 OMC CFD #21-Parkside Services        | 43,990                                     | 41,258                 | -                      | 13,500                  | 71,748          | 27,500         | 44,248  | -  | 44,248   |
| 061 NMC CFD #31-Lennar Services          | 66,251                                     | 200,212                | -                      | 193,100                 | 73,363          | 6,900          | 66,463  | -  | 66,463   |
| 062 NMC CFD #23-Park Place Services      | 27,063                                     | 375,000                | -                      | 370,000                 | 32,063          | 5,000          | 27,063  | -  | 27,063   |
| 063 NMC CFD #24-Park Place Facilities    | 20,915                                     | 871,790                | -                      | -                       | 892,705         | 7,000          | 885,705   | -  | 885,705  |
| 064 NMC CFD #27-New Haven Services       | 9,089                                      | 140,080                | -                      | 135,000                 | 14,169          | 7,000          | 9,169   | -  | 9,169  |
| 065 NMC CFD #28-New Haven Services       | -  | 190,000                | -                      | -                       | 190,000         | 7,000          | 183,000   | -  | 183,000  |
| 069 NMC CFD #20-Walmart Services         | 44,660                                     | 26,101                 | -                      | 4,800                   | 65,961          | 21,000         | 44,961  | -  | 44,961   |
| 048 Ontario Housing Authority            | 2,730,857                                  | 518,426                | -                      | -                       | 3,143,839       | 752,406        | 2,391,433   | -  | 2,391,433                                      |
| 070 Street Light Maintenance             | 2,048,262                                  | 496,130                | 37,280                 | 105,444                 | 2,570,672       | 354,436        | 2,216,236   | -  | 2,216,236                                      |
| 071 CFD #10-Airport Tower Services       | -  | 11,000                 | -                      | 11,000                  | -               | -              | -   | -  | -  |
| 072 NMC CFD #9-Edenglen Services         | 3,368                                      | 547,100                | -                      | 534,700                 | 15,768          | 12,400         | 3,368   | -  | 3,368  |
| 076 Facilities Maintenance               | -  | -                      | 750,000                | -                       | 750,000         | 750,000        | -   | -  | -  |
| 077 Storm Drain Maintenance              | 965,352                                    | 1,243,533              | -                      | -                       | 2,208,885       | 1,676,485      | 532,400   | (153,405)  | 378,995  |
| 114 Historic Preservation                | 200,810                                    | 1,747                  | -                      | -                       | 202,557         | -              | 202,557   | -  | 202,557  |
| 119 NMC Public Services                  | 4,312,845                                  | 35,110                 | -                      | -                       | 4,347,955       | -              | 4,347,955   | -  | 4,347,955                                      |
| Total Special Revenue Funds              | \$ 19,382,775                              | \$ 69,323,168          | \$ 1,996,933           | \$ 4,160,914            | \$ 46,653,356   | \$ 77,580,779  | \$ 8,941,683  | \$ (185,405)   | \$ 8,756,278                                   |
| <b>Capital Project Funds</b>             |  |                        |                        |                         |                 |                |   |  |  |
| 016 Ground Access                        | \$ 7,552,993                               | \$ 4,131,497           | \$ -                   | \$ -                    | \$ 11,684,490   | \$ 4,062,052   | \$ 7,622,438  | \$ -   | \$ 7,622,438                                   |
| 017 Capital Projects                     | 28,072,389                                 | 8,132,176              | 2,159,563              | -                       | 38,364,128      | 25,996,396     | 12,367,732  | -  | 12,367,732                                     |
| 101 Law Enforcement Impact               | (3,929,711)                                | 9,396                  | -                      | -                       | (3,920,315)     | -              | (3,920,315)   | -  | (3,920,315)                                    |
| 106 Solid Waste Impact                   | 2,293,212                                  | 18,912                 | -                      | -                       | 2,312,124       | 100,000        | 2,212,124   | -  | 2,212,124                                      |

SCHEDULE V

City of Ontario  
 Unreserved Fund Balance with Recommended Adjustments for All Funds  
 Fiscal Year 2016-17  
 Second Budget Update

| Funds/Sources                              | Current Budget Control                     |                        |                         | Total Available | Expenditures  | Estimated Total Unreserved Fund Balance June 30, 2017 | Recommended Second Budget Update Adjustments Increase(Decrease) to Fund Balance Net Adjustments | Adjusted Unreserved Fund Balance June 30, 2017 |
|--|--|------------------------|-------------------------|-----------------|---------------|---|---|--|
|  | Total Unreserved Fund Balance July 1, 2016 | Operating Transfers-In | Operating Transfers-Out |                 |               |   |   |  |
| 107 General Facility Impact                | 2,129,434                                  | 17,397                 | -                       | 2,146,831       | -             | 2,146,831   | -   | 2,146,831                                      |
| 108 Library Impact                         | 1,391,461                                  | 10,777                 | -                       | 1,402,238       | -             | 1,402,238   | -   | 1,402,238                                      |
| 109 Public Meeting Impact                  | 2,289,006                                  | 18,160                 | -                       | 2,307,166       | 30,183        | 2,276,983   | (19,465)  | 2,257,518                                      |
| 110 Aquatics Impact                        | 217,744                                    | 1,200                  | -                       | 218,944         | -             | 218,944   | -   | 218,944  |
| 112 Species Habitat Impact                 | 1,659,700                                  | 12,102                 | -                       | 1,671,802       | -             | 1,671,802   | -   | 1,671,802                                      |
| 120 Affordability In-Lieu                  | 5,344,884                                  | 37,781                 | -                       | 5,382,665       | -             | 5,382,665   | -   | 5,382,665                                      |
| 170 OMC - Regional Streets                 | 7,316,489                                  | 88,414                 | -                       | 7,404,903       | 6,213,920     | 1,190,983   | -   | 1,190,983                                      |
| 171 OMC - Local Adjacent Streets           | 9,909,858                                  | 34,184                 | -                       | 9,944,042       | 5,624,295     | 4,319,747   | -   | 4,319,747                                      |
| 172 OMC - Regional Storm Drains            | 1,208,527                                  | 69,447                 | -                       | 1,277,974       | -             | 1,277,974   | -   | 1,277,974                                      |
| 173 OMC - Local Adjacent Storm Drain       | 22,757,424                                 | 146,324                | -                       | 22,903,748      | 8,541,749     | 14,361,999  | (9,050)   | 14,352,949                                     |
| 174 OMC - Local Adjacent Water             | 11,166,997                                 | 94,047                 | -                       | 11,261,044      | -             | 11,261,044  | -   | 11,261,044                                     |
| 175 OMC - Local Adjacent Water             | 1,144,173                                  | 23,541                 | -                       | 1,167,714       | -             | 1,167,714   | -   | 1,167,714                                      |
| 176 OMC - Regional Sewer                   | 2,208,500                                  | 14,986                 | -                       | 2,223,486       | -             | 2,223,486   | -   | 2,223,486                                      |
| 177 OMC - Local Adjacent Sewer             | 3,662,457                                  | 22,245                 | -                       | 3,684,702       | 296,848       | 3,387,854   | -   | 3,387,854                                      |
| 178 OMC - Fire Impact                      | -  | -                      | -                       | -               | 2,081,468     | (2,081,468)   | -   | (2,081,468)                                    |
| 180 OMC - Regional Streets                 | 1,357,143                                  | 10,393                 | -                       | 1,367,536       | 2,434,314     | (1,066,778)   | -   | (1,066,778)                                    |
| 181 NMC - Local Adjacent Streets           | 1,622,699                                  | 19,084                 | -                       | 1,641,783       | -             | 1,641,783   | -   | 1,641,783                                      |
| 182 NMC - Regional Storm Drains            | 385,552                                    | 8,679                  | -                       | 394,231         | -             | 394,231   | -   | 394,231  |
| 183 NMC - Local Adjacent Storm Drain       | 3,495,515                                  | 21,491                 | -                       | 3,517,006       | -             | 3,517,006   | -   | 3,517,006                                      |
| 184 NMC - Regional Water                   | -  | 3,197                  | -                       | 3,197           | -             | 3,197   | -   | 3,197  |
| 185 NMC - Local Adjacent Water             | 1,653,710                                  | 8,388                  | -                       | 1,662,098       | -             | 1,662,098   | -   | 1,662,098                                      |
| 186 NMC - Regional Sewer                   | 184,570                                    | 1,559                  | -                       | 186,129         | -             | 186,129   | -   | 186,129  |
| 187 NMC - Local Adjacent Sewer             | 222,419                                    | 2,282                  | -                       | 224,701         | -             | 224,701   | -   | 224,701  |
| 188 NMC - Local Regional Fiber             | -  | 258                    | -                       | 258             | -             | 258   | -   | 258  |
| 189 NMC - Local Adjacent Fiber             | 341,305                                    | 1,765                  | -                       | 343,070         | -             | 343,070   | -   | 343,070  |
| 190 NMC - Fire Impact                      | 8,054,432                                  | 637                    | -                       | 8,055,069       | 7,249,055     | 806,014   | -   | 806,014  |
| 501 CFD #9-Edenglen                        | -  | -                      | -                       | -               | -             | -   | -   | -  |
| 502 CFD #10-OAT                            | 150  | -                      | -                       | 150             | -             | 150   | -   | 150  |
| 503 CFD #11-Armada                         | 27,371                                     | -                      | -                       | 27,371          | -             | 27,371  | -   | 27,371   |
| 504 CFD #21-Ontario Parkside               | 74,846                                     | -                      | -                       | 74,846          | -             | 74,846  | -   | 74,846   |
| 505 CFD #13-Commerce Center                | 58,441                                     | -                      | -                       | 58,441          | -             | 58,441  | -   | 58,441   |
| 508 CFD #20-Walhart                        | -  | -                      | -                       | -               | -             | -   | -   | -  |
| 509 CFD #23 & #24 Park Place Services      | 78,131                                     | -                      | -                       | 78,131          | -             | 78,131  | -   | 78,131   |
| 510 NMC CFD #27-New Haven Services         | 57,222                                     | -                      | -                       | 57,222          | -             | 57,222  | -   | 57,222   |
| 511 Richland Countryside CFD               | 29,683                                     | -                      | -                       | 29,683          | -             | 29,683  | -   | 29,683   |
| 512 NMC CFD #19-Forestar Services          | 5,822                                      | -                      | -                       | 5,822           | -             | 5,822   | -   | 5,822  |
| 513 NMC CFD #1-Lenmar Services             | -  | -                      | -                       | -               | -             | -   | -   | -  |
| 514 NMC CFD #2-Archibald/Schaefer Services | 2,463                                      | -                      | -                       | 2,463           | -             | 2,463   | -   | 2,463  |
| 515 NMC CFD #37-Park & Turner NE Services  | 29,908                                     | -                      | -                       | 29,908          | -             | 29,908  | -   | 29,908   |
| Total Capital Project Funds                | \$ 124,076,919                             | \$ 2,159,563           | \$ -                    | \$ 139,196,801  | \$ 62,630,280 | \$ 76,566,521   | \$ (28,515)   | \$ 76,538,006                                  |

**City of Ontario**  
**Unreserved Fund Balance with Recommended Adjustments for All Funds**  
**Fiscal Year 2016-17**  
**Second Budget Update**

| Funds/Sources                             | Total Unreserved Fund Balance July 1, 2016 | Current Budget Control |                        |                         | Total Available       | Expenditures          | Estimated Total Unreserved Fund Balance June 30, 2017 | Recommended Second Budget Update Adjustments Increase/(Decrease) to Fund Balance Net Adjustments | Adjusted Unreserved Fund Balance June 30, 2017 |
|---|--|------------------------|------------------------|-------------------------|-----------------------|-----------------------|---|--|--|
|   |  | Revenues               | Operating Transfers-In | Operating Transfers-Out |                       |                       |   |  |  |
| <b>Enterprise Funds</b>                   |  |                        |                        |                         |                       |                       |   |  |  |
| 024 Water Operating                       | 55,280,575                                 | \$ 53,932,235          | \$ -                   | \$ 29,740,596           | \$ 79,472,214         | \$ 42,425,680         | \$ -  | \$ 37,046,534  |  |
| 025 Water Capital                         | 55,029,373                                 | 11,147,542             | 18,000,000             | 3,973,053               | 80,203,862            | 64,818,726            | (30,000)  | 15,385,136   |  |
| 026 Sewer Operating                       | 25,835,977                                 | 23,751,780             | -                      | 9,759,400               | 39,828,357            | 16,832,274            | -   | 22,996,083   |  |
| 027 Sewer Capital                         | 18,572,536                                 | 164,174                | 4,000,000              | 854,686                 | 21,882,024            | 5,415,281             | (30,000)  | 16,436,743   |  |
| 029 Solid Waste                           | 32,878,724                                 | 32,646,442             | -                      | 7,935,021               | 57,590,145            | 33,056,251            | (30,000)  | 24,503,894   |  |
| 031 Solid Waste Facilities                | 643,989                                    | 5,602                  | -                      | -                       | 649,591               | 63,838                | -   | 585,753  |  |
| 035 I.T. Fiber                            | 4,132                                      | 130,000                | 11,743,517             | -                       | 11,877,649            | 18,480,834            | -   | (6,603,185)  |  |
| <b>Total Enterprise Funds</b>             | <b>\$ 188,245,306</b>                      | <b>\$ 121,777,775</b>  | <b>\$ 33,743,517</b>   | <b>\$ 52,262,756</b>    | <b>\$ 291,503,842</b> | <b>\$ 181,092,884</b> | <b>\$ (90,000)</b>                                    | <b>\$ 110,410,958</b>  |  |
| <b>Internal Service Funds</b>             |  |                        |                        |                         |                       |                       |   |  |  |
| 032 Equipment Services                    | 40,092,705                                 | \$ 11,223,425          | \$ -                   | \$ -                    | \$ 51,316,130         | \$ 23,667,988         | \$ -  | \$ 27,648,142  |  |
| 033 Self Insurance                        | 12,856,731                                 | 9,414,726              | -                      | -                       | 22,271,457            | 7,378,168             | -   | 14,893,289   |  |
| 034 Information Technology                | 22,186,325                                 | 8,420,830              | 90,000                 | 2,083,517               | 28,613,638            | 14,724,501            | -   | 13,889,137   |  |
| <b>Total Internal Service Funds</b>       | <b>\$ 75,135,761</b>                       | <b>\$ 29,058,981</b>   | <b>\$ 90,000</b>       | <b>\$ 2,083,517</b>     | <b>\$ 102,201,225</b> | <b>\$ 45,770,657</b>  | <b>\$ -</b>   | <b>\$ 56,430,568</b>   |  |
| <b>Fiduciary Funds</b>                    |  |                        |                        |                         |                       |                       |   |  |  |
| 098 General Fund Trust                    | 6,259,828                                  | -                      | \$ 7,650,000           | \$ 2,068,063            | \$ 11,841,765         | \$ -                  | \$ (278,655)  | \$ 11,563,110  |  |
| 099 Other Post Employment Benefits (OPEB) | 126,834,259                                | 9,696,482              | -                      | -                       | 136,530,741           | 4,000,000             | -   | 132,530,741  |  |
| <b>Total Trust Funds</b>                  | <b>\$ 133,094,087</b>                      | <b>\$ 9,696,482</b>    | <b>\$ 7,650,000</b>    | <b>\$ 2,068,063</b>     | <b>\$ 148,372,506</b> | <b>\$ 4,000,000</b>   | <b>\$ (278,655)</b>                                   | <b>\$ 144,093,851</b>  |  |
| <b>Total</b>                              | <b>\$ 590,868,099</b>                      | <b>\$ 423,356,571</b>  | <b>\$ 80,813,683</b>   | <b>\$ 80,813,683</b>    | <b>\$ 974,336,064</b> | <b>\$ 579,838,270</b> | <b>\$ (2,687,225)</b>                                 | <b>\$ 431,679,675</b>  |  |

\* Fund Balance amount is the Fund's actual working capital.



SCHEDULE VI

City of Ontario  
Recommended Adjustments by Fund  
Fiscal Year 2016-17  
Second Budget Update

| Description   | Appropriation Adjustments | Revenue Adjustments | Operating Transfer-In | Operating Transfer-Out | Fund Balance Impact |
|---|---------------------------|---------------------|-----------------------|------------------------|---------------------|
| <b>Fund 001 - General Fund</b>  |                           |                     |                       |                        |                     |
| <i>Current Year Adjustments to Fund Balance</i>   |                           |                     |                       |                        |                     |
| Building Plan Check Services (offset with Development Related Revenue)  | 500,000                   | 500,000             |                       |                        | -                   |
| Other Professional Services ref: Colony Commerce Center East Specific Plan-Environmental Impact Report (pass-thru) (CC Apprvd 11/15/2016) | 311,892                   | 311,892             |                       |                        | -                   |
| Other Professional Services ref: West Ontario Commerce Specific Plan-Environmental Impact Report (pass-thru) (CC Apprvd 11/11/2016)       | 224,555                   | 224,555             |                       |                        | -                   |
| Additional Police vehicles for investigation operations (3)   | 165,000                   |                     |                       |                        | (165,000)           |
| Streetlight vandalism repairs   | 70,000                    |                     |                       |                        | (70,000)            |
| Fire Plan Check Services (offset with Development Related Revenue)  | 40,000                    | 40,000              |                       |                        | -                   |
| Milliken/Mission Grade Separation landscape maintenance services  | 30,000                    |                     |                       |                        | (30,000)            |
| Property rehabilitation agreement (Code Enforcement)  | 25,000                    |                     |                       |                        | (25,000)            |
| Water rescue gear and equipment replacements - Fire   | 20,000                    |                     |                       |                        | (20,000)            |
| Ontario Ranch (Archibald) median and parkway landscape maintenance services   | 18,725                    |                     |                       |                        | (18,725)            |
| Whispering Lakes Golf Course maintenance and repairs (Transfer-in from Fund 098)  | 18,655                    |                     | 18,655                |                        | -                   |
| Library copier (offset with Miscellaneous Revenues)   | 5,000                     | 5,000               |                       |                        | -                   |
| Transfer-out (To Fund 173) Francis Street Storm Drain - Offset with Reimbursement Agreement   |                           | 214,525             |                       | 214,525                | -                   |
| Airport related hand-held radios; Police (17) for new positions   | 97,750                    |                     |                       |                        | (97,750)            |
| Airport related vehicles; Police (9) for new positions  | 605,000                   |                     |                       |                        | (605,000)           |
| Recommended Personnel Changes   | 97,410                    |                     |                       |                        | (97,410)            |
| Recommended Personnel Changes-Airport Related   | 975,765                   |                     |                       |                        | (975,765)           |
| Total General Fund Adjustments  | 3,204,752                 | 1,295,972           | 18,655                | 214,525                | (2,104,650)         |
| <b>Fund 003 - Gas Tax</b>   |                           |                     |                       |                        |                     |
| Infrastructure Improvement Project / 2015 Safe Routes to School Program - City's match (CC Apprvd 5/5/2015)                               | 32,000                    |                     |                       |                        | (32,000)            |
|   | 32,000                    |                     |                       |                        | (32,000)            |
| <b>Fund 015 - General Fund Grants</b>   |                           |                     |                       |                        |                     |
| 2015 Safe Routes to School Program - El Camino Elementary School (CC Apprvd 5/5/2015)   | 368,000                   | 368,000             |                       |                        | -                   |
| Police Headquarters Improvements/Revise budget  | 61,467                    | 61,467              |                       |                        | -                   |
| Board State Community Corrections (BSCC) Grant Program - law enforcement equipment and training   | 55,812                    | 55,812              |                       |                        | -                   |
| FY2017 Every 15 Minutes Grant Program (CC Apprvd 12/6/2016)   | 6,000                     | 6,000               |                       |                        | -                   |
| FY2016 Homeland Security Grant Program (Police)/Revise grant allocation   | 3,997                     | 3,997               |                       |                        | -                   |
| FY2016 Homeland Security Grant Program (Fire)/Revise grant allocation   | 3,356                     | 3,356               |                       |                        | -                   |
| FY2015 Homeland Security Grant Program (Police)/Revise grant allocation   | (7,950)                   | (7,950)             |                       |                        | -                   |
|   | 490,682                   | 490,682             |                       |                        | -                   |
| <b>Fund 025 - Water Capital</b>   |                           |                     |                       |                        |                     |
| Transfer Out (to Fund 076) City facilities emergency maintenance repairs  |                           |                     |                       | 30,000                 | (30,000)            |
|   |                           |                     |                       | 30,000                 | (30,000)            |
| <b>Fund 027 - Sewer Capital</b>   |                           |                     |                       |                        |                     |
| Transfer Out (to Fund 076) City facilities emergency maintenance repairs  |                           |                     |                       | 30,000                 | (30,000)            |
|   |                           |                     |                       | 30,000                 | (30,000)            |
| <b>Fund 029 - Solid Waste</b>   |                           |                     |                       |                        |                     |
| Transfer Out (to Fund 076) City facilities emergency maintenance repairs  |                           |                     |                       | 30,000                 | (30,000)            |
|   |                           |                     |                       | 30,000                 | (30,000)            |
| <b>Fund 076 - Facility Maintenance</b>  |                           |                     |                       |                        |                     |
| City facilities emergency maintenance repairs (Transfers-in from Funds 025/027/029/098)   | 350,000                   |                     | 350,000               |                        | -                   |
|   | 350,000                   |                     | 350,000               |                        | -                   |
| <b>Fund 077 - Storm Drain Maintenance</b>   |                           |                     |                       |                        |                     |
| Storm drain repairs (Hollowell Street)  | 153,405                   |                     |                       |                        | (153,405)           |
|   | 153,405                   |                     |                       |                        | (153,405)           |

| City of Ontario  |                              |                        |                          |                           |                           |  | SCHEDULE VI |
|--|------------------------------|------------------------|--------------------------|---------------------------|---------------------------|--|-------------|
| Recommended Adjustments by Fund  |                              |                        |                          |                           |                           |  |             |
| Fiscal Year 2016-17  |                              |                        |                          |                           |                           |  |             |
| Second Budget Update   |                              |                        |                          |                           |                           |  |             |
| Description  | Appropriation<br>Adjustments | Revenue<br>Adjustments | Operating<br>Transfer-In | Operating<br>Transfer-Out | Fund<br>Balance<br>Impact |  |             |
| <b>Fund 098 - General Fund Trust</b>   |                              |                        |                          |                           |                           |  |             |
| Transfer Out (to Fund 076) City facilities emergency maintenance repairs                                   |                              |                        |                          | 260,000                   | (260,000)                 |  |             |
| Transfer Out (to Fund 001) Whispering Lakes Golf Course maintenance and repairs                            |                              |                        |                          | 18,655                    | (18,655)                  |  |             |
|  | -                            | -                      | -                        | 278,655                   | (278,655)                 |  |             |
| <b>Fund 109 - Public Meeting Impact</b>  |                              |                        |                          |                           |                           |  |             |
| Ontario Museum Sustainable Landscape & Education Gardens project/Revise budget                             | 19,465                       |                        |                          |                           | (19,465)                  |  |             |
|  | 19,465                       |                        |                          |                           | (19,465)                  |  |             |
| <b>Fund 173 - OMC-Local Adjacent Storm Drain</b>   |                              |                        |                          |                           |                           |  |             |
| Francis Street Storm Drain/Revise Budget (Transfer-in from Fund 001) - Offset with Reimbursement Agreement | 214,525                      |                        | 214,525                  |                           | -                         |  |             |
| 6th Street Storm Drain/Revise Budget   | 9,050                        |                        |                          |                           | (9,050)                   |  |             |
|  | 223,575                      |                        | 214,525                  |                           | (9,050)                   |  |             |
| <b>Total Other Fund Adjustments</b>  | <b>1,269,127</b>             | <b>490,682</b>         | <b>564,525</b>           | <b>368,655</b>            | <b>(582,575)</b>          |  |             |

**SCHEDULE VII**

**City of Ontario  
Recommended Personnel and Organizational Changes  
Fiscal Year 2016-17  
Second Budget Update**

| <u>Agency/Department</u>                     | <u>Position</u>  | <u>Action</u>                 | <u>Salary Range</u>                        |
|--|--|-------------------------------|--|
| Human Resources                              | Human Resource Analyst (1)                                       | Addition                      | \$ 5,855 - \$ 7,115                        |
| Human Resources                              | Senior Human Resource Analyst (4)                                | Salary Realignment<br>From/To | \$ 7,117 - \$ 8,651<br>\$ 7,998 - \$ 9,721 |
| Community & Public Services/Library          | Senior Librarian (1)   | Addition                      | \$ 5,058 - \$ 6,210                        |
| Community & Public Services/Library          | Supervising Librarian (1)  | Deletion                      | \$ 5,816 - \$ 7,140                        |
| Community & Public Services/Library          | Supervising Library Clerk (1) to<br>Senior Library Assistant (1) | Reclass                       | \$ 3,340 - \$ 4,059<br>\$ 3,800 - \$ 4,666 |
| Police Department (Ontario Airport)          | Police Officer (12)  | Addition                      | \$ 5,425 - \$ 6,594                        |
| Police Department (Ontario Airport)          | Police Corporal (2)  | Addition                      | \$ 5,994 - \$ 7,286                        |
| Police Department (Ontario Airport)          | Police Detective (1)   | Addition                      | \$ 6,623 - \$ 8,051                        |
| Police Department (Ontario Airport)          | Police Sergeant (2)  | Addition                      | \$ 8,161 - \$ 9,920                        |
| Police and Fire Department (Ontario Airport) | Senior Police Dispatcher (2) to<br>Senior Fire Dispatcher (2)    | Title Change                  | \$ 4,372 - \$ 5,367                        |
| <b><u>Impact by Fund</u></b>                 |  |                               |  |
| Fund 001                                     | General Fund (Airport Related)                                   | <b><u>Current</u></b>         | <b><u>Annual</u></b>                       |
| Fund 001                                     | General Fund   | \$ 975,765                    | \$ 2,927,295                               |
| <b>Total</b>                                 |  | 97,410 *                      | 283,840 *                                  |
|  |  | <b>\$ 1,073,175</b>           | <b>\$ 3,211,135</b>                        |

\* Includes prior salary adjustment approvals by City Council

# CITY OF ONTARIO

Agenda Report  
February 21, 2017

SECTION:  
CONSENT CALENDAR

**SUBJECT: ESTABLISHMENT OF A DEBT MANAGEMENT POLICY**

**RECOMMENDATION:** That the City Council approve a debt management policy for the City.

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

**FISCAL IMPACT:** None.

**BACKGROUND:** Senate Bill 1029, approved on September 12, 2016, amended the current California Debt and Advisory Commission (CDIAC) reporting requirements for proposed debt issuance to include information on an issuer's debt policy. Subsequent to January 1, 2017, all reports of proposed debt issuances filed with CDIAC must certify that the issuer has adopted local debt policies. Local debt policies must include the following:

- The purposes for which the debt proceeds may be used.
- The types of debt that may be issued.
- The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable.
- Policy goals related to the issuer's planning goals and objectives.
- The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

The proposed policy complies with the CDIAC requirements, and is in consistent with the City Council's sound fiscal management goals.

**STAFF MEMBER PRESENTING:** Grant D. Yee, Administrative Services/Finance Director

Prepared by: Bob Chandler  
Department: Management Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/21/2017

Approved: \_\_\_\_\_

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

Denied: \_\_\_\_\_

# **CITY OF ONTARIO DEBT MANAGEMENT POLICY**

## **SECTION I: PURPOSE OF DEBT POLICY**

The City of Ontario (hereinafter “the City”) invests in long-term infrastructure, community and economic development, or otherwise incurs debt to meet its Debt Financing Objectives as defined herein. The use of long-term debt and other types of financing obligations addressed in this Statement of Debt Policy (the “Policy”) are considered an appropriate funding source or mechanism for the development and management of capital assets and other funding needs of the City to meet its Debt Financing Objectives. Debt is only one source of funding and the City actively seeks other funding sources as appropriate to its needs and opportunities.

The City Council, which serves as the governing body of the City, the Ontario Housing Authority, the Ontario Public Financing Authority, the Successor Agency of the former Ontario Redevelopment Agency, the Industrial Development Authority, special assessment or community facilities districts which the City may form from time to time, and any additional entities the City may form under law in the future. Further reference to the “City,” or the “City Council” as the governing body, or the applicability of the Policy hereinafter shall also be inclusive of such entities.

The intended purpose of this Policy is to provide guidelines for the issuance and administration of bonds and other forms of indebtedness as well as ensure compliance by the City with applicable laws and regulations including state law (such as SB 1029), tax code (IRS), and securities regulations related to the incurrence of such debt or other obligations addressed herein.

Primary responsibility for debt management resides with the Administrative Services/Finance Director or his/her designee (the “Responsible Officer”) with assistance of the staff of the Administrative Services Agency. Debt is issued with the approval of the City Manager or his/her designee in consideration of the appropriate use of such debt instrument in meeting the City’s Debt Financing Objectives and compliance with this Policy. In accordance with State law, City Council approval is required for any debt issuance.

## **SECTION II: DEBT FINANCING OBJECTIVES**

The City’s Debt Financing Objectives are defined as follows:

- Promote and enhance the safety, welfare or betterment of the City and its citizens;
- Ensure that all debt is structured in order to protect both current and future taxpayers, ratepayers and constituents of the City;
- Maintain or enhance the City’s sound financial position;
- Ensure that the incurrence of such debt is consistent with the City’s planning goals and objectives, capital improvement program or budget, as applicable.

## **SECTION III: DEBT LIMITS**

### **A. PURPOSE AND NEED FOR FINANCING**

There are four primary purposes for which the City may incur or issue debt or other obligations:

**1. Long-Term Capital Improvements**

Generally, the City will employ a conservative strategy relative to the use of debt financing for capital improvement projects including but not limited to when such projects' useful life will equal or exceed the term of the financing (and are otherwise in accordance with federal tax law guidance), when resources are identified as sufficient to fund the debt service requirements. It is the goal of the City to ensure that the cost of infrastructure, consisting primarily of long-lived assets, be balanced between current and future taxpayers, customers or other applicable constituents. Prior to the incurrence of such obligations, the City Council would be presented with a summary of project costs, alternative sources of funding, and an estimate of any incremental operating and/or additional maintenance costs associated with the project and identify sources of revenue, if any, to pay for such incremental costs.

**2. Essential Vehicle and Equipment Needs**

In addition to capital improvement projects, the City regularly finances certain essential equipment and vehicles. These assets range from public safety vehicles and streetlights to information technology systems. Short-term financings, including loans and capital lease purchase agreements, are executed to meet such needs.

**3. Refinancings/Refunding of Existing Debt**

The Responsible Officer will periodically evaluate its existing debt and execute refinancings in accordance with Section IV herein.

**4. Financings on Behalf of Other Entities**

The City may also find it beneficial to issue debt on behalf of other governmental agencies or private third parties in order to further the Deb Policy Objectives. In such cases, the City shall take reasonable steps to confirm the financial feasibility of the project to be financed and the financial solvency of any borrower and that the issuance of such debt is consistent with the policies set forth herein. In no event will the City incur any liability or assume responsibility for payment of debt service on such debt.

**B. TYPES OF DEBT**

Generally the primary types of debt to be incurred by the City are as summarized below, but does not preclude the City from issuing or incurring other types of obligations eligible under applicable federal and state law as may change from time to time, and which enable the City to meet its Debt Financing Objectives.

**1. General Obligation Bonds**

General Obligation (GO) bonds are secured either by a pledge of full faith and credit of an issuer or by a promise to levy taxes in an unlimited amount as necessary to pay debt service, or both. GO bonds usually achieve lower rates of interest than other financing instruments since they are considered to be a lower risk. California State Constitution, Article XVI, Section 18, requires that the issuance of a GO bond must be approved by a two-thirds majority of

those voting on the bond proposition. Uses of bond proceeds are limited to the acquisition and improvement of real property.

## **2. Certificates of Participation / Lease Revenue Bonds**

Certificates of Participation (COPs) and Lease Revenue Bonds (LRBs) are lease obligations secured by an installment sale or by a lease-back arrangement between the City and another public entity, where the City agrees to annually budget and appropriate the lease payments from its General Fund so long as the City has the beneficial use and/or occupancy of the property to be leased and lease payments may not be accelerated. The lease payments are assigned to a trustee and used to pay debt service on the LRBs or COPs. These obligations do not constitute indebtedness under the state constitutional debt limitation and, therefore, are not subject to voter approval. Lease financing requires the fair market rental value of the leased property to be equal to or greater than the required debt service or lease payment schedule.

## **3. Revenue Bonds**

Revenue Bonds are obligations payable solely from revenues generated by an enterprise, such as water or wastewater utilities, public golf courses or parking facilities. Because the debt service is directly paid by the utility or facility, such debt is considered self-liquidating and generally does not constitute a direct debt of the issuer.

The Ontario Public Financing Authority has issued utility revenue bonds on behalf of the City's Municipal Utilities Company which are payable solely from installment payments made by the City pursuant to installment purchase agreements. Per such agreements, the City may pledge the revenues (less operating and maintenance costs) from the City's water or wastewater enterprises. Neither the revenue bonds nor the installment payments are secured by any pledge of ad valorem taxes or general fund revenues of the City.

Funds must be sufficient to maintain required coverage levels, or the rates of the enterprise have to be raised to maintain the coverages. The issuance of revenue bonds by the Ontario Public Financing Authority or the execution of an installment purchase agreement by the City does not require voter approval.

## **4. Pension Obligation Bonds**

Pension Obligation Bonds (POBs) are financing instruments used to pay some or all of the unfunded pension liability of a pension plan. POBs are issued as taxable instruments over a specified term or by matching the term with the amortization period of the outstanding unfunded actuarial accrued liability. The purpose of the pension obligation bond, its structure, and the use of the proceeds will go through an active validation process prior to the sale of the bonds. POBs are not subject to voter approval. POBs are a general obligation of the City.

## **5. Tax Allocation Bonds**

Tax Allocation Bonds (TABs) are special obligations that are secured by the allocation of tax increment revenues that are generated by increased property taxes from new construction in a designated redevelopment area. TABs are not a debt of the City, the State, or any of their

political subdivisions. Due to changes in the law affecting California redevelopment agencies with the passage of ABX1 26 as codified in the California Health and Safety Code, the Ontario Redevelopment Agency was dissolved as of February 1, 2012, and its operations substantially eliminated but for the continuation of certain enforceable RDA obligations to be administered by the Successor Agency to the former redevelopment agency. The Successor Agency may issue TABs to refund prior debt of the RDA for savings.

## **6. Land District Financing**

The City may from time to time, on a case-by-case basis form land-secured financing districts such as Community Facilities Districts (“CFDs”) or 1913/1915 Act Assessment Districts (“ADs”). Such districts are typically developer initiated, whereby a developer seeks a public financing mechanism to fund public infrastructure required by the City in connection with development permits or agreements, and/or tentative subdivision maps. Land district formation may also be initiated by an established community. Subject to voter approval, once a district is formed special taxes or assessments may be levied upon properties within the district to pay for facilities and services directly, or to repay bonds issued to finance public improvements.

The City will consider requests for land district formation and debt issuance when such requests address a public need or provide a public benefit.

In accordance with the Mello-Roos Community Facilities Act of 1982, the City is required and has adopted Local Goals and Policies related to CFD financing (the “CFD Local Goals and Policies”). The City’s CFD Local Goals and Policies, currently in effect and as they may be amended from time to time, are incorporated to this Policy by reference herein.

## **7. Marks-Roos Bonds**

The Marks-Roos Local Bond Pooling Act of 1985 permits two or more public agencies to form a joint powers authority (JPA) to facilitate the financing of public capital improvements, “pool” bond issues of similar credit structure, working capital, or other projects when use of these provisions results in savings in effective interest rate, bond underwriting and issuance costs, or any other significant public benefit can be realized.

## **8. Conduit Revenue Bonds**

Conduit revenue bonds are bonds that allow private, for-profit, or non-profit borrowers access to tax-exempt financing. Under the financing provisions of such bonds, the City entity as issuer has no obligation to pay debt service, but may have some administrative role relative to the financing meeting its ongoing regulatory requirements while the bonds remain outstanding. For this reason, the City usually receives an ongoing issuer fee to cover its administrative costs. Generally, the following are the most typical conduit revenue bonds the City may consider.

***Industrial Development Bonds (IDBs).*** IDBs are securities issued to finance the construction or purchase of industrial, commercial or manufacturing facilities to be purchased by or leased to a private user. IDBs are backed by the credit of the private user and generally are not considered liabilities of the governmental issuer (although in some jurisdictions they



may also be backed by an issuer with taxing power). While the authorization to issue IDBs is provided by a state statute, the tax-exempt status of these bonds is derived from federal law (Internal Revenue Code Section 103(b) (2)).

***Multifamily Mortgage Revenue Bonds.*** Mortgage revenue bonds provide below market financing (based on tax exemption of bond interest) for developers willing to set aside a portion of the units in their projects as affordable housing. The issuer of these bonds may be the Ontario Housing Authority. The authority to issue bonds is limited under the US Internal Revenue Code.

#### **9. Tax and Revenue Anticipation Notes**

Tax and Revenue Anticipation Notes (TRANs) are short-term notes, proceeds of which allow a municipality to cover the periods of cash shortfalls resulting from a mismatch between timing of revenues and timing of expenditures. As tax payments and other revenues are received, they are used to repay the TRANs. TRANs are not deemed to result in the creation of debt and voter approval is not required.

#### **10. Bond Anticipation Notes**

Bond Anticipation Notes (BANs) are short-term interest-bearing bonds issued in the anticipation of long-term future bond issuances. The City may choose to issue BANs as a source of interim financing when it is considered to be prudent and advantageous to the City and would be considered on a case-by-case basis.

#### **11. Lines and Letters of Credit**

A Line of Credit is a contract between the issuer and a bank that provides a source of borrowed monies to the issuer in the event that monies available to pay debt service or to purchase a demand bond are insufficient for that purpose. In the event that a bank facility is being entered into for a long-term capital need, before entering into any such agreements, takeout financing for such lines must be planned for and determined to be feasible.

A Letter of Credit is an arrangement with a bank that provides additional security that money will be available to pay debt service on an issue. A Letter of Credit can provide the City with access to credit under terms and conditions as specified in such agreements.

#### **12. Lease-Purchase Financings**

From time to time, the City may consider lease-purchase financing for certain capital and equipment needs. The lease purchase terms are typically shorter term and relate to the useful life of the asset. Such arrangements do not require voter approval.

#### **13. State Revolving Fund Loans**

The State Revolving Fund (SRF) loan is a low interest loan program for the construction of water, wastewater, and recycling water infrastructure projects. The California State Water Resources Control Board (State Water Board) administers the SRF Loan program. Typically,

SRF loans typically have terms of up to 20 years and interest cost at the cost of the most recent State of California General Obligation Bonds sale. SRF loan debt service payments are factored into debt service coverage ratios established for outstanding enterprise fund obligations.

#### **14. HUD Section 108 Loan Guarantee Program**

The U. S. Department of Housing and Urban Development (HUD) Section 108 Loan Guarantee Program allows cities to use their annual Community Development Block Grant (CDBG) entitlement grants to obtain federally guaranteed funds large enough to stimulate or pay for eligible community development and economic development projects. The program does not require a pledge of the City's General Fund, only of future CDBG entitlements. By pledging future CDBG entitlement grants as security, the City can borrow at favorable interest rates because of HUD's guarantee of repayment to investors who purchase the HUD Section 108 Notes.

### **C. DEBT LIMITS**

#### **1. General Limits**

Generally debt service coverage limitations shall be established in the indenture or other financing agreement and shall be evaluated based on market access, credit rating implications, cost and terms on a case-by-case basis.

#### **2. General Fund Supported Debt**

Generally, the City shall strive to maintain aggregate annual debt service paid from the City's general fund (exclusive of any enterprise funds of the City, unless a portion of debt service is paid from such enterprise fund) at an amount that, at the time of issuance, would maintain an investment grade rating for such City obligations as provided by at least one of the major credit rating agencies recognized as such in the then current municipal market.

## **SECTION IV: DEBT STRUCTURING & ISSUANCE PRACTICES**

The City manages its overall debt structure to appropriately balance risk and cost of capital and to provide for long-term financial resilience, market access and capacity for future capital needs. To this end, the City generally issues debt that is fixed rate with substantially level debt service.

### **A. FIXED RATE DEBT**

Generally, the City will issue debt or otherwise incur obligations on a fixed rate basis with term of the financing not exceeding the useful life of the project or asset to be financed (and otherwise within federal tax law guidelines). The City prefers to have an optional call on maturities longer than ten years in order to accommodate opportunities for economic refundings or to facilitate the restructuring of debt. Generally, the City prefers to limit the use of make-whole calls to maturities of less than ten years.

### **B. VARIABLE RATE DEBT**

Generally, the City does not issue variable rate debt except that the City may issue obligations with shorter-term maturities that include such features, including commercial paper and grant, revenue and bond anticipation notes, (i) to provide interim financing for capital projects in anticipation of the issuance of longer-term bonds, or (ii) to purchase, refund or otherwise restructure or refinance outstanding bonds in the event that, for example, longer term markets are inaccessible.

### **C. USE OF DERIVATIVES & SWAPS**

As used in public finance, derivatives may take the form of interest rate swaps, futures and options contracts, options on swaps and other hedging mechanisms such as rate locks. In the event that the City may consider the use of such instruments, the Responsible Officer, together with the City's municipal advisor, will prepare a summary report for the City Council that addresses:

- Why the use of such derivative product for such financing approach is appropriate or advisable instead of applicable alternative approaches;
- A summary of the risks in implementing such financing approach (including quantifying such risks as determinable);
- A summary of the conditions under which the implementation of such financing approach could negatively impact the applicable credit rating of the City;
- A determination if the implementation of such financing approach necessitates the adoption of a comprehensive derivatives policy by the City Council.

### **D. PUBLIC DEBT VS. PRIVATE PLACEMENTS**

The City generally uses public offerings to issue long-term debt. However, the City may use Direct or Private Placement Debt - which are non-public offerings. These may be secured by the same credit as any other form of City obligations so long as all provisions of State law and outstanding bond covenants are met. Considerations for Direct or Private Placement Debt are market access, cost and terms, which will be evaluated relative to alternative applicable approaches by the Responsible Officer.

### **E. CAPITALIZED INTEREST**

The City may issue bonds to pay for interest during construction pursuant to any statutory or federal tax limitations if applicable, rating agency requirements, and/or to the extent deemed prudent to match revenues to debt service payments.

### **F. DEBT SERVICE RESERVE FUNDS**

The City may issue bonds that are secured by amounts on deposit in or credited to a debt service reserve fund or account in order to minimize the net cost of borrowing and/or to provide additional reserves for debt service or other purposes. Debt service reserve funds may secure one or more issues of bonds, and may be funded by proceeds of bonds, other available moneys of the City, and/or by surety policies, letters or lines of credit, or other similar instruments in accordance with the indenture or other relevant debt instrument. As relates to the use of surety policies, letters or lines of credit or other similar instruments for this purpose, the City shall take into consideration, in advance of the issuance of the applicable bonds, the likely remedial strategies in the event of a material decline in the applicable provider's credit

quality. If the City is unlikely to be able to secure replacement credit support or an alternate credit facility due to market or other conditions, the City shall make provisions in applicable bond structures to address such risks whenever practicable.

#### **G. THIRD PARTY CREDIT ENHANCEMENT**

The City may secure credit enhancement for its bonds from third-party credit providers to the extent such credit enhancement is available upon reasonable, competitive, and cost-effective terms. Such credit enhancement may include municipal bond insurance, letters of credit and lines of credit, as well as other similar instruments. Generally, credit enhancement providers shall be selected on a competitive basis whenever possible.

All or any portion of an issue of bonds may be secured by bond insurance provided by municipal bond insurers if it is economically advantageous to do so, or if it is otherwise deemed necessary or desirable in connection with a particular issue of bonds. The relative cost or benefit of bond insurance may be determined by comparing the amount of the bond insurance premium to the present value of the estimated interest savings to be derived as a result of the insurance.

The issuance of certain types of bonds may require a letter of credit or credit facility from a commercial bank or other qualified financial institution to provide liquidity and/or credit support. Generally a letter of credit may be either a "direct pay letter of credit" or a "standby letter of credit." A direct pay letter of credit entitles the trustee to draw on the letter of credit for all debt service payments, and moneys that would otherwise be available to pay debt service are used to reimburse the bank. A standby letter of credit entitles the trustee only to draw on the letter of credit in the event moneys available to pay debt service are insufficient.

The types of bonds where a credit facility may be necessary include commercial paper, variable rate bonds with a tender option, and bonds that could not receive an investment grade credit rating in the absence of such a facility. The City shall take into consideration, in advance of the issuance of such bonds, the likely remedial strategies in the event of a material decline in the applicable provider's credit quality. If the City is unlikely to be able to secure replacement credit support or an alternate credit facility due to market or other conditions, the City shall make provisions in applicable bond structures to address such risks whenever practicable.

#### **H. METHOD OF BOND SALE**

Bonds can be sold through either a negotiated or competitive process. Under a negotiated process, one or more investment banks are chosen in advance to manage the sale of bonds at a negotiated price. Under a competitive sale, banks bid on a bond offering and the sale is awarded to the bank offering the lowest interest rate.

The City may utilize a negotiated sales process, because such approach provides the following benefits:

- Utilization of investment banking resources for little or no extra cost on an on-going basis;
- Pre-marketing which may be useful for a complex credit story;

- Flexible timing and ability to adjust structure to meet market demand.

#### **I. REFUNDING BONDS**

The City shall monitor interest rates and looks for opportunities to refund debt for savings. Generally, savings targets are based on the net present value savings for the refunding of the bonds being refunded, inclusive of transaction costs. Generally, the City seeks to achieve not less than 3% net present value savings from refundings, however may consider a stricter standard of not less than 5% in circumstances where a proposed refunding may be considered on an advance basis. The savings target does not necessarily apply in cases where the City wishes to refund bonds to revise key bond covenants or refunding otherwise benefits the City absent such savings.

#### **J. CONDITIONS FOR ISSUANCE OF CONDUIT REVENUE BONDS**

The City will consider requests for Conduit Financing as described generally in Section III herein on a case-by-case basis, but shall at a minimum meet the following criteria:

- The Responsible Officer will review the proposed terms of the financing to determine if the project is appropriate for City sponsorship and that the proposed financing structure will adequately insulate the City from financial risk.
- The City's bond counsel will review the terms of the financing and confirm that there will be no liability to the City in the repayment of the proposed bonds on behalf of the applicant.
- The City determines there is a clearly articulated public purpose in providing the Conduit Financing.
- The proposed financing meets the City's minimum credit standards for Conduit Financings as defined below.
- The applicant is determined to be capable of achieving this public purpose.

The minimum credit standards for Conduit Financing are as follows:

1. In the event of a public sale of bonds or securities, the Borrower shall be an entity with a stand-alone credit rating of not less than A by Standard & Poor's or A2 by Moody's Investors Service, or can secure credit enhancement for the full amount of the borrowing in the form of a letter of credit from a commercial bank with a credit rating of not less than A by Standard & Poor's or A2 by Moody's Investors Service.
2. In the event of a private placement of the bonds, the purchaser of the bonds shall be a single entity that is a "Qualified Institutional Buyer" under federal securities law, and such a purchaser will sign a "sophisticated investor letter" prepared by the City's bond counsel which will represent that they are one of the above, are able and qualified to purchase without an official statement, and that they can transfer the placement only in whole, and only to a purchaser willing and able to sign a similar sophisticated investor letter. This requirement would "travel" throughout the life of the placement.
3. The City may, at its sole discretion, may require additional protections including but not limited to asset appraisals, financial audits of the non-City participants or additional security.

An initial deposit amount and issuer fee will be required. The minimum deposit is set at \$15,000, but may be increased if additional costs are anticipated to adequately evaluate and implement the proposal. Generally, the annual issuer fee is fixed at a minimum of one-eighth of one percent (0.125%) of the initial par amount, payable each year in advance for as long as the bonds remain outstanding, or a higher amount as determined by the City in its sole discretion to be appropriate and in accordance with any applicable legal and federal tax law limitations.

## **SECTION V: DEBT MANAGEMENT PRACTICES**

### **A. INVESTMENT OF BOND PROCEEDS**

Bond proceeds and funds held in debt service and debt service reserve fund accounts with respect to outstanding bonds shall be invested in accordance with the terms and/or within parameters defined in applicable resolutions or financing agreements of a particular obligation.

### **B. CONTINUING DISCLOSURE COMPLIANCE**

The City's Responsible Officer has established and shall maintain Continuing Disclosure Procedures (as may be amended from time to time) and are incorporated to this Policy by reference herein. The Continuing Disclosure Procedures are intended to (i) ensure that the City's continuing disclosure documents are accurate and comply with all applicable federal and state securities laws, and (ii) promote best practices regarding the preparation and timely filing of the City's continuing disclosure documents.

### **C. POST-ISSUANCE TAX COMPLIANCE PROCEDURES**

The purpose of this section is to establish policies and procedures in connection with tax-exempt bonds and other tax-advantaged bonds issued by or on behalf of the City so as to ensure that the City complies with all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt or other advantaged status of the bonds.

#### **1. Post-Issuance Compliance Requirements**

##### **a. External Advisors / Documentation**

The Responsible Officer shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the bonds will continue to qualify for the appropriate tax status. Those requirements and procedures shall be documented in the City's resolution(s), bond documents such as indentures and trust agreements, tax certificate(s) and/or other documents finalized at or before issuance of the bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the bonds.

The Responsible Officer also shall consult with bond counsel and other legal counsel and advisors, as needed, following issuance of the bonds to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of bond-financed assets and future contracts with respect to the use of output or throughput of bond-financed assets.

b. Role of the City as Bond Issuer

Unless otherwise provided, unexpended bond proceeds shall be held by the trustee or fiscal agent, and the investment of bond proceeds shall be managed by such trustee or fiscal agent at the direction of the Responsible Officer or his/her designee. The trustee or fiscal agent shall maintain records and shall prepare regular, periodic statements to the City regarding the investments and transactions involving bond proceeds.

c. Arbitrage Rebate and Yield

Proceeds from bonds issued by or on behalf of the City are generally held and invested by the trustee or fiscal agent. Notwithstanding the foregoing, the City, as the entity responsible for yield restriction and rebate compliance as to the bonds, shall take all actions necessary to coordinate with the trustee and, when applicable, engage the services of a Rebate Service Provider to perform the calculation of arbitrage rebate liability, prepare all related reports, and ensure arbitrage compliance with respect to the investment of bond proceeds for each applicable bond issue. The City shall retain copies of all arbitrage reports, investment and expenditure records, and trustee statements as described below under "Record Keeping Requirements."

The Responsible Officer shall periodically review the investment rates on bond proceeds, as compared to the arbitrage yield on each applicable issue of the bonds, and, if necessary, set aside amounts expected to be needed to ensure timely payment of required rebate for each issue of the bonds, which timelines are (a) no later than 60 days after each 5-year anniversary of the issue date of each issue of the Bonds, and (b) no later than 60 days after the last bond of each issue is redeemed.

During the construction period of each capital project financed in whole or in part by bonds, the Responsible Officer shall monitor the investment and expenditure of bond proceeds and shall coordinate or consult with, if necessary, the trustee and/or a Rebate Service Provider, to determine whether such Bond issue is eligible for any exception from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as may be set forth in the tax certificate that is executed in connection the applicable bonds.

d. Allocation of Bond Proceeds

Within the proper timelines, which are currently no later than 18 months after expenditure or the project's placed in service date, but in no event after 5 years from the date of issuance of the applicable issue of new money bonds, the City will allocate bond proceeds to expenditures for rebate and private use purposes.

e. Use of Bond Proceeds

The Responsible Officer shall:

- Monitor the use of bond proceeds, the use of bond-financed assets (e.g., facilities, furnishings or equipment) and the use of output or throughput of bond-financed assets throughout the term of the bonds (and in some cases beyond the term of the bonds) to ensure compliance with covenants and restrictions set forth in applicable City resolutions, bond documents and tax certificates;
- Maintain records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of bonds;
- Consult with bond counsel and other professional expert advisers in the review of any contracts or arrangements involving use or sale of bond-financed facilities to ensure compliance with all covenants and restrictions set forth in applicable City resolutions and tax certificates;
- Maintain records for any contracts or arrangements involving the use or sale of bond-financed facilities as might be necessary or appropriate to document compliance with all covenants and restrictions set forth in applicable City resolutions and tax certificates; and
- Meet periodically with personnel responsible for bond-financed assets to identify and discuss any existing or planned use or sale of bond-financed, assets or output or throughput of bond-financed assets, to ensure that those uses are consistent with all covenants and restrictions set forth in applicable City resolutions, bond documents and tax certificates.

All relevant records and contracts shall be maintained as described below.

**2. Record Keeping Requirements**

The City adopted Citywide Records Retention Schedule to meet operational, administrative, legal and historical requirements and are incorporated to this Policy by reference herein. The City's Records Management Program provides guidelines and authority for the disposition of records through adopted Retention Schedules. Periodically, it is necessary to review record retention periods to assure that they meet the operational requirement of the City and comply with state and federal law.

**SECTION VI: WAIVER AND PERIODIC REVIEW**

While adherence to the Debt Policy is desired, the City recognizes that changes in the capital markets and other circumstances of the City may produce unforeseen situations that are not covered by the Debt Policy. In those circumstances, exceptions or waivers to the Debt Policy may be required in order to achieve the City's Debt Financing Objectives.



The Responsible Officer shall review this Debt Policy on a periodic basis, and recommend any changes to the City Council for its consideration and approval.

# CITY OF ONTARIO

Agenda Report  
February 21, 2017

SECTION:  
CONSENT CALENDAR

**SUBJECT: MAINTENANCE SERVICE AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES FOR ONTARIO RANCH MEDIANS AND PARKWAYS**

**RECOMMENDATION:** That the City Council approve and authorize the City Manager to execute a three-year Maintenance Service Agreement (on file with Records Management Department) for Contract No. PM 1617-1 with Merchants Landscape Services, Inc., located in Rancho Cucamonga, California, for an annual estimated cost of \$192,000 plus a 5% contingency of \$9,600; and authorize addition of future services; and authorize the option to extend the agreement for up to two additional years consistent with the City Council approved budgets.

**COUNCIL GOALS:** 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 the New Model Colony

**FISCAL IMPACT:** The estimated annual base cost of the proposed Maintenance Service Agreement is \$192,000 plus \$9,600 of contingency for urgency services for a total contract amount of \$201,600 for each of the first three years for a total of 604,800. Appropriations for maintenance cost for Ontario Ranch are included in the Fiscal Year 2016-17 adopted operating budget; however additional funding in the amount of \$18,725 is needed for the current fiscal year services and will be included in the mid-year budget report.

At the City's discretion, two additional one-year extensions may be exercised and the optional years include price increases of 5% for the option years. Future contracting actions will be commensurate with the City Council authorized work programs and budgets. Contracting for a multi-year period will allow the City to: limit the potential for yearly increases to the bid amounts; avoid the costs of re-bidding the contract annually, provide service continuity; and project future costs.

**BACKGROUND:** In December 2016, the City solicited proposals for landscape maintenance services for Ontario Ranch medians and parkways and four were received. Of the four proposals received, three

**STAFF MEMBER PRESENTING:** Mark Chase, Community and Public Services Director

Prepared by: Roberto Perez  
Department: Parks and Maintenance

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/21/2017  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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proposals met the bid criteria and standards necessary to perform this work; and the one was deemed non-responsive. A summary of the proposal results reflecting base cost are as follows:

| <u>Vendor</u>                    | <u>Location</u>      | <u>Amount</u> |
|----------------------------------|----------------------|---------------|
| Merchants Landscape Services Inc | Rancho Cucamonga, CA | \$192,000     |
| RF Landscape and Irrigation      | Colton, CA           | \$225,696     |
| SoCal Landscape and Irrigation * | Anaheim, CA          | \$0           |
| Brightview Landscape Services    | Upland, CA           | \$297,636     |

\* *Bid proposal was incomplete and therefore deemed non-responsive.*

Merchants Landscape Services, Inc. located in Rancho Cucamonga, California, submitted a proposal that met all the required specifications with base cost, three year total of \$576,000. Based proposal, credentials, pricing, and favorable reference checks, staff recommends award of a Maintenance Services Agreement to Merchants Landscape Services, Inc.

# CITY OF ONTARIO

*Agenda Report*  
February 21, 2017

**SECTION:  
CONSENT CALENDAR**

**SUBJECT: ACCEPTANCE OF GRANT AWARD FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY AND THE CALIFORNIA OFFICE OF EMERGENCY SERVICES PROVIDED THROUGH THE FY 2016 URBAN AREA SECURITY INITIATIVE (UASI) GRANT PROGRAM**

**RECOMMENDATION:** That the City Council authorize the City Manager to execute all documents necessary to accept a three-year sub-grant award in the amount of \$600,000 from the U.S. Department of Homeland Security and the California Office of Emergency Services provided through the FY 2016 UASI Grant Program.

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

**FISCAL IMPACT:** The City, through the Riverside Urban Area Security Initiative (RUASI) grant, has been awarded \$600,000 to enhance the City of Ontario's regional emergency response capabilities through the procurement of a Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) Tactical Response Vehicle. The associated grant revenue and expenditure adjustments will be presented in the next Quarterly Budget Report to the City Council. The City is not required to provide matching funds for this reimbursable grant.

**BACKGROUND:** The UASI program provides financial assistance to address multi-discipline planning, operations, equipment, training, and exercise needs unique to high-threat, high density urban areas, and to assist them in building and sustaining capabilities to prevent, protect against, respond to, and recover from threats or acts of terrorism and weapons of mass destruction. The intent of the UASI program is to enhance regional preparedness and expand collaboration efforts.

The RUASI includes the cities of Riverside, San Bernardino and Ontario, and the counties of Riverside and San Bernardino. Projects are recommended for consideration by the RUASI Steering Group and local Approval Authority which are comprised of staff from the three cities and two counties. Recommendations are made based upon the ability to match project benefits to the UASI program

**STAFF MEMBER PRESENTING:** Brad Kaylor, Chief of Police

Prepared by: Donna Bailey  
Department: Police

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/21/2017

Approved: \_\_\_\_\_

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

Denied: \_\_\_\_\_

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guidelines, which include a focus on regional coordination and collaboration. The Riverside Regional UASI's recommended projects are then subject to review and approval at the State and Federal levels.

The City of Ontario, as a sub-recipient of the FY 2016 RUASI Grant, has been approved to receive \$600,000 for the acquisition of a CBRNE tactical response vehicle and based upon the following recommended spending plan:

|                                   |                   |
|-----------------------------------|-------------------|
| • CBRNE Tactical Response Vehicle | <u>\$ 600,000</u> |
| <b>TOTAL</b>                      | <b>\$ 600,000</b> |

The CBRNE tactical response vehicle with a mobile adjustable ramp system will provide an additional resource for the Ontario Police Department SWAT Team to effectively respond to CBRNE and other high-risk incidents within the City including the Ontario International Airport and greater RUASI region. Police staff will work with the Equipment Services Department on an ongoing basis to ensure the vehicle's useful life expectancy is maximized. The Equipment Services Department will handle all routine maintenance and upkeep associated with the vehicle. The estimated service life of a vehicle is 10 years or 80,000 miles.

The City is not obligated to continue with these grant programs beyond the equipment's operational life. Upon termination of the programs, staff will work with the City of Riverside Office of Emergency Services (the designated Riverside Regional UASI Administrative Entity) and the Department of Homeland Security to properly demobilize and surplus the equipment.

# CITY OF ONTARIO

Agenda Report  
February 21, 2017

SECTION:  
PUBLIC HEARINGS

**SUBJECT: AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 3002 LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 24 (PARK PLACE FACILITIES PHASE I)**

**RECOMMENDATION:** That the City Council introduce and waive further reading of an ordinance amending and restating Ordinance No. 3002 levying special taxes within City of Ontario Community Facilities District No. 24 (Park Place Facilities Phase I).

**COUNCIL GOALS:** Focus Resources in Ontario's Commercial and Residential Neighborhoods Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in the New Model Colony

**FISCAL IMPACT:** Amending and restating Ordinance No. 3002 will reduce some of the special tax rates levied for the financing of facilities in the residential development of the Park Place Facilities Phase I project. Since 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 district, there is no general fund impact from amending and restating the ordinance.

**BACKGROUND:** On November 18, 2014, the City Council, pursuant to the Mello-Roos Community Facilities Act of 1982, established City of Ontario Community Facilities District No. 24 (Park Place Facilities Phase I) to finance certain public facilities. As part of the formation of the district, the City Council, on December 2, 2014, adopted Ordinance No. 3002 levying special taxes in the district at the rates and in accordance with the method of apportionment adopted during the formation process (the Initial RMA). The Initial RMA provided that at least 30 days prior to the issuance of bonds, the assigned special tax on developed property was to be analyzed by an updated price point study to determine if, based on the results of the study, the total tax burden applicable to some or all of the units to be constructed within the district exceeded 1.95% of the minimum sales prices of the units. In which event, the assigned special tax was to be reduced to the extent necessary to cause the total tax burden applicable to such units not to exceed 1.95% of the minimum sales prices of such units. The back-up

**STAFF MEMBER PRESENTING:** Grant D. Yee, Administrative Services/Finance Director

Prepared by: Bob Chandler  
Department: Management Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/21/2017

Approved: \_\_\_\_\_

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

Denied: \_\_\_\_\_

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special tax for the district was to be similarly analyzed and adjusted, if necessary. In addition, an amended notice of special tax lien was to be recorded by execution of a Certificate of Modification of Special Tax in substantially the form attached to the Initial RMA.

Accordingly, pursuant to these provisions of the Initial RMA, an updated price point study was prepared at least 30 days prior to the issuance of bonds for the district. The study disclosed that the total tax burden applicable to some units within the district did then exceed 1.95% of the minimum sales prices in effect at that time. As such, the assigned special tax for such units, as well as the back-up tax, need to be reduced in order to comply with the Initial RMA. Goodwin Consulting Group, the CFD Administrator for the district, has completed a Certificate of Modification of Special Tax, the form of which was attached to the Initial RMA, to reflect the reduced assigned special tax and back-up special tax as required.

To complete the process of reducing the special tax rates in the district to comply with the Initial RMA, it is recommended that the City Council approve the proposed ordinance amending and restating Ordinance No. 3002 for the levying of special taxes within City of Ontario Community Facilities District No. 24 (Park Place Facilities Phase I). The reduced tax rates authorized by the approval of the proposed ordinance will be reflected in an amended notice of special tax lien which the district will cause to be recorded by execution of the Certificate of Modification of Special Tax, as called for by the Initial RMA. The provisions of the amended and restated ordinance authorizing the revised levying of special taxes have been discussed with the developer of the Park Place Facilities Phase I project, SL Ontario Development Company, LLC.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING AND RESTATING ORDINANCE NO. 3002, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 24 (PARK PLACE FACILITIES PHASE I).

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. 24 (Park Place Facilities Phase I) (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 December 2, 2014, adopted Ordinance No. 3002, 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. 24 (Park Place Facilities Phase I)" (the "Levy Ordinance"), levying the Special Taxes at the rates and in accordance with the method of apportionment attached thereto and incorporated 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 the Community Facilities District 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 Residential 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, and that the Special Tax reductions so required are to be reflected in an amended notice of Special Tax lien which the Community Facilities District is to cause to be recorded by executing a Certificate of Modification of Special Tax in substantially the form attached therein as Exhibit A.

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 Residential 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 a Certificate of Modification of Special Tax, the form of which is attached to the Initial Rate and Method as Exhibit A, to reflect the Assigned Special Tax and the Backup Special Tax as so modified and the Community Facilities District has executed the same (such Certificate of Modification of Special Tax, as so completed and executed, the "Amendment Certificate"); 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 Levy Ordinance is hereby amended and restated to read in full as set forth herein.

SECTION 2. 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 2014-15 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 3. 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 4. The Special Tax shall be levied on all of the parcels in the Community Facilities District, unless exempted by law or by the Rate and Method.

SECTION 5. 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 6. 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 7. 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 8. This Ordinance shall take effect and shall be in force 30 days after the date of its adoption.

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 \_\_\_\_\_ day of \_\_\_\_\_ 2017.

\_\_\_\_\_  
PAUL S. LEON, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. \_\_\_\_\_ was duly introduced at a regular meeting of the City Council of the City of Ontario held \_\_\_\_\_ and adopted at the regular meeting held \_\_\_\_\_, 2017 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

(SEAL)

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

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

(SEAL)

## EXHIBIT A

### CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 24 (PARK PLACE FACILITIES PHASE 1)

#### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

---

A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 24 (Park Place Facilities Phase 1) ("CFD No. 24") and collected each Fiscal Year, commencing in Fiscal Year 2014-15, 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. 24, 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. 24: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 24 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. 24 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 24 of complying with City, CFD No. 24, 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. 24 related to the analysis and reduction, if any, of the Special Tax on Residential Property in accordance with Section C.1 herein; the costs of the City or CFD No. 24 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. 24; and amounts estimated or advanced by the City or CFD No. 24 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. 24 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. 24 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. 24"** means City of Ontario Community Facilities District No. 24 (Park Place Facilities Phase 1).

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

**"City Council"** means the City Council of the City, acting as the legislative body of CFD No. 24.

**"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, 2014, and before May 1 of the prior Fiscal Year.

**“Expected Residential Lot Count”** means 432 Buildable Lots of Residential Property or, as determined by the CFD Administrator, the number of Buildable Lots of Residential Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

**“Facilities”** means the public facilities authorized to be financed, in whole or in part, by CFD No. 24.

**“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.

**“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. 24 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. 24 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 24, (ii) the City, (iii) any owner of real property in CFD No. 24, or (iv) any real property in CFD No. 24, and (e) is not connected with CFD No. 24 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 24 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. 24 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. 24 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 right-of-way that makes impractical its use for any purpose other than that set forth in such easement, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

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

**“Residential Floor Area”** means all of the Square Footage of living area within the perimeter of a residential Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be as set forth in the building permit(s) issued for such Assessor’s Parcel, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 24. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor’s Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

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

**“Services”** means the services authorized to be financed, in whole or in part, by CFD No. 24.

**“Special Tax”** means the special tax authorized by the qualified electors of CFD No. 24 to be levied within the boundaries of CFD No. 24.

**“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. 24 to: (i) pay debt service on all Outstanding Bonds which is due in the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including, but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; (iv) provide any amounts required to establish or replenish any reserve fund for the Bonds; (v) pay directly for acquisition or construction of Facilities, or the cost of Services, to the extent that the inclusion of such amounts does not increase the Special Tax levy on Final Mapped Property or Undeveloped Property; (vi) provide an amount equal to Special Tax delinquencies based on the historical delinquency rate for the Special Tax as determined by the CFD Administrator.

**“Square Footage”** or **“Sq. Ft.”** means the floor area square footage reflected on the original construction building permit, or as set forth in other official records maintained by the City’s Building Department or other appropriate means selected by CFD No. 24, issued for construction of Residential Property or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

**“State”** means the State of California.

**“Taxable Property”** means, for each Fiscal Year, all of the Assessor’s Parcels within the boundaries of CFD No. 24 that are not exempt from the Special Tax pursuant to law or Section E below.



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

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

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

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

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

**“TTM 18075”** means Tentative Tract Map No. 18075, the area of which is located within CFD No. 24 and is commonly referred to as planning area 12 (or PA 12).

**“TTM 18076”** means Tentative Tract Map No. 18076, the area of which is located within CFD No. 24 and is commonly referred to as planning area 8 (or PA 8).

**“TTM 18077”** means Tentative Tract Map No. 18077, the area of which is located within CFD No. 24 and is commonly referred to as planning area 7 (or PA 7).

**“TTM 18078”** means Tentative Tract Map No. 18078, the area of which is located within CFD No. 24 and is commonly referred to as planning area 6 (or PA 6).

**“TTM 18079”** means Tentative Tract Map No. 18079, the area of which is located within CFD No. 24 and is commonly referred to as planning area 9 (or PA 9).

**“TTM 18080”** means Tentative Tract Map No. 18080, the area of which is located within CFD No. 24 and is commonly referred to as planning area 10 (or PA 10).

**“TTM 18913-1”** means Tentative Tract Map No. 18913-1, the area of which is located within CFD No. 24, is commonly referred to as planning area 15 (or PA 15), and is the proposed location of the recreation center.

**“TTM 18945”** means Tentative Tract Map No. 18945, the area of which is located within CFD No. 24 and is commonly referred to as planning area 13 (or PA 13).

**“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 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 2014-15, all Taxable Property within CFD No. 24 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 Residential Property shall be assigned to Land Use Classes 1 through 26 as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Non-Residential Property shall be assigned to Land Use Classes 27 through 34.

**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. 24 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Residential Property to be constructed within CFD No. 24 shall exceed 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. The Special Tax reductions required pursuant to this paragraph shall be reflected in an amended notice of Special Tax lien which CFD No. 24 shall cause to be recorded by executing a certificate in substantially the form attached herein as Exhibit A.

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              | Residential Property | < 1,601                                 | \$1,752 per Unit     |
| 2              | Residential Property | 1,601 – 1,700                           | \$1,868 per Unit     |
| 3              | Residential Property | 1,701 – 1,800                           | \$1,975 per Unit     |
| 4              | Residential Property | 1,801 – 1,900                           | \$2,070 per Unit     |
| 5              | Residential Property | 1,901 – 2,000                           | \$2,182 per Unit     |
| 6              | Residential Property | 2,001 – 2,100                           | \$2,199 per Unit     |
| 7              | Residential Property | 2,101 – 2,200                           | \$2,349 per Unit     |
| 8              | Residential Property | 2,201 – 2,300                           | \$2,491 per Unit     |
| 9              | Residential Property | 2,301 – 2,400                           | \$2,576 per Unit     |
| 10             | Residential Property | 2,401 – 2,500                           | \$2,688 per Unit     |
| 11             | Residential Property | 2,501 – 2,600                           | \$2,791 per Unit     |
| 12             | Residential Property | 2,601 – 2,700                           | \$2,898 per Unit     |
| 13             | Residential Property | 2,701 – 2,800                           | \$2,950 per Unit     |
| 14             | Residential Property | 2,801 – 2,900                           | \$3,010 per Unit     |
| 15             | Residential Property | 2,901 – 3,000                           | \$3,117 per Unit     |
| 16             | Residential Property | 3,001 – 3,100                           | \$3,272 per Unit     |
| 17             | Residential Property | 3,101 – 3,200                           | \$3,435 per Unit     |
| 18             | Residential Property | 3,201 – 3,300                           | \$3,499 per Unit     |
| 19             | Residential Property | 3,301 – 3,400                           | \$3,547 per Unit     |
| 20             | Residential Property | 3,401 – 3,500                           | \$3,603 per Unit     |
| 21             | Residential Property | 3,501 – 3,600                           | \$3,710 per Unit     |

|    |                          |               |                   |
|----|--------------------------|---------------|-------------------|
| 22 | Residential Property     | 3,601 – 3,700 | \$3,795 per Unit  |
| 23 | Residential Property     | 3,701 – 3,800 | \$3,880 per Unit  |
| 24 | Residential Property     | 3,801 – 3,900 | \$3,965 per Unit  |
| 25 | Residential Property     | 3,901 – 4,000 | \$4,050 per Unit  |
| 26 | Residential Property     | > 4,000       | \$4,135 per Unit  |
|    | Non-Residential Property |               |                   |
| 27 | TTM 18075                |               | \$32,771 per Acre |
| 28 | TTM 18076                |               | \$31,193 per Acre |
| 29 | TTM 18077                |               | \$24,756 per Acre |
| 30 | TTM 18078                |               | \$28,780 per Acre |
| 31 | TTM 18079                |               | \$32,255 per Acre |
| 32 | TTM 18080                |               | \$33,625 per Acre |
| 33 | TTM 18913-1              |               | \$36,156 per Acre |
| 34 | TTM 18945                |               | \$36,156 per Acre |

3) *Backup Special Tax*

The Backup Special Tax shall be \$3,083 per Unit for Residential Property in TTM 18075, \$3,131 per Unit for Residential Property in TTM 18076, \$3,716 per Unit for Residential Property in TTM 18077, \$3,483 per Unit for Residential Property in TTM 18078, \$2,541 per Unit for Residential Property in TTM 18079, \$2,777 per Unit for Residential Property in TTM 18080, \$3,716 per Unit for Residential Property in TTM 18913-1, and \$2,087 per Unit for Residential Property in TTM 18945. However, if the Expected Residential Lot Count does not equal 53 for TTM 18075, 46 for TTM 18076, 65 for TTM 18077, 67 for TTM 18078, 69 for TTM 18079, 57 for TTM 18080, or 75 for TTM 18945, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Residential Property shall be calculated separately for each Tentative Tract Map area according to the following formula:

Backup Special Tax = \$32,771 for TTM 18075 or  
\$31,193 for TTM 18076 or  
\$24,756 for TTM 18077 or  
\$28,780 for TTM 18078 or  
\$32,255 for TTM 18079 or  
\$33,625 for TTM 19080 or  
\$36,156 for TTM 18945

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

÷ number of Designated Buildable Lots  
of Residential Property within the  
applicable Tentative Tract Map

If any portion of a Final Subdivision Map, or any area expected by CFD No. 24 to become Final Mapped Property, such as the area within a 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 in the specific area where the change occurred 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 prior to the Final Subdivision Map or expected Final Mapped Property area change.

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

**Step 3:** Apply the amount determined in Step 2 as the Backup Special Tax per Unit for each Assessor's Parcel of Designated Buildable Lots in the area where the Final Subdivision Map or expected Final Mapped Property area change occurred.

***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 \$32,771 per Acre for such property in TTM 18075, \$31,193 per Acre for such property in TTM 18076, \$24,756 per Acre for such property in TTM 18077, \$28,780 per Acre for such property in TTM 18078, \$32,255 per Acre for such property in TTM 18079, \$33,625 per Acre for such property in TTM 18080, and \$36,156 per Acre for such property in TTM 18945, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

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

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax levied on such Assessor's Parcel shall be the sum of the Maximum Special Tax for all Units of Residential Property and Acres of Non-Residential Property (based on the applicable 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 2014-15, the CFD Administrator shall determine the Special Tax Requirement for such Fiscal Year. The Special Tax shall then be levied as follows:

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

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

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

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

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

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

Notwithstanding the above, under no circumstances shall the Special Tax levied in any Fiscal Year on any Assessor's Parcel of Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency

or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 24 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 17.03 Acres of Public Property and up to 6.13 Acres of Property Owner Association Property, not including Assessor's Parcel Numbers 0218-022-13 and 0218-083-28, as described further in this paragraph. 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. In addition, the sites designated as PA 15 within TTM 18913-1 (Assessor's Parcel Number 0218-022-13) and Lot A within TTM 18077 (Assessor's Parcel Number 0218-083-28) shall be exempt from the Special Tax unless and until the site becomes Developed 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. 24 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 \$15,900,000 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. 24.

**“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, 2014, through June 30, 2048.

**“Prepayment Period 2”** means July 1, 2048, through June 30, 2081.

**“Prepayment Period 3”** means July 1, 2081, through June 30, 2115.

**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, 2014, 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 |
| less  | <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. 24 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. 24, 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. 24, excluding any Assessor's Parcels which have been prepaid.
4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").

5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Compute the current Future Facilities Costs.
7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.
10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".
11. Verify the administrative fees and expenses of CFD No. 24, 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. 24.

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. 24 (after excluding 17.03 Acres of Public Property and 6.13 acres of Property Owner Association Property, not including Assessor's Parcel Numbers 0218-022-13 and 0218-083-28, as set forth in Section E) 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, 2014, 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:

$$PP = PF \times \%$$

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

% = 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. 24 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 2114-2115, 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)**

**CITY OF ONTARIO AND CFD No. 24 CERTIFICATE**

1. Pursuant to Section C.1 of the Rate and Method of Apportionment of Special Tax for City of Ontario Community Facilities District No. 24 (Park Place Facilities Phase 1) (“CFD No. 24”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 24 has been modified.
- a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 24, 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              | Residential Property | < 1,601                                 | \$1,713 per Unit     |
| 2              | Residential Property | 1,601 – 1,700                           | \$1,817 per Unit     |
| 3              | Residential Property | 1,701 – 1,800                           | \$1,904 per Unit     |
| 4              | Residential Property | 1,801 – 1,900                           | \$1,986 per Unit     |
| 5              | Residential Property | 1,901 – 2,000                           | \$2,099 per Unit     |
| 6              | Residential Property | 2,001 – 2,100                           | \$2,107 per Unit     |
| 7              | Residential Property | 2,101 – 2,200                           | \$2,209 per Unit     |
| 8              | Residential Property | 2,201 – 2,300                           | \$2,277 per Unit     |
| 9              | Residential Property | 2,301 – 2,400                           | \$2,386 per Unit     |
| 10             | Residential Property | 2,401 – 2,500                           | \$2,460 per Unit     |
| 11             | Residential Property | 2,501 – 2,600                           | \$2,571 per Unit     |
| 12             | Residential Property | 2,601 – 2,700                           | \$2,681 per Unit     |
| 13             | Residential Property | 2,701 – 2,800                           | \$2,729 per Unit     |
| 14             | Residential Property | 2,801 – 2,900                           | \$2,783 per Unit     |
| 15             | Residential Property | 2,901 – 3,000                           | \$2,875 per Unit     |
| 16             | Residential Property | 3,001 – 3,100                           | \$3,003 per Unit     |
| 17             | Residential Property | 3,101 – 3,200                           | \$3,112 per Unit     |
| 18             | Residential Property | 3,201 – 3,300                           | \$3,124 per Unit     |

**EXHIBIT A**

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

|    |                          |               |                   |
|----|--------------------------|---------------|-------------------|
| 19 | Residential Property     | 3,301 – 3,400 | \$3,205 per Unit  |
| 20 | Residential Property     | 3,401 – 3,500 | \$3,301 per Unit  |
| 21 | Residential Property     | 3,501 – 3,600 | \$3,425 per Unit  |
| 22 | Residential Property     | 3,601 – 3,700 | \$3,458 per Unit  |
| 23 | Residential Property     | 3,701 – 3,800 | \$3,542 per Unit  |
| 24 | Residential Property     | 3,801 – 3,900 | \$3,627 per Unit  |
| 25 | Residential Property     | 3,901 – 4,000 | \$3,781 per Unit  |
| 26 | Residential Property     | > 4,000       | \$3,795 per Unit  |
|    | Non-Residential Property |               |                   |
| 27 | TTM 18075                |               | \$30,244 per Acre |
| 28 | TTM 18076                |               | \$28,397 per Acre |
| 29 | TTM 18077                |               | \$22,874 per Acre |
| 30 | TTM 18078                |               | \$26,147 per Acre |
| 31 | TTM 18079                |               | \$29,831 per Acre |
| 32 | TTM 18080                |               | \$30,820 per Acre |
| 33 | TTM 18913-1              |               | \$34,640 per Acre |
| 34 | TTM 18945                |               | \$34,640 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 \$2,845 per Unit for Residential Property in TTM 18075, \$2,850 per Unit for Residential Property in TTM 18076, \$3,433 per Unit for Residential Property in TTM 18077, \$3,165 per Unit for Residential Property in TTM 18078, \$2,350 per Unit for Residential Property in TTM 18079, \$2,545 per Unit for Residential Property in TTM 18080, and \$1,999 per Unit for Residential Property in TTM 18945. However, if the Expected Residential Lot Count does not equal 53 for TTM 18075, 46 for TTM 18076, 65 for TTM 18077, 67 for TTM 18078, 69 for TTM 18079, 57 for TTM 18080, or 75 for TTM 18945, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Residential Property shall be calculated according to the formula on the follow page:

**EXHIBIT A**

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

Backup Special Tax = \$30,244 for TTM 18075 or  
\$28,397 for TTM 18076 or  
\$22,874 for TTM 18077 or  
\$26,147 for TTM 18078 or  
\$29,831 for TTM 18079 or  
\$30,820 for TTM 19080 or  
\$34,640 for TTM 18945

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

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 24 Bonds.
3. Upon execution of this certificate by CFD No. 24, CFD No. 24 shall cause an amended notice of Special Tax lien for CFD No. 24 to be recorded reflecting the modifications set forth herein.

By execution hereof, the undersigned acknowledge, on behalf of the City and CFD No. 24, receipt of this certificate and modification of the Rate and Method of Apportionment as set forth in this certificate.

CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 24 (PARK PLACE FACILITIES PHASE 1)

By: 

Date: 1/6/2017

# CITY OF ONTARIO

Agenda Report  
February 21, 2017

SECTION:  
PUBLIC HEARINGS

**SUBJECT: A CITY INITIATED REQUEST TO CHANGE THE ZONING DESIGNATIONS (FILE NO. PZC16-005) ON 51 PROPERTIES AS FOLLOWS: 1) 34 PROPERTIES FROM MDR-18 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), 2) 16 PROPERTIES FROM MDR-25 (MEDIUM-HIGH DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), AND 3) ONE PROPERTY FROM CN (NEIGHBORHOOD COMMERCIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL WITH ICC (INTERIM COMMUNITY COMMERCIAL OVERLAY), FOR PROPERTIES GENERALLY LOCATED SOUTH OF D STREET, WEST OF VINE AVENUE, NORTH OF VESTA STREET AND EAST OF SAN ANTONIO AVENUE, IN ORDER TO MAKE THE ZONING CONSISTENT WITH THE ONTARIO PLAN LAND USE DESIGNATIONS OF THE PROPERTIES**

**RECOMMENDATION:** That City Council conduct a public hearing and introduce and waive further reading of an ordinance approving a Zone Change (File No. PZC16-005) to create consistency between the zoning and the General Plan land use designations of the subject properties.

**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

**FISCAL IMPACT:** The potential fiscal impacts of the project were analyzed as part of The Ontario Plan ("TOP") adopted in January 2010. The proposed Zone Change will not introduce any fiscal impacts that were not previously analyzed as part of TOP.

**STAFF MEMBER PRESENTING:** Scott Murphy, Planning Director

Prepared by: Henry K. Noh  
Department: Planning

Submitted to Council/O.H.A. 02/21/2017

Approved: \_\_\_\_\_

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

Denied: \_\_\_\_\_

City Manager  
Approval: 

12



**BACKGROUND:** In January 2010, the City Council approved TOP, which lays out the long-term land use pattern for the City. Since that time, the City has undertaken an effort to ensure that the zoning and TOP land use designations are consistent for all properties in the City.

This proposed zone change is part of the TOP-Zoning Consistency Project, which proposes to change the zoning for 51 properties that are generally located south of D Street, west of Vine Avenue, north of Vesta Street and east of San Antonio Avenue. The proposed Zone Change maps are contained on the attached Exhibit "A". The proposed Zone Changes are needed in order to:

1. Provide zoning consistency with TOP land use designations of subject properties;
2. Provide incentives and assist in the future redevelopment of the area;
3. Change the TOP land use designations and zoning to be consistent with the majority of existing development density; and
4. Allow the ongoing use of commercial properties by applying the Interim Community Commercial Overlay (ICC).

A community open house for the zone change was held on December 14, 2016. All property owners affected by the zone change and those property owners within 300 feet of the zone change area were notified of the meeting. A total of four people attended the open house and all were in favor of the proposed zone change. No written comments were received at the meeting.

On January 24, 2017, the Planning Commission conducted a public hearing and voted unanimously, 7 to 0, to recommend City Council approval of the proposed zone change.

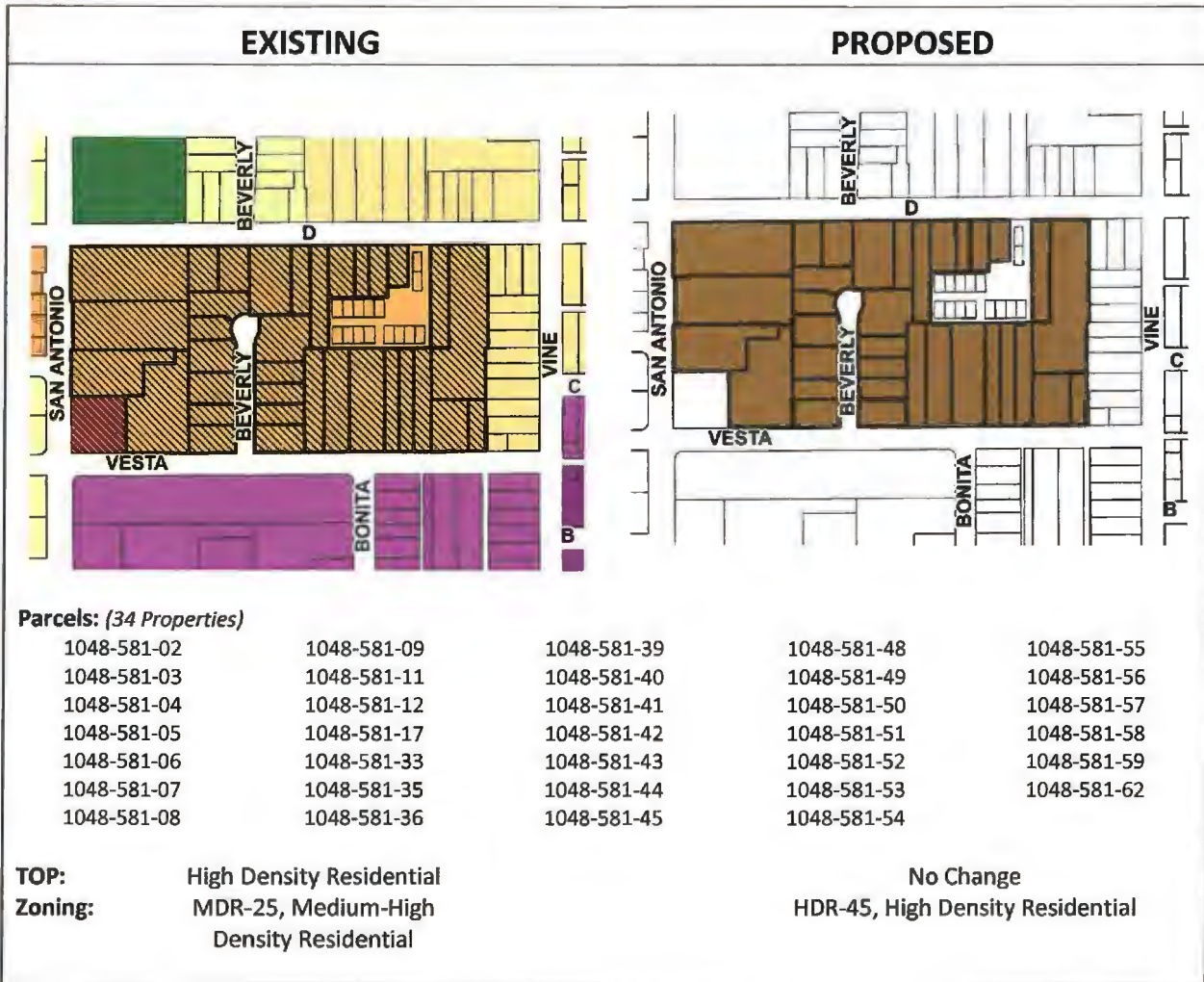
**AIRPORT LAND USE COMPATIBILITY:** The Proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) Ontario.

**ENVIRONMENTAL REVIEW:** The application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). The environmental impacts of this project were previously reviewed in conjunction The Ontario Plan Environmental Impact Report (State Clearinghouse No. 2008101140) adopted by City Council on January 27, 2010. This Application introduces no new significant environmental impacts not previously analyzed in the Environmental Impact Report. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by reference. The environmental documentation for this project is available for review at the Planning Department public counter.










## Exhibit "A" Proposed Zone Changes

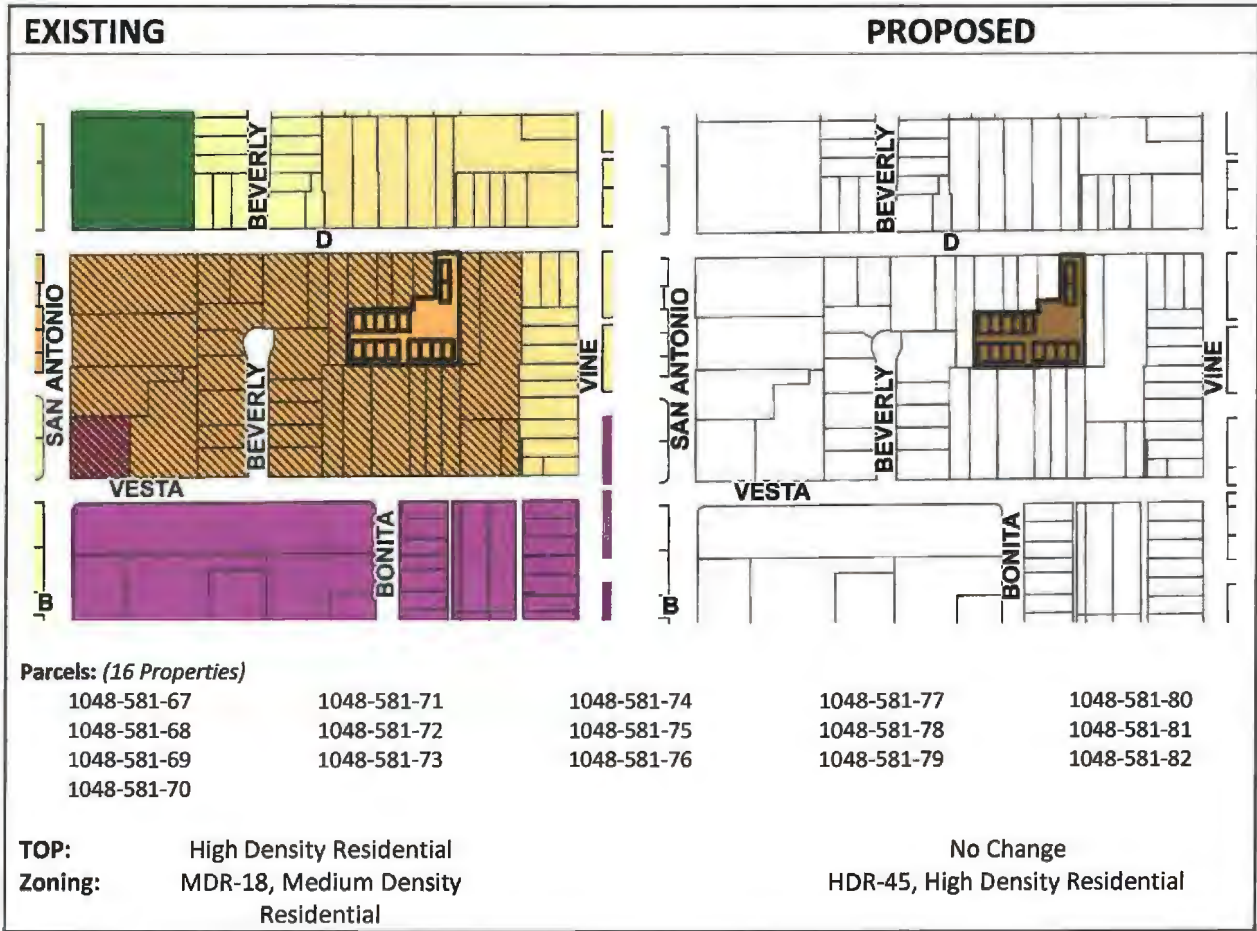
### ZONING Legend:

|  |  |  |   |  |  |  |   |
|--|--|--|---|--|--|--|---|
|  | LDR-5, Low Density Residential         |  | MDR-25, Medium-High Density Residential |  | MU, Mixed Use<br>1 - Downtown, 2-East<br>Holt, 11-Francis&Euclid |  | OS-R, Open Space<br>Recreation            |
|  | MDR-11, Low-Medium Density Residential |  | HDR-45, High Density Residential        |  | CN, Neighborhood Commercial                                      |  | ICC, Interim Community Commercial Overlay |
|  | MDR-18, Medium Density Residential     |  |   |  |  |  |   |






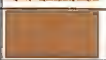





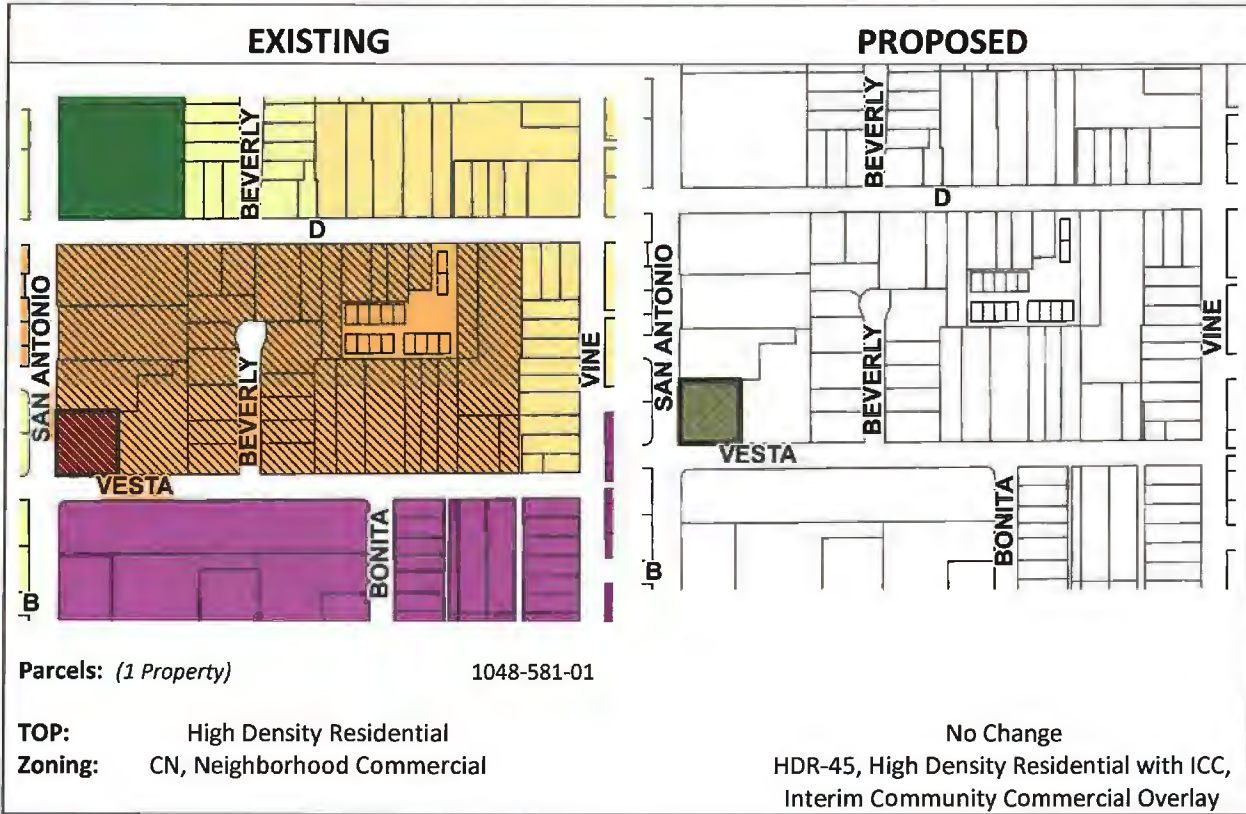
# ZONING Legend:

|   |  |   |   |   |  |   |   |
|---|--|---|---|---|--|---|---|
|  | LDR-5, Low Density Residential         |  | MDR-25, Medium-High Density Residential |  | MU, Mixed Use<br>1 - Downtown, 2-East<br>Holt, 11-Francis&Euclid |  | OS-R, Open Space<br>Recreation            |
|  | MDR-11, Low-Medium Density Residential |  | HDR-45, High Density Residential        |  | CN, Neighborhood Commercial                                      |  | ICC, Interim Community Commercial Overlay |
|  | MDR-18, Medium Density Residential     |   |   |   |  |   |   |



# ZONING Legend:

|   |  |   |   |   |   |   |   |
|---|--|---|---|---|---|---|---|
|  | LDR-5, Low Density Residential         |  | MDR-25, Medium-High Density Residential |  | MU, Mixed Use<br>1 - Downtown, 2-East Holt, 11-Francis&Euclid |  | OS-R, Open Space Recreation               |
|  | MDR-11, Low-Medium Density Residential |  | HDR-45, High Density Residential        |  | CN, Neighborhood Commercial                                   |  | ICC, Interim Community Commercial Overlay |
|  | MDR-18, Medium Density Residential     |   |   |   |   |   |   |





# PLANNING COMMISSION STAFF REPORT

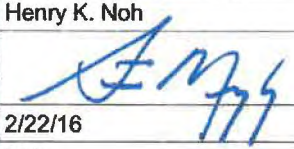
January 24, 2017

**SUBJECT:** A City initiated request to change the zoning designations (File No. PZC16-005) on 51 properties from: 1) MDR-18 (Medium Density Residential) to HDR-45 (High Density Residential), 2) MDR-25 (Medium-High Density Residential) to HDR-45 (High Density Residential), and 3) CN (Neighborhood Commercial) to HDR-45 (High Density Residential with ICC (Interim Community Commercial Overlay) in order to make the zoning consistent with The Ontario Plan land use designations of the properties. The properties are generally located south of D Street, west of Vine Avenue, north of Vesta Street and east of San Antonio Avenue. (APNs: 1048-581-01 thru 09, 11-12, 17, 33, 35-36, 39-45, 48-59, 62, and 67-82); **submitted by: City of Ontario. City Council action is required.**

**PROPERTY OWNER:** Various

**RECOMMENDED ACTION:** That the Planning Commission recommend City Council approval of File No. PZC16-005, pursuant to the facts and reasons contained in the staff report and attached resolution.

**PROJECT SETTING:** The properties are generally located south of D Street, west of Vine Avenue, north of Vesta Street and east of San Antonio Avenue. The majority of properties are developed with multi-family residential uses, one property has an existing office use and one property is vacant, the properties are depicted in Figure 1: Project Location, below.

| Case Planner:               | Henry K. Noh  | Hearing Body | Date    | Decision | Action    |
|-----------------------------|---|--------------|---------|----------|-----------|
| Planning Director Approval: |  | DAB          |         |          |           |
| Submittal Date:             | 2/22/16   | ZA           |         |          |           |
| Hearing Deadline:           | N/A   | PC           | 1/24/17 | Approved | Recommend |
|                             |   | CC           | 2/21/17 |          | Final     |



*Figure 1: Project Location*

**PROJECT ANALYSIS:**

[1] Background — In 2010, The Ontario Plan (“TOP”) was adopted that contains the Policy Plan (General Plan) which sets forth the land use pattern for the City to achieve its Vision. After the adoption of TOP, staff embarked on an effort to ensure that the zoning and TOP land use designations are consistent for all properties in the City. This application is part of TOP and Zoning consistency effort.

On February 22, 2016, the property owner for 607 West D Street submitted a Development Plan application (File No. PDEV16-005) requesting approval to construct a 14-unit multi-family apartment development. The Development Plan required that the zoning for the property be changed from Medium–High Density Residential (MDR-25) to High Density Residential (HDR-45) to be consistent with TOP. Therefore, the City initiated the zone change for the entire block to make all properties zoning designations consistent with TOP.

[2] Community Open House – A Community Open House for a zone change (File No.: PZC16-005) was held on December 14, 2016. Subject property owners and property owners within 300 feet were notified of the meetings and 4 people attended. The property owners who attended the open house reside along Bonita Court, Vine Avenue and Beverly Court and were all in favor of the proposed zone changes. No written comments were received at meeting. The following are the public comments received for the property owners and residents, who attended the meeting:

- 1) There are existing street parking impacts created by the apartments located south of Vesta Street and between San Antonio Avenue and Bonita Court;
- 2) There are a number of homeless in the area;
- 3) Safety issues regarding the need for additional stop signs along Vesta Street; and
- 4) The status of the recently closed James R. Bryant Park that is located at the northeast corner of San Antonio Avenue and D Street.

Staff shared the public comments with the appropriate City departments for following up.

[3] Proposed Changes – The proposed zone change is for 51 properties and would change the zoning designations from (**see Figures 2, 3 and 4**):

**A. Change Zoning from Medium-High Density Residential (MDR-25) to High Density Residential (HDR-45).**

**Purpose:**

- To change TOP Land Use and Zoning designations consistent with the majority of existing development density.
- To provide incentives and assist in the future redevelopment of the area.
- To provide zoning consistency with TOP land use designations of the subject properties.

**Current Zoning**



**Zones**

- AR-2, Residential-Agriculture
  - RE-2, Rural Estate
  - RE-4, Residential Estate
  - LDR-5, Low Density Residential
  - MDR-11, Low/Medium Density Residential
  - MDR-18, Medium Density Residential
  - MDR-25, Medium-High Residential
  - HDR-45, High Density Residential
  - PUD, Planned Unit Residential
  - MHP, Mobile Home Park
  - MJ 1-Overseas Use 2-Off-Bldg 11-Excl & Franch
  - CS, Corner Store
  - CN, Neighborhood Commercial
  - CC, Community Commercial
  - CCS, Convention Center Support
  - OL, Low Intensity Office
  - OH, High Intensity Office
  - BP, Business Park
  - IP, Industrial Park
  - IL, Light Industrial
  - IG, General Industrial
  - IH, Heavy Industrial
  - ONT, Ontario Int'l Airport (Former M3)
  - CV, Civic
  - OS-R, Open Space-Recreation
  - OS-C, Open Space-Cemetery
  - UC, Utilities Corridor
  - SP, Specific Plan
  - SP(AG), Specific Plan (Agriculture Overlay)
  - RC, Rail Corridor
  - P1, Off-Street Parking (To be eliminated)
- Overlays**
- MTC, Multimodal Transit Center
  - ES, Emergency Shelter
  - ICC, Interim Community Commercial
- PZC16-005 Zone Change Property**

**Zoning After Proposed Zone Changes**

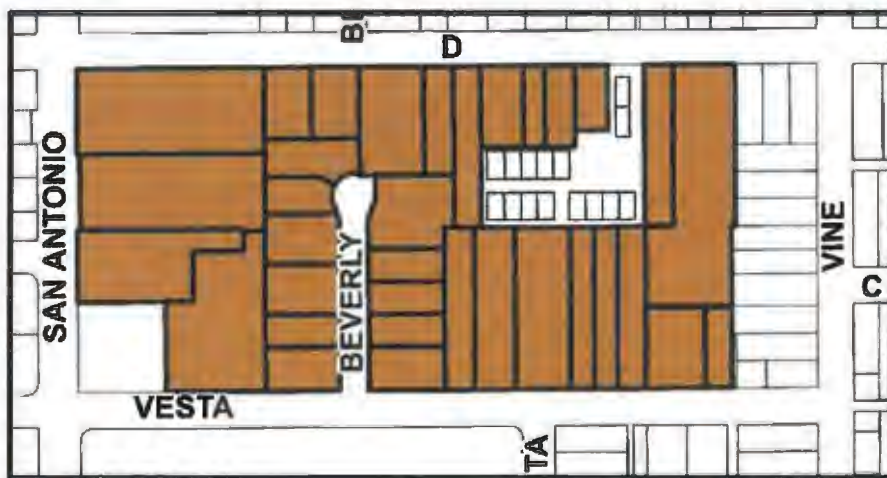


Figure 2: MDR-25 to HDR-45

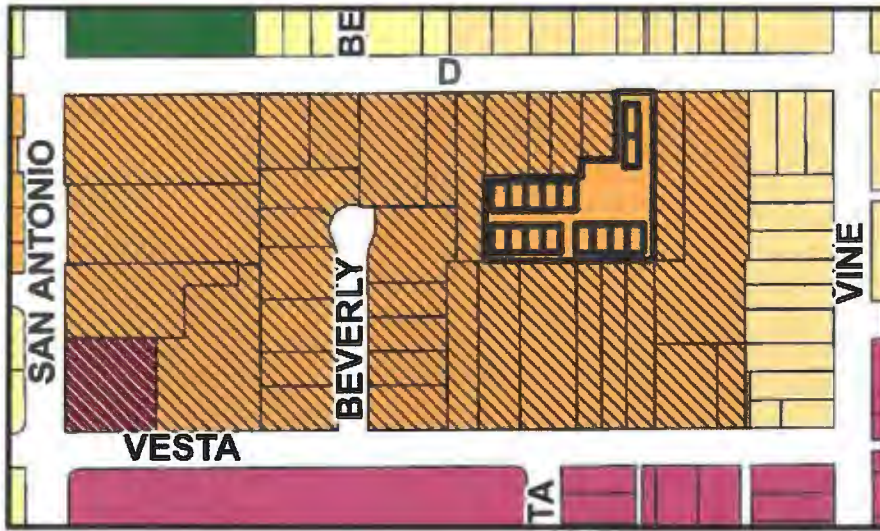


**B. Change Zoning from Medium Density Residential (MDR-18) to High Density Residential (HDR-45).**

**Purpose:**

- To change TOP Land Use and Zoning designations consistent with the majority of existing development density.
- To provide incentives and assist in the future redevelopment of the area.
- To provide zoning consistency with TOP land use designations of the subject properties.

**Current Zoning**



**Zones**

- AR-2, Residential-Agriculture
  - RE-2, Rural Estate
  - RE-4, Residential Estate
  - LDR-5, Low Density Residential
  - MDR-11, Low\_Medium Density Residential
  - MDR-18, Medium Density Residential
  - MDR-25, Medium-High Residential
  - HDR-45, High Density Residential
  - PUD, Planned Unit Residential
  - MHP, Mobile Home Park
  - MU 1-Dwelling Mixed Use 2-4th Story
  - MU 2-Dwelling Mixed Use 5-11th Story
  - CS, Corner Store
  - CN, Neighborhood Commercial
  - CC, Community Commercial
  - CCS, Convention Center Support
  - OL, Low Intensity Office
  - OH, High Intensity Office
  - BP, Business Park
  - IP, Industrial Park
  - IL, Light Industrial
  - IG, General Industrial
  - IH, Heavy Industrial
  - ONT, Ontario Int'l Airport (Former M3)
  - CIV, Civic
  - OS-R, Open Space-Recreation
  - OS-C, Open Space-Cemetery
  - UC, Utilities Corridor
  - SP, Specific Plan
  - SP(AG), Specific Plan (Agriculture Overlay)
  - RC, Rail Corridor
  - P1, Off-Street Parking (To be eliminated)
- Overlays**
- MTC, Multimodal Transit Center
  - ES, Emergency Shelter
  - ICC, Interim Community Commercial
- PZC16-005 Zone Change Property

**Zoning After Proposed Zone Changes**

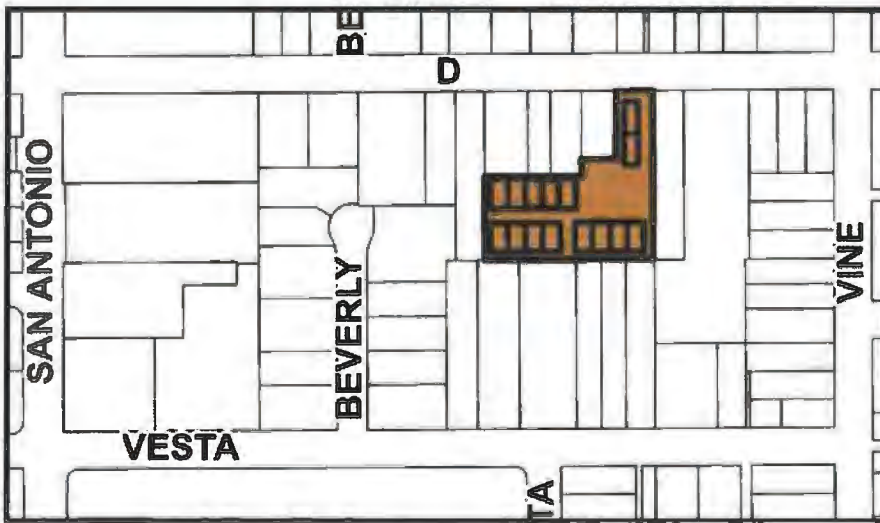


Figure 3: MDR-18 to HDR-45

**C. Change Zoning from Neighborhood Commercial (CN) to High Density Residential (HDR-45) w/ Interim Community Commercial Overlay (ICC).**

**Purpose:**

- To allow the ongoing use of commercial properties by applying the Interim Community Commercial Overlay (ICC).
- To change TOP Land Use and Zoning designations consistent with the majority of existing development density.
- To provide incentives and assist in the future redevelopment of the area.
- To provide zoning consistency with TOP land use designations of the subject properties.

**Current Zoning**



**Zones**

- AR-2, Residential-Agriculture
  - RE-2, Rural Estate
  - RE-4, Residential Estate
  - LDR-5, Low Density Residential
  - MDR-11, Low-Medium Density Residential
  - MDR-18, Medium Density Residential
  - MDR-25, Medium-High Residential
  - HDR-45, High Density Residential
  - PUD, Planned Unit Residential
  - MHP, Mobile Home Park
  - MU - Downtown Mixed Use  
2-Hall Blvd  
11-Bufile & Francis
  - CS, Corner Store
  - CN, Neighborhood Commercial
  - CC, Community Commercial
  - CCS, Convention Center Support
  - OL, Low Intensity Office
  - OH, High Intensity Office
  - BP, Business Park
  - IP, Industrial Park
  - IL, Light Industrial
  - IG, General Industrial
  - IH, Heavy Industrial
  - ONT, Ontario Int'l Airport (Former M3)
  - CV, Civic
  - OS-R, Open Space-Recreation
  - OS-C, Open Space-Cemetery
  - UC, Utilities Corridor
  - SP, Specific Plan
  - SP(AG) Specific Plan (Agriculture Overlay)
  - RC, Rail Corridor
  - P1, Off-Street Parking (To be eliminated)
- Overlays**
- MITC, Multimodal Transit Center
  - ES, Emergency Shelter
  - ICC, Interim Community Commercial
- PZC16-005 Zone Change Property

**Zoning After Proposed Zone Changes**

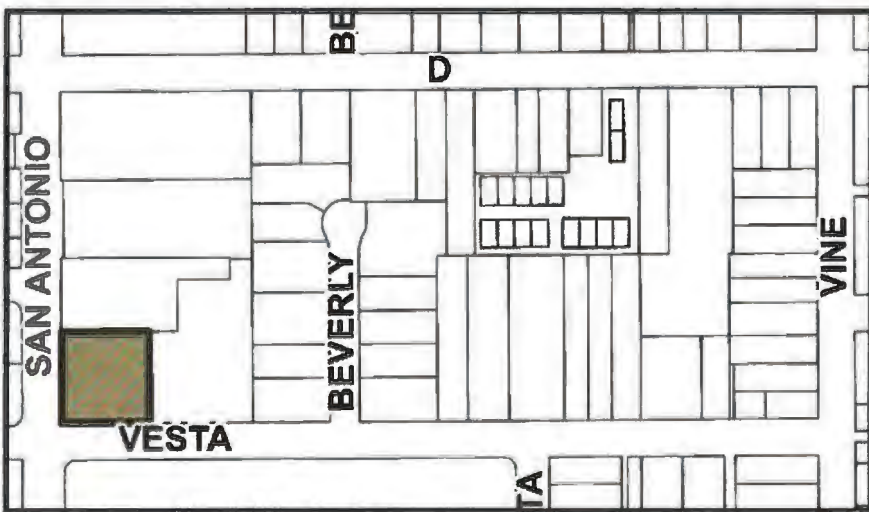


Figure 4: CN to HDR-45 (ICC Overlay)

Staff is recommending approval of this zone changes affecting 51 properties in an on-going effort to achieve consistency between TOP land use designations and zoning for all properties in the City.

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

[1] City Council Priorities

**Primary Goal:** Regain Local Control of the Ontario International Airport

**Supporting 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

[2] Vision.

**Distinctive Development:**

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

[3] Governance.

**Decision Making:**

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
  - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision.

[4] Policy Plan (General Plan)

**Land Use Element:**

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

Compliance: Undertaking the zone changes to provide consistency between the zoning and TOP land use designations will further the City's intent of becoming a complete community which will result in a land use pattern that provides residents, employers, workers and visitors a wide spectrum of choices to live, work, shop and recreate within Ontario.

#### **Housing Element:**

- Goal H1: Stable neighborhoods of quality housing, ample community services and public facilities, well-maintained infrastructure, and public safety that foster a positive sense of identity

➤ H1-2: *Neighborhood Conditions*. We direct efforts to improve the long-term sustainability of neighborhoods through comprehensive planning, provisions of neighborhood amenities, rehabilitation and maintenance of housing, and community building efforts.

Compliance: Changing the zoning of certain existing residential properties, to comply with our Vision, will provide for long term stability of the neighborhoods.

#### **Safety Element:**

- Goal S4: An environment where noise does not adversely affect the public's health, safety, and welfare.

➤ S4-6: *Airport Noise Compatibility*. We utilize information from Airport Land Use Compatibility Plans to prevent the construction of new noise sensitive land uses within airport noise impact zones.

Compliance: The proposed zone changes are consistent with the adopted Airport Land Use Compatibility Plan for Ontario Airport and will not allow the addition of new units in noise sensitive locations near the airports.

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

**AIRPORT LAND USE COMPATIBILITY PLAN (ALUCP) COMPLIANCE:** The project site is located within the Airport Influence Area of Ontario International Airport (ONT), and

has been found to be consistent with the policies and criteria set forth within the ALUCP for ONT.

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were previously reviewed in conjunction with the adoption of The Ontario Plan (File No. PGPA06-001), for which an EIR (SCH#: 2008101140) was adopted by the City Council on January 27, 2010. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are be a condition of project approval and are incorporated herein by reference.

RESOLUTION NO. PC17-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING CITY COUNCIL APPROVAL OF FILE NO. PZC16-005, A CITY INITIATED REQUEST TO CHANGE THE ZONING DESIGNATIONS ON 51 PROPERTIES FROM: 1) MDR-18 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), 2) MDR-25 (MEDIUM-HIGH DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), AND 3) CN (NEIGHBORHOOD COMMERCIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL WITH ICC (INTERIM COMMUNITY COMMERCIAL OVERLAY) IN ORDER TO MAKE THE ZONING CONSISTENT WITH THE ONTARIO PLAN LAND USE DESIGNATIONS FOR PROPERTIES GENERALLY LOCATED SOUTH OF D STREET, WEST OF VINE AVENUE, NORTH OF VESTA STREET AND EAST OF SAN ANTONIO AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF—APN: AS SHOWN IN EXHIBIT A (ATTACHED).

WHEREAS, City of Ontario ("Applicant") has filed an Application for the approval of a Zone Change, File No. PZC16-005, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 51 properties totaling approximately 16 acres of land generally located south of D Street, west of Vine Avenue, north of Vesta Street and east of San Antonio Avenue; and

WHEREAS, the zoning of the properties is inconsistent with The Ontario Plan ("TOP") land use designations of the properties and the proposed zone changes will make the zoning consistent with TOP land use designations of the properties as shown in Exhibit A; and

WHEREAS, the Project was filed in conjunction with a Development Plan (File No. PDEV16-005) to construct a 14-unit apartment project on a vacant 0.54 acre parcel of land, located at 607 West "D" Street; and

WHEREAS, the City of Ontario held a Community Open House on December 14, 2016, to gain input from impacted property owners and property owners within a 300 foot radius; and

WHEREAS, no written public responses were received regarding the proposed zone changes at the Community Open House and the four residents who attended were in favor of the proposed zone changes; and

WHEREAS, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan, as the project site is not one of the

properties in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix.

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT; and

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

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with the adoption of The Ontario Plan (File No. PGPA06-001), for which an EIR (SCH#: 2008101140) was adopted by the City Council on January 27, 2010. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are to be a condition of project approval and are incorporated herein by reference; and

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

WHEREAS, on January 24, 2017, the Planning Commission of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

SECTION 1. As the recommending body for the Project, the Planning Commission has reviewed and considered the information contained in the previously adopted TOP EIR (SCH#: 2008101140) and supporting documentation. Based upon the facts and information contained in the TOP EIR (SCH#: 2008101140) and supporting documentation, the Planning Commission finds as follows:

a. The previous TOP EIR (SCH#: 2008101140) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The previous TOP EIR (SCH#: 2008101140) was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

c. The previous TOP EIR (SCH#: 2008101140) reflects the independent judgment of the Planning Commission; and

d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 2. Based upon the substantial evidence presented to the Planning Commission during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the Planning Commission hereby concludes as follows:

a. The proposed Zone Change is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan as follows:

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

Compliance: Undertaking the zone changes to provide consistency between the zoning and TOP land use designations will further the City's intent of becoming a complete community which will result in a land use pattern that provides residents, employers, workers and visitors a wide spectrum of choices to live, work, shop and recreate within Ontario.

Goal H1: Stable neighborhoods of quality housing, ample community services and public facilities, well-maintained infrastructure, and public safety that foster a positive sense of identity

H1-2: *Neighborhood Conditions*. We direct efforts to improve the long-term sustainability of neighborhoods through comprehensive planning, provisions of neighborhood amenities, rehabilitation and maintenance of housing, and community building efforts.

Compliance: Changing the zoning of certain existing residential properties, to comply with our Vision, will provide for long term stability of the neighborhoods.

Goal S4: An environment where noise does not adversely affect the public's health, safety, and welfare.

S4-6: *Airport Noise Compatibility*. We utilize information from Airport Land Use Compatibility Plans to prevent the construction of new noise sensitive land uses within airport noise impact zones.



Compliance: The proposed zone changes are consistent with the adopted Airport Land Use Compatibility Plan for Ontario Airport and will not allow the addition of new units in noise sensitive locations near the airports.

b. The proposed Zone Change would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The proposed Zone Change will not be detrimental to the public interest, health, safety, convenience or general welfare, as the Zone Change is required to make the zoning designations consistent with TOP and will not change the existing built environment. Additionally, the proposed Zone Change will provide incentives and assist in the future redevelopment of the area that will be required to meet the High Density Residential (HDR-45) development standards.

c. The proposed Zone Change will not adversely affect the harmonious relationship with adjacent properties and land uses. The proposed Zone Change will not adversely affect the harmonious relationship with adjacent properties and land uses, as the Zone Change is required to make the zoning designations consistent with TOP and will not change the existing built environment. Additionally, the proposed Zone Change will provide incentives and assist in the future redevelopment of the area that will be required to meet the High Density Residential (HDR-45) development standards.

d. The subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development. The proposed Zone Change will not affect the existing built environment and the future redevelopment of these properties will be required to meet the High Density Residential (HDR-45) development standards.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the Planning Commission hereby RECOMMENDS APPROVAL to the City Council of the herein described.

SECTION 4. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 5. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 6. The Secretary shall certify to the adoption of the Resolution.

-----

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


I hereby certify that the foregoing Resolution was duly and regularly introduced, passed and adopted by the Planning Commission of the City of Ontario at a regular meeting thereof held on the 24<sup>th</sup> day of January 2017, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



---

Jim Willoughby  
Planning Commission Chairman

ATTEST:



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Scott Murphy  
Planning Director/Secretary of Planning  
Commission

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

I, Marci Callejo, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC17-006 was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on January 24, 2017, by the following roll call vote, to wit:

AYES:            DeDiemar, Delman, Downs, Gage, Gregorek, Ricci, Willoughby

NOES:           None

ABSENT:       None

ABSTAIN:       None

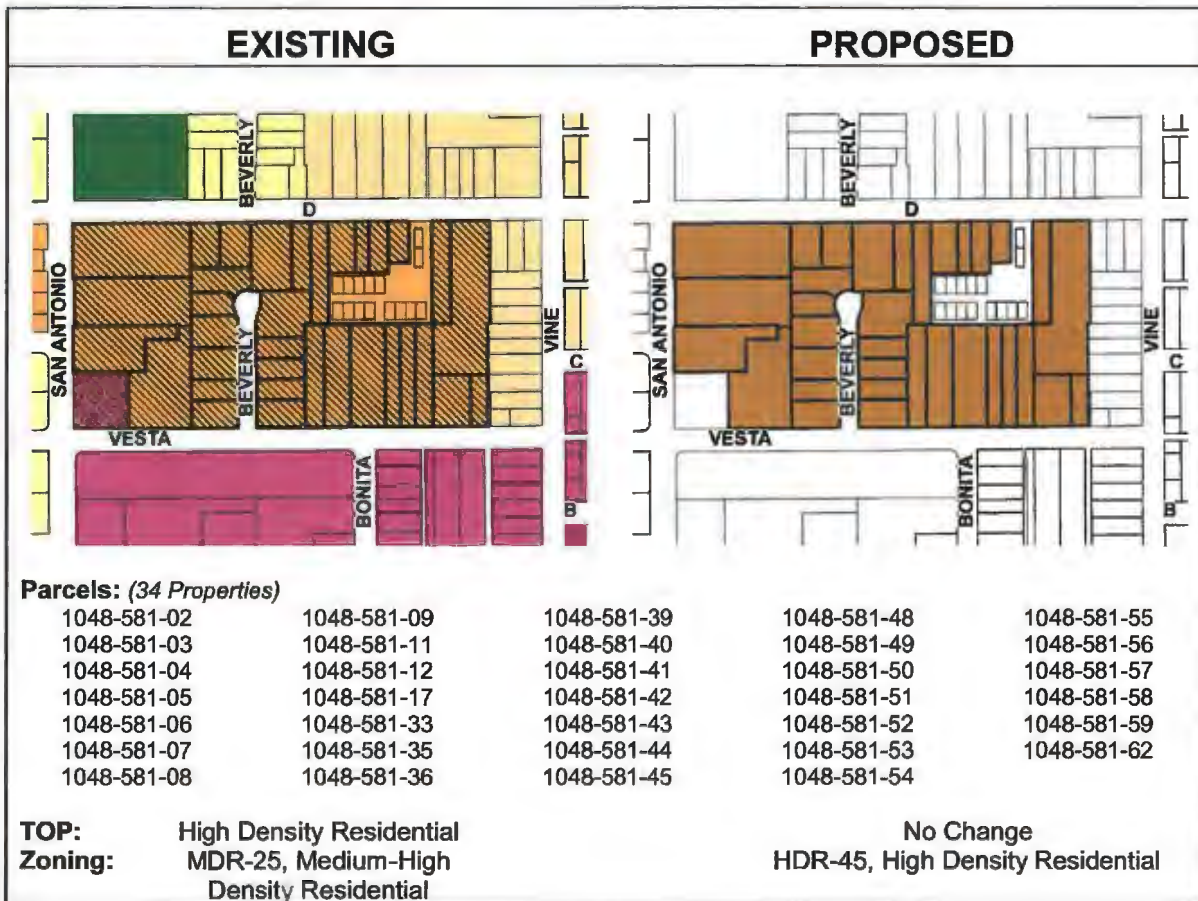


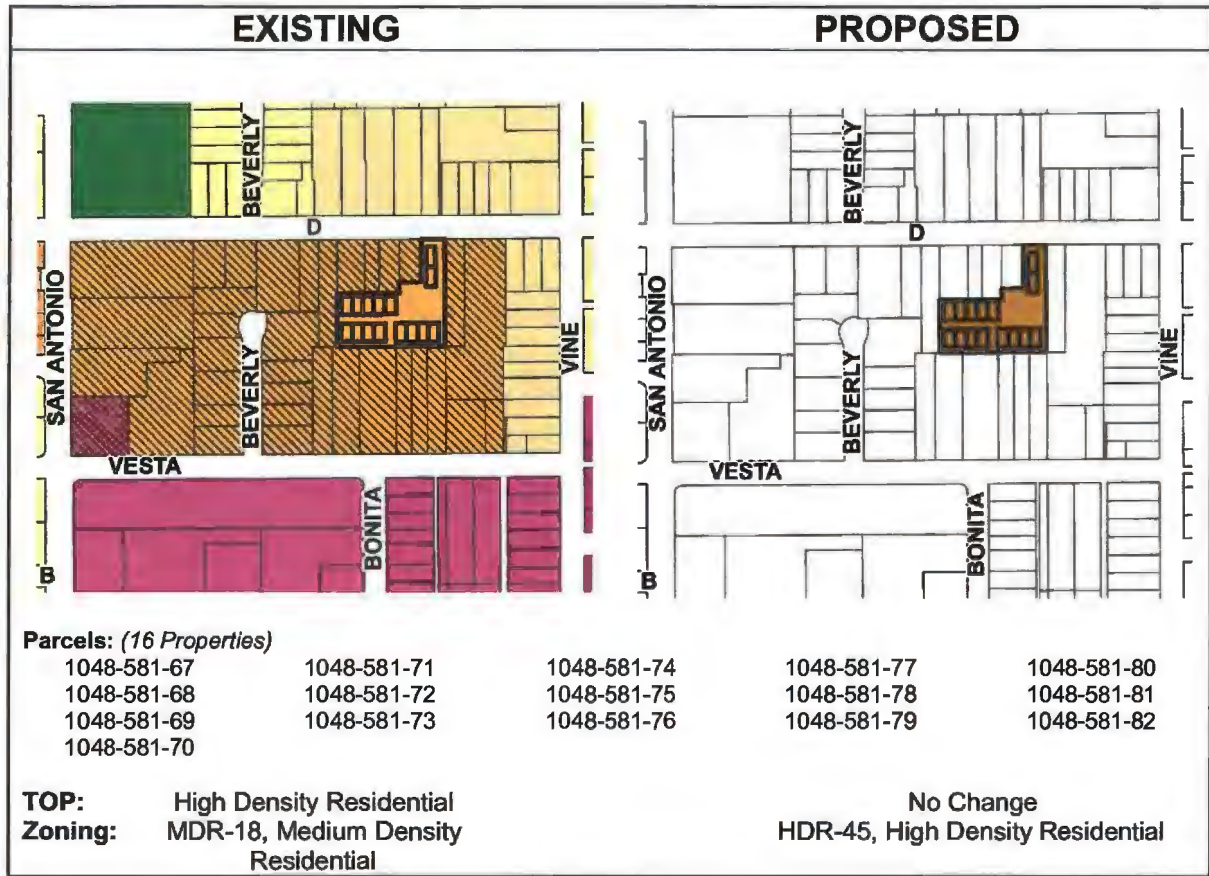
\_\_\_\_\_  
Marci Callejo  
Secretary Pro Tempore

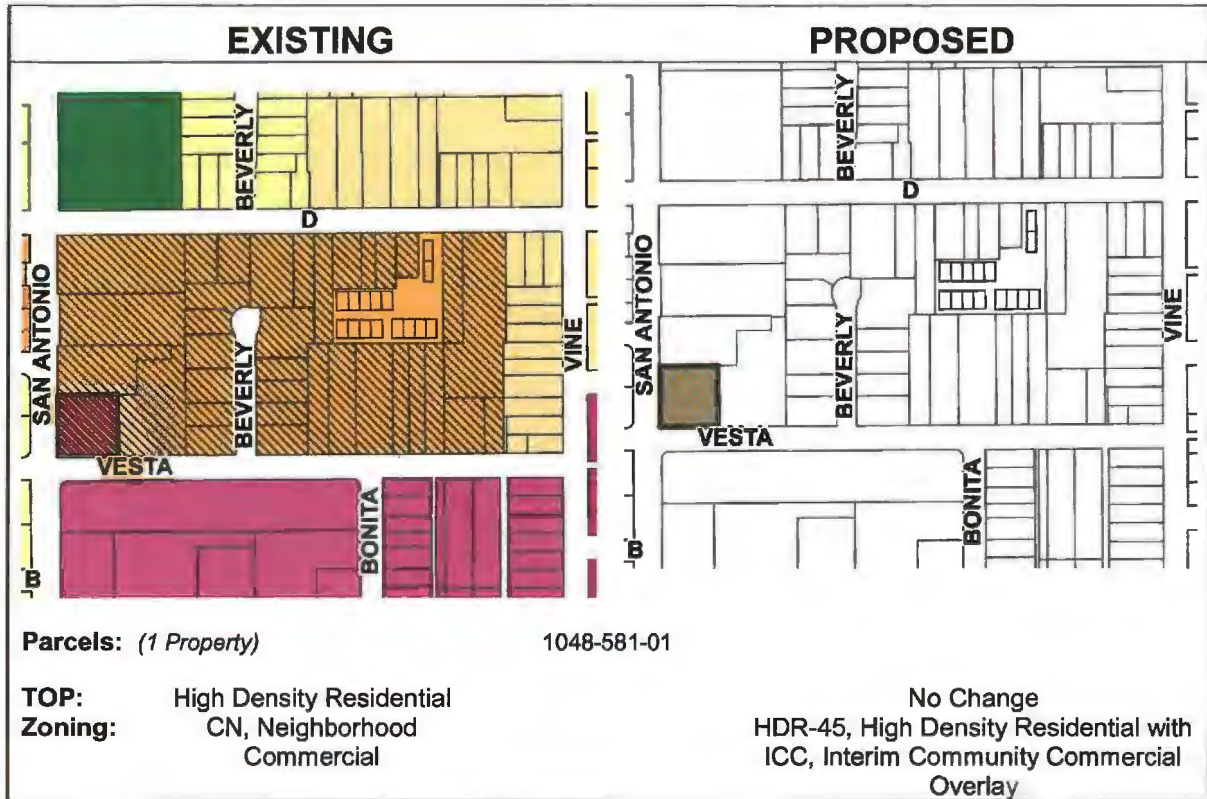
## Exhibit A PZC16-005

### ZONING Legend:

|  |   |  |  |  |                            |  |   |
|--|---|--|--|--|----------------------------|--|---|
|  | AR-2, Residential-Agricultural          |  | PUD, Planned Unit Development                                    |  | BP, Business Park          |  | OS-R, Open Space - Recreation                   |
|  | RE-2, Rural Estate                      |  | MU, Mixed Use<br>1 - Downtown, 2-East Holt,<br>11-Francis&Euclid |  | IP, Industrial Park        |  | OS-C, Open Space-Cemetery                       |
|  | RE-4, Residential Estate                |  | CS, Corner Store   |  | IL, Light Industrial       |  | UC, Utilities Corridor                          |
|  | LDR-5, Low Density Residential          |  | CN, Neighborhood Commercial                                      |  | IG, General Industrial     |  | SP, Specific Plan                               |
|  | MDR-11, Low-Medium Density Residential  |  | CC, Community Commercial   |  | IH, Heavy Industrial       |  | SP(AG), Specific Plan with Agricultural Overlay |
|  | MDR-18, Medium Density Residential      |  | CCS, Convention Center Support                                   |  | ONT, Ontario Int'l Airport |  | ES, Emergency Shelter Overlay                   |
|  | MDR-25, Medium-High Density Residential |  | OL, Low Intensity Office   |  | CIV, Civic                 |  | MTC, Multimodal Transit Center Overlay          |
|  | HDR-45, High Density Residential        |  | OH, High Intensity Office  |  | RC, Rail Corridor          |  | ICC, Interim Community Commercial Overlay       |
|  | MHP, Mobile Home Park                   |  |  |  |                            |  |   |







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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING FILE NO. PZC16-005, A CITY INITIATED REQUEST TO CHANGE THE ZONING DESIGNATIONS (FILE NO. PZC16-005) ON 51 PROPERTIES AS FOLLOWS: 1) 34 PROPERTIES FROM MDR-18 (MEDIUM DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), 2) 16 PROPERTIES FROM MDR-25 (MEDIUM-HIGH DENSITY RESIDENTIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL), AND 3) ONE PROPERTY FROM CN (NEIGHBORHOOD COMMERCIAL) TO HDR-45 (HIGH DENSITY RESIDENTIAL) WITH ICC (INTERIM COMMUNITY COMMERCIAL OVERLAY), FOR PROPERTIES GENERALLY LOCATED SOUTH OF D STREET, WEST OF VINE AVENUE, NORTH OF VESTA STREET AND EAST OF SAN ANTONIO AVENUE, IN ORDER TO MAKE THE ZONING CONSISTENT WITH THE ONTARIO PLAN LAND USE DESIGNATIONS OF THE PROPERTIES, AND MAKING FINDINGS IN SUPPORT THEREOF – APNS: AS SHOWN IN EXHIBIT A (ATTACHED).

WHEREAS, City of Ontario ("Applicant") has filed an Application for the approval of a zone change, File No. PZC16-005, as described in the title of this Ordinance (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 51 properties totaling approximately 16 acres of land generally located south of D Street, west of Vine Avenue, north of Vesta Street and east of San Antonio Avenue; and

WHEREAS, the zoning of the properties is inconsistent with The Ontario Plan ("TOP") land use designations of the properties and the proposed zone changes will make the zoning consistent with TOP land use designations of the properties as shown in Exhibit A; and

WHEREAS, the City of Ontario held a community open house on December 14, 2016, to gain input from impacted property owners and property owners within a 300 foot radius; and

WHEREAS, no written public responses were received regarding the proposed zone change at the community open house and the four residents who attended were in favor of the proposed zone change; and

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

WHEREAS, the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT; and

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

WHEREAS, the environmental impacts of this project were previously reviewed in conjunction with the adoption of The Ontario Plan (File No. PGPA06-001), for which an EIR (SCH#: 2008101140) was adopted by the City Council on January 27, 2010. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are to be a condition of project approval and are incorporated herein by reference; and

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

WHEREAS, on January 24, 2017, the Planning Commission of the City of Ontario conducted a duly noticed public hearing and issued Resolution No. PC17-006, recommending the City Council approve the application; and

WHEREAS, on February 21, 2017, the City Council of the City of Ontario conducted a hearing to consider the Project and concluded said hearing on that date; and

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

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

**SECTION 1.** As the decision-making body for the Project, the City Council has reviewed and considered the information contained in the previously adopted TOP Environmental Impact Report (SCH # 2008101140) and supporting documentation. Based upon the facts and information contained in the TOP Environmental Impact Report (SCH # 2008101140) and supporting documentation, the City Council finds as follows:

a. The previous TOP Environmental Impact Report (SCH # 2008101140) contains a complete and accurate reporting of the environmental impacts associated with the Project; and

b. The previous TOP Environmental Impact Report (SCH # 2008101140) was completed in compliance with CEQA and the Guidelines promulgated thereunder; and

c. The previous TOP Environmental Impact Report (SCH # 2008101140) reflects the independent judgement of the City Council; and



d. All previously adopted mitigation measures, which are applicable to the Project, shall be a condition of Project approval and are incorporated herein by reference.

SECTION 2. Based upon the substantial evidence presented to the City Council during the above-referenced hearing and upon the specific findings set forth in Section 1 above, the City Council hereby concludes as follows:

a. The proposed Zone Change is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan as follows:

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

Compliance: Undertaking the zone changes to provide consistency between the zoning and TOP land use designations will further the City's intent of becoming a complete community which will result in a land use pattern that provides residents, employers, workers and visitors a wide spectrum of choices to live, work, shop and recreate within Ontario.

Goal H1: Stable neighborhoods of quality housing, ample community services and public facilities, well-maintained infrastructure, and public safety that foster a positive sense of identity

H1-2: *Neighborhood Conditions.* We direct efforts to improve the long-term sustainability of neighborhoods through comprehensive planning, provisions of neighborhood amenities, rehabilitation and maintenance of housing, and community building efforts.

Compliance: Changing the zoning of certain existing residential properties, to comply with our Vision, will provide for long term stability of the neighborhoods.

Goal S4: An environment where noise does not adversely affect the public's health, safety, and welfare.

S4-6: *Airport Noise Compatibility.* We utilize information from Airport Land Use Compatibility Plans to prevent the construction of new noise sensitive land uses within airport noise impact zones.

Compliance: The proposed zone changes are consistent with the adopted Airport Land Use Compatibility Plan for Ontario Airport and will not allow the addition of new units in noise sensitive locations near the airports.

b. The proposed Zone Change would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City. The proposed Zone Change will not be detrimental to the public interest, health, safety, convenience or general welfare, as the Zone Change is required to make the zoning designations consistent with TOP and will not change the existing built environment. Additionally, the proposed Zone Change will provide incentives and assist in the future redevelopment of the area that will be required to meet the High Density Residential (HDR-45) development standards.

c. The proposed Zone Change will not adversely affect the harmonious relationship with adjacent properties and land uses. The proposed Zone Change will not adversely affect the harmonious relationship with adjacent properties and land uses, as the Zone Change is required to make the zoning designations consistent with TOP and will not change the existing built environment. Additionally, the proposed Zone Change will provide incentives and assist in the future redevelopment of the area that will be required to meet the High Density Residential (HDR-45) development standards.

d. The subject site is physically suitable, including, but not limited to, parcel size, shape, access, and availability of utilities, for the request and anticipated development. The proposed Zone Change will not affect the existing built environment and the future redevelopment of these properties will be required to meet the High Density Residential (HDR-45) development standards.

SECTION 3. Based upon the findings and conclusions set forth in Sections 1 and 2 above, the City Council hereby approves the Project.

SECTION 4. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, unconstitutional or otherwise struck-down by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more portions of this Ordinance might be declared invalid.

SECTION 5. The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 6. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.

SECTION 7. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The People of the City of Ontario hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

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

SECTION 9. The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

\_\_\_\_\_  
PAUL S. LEON, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. \_\_\_\_\_ was duly introduced at a regular meeting of the City Council of the City of Ontario held February 21, 2017, and adopted at the regular meeting held \_\_\_\_\_ by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

(SEAL)






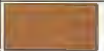



I hereby certify that the foregoing is the original of Ordinance No. \_\_\_\_\_ duly passed and adopted by the Ontario City Council at their regular meeting held \_\_\_\_\_ and that Summaries of the Ordinance were published on \_\_\_\_\_ and \_\_\_\_\_, in the Inland Valley Daily Bulletin newspaper.

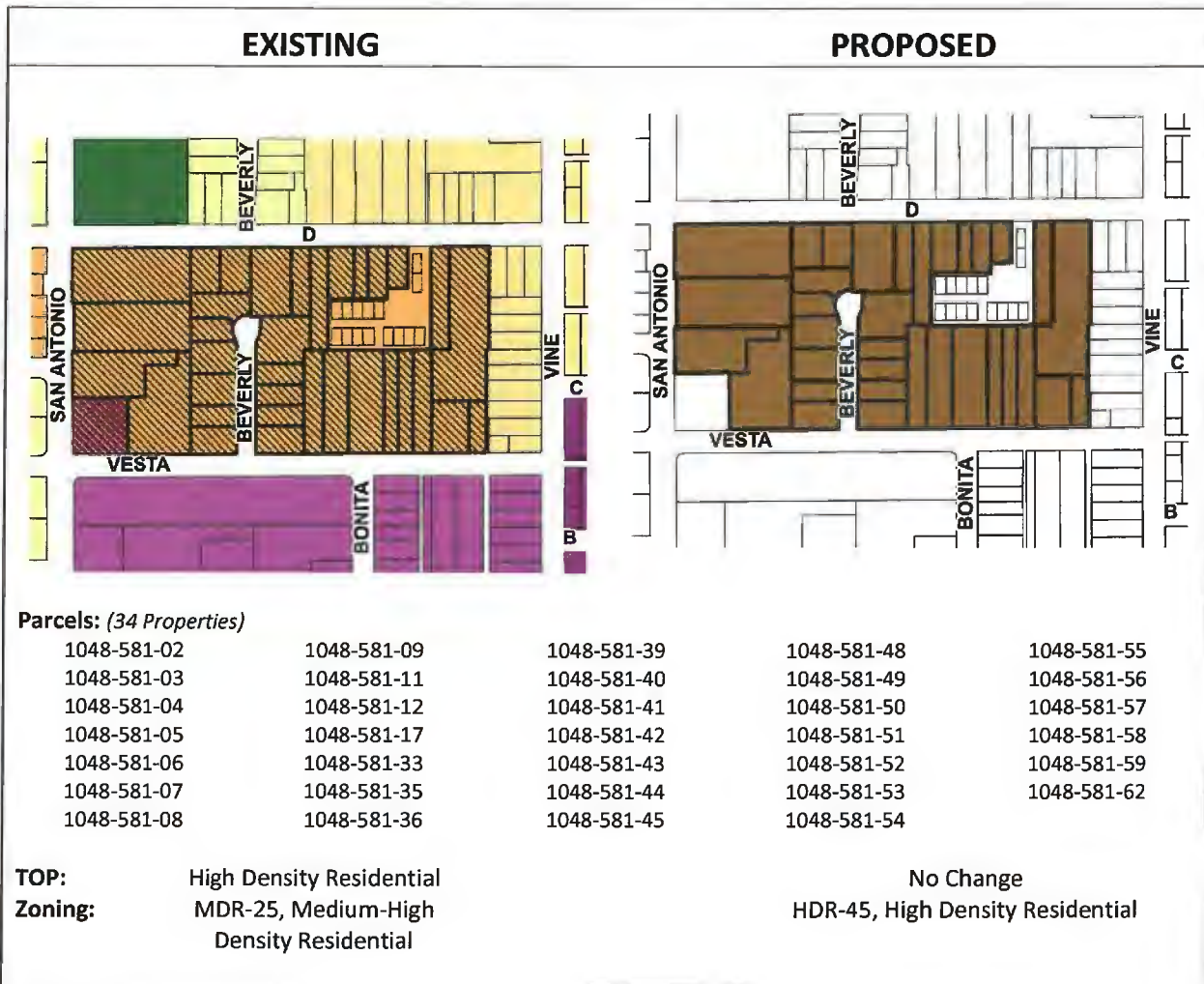
\_\_\_\_\_  
SHEILA MAUTZ, CITY CLERK

(SEAL)






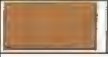



## Exhibit "A" File No. PZC16-005

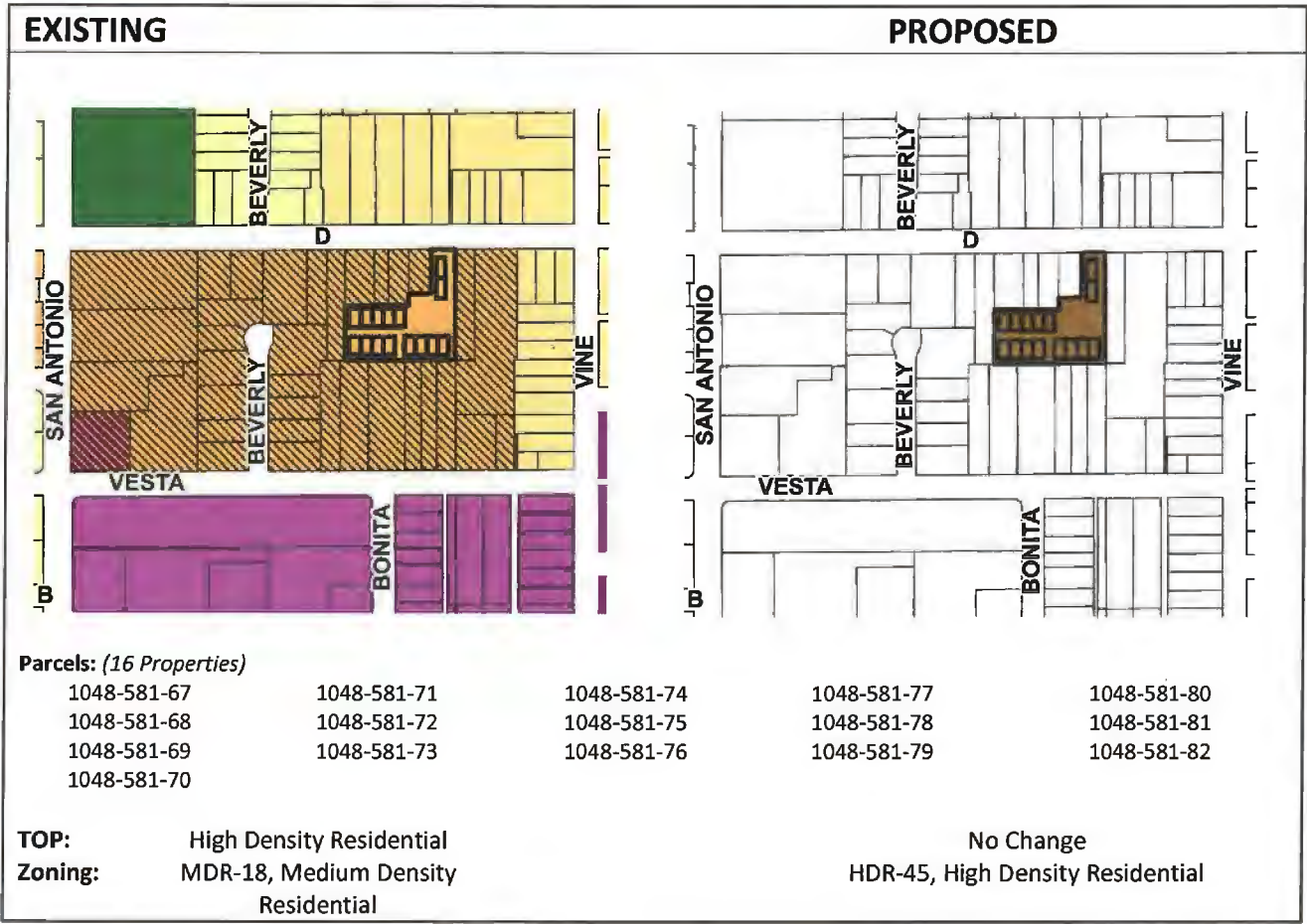
### ZONING Legend:

|   |  |   |   |   |   |   |   |
|---|--|---|---|---|---|---|---|
|  | LDR-5, Low Density Residential         |  | MDR-25, Medium-High Density Residential |  | MU, Mixed Use<br>1 - Downtown, 2-East Holt, 11-Francis&Euclid |  | OS-R, Open Space - Recreation             |
|  | MDR-11, Low-Medium Density Residential |  | HDR-45, High Density Residential        |  | CN, Neighborhood Commercial                                   |  | ICC, Interim Community Commercial Overlay |
|  | MDR-18, Medium Density Residential     |   |   |   |   |   |   |

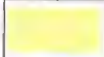



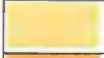
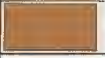

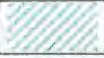



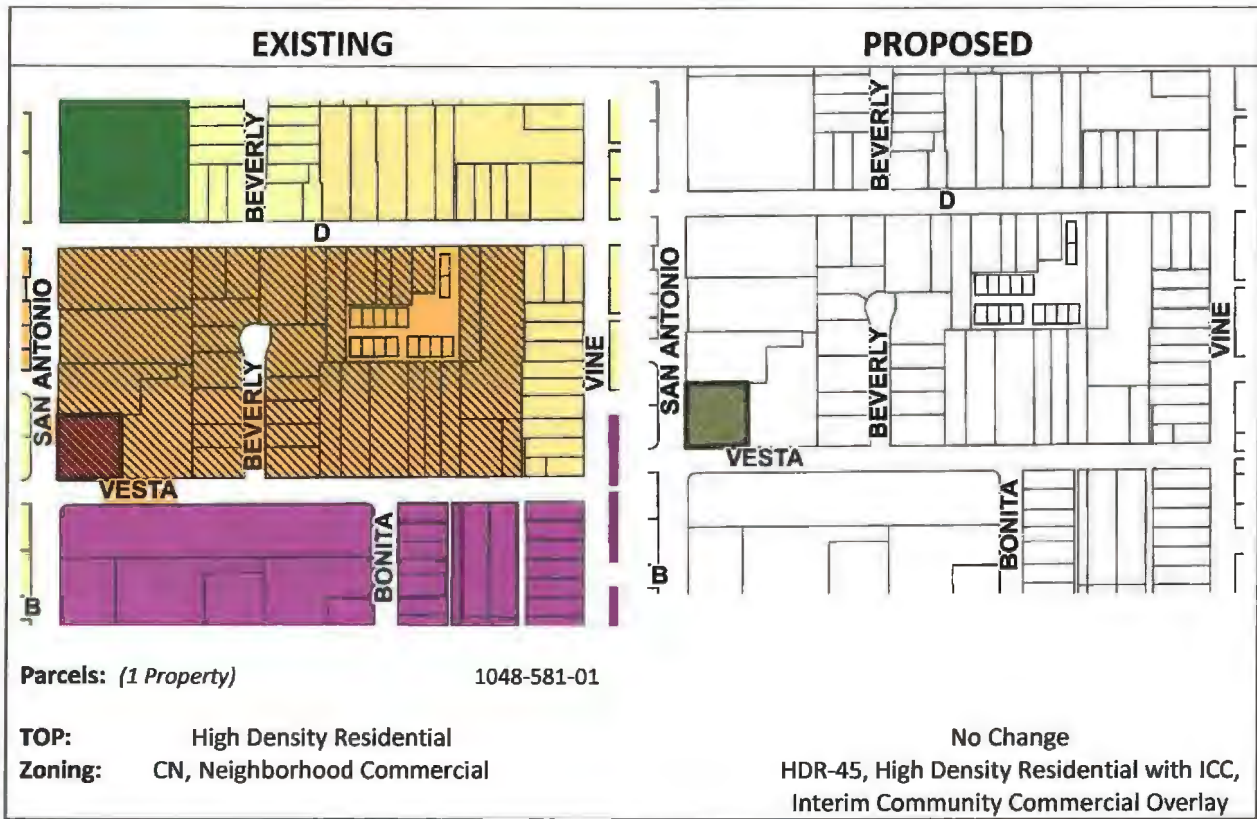
# ZONING Legend:

|   |  |   |   |   |  |   |   |
|---|--|---|---|---|--|---|---|
|  | LDR-5, Low Density Residential         |  | MDR-25, Medium-High Density Residential |  | MU, Mixed Use<br>1 – Downtown, 2-East<br>Holt, 11-Francis&Euclid |  | OS-R, Open Space -<br>Recreation          |
|  | MDR-11, Low-Medium Density Residential |  | HDR-45, High Density Residential        |  | CN, Neighborhood Commercial                                      |  | ICC, Interim Community Commercial Overlay |
|  | MDR-18, Medium Density Residential     |   |   |   |  |   |   |



# ZONING Legend:

|   |  |   |   |   |  |   |   |
|---|--|---|---|---|--|---|---|
|  | LDR-5, Low Density Residential         |  | MDR-25, Medium-High Density Residential |  | MU, Mixed Use<br>1 - Downtown, 2-East<br>Holt, 11-Francis&Euclid |  | OS-R, Open Space -<br>Recreation          |
|  | MDR-11, Low-Medium Density Residential |  | HDR-45, High Density Residential        |  | CN, Neighborhood Commercial                                      |  | ICC, Interim Community Commercial Overlay |
|  | MDR-18, Medium Density Residential     |   |   |   |  |   |   |



# CITY OF ONTARIO

Agenda Report  
February 21, 2017

SECTION:  
ADMINISTRATIVE REPORTS/  
DISCUSSION/ACTION

**SUBJECT: A RESOLUTION AUTHORIZING THE ISSUANCE OF SPECIAL TAX BONDS FOR COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES – AREA A)**

**RECOMMENDATION:** That the City Council adopt a resolution authorizing the issuance of special tax bonds for Community Facilities District No. 28 (New Haven Facilities – Area A). The resolution:

- (A) Authorizes the issuance of special tax bonds for public improvements required to facilitate the development of the New Haven Facilities – Area A project;
- (B) Approves the forms of the Indenture of Trust, the Bond Purchase Agreement, the Continuing Disclosure Agreement, and the Preliminary Official Statement;
- (C) Authorizes a negotiated sale of the special tax bonds to Stern Brothers & Co. (the “Underwriter”) in accordance with the terms of the Bond Purchase Agreement;
- (D) Authorizes the execution of the Indenture of Trust, the Bond Purchase Agreement, the Continuing Disclosure Agreement, and the Preliminary Official Statement by the City Manager, or his designee;
- (E) Authorizes the execution of the special tax bonds by the Mayor; and
- (F) Authorizes the appointment by the City Manager of a trustee for the District.

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

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

**Ensure the Development of a Well Planned, Balanced and Self-Sustaining Community in the New Model Colony**

**FISCAL IMPACT:** The use of Mello-Roos financing for public facilities in the residential development of the New Haven project is estimated to generate approximately \$8 million, which will be used to help fund a portion of the public infrastructure improvements that will serve the project. The resolution authorizing the issuance of special tax bonds for Community Facilities District No. 28 (“District”) limits the principal amount of the bonds to \$11 million. The City expects the bonds to be sold during the end of the first quarter of 2017. Since Mello-Roos bonds are not a direct obligation of the

**STAFF MEMBER PRESENTING:** Grant D. Yee, Administrative Service/Finance Director

Prepared by: Bob Chandler  
Department: Management Services

City Manager  
Approval: 

Submitted to Council/O.H.A. 02/21/2017

Approved: \_\_\_\_\_

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

Denied: \_\_\_\_\_

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City, and are paid from special taxes levied on each taxable parcel in the district, there is no General Fund impact from the issuance of Mello-Roos bonds.

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

On September 15, 2015, the City Council, in accordance with the Mello-Roos Act, took the initial steps in the formation of the District with the adoption of Resolution No. 2015-098, declaring the City's intention to establish the District and to authorize the levy of special taxes. On October 20, 2015, the City Council adopted Resolution No. 2015-111 establishing the formation of the District. Upon a successful property owner election, the City Council adopted Ordinance No. 3031 on November 3, 2015, authorizing the levy of special taxes for the District to finance public improvements related to the New Haven project. The New Haven Facilities – Area A project addresses the residential development of approximately 53 acres located east of Turner Avenue, west of Haven Avenue, south of Schaefer Avenue and north of Ontario Ranch Road. At build out, the development is projected to include 240 detached units and 92 attached units.

The City's Mello Roos Local Goals and Policies state that the required value of each parcel generally must be at least three times the sum of the principal amount of the Community Facilities District bonds allocable to the parcel. In this proposed issuance, the values of 5 of the 336 parcels are less than three times the sum of the principal amount of the bonds allocable to them. The values of these 5 parcels average 2.73% of the principal amount of the bonds allocable to them. However, since this number of parcels represents less than 1.5% of the total number of parcels that will be subject to the lien of the proposed bonds, and since the 2.73 to 1 average lien to value ratio is greater than 90% of the 3 to 1 lien to value ratio generally required by the Local Goals and Policies, it is recommended that a waiver of the requirement be granted in this instance.

The proposed resolution references several bond documents and other matters related to the proposed issuance of bonds for the District. These documents are listed below and are on file with the Records Management Department.

- Indenture of Trust
- Bond Purchase Agreement
- Continuing Disclosure Agreement for the Bonds
- Preliminary Official Statement for the Bonds

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE ISSUANCE OF CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 28 (NEW HAVEN FACILITIES - AREA A) SPECIAL TAX BONDS, SERIES 2017, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$11,000,000, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE, A BOND PURCHASE AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT, AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION THEREWITH AND AUTHORIZING THE EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND RELATED ACTIONS.

WHEREAS, the City Council (the "City Council") of the City of Ontario (the "City") has formed the City of Ontario Community Facilities District No. 28 (New Haven Facilities - Area A) (the "Community Facilities District") under the provisions of the Mello-Roos Community Facilities Act of 1982 (the "Act"); and

WHEREAS, the Community Facilities District is authorized under the Act to levy special taxes (the "Special Taxes") to pay for the costs of certain public facilities (the "Facilities") and to issue bonds payable from the Special Taxes; and

WHEREAS, in order to provide funds to finance certain of the Facilities, the Community Facilities District proposes to issue its City of Ontario Community Facilities District No. 28 (New Haven Facilities - Area A) Special Tax Bonds, Series 2017 (the "Series 2017 Bonds"), in the aggregate principal amount of not to exceed \$11,000,000; and

WHEREAS, in order to provide for the authentication and delivery of the Series 2017 Bonds, to establish and declare the terms and conditions upon which the Series 2017 Bonds are to be issued and secured and to secure the payment of the principal thereof, premium, if any, and interest thereon, the Community Facilities District proposes to enter into an Indenture with The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee") (such Indenture, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Indenture"); and

WHEREAS, Stern Brothers & Co. (the "Underwriter"), has presented the Community Facilities District with a proposal, in the form of a Bond Purchase Agreement, to purchase the Series 2017 Bonds from the Community Facilities District (such Bond Purchase Agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Purchase Agreement"); and

WHEREAS, Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 ("Rule 15c2-12") requires that, in order to be able to purchase or sell the Series 2017 Bonds, the underwriter thereof must have reasonably determined that the

Community Facilities District has, or one or more appropriate obligated persons have, undertaken in a written agreement or contract for the benefit of the holders of the Series 2017 Bonds to provide disclosure of certain financial information and certain material events on an ongoing basis; and

WHEREAS, in order to cause such requirement to be satisfied, the Community Facilities District desires to enter into a Continuing Disclosure Agreement with the Trustee (such Continuing Disclosure Agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Continuing Disclosure Agreement"); and

WHEREAS, a form of the Preliminary Official Statement to be distributed in connection with the public offering of the Series 2017 Bonds has been prepared (such Preliminary Official Statement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Preliminary Official Statement"); and

WHEREAS, there have been prepared and submitted to this meeting forms of:

- (a) the Indenture;
- (b) the Purchase Agreement;
- (c) the Continuing Disclosure Agreement; and
- (d) the Preliminary Official Statement;

WHEREAS, Harris Realty Appraisal has prepared and provided to the Community Facilities District an appraisal report, dated January 4, 2017 (the "Appraisal"), providing an opinion of value of the property in the Community Facilities District, which has been submitted to this meeting; and

WHEREAS, the Community Facilities District desires to proceed to issue and sell the Series 2017 Bonds and to authorize the execution of such documents and the performance of such acts as may be necessary or desirable to effect the offering, sale and issuance of the Series 2017 Bonds; and

WHEREAS, the City Council is the legislative body of the Community Facilities District; and

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. Subject to the provisions of Section 3 hereof, the issuance of the Series 2017 Bonds, in an aggregate principal amount of not to exceed \$11,000,000, on the terms and conditions set forth in, and subject to the limitations specified in, the Indenture, be and the same is hereby authorized and approved. The Series 2017 Bonds

shall be dated, shall bear interest at the rates, shall mature on the dates, shall be subject to call and redemption, shall be issued in the form and shall be as otherwise provided in the Indenture, as the same shall be completed as provided in this Resolution.

**SECTION 3.** The Indenture, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. Each of the Mayor of the City, and such other member of the City Council as the Mayor may designate, the City Manager of the City and the Administrative Services/Finance Director of the City, and such other officer or employee of the City as the City Manager may designate (the "Authorized Officers") is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the Community Facilities District, to execute and deliver the Indenture in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Indenture by such Authorized Officer; provided, however, that such changes, insertions and omissions shall not authorize an aggregate principal amount of Series 2017 Bonds in excess of \$11,000,000, shall not result in a final maturity date of the Series 2017 Bonds later than September 1, 2047 and shall not result in a true interest cost for the Series 2017 Bonds in excess of 6.50%.

**SECTION 4.** The Purchase Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein, be and the same is hereby approved. Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the Community Facilities District, to execute and deliver the Purchase Agreement in the form presented to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Purchase Agreement by such Authorized Officer; provided, however, that such changes, insertions and omissions shall not result in an aggregate underwriter's discount (not including any original issue discount) from the principal amount of the Series 2017 Bonds in excess of 1.25% of the aggregate principal amount of the Series 2017 Bonds. The City Council hereby finds and determines that the sale of the Series 2017 Bonds at negotiated sale as contemplated by the Purchase Agreement will result in a lower overall cost.

**SECTION 5.** The Continuing Disclosure Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein, be and the same is hereby approved. Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the Community Facilities District, to execute and deliver the Continuing Disclosure Agreement in the form presented to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Continuing Disclosure Agreement by such Authorized Officer.

SECTION 6. The Preliminary Official Statement, in substantially the form presented to this meeting and made a part hereof as though set forth in full herein, with such changes, insertions and omissions therein as may be approved by an Authorized Officer, be and the same is hereby approved, and the use of the Preliminary Official Statement in connection with the offering and sale of the Series 2017 Bonds is hereby authorized and approved. The Authorized Officers are each hereby authorized to certify on behalf of the Community Facilities District that the Preliminary Official Statement is deemed final as of its date, within the meaning of Rule 15c2-12 (except for the omission of certain final pricing, rating and related information as permitted by Rule 15c2-12).

SECTION 7. The preparation and delivery of a final Official Statement (the "Official Statement"), and its use in connection with the offering and sale of the Series 2017 Bonds, be and the same is hereby authorized and approved. The Official Statement shall be in substantially the form of the Preliminary Official Statement, with such changes, insertions and omissions as may be approved by an Authorized Officer, such approval to be conclusively evidenced by the execution and delivery thereof. Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the Community Facilities District, to execute the final Official Statement and any amendment or supplement thereto.

SECTION 8. Based upon the property values within the Community Facilities District reported in the Appraisal and the value-to-lien information set forth in the Preliminary Official Statement, the City Council, for purposes of Section 53345.8 of the Act, hereby finds and determines that the value of the real property that would be subject to the Special Tax to pay debt service on the Series 2017 Bonds will be at least three times the principal amount of the Series 2017 Bonds to be sold and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within the Community Facilities District or a special assessment levied on property within the Community Facilities District.

SECTION 9. The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

SECTION 10. This Resolution shall take effect immediately upon its adoption.

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

PASSED, APPROVED, AND ADOPTED this 21<sup>st</sup> day of February 2017.

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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. 2017-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held February 21, 2017 by the following roll call vote, to wit:

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

(SEAL)

The foregoing is the original of Resolution No. 2017-    duly passed and adopted by the Ontario City Council at their regular meeting held February 21, 2017.

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

(SEAL)