

**CITY OF ONTARIO  
CITY COUNCIL AND HOUSING AUTHORITY  
AGENDA  
NOVEMBER 19, 2019**

**Paul S. Leon**  
Mayor

**Ruben Valencia**  
Mayor pro Tem

**Alan D. Wapner**  
Council Member

**Jim W. Bowman**  
Council Member

**Debra Dorst-Porada**  
Council Member



**Scott Ochoa**  
City Manager

**Scott E. Huber**  
City Attorney

**Sheila Mautz**  
City Clerk

**James R. Milhiser**  
Treasurer

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

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

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

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

**CALL TO ORDER (*OPEN SESSION*)**

**6:00 p.m.**

***ROLL CALL***

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

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

***CLOSED SESSION***

- GC 54956.9 (d)(2) and (e)(3), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: *Two cases.*
- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: *City of Ontario, et al v. The Lanting Family, LLC, et al. San Bernardino Superior Court Case No. CIVDS1618637*

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

***PLEDGE OF ALLEGIANCE***

Council Member Bowman

***INVOCATION***

Pastor John Heary, Turning Point International Ministries

**REPORT ON CLOSED SESSION**

City Attorney

**PUBLIC COMMENTS**

**6:30 p.m.**

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

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 October 15, 2019, approving same as on file in the Records Management Department.

**2. BILLS/PAYROLL**

**Bills** October 11, 2019 through October 31, 2019 and **Payroll** September 29, 2019 through October 26, 2019, when audited by the Finance Committee.

**3. AN ORDINANCE AMENDING CHAPTER 31 OF TITLE 5 OF THE ONTARIO MUNICIPAL CODE RELATING TO SIDEWALK VENDING**

That the City Council consider and adopt an ordinance amending Chapter 31 of Title 5 of the Ontario Municipal Code to establish an application process for sidewalk vendors to obtain required permits in order to conduct business.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 31 OF TITLE 5 OF THE ONTARIO MUNICIPAL CODE RELATING TO SIDEWALK VENDING.

**4. A CONSTRUCTION CONTRACT FOR TRAFFIC SIGNAL MODIFICATIONS ON VINEYARD AVENUE AT SIXTH STREET AND GROVE AVENUE AT FRANCIS STREET/CALIFORNIA PROFESSIONAL ENGINEERING, INC.**

That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) with California Professional Engineering, Inc. of La Puente, California, for the modification of traffic signals on Vineyard Avenue at Sixth Street and Grove Avenue at Francis Street in the bid amount of \$140,568 plus a fifteen percent (15%) contingency of \$21,085, for a total authorized expenditure of \$161,653; and authorize the City Manager to execute said contract and all related documents, and file a notice of completion at the conclusion of all construction activities.

**5. AN AMENDMENT TO THE COOPERATIVE AGREEMENT FOR THE SR-60 AT ARCHIBALD AVENUE INTERCHANGE PROJECT/SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY (SBCTA)**

That the City Council approve Amendment No. 3 in the amount of \$755,380 to Cooperative Agreement R14138 (15-1001150) (on file in the Records Management Department) with San Bernardino County Transportation Authority (SBCTA) for funding the State Route 60 (SR-60) at Archibald Avenue Interchange Project (Project); and authorize the City Manager to execute said agreement and future amendments within the authorization limits.

**6. A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19904 LOCATED AT THE SOUTHWEST CORNER OF MERRILL AVENUE AND ARCHIBALD AVENUE**

That the City Council consider and adopt a resolution approving an improvement agreement, improvement security and Final Parcel Map No. 19904 located at the southwest corner of Merrill Avenue and Archibald Avenue within the Colony Commerce Center East Specific Plan area.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19904 LOCATED AT THE SOUTHWEST CORNER OF MERRILL AVENUE AND ARCHIBALD AVENUE.

**7. A MAINTENANCE SERVICE AGREEMENT FOR CUSTODIAL SERVICES AT VARIOUS CITY LOCATIONS/MERCHANTS BUILDING MAINTENANCE**

That the City Council authorize the City Manager to execute a three-year Maintenance Services Agreement (on file in the Records Management Department) with Merchants Building Maintenance, of Pomona, California, for an estimated cost of \$963,590; and authorize the addition of future service areas; and authorize the option to extend the agreement for up to two additional years, consistent with City Council approved budgets.

**8. PRE-AUTHORIZED LIST OF VENDORS TO PROVIDE SPECIALIZED PERSONAL PROTECTIVE EQUIPMENT AND MAINTENANCE**

That the City Council approve pre-authorized vendors to provide personal protective equipment and maintenance services for emergency equipment for the Fire Department.

**9. ORDINANCES TO ADOPT THE 2018 INTERNATIONAL FIRE CODE AND 2019 CALIFORNIA STATE FIRE AND BUILDING CODES**

That the City Council:

- (A) Adopt an ordinance amending Chapter 4, Title 4 of the Ontario Municipal Code entitled “Fire Code” adopting by reference, with certain amendments, additions, deletions, and exceptions, the 2018 International Fire Code and the 2019 California Fire Code (California Code of Regulations, Title 24, Part 9); and
- (B) Adopt an ordinance amending Chapters 1, 2, 3, 4, 5, 6, 7, 11, and 12 of Title 8 of the Ontario Municipal Code to adopt the California Building Standards Code.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 4 OF TITLE 4 OF THE ONTARIO MUNICIPAL CODE; ADOPTING BY REFERENCE WITH CERTAIN AMENDMENTS, ADDITIONS, DELETIONS, AND CHANGES THERETO, THE 2019 CALIFORNIA FIRE CODE AND THE 2018 INTERNATIONAL FIRE CODE, PROVIDING FOR THE RECOVERY OF COSTS AND COLLECTION OF FEES; AND REPEALING ORDINANCE NO. 3062 OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTERS 1, 2, 3, 4, 5, 6, 7, 11, AND 12 OF TITLE 8 OF THE ONTARIO MUNICIPAL CODE, ADOPTING BY REFERENCE THE 2019 EDITION OF THE CALIFORNIA BUILDING STANDARDS CODE, INCORPORATING THE 2019 CALIFORNIA BUILDING CODE, THE 2019 CALIFORNIA MECHANICAL CODE, THE 2019 CALIFORNIA ELECTRICAL CODE, THE 2019 CALIFORNIA RESIDENTIAL CODE, THE 2019 CALIFORNIA PLUMBING CODE, THE 2019 CALIFORNIA GREEN BUILDING STANDARDS CODE, THE 1997 EDITION OF THE UNIFORM HOUSING CODE, AND THE 1997 EDITION OF THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS; TOGETHER WITH CERTAIN AMENDMENTS THERETO.

**10. APPROVAL OF SECOND AMENDMENT TO THE 2007 JACK GALVIN MOBILE HOME PARK ACCORD**

That the City Council approve a five-year extension and the Second Amendment to the 2007 Jack Galvin Mobile Home Park Accord between the City of Ontario and owners of the mobile home parks within the City of Ontario and establishing maximum rent adjustments.

**11. RESOLUTIONS APPROVING TIME EXTENSIONS FOR TENTATIVE TRACT MAP NOS. 18026 (FILE NO. PMTT11-003) AND 18027 (FILE NO. PMTT11-002) LOCATED WITHIN THE WEST HAVEN SPECIFIC PLAN**

That the City Council consider and adopt resolutions approving a five-year time extension for:

- (A) Tentative Tract Map 18026 (File No. PMTT11-003) to subdivide 19.73 acres of land into 102 residential lots and 10 lettered lots, within the Planning Area 4 (3,825 Min. Sq. Ft. Lots) of the West Haven Specific Plan, located at the northwest corner of Haven Avenue and Chino Avenue (APN 0218-151-11); and
- (B) Tentative Tract Map 18027 (File No. PMTT11-002) to subdivide 29 acres of land into 94 residential lots and 5 lettered lots, within the Planning Area 8 (4,250 Min. Sq. Ft. Lots) of the West Haven Specific Plan, located at the northwest corner of Haven Avenue and Schaefer Avenue (APN 0218-151-38).

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A FIVE-YEAR TIME EXTENSION FOR FILE NO. PMTT11-002 (TT18027), SUBDIVIDING 29 ACRES OF LAND INTO 94 RESIDENTIAL LOTS AND 5 LETTERED LOTS, WITHIN PLANNING AREAS 8 (4,250 MIN. S.F. LOTS) OF THE WEST HAVEN SPECIFIC PLAN, LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND SCHAEFER AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-151-38.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A FIVE-YEAR TIME EXTENSION FOR FILE NO. PMTT11-003 (TT18026), SUBDIVIDING 19.73 ACRES OF LAND INTO 102 RESIDENTIAL LOTS AND 10 LETTERED LOTS, WITHIN PLANNING AREAS 4 (3,825 MIN. S.F. LOTS) OF THE WEST HAVEN SPECIFIC PLAN, LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND CHINO AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-151-11.

**12. A PROFESSIONAL SERVICE AGREEMENT FOR THE PREPARATION OF THE ONTARIO GREAT PARK MASTER PLAN/SWA GROUP**

That the City Council authorize the City Manager to execute a Professional Services Agreement (on file with the Records Management Department) not to exceed \$402,500 with SWA Group, a California Corporation, of Laguna Beach, California, to prepare the Ontario Great Park Master Plan, and approve any future budget adjustments necessary to complete the Master Plan.

**13. A WATER PURCHASE AGREEMENT WITH GENON CALIFORNIA SOUTH LP**

That the City Council approve and ratify the City Manager's execution of a water purchase agreement (on file in the Records Management Department) with GenOn California South LP, a Delaware limited partnership (as successor-in-interest to NRG California South LP), for the permanent transfer of overlying groundwater rights and stored water in the amount of \$14,100,000.

**14. APPROVAL OF YOUTH SPORTS LEAGUE LICENSE AGREEMENTS FOR THE USE OF CITY PARKS AND FACILITIES**

That the City Council approve and authorize the City Manager to execute one-year License Agreements (on file in the Records Management Department) between the City of Ontario and local youth baseball, softball and soccer organizations for the use of City parks and facilities.

**PUBLIC HEARINGS**

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

**15. A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 46 (AVENUE 176 FACILITIES); ADOPTION OF A RESOLUTION TO INCUR BONDED INDEBTEDNESS; AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES**

That the City Council consider and:

- (A) Adopt a resolution establishing Community Facilities District No. 46 (Avenue 176 Facilities), authorizing the levy of special taxes within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution deeming it necessary to incur bonded indebtedness within Community Facilities District No. 46 (Avenue 176 Facilities);
- (C) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities);
- (D) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
- (E) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities); and
- (F) Adopt a resolution authorizing the execution and delivery of an acquisition and funding agreement with Lennar Homes of California Inc., a California corporation.

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

Written communication.  
Oral presentation.  
Public hearing closed.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 46 (AVENUE 176 FACILITIES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 46 (AVENUE 176 FACILITIES).

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 46 (AVENUE 176 FACILITIES).



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 46 (AVENUE 176 FACILITIES).

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AND FUNDING AGREEMENT WITH LENNAR HOMES OF CALIFORNIA, INC.

**STAFF MATTERS**

City Manager Ochoa

**COUNCIL MATTERS**

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

**ADJOURNMENT**

**CITY OF ONTARIO**  
**CLOSED SESSION REPORT**  
City Council // Housing Authority // Other // (GC 54957.1)  
**November 19, 2019**

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

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

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

- GC 54956.9 (d)(2) and (e)(3), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: *Two cases.*

**No Reportable Action      Continue      Approved**

/ /                          / /                          / /

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

- GC 54956.9 (d)(1), CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION: City of Ontario, et al v. The Lanting Family, LLC, et al. San Bernardino Superior Court Case No. CIVDS1618637

**No Reportable Action      Continue      Approved**

/ /                          / /                          / /

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

Reported by:

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

# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN ORDINANCE AMENDING CHAPTER 31 OF TITLE 5 OF THE ONTARIO MUNICIPAL CODE RELATING TO SIDEWALK VENDING**

**RECOMMENDATION:** That the City Council consider and adopt an ordinance amending Chapter 31 of Title 5 of the Ontario Municipal Code to establish an application process for sidewalk vendors to obtain required permits in order to conduct business.

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

**FISCAL IMPACT:** None.

**BACKGROUND:** On November 5, 2019, the City Council introduced and waived further reading of an ordinance amending Chapter 31 of Title 5 of the Ontario Municipal Code regarding the establishment of an application process for sidewalk vendors to obtain required permits in order to conduct business.

A summary of the proposed Municipal Code amendments is listed below:

1. Section 5-31.01 Findings. The proposed ordinance also includes additional findings related to the objective health, safety, and welfare reasons for the implementation.
2. Section 5-31.02 Definitions. The proposed ordinance amends and adds definitions to clarify its implementation:
  - a. Revisions to definition of "Sidewalk vendor" to include persons: (i) who take orders for future delivery and (ii) who are directing their business towards pedestrians on the sidewalk.

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

Prepared by: Erin Bonett  
Department: Community Improvement

City Manager Approval: 

Submitted to Council/O.H.A. 11/19/2019

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

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

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

3

- b. Added a definition for stationary sidewalk vendor (to compliment already existing definition for roaming sidewalk vendor).
3. Added 5-31.03. The proposed ordinance establishes a Sidewalk Vending Permit to allow for simplified licensing by Sidewalk Vendors and effective enforcement by Community Improvement Officers.

The major new provisions under Section 5-31.03 include:

- a. All persons engaging in Sidewalk Vending are required to have a permit.
- b. Exceptions for government agencies, newspapers, real estate agents, and persons engaged in protected first amendment activities. The exceptions are limited to the Sidewalk Vending Permit and do not apply to any other requirements for licenses/permits that may be required elsewhere in the Municipal Code.
- c. The form and information required closely follows the existing Solicitor Permit application process for ease of implementation.
- d. The Sidewalk Vendor Permit must be issued or denied within 30 days following the completed investigation/report on the application by City agencies, including any background check completed by the Police Department.
- e. Permits are issued in the form of an identification card, which must be carried at all times and provided upon request to City enforcement officers.
- f. The Ordinance provides for a fee to be set by the City Council for the application process and renewal.
- g. The Sidewalk Vending Permit is valid for same length of time as a business license and can be renewed as same time.

Any person who has their permit denied or suspended may appeal to the decision

Staff recommends taking final action on this matter.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, AMENDING CHAPTER 31 OF TITLE 5 OF THE ONTARIO  
MUNICIPAL CODE RELATING TO SIDEWALK VENDING.

WHEREAS, in 2018 the State Legislature enacted the Safe Sidewalk Vending Act, commonly known as SB 946, which added Sections 51036 *et. seq.* to the Government Code and sets forth limitations on the ability of local authorities to prohibit or regulate Sidewalk Vending, as defined in the Act; and

WHEREAS, SB 946 permits local authorities to establish reasonable regulations on Sidewalk Vending to protect valid health, safety and welfare concerns; and

WHEREAS, in December of 2018 the City Council adopted Urgency Ordinance Ord. No. 3123, which added Chapter 31 to Title 5 of the Ontario Municipal Code regulating Sidewalk Vending; and

WHEREAS, the City Council desires to amend its existing Sidewalk Vending regulations contained in Chapter 31 of Title 5, consistent with SB 946, to regulate sidewalk vendors.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF ONTARIO, AS FOLLOWS:

**SECTION 1. *Incorporation of Recitals.*** The above recitals and findings are true and correct and are incorporated herein by this reference.

**SECTION 2. *Amendment.*** Chapter 32 of Title 5 of the Ontario Municipal Code is hereby amended in its entirety to read as follows:

**"Chapter 31 - SIDEWALK VENDING.**

**Sec. 5-31.01. Purpose; Findings.**

The City Council finds that the vending of prepared or pre-packaged foods, goods, and/or wares at semi-permanent locations on public sidewalks and rights-of-way may pose unsafe conditions and special dangers to the public health, safety, and welfare of residents and visitors. The purpose of this Chapter is to implement regulations on both roaming and stationary sidewalk vending that protect the public health, safety, and welfare of the community while complying with the requirements of general state law, as amended from time to time, to promote safe vending practices, prevent safety, traffic, and health hazards, and preserve the public peace, safety, and welfare of the community. The activities of sidewalk vendors, who set up stands on sidewalks or move from place to place as a roaming vendor, have the potential for vendors to engage in illegal activities, including but not limited to the sale of illegal substances or merchandise and the sale of counterfeit products, and many sidewalk vendors sell products which are targeted

towards and purchased by children, which necessitates background checks for vendors to assure that any past improprieties are disclosed to the permitting authority and in order to ensure the safety of residents and the merchantability of products sold by vendors without fixed places of business. The activities of sidewalk vendors also have the potential to cause injury to persons or property by the manner in which they are sited, or by their movement on sidewalks that are otherwise used by the traditional activities of pedestrians and vehicles on adjacent streets for access, transport, delivery of merchandise to local businesses, exercise and related activities. As sidewalk vending activities have significant potential to be physically incompatible with the general public's traditional use of sidewalks, reasonable regulations, including siting restrictions, are necessary to protect the public health, safety and welfare to ensure sidewalks are safe and passable, especially for pedestrians and the physically disabled.

**Sec. 5-31.02. Definitions.**

For purposes of this Chapter, the following definitions apply:

A. "Certified Farmers' Market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.

B. "City" means the City of Ontario.

C. "Park" means a public park owned by a governmental entity.

D. "Roaming sidewalk vendor or vending" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

E. "Sidewalk vendor or vending" means a person who sells, offers to sell, or takes orders for food or merchandise, or operates, engages in, or carries on a food or merchandise vending business, from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon, or directed towards pedestrians upon, a public sidewalk or other pedestrian path.

F. "Stationary sidewalk vendor or vending" means a sidewalk vendor who vends from a fixed location.

G. "Swap Meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

H. "Temporary Event Permit" means a permit issued by the City of Ontario for temporary uses (i.e. special event permits, temporary use permits, film permits, or park reservations).

I. "Downtown" means non-residential areas bounded to the west by N. Palm Avenue, to the north by G Street, to the east by N. Lemon Avenue, and to the south by Emporia Street.

J. "Event Day" means the calendar day of any concert, trade show, conference, sporting event, or any other event potentially attracting large numbers of persons and vehicles to the venue.

**Sec. 5-31.03. Permit Required.**

A. Except as provided in Subsection B below, it is unlawful for any person to engage in the business of sidewalk vendor or vending, or to go from door to door or home to house or street to street for the purpose, direct or indirect, and whether or not the same is the sole purpose, of vending, without first obtaining a permit and paying the applicable fees as provided in this chapter.

B. The persons and entities listed below shall not be required to obtain the sidewalk vendor permit required by Subsection A above, however, nothing in this Subsection B shall relieve those persons and entities listed below from any other provision of this Chapter or Code, including, but not limited to, the provisions of Chapter 1 of Title 3 related to Business Licensing Regulations.

1. Persons soliciting orders from, or selling to, retail dealers for use, or for resale or to manufacturers for processing;

2. Public agencies, such as Federal, State or local agencies supported by tax funds;

3. Any person operating a regular delivery route from a non-fixed location with deliveries not less than once a week for newspapers, dairy products, or for laundry or dry-cleaning services;

4. Persons delivering or soliciting for a newspaper of general circulation;

5. Licensed real estate persons;

6. Persons solely distributing literature, writings or merchandise which seek to inform or persuade the listener to support particular causes or particular views on economic, political or social issues;

7. Persons solely soliciting signatures for referenda, recall, initiative, candidates for public office or similar electoral processes; and

8. Persons soliciting funds for any religious, patriotic, philanthropic, social service, environmental, fraternal, or charitable purposes.

C. The "Executive Director of Finance or their designee" shall prescribe the forms and procedures for applications for a permit under this chapter. The forms shall indicate the fee for the application, the fee for the permit and the insurance requirements of this chapter, if any. The application shall be verified and shall set forth:

1. The full name, permanent home address, and full local address of the applicant;
2. A brief description of the nature of the business and the goods to be sold;
3. If employed, the name and address of the employer and the name and address of any local or State office or manager, together with credentials establishing the exact relationship;
4. The proposed operating hours of the applicant;
5. A general description of the location or area the sidewalk vendor intends to operate;
6. Evidence that the applicant has their photograph and fingerprints on file with the Police Department; and
7. A statement as to whether the applicant has been convicted of any crime, misdemeanor, or violation of any municipal law, the nature of the offense, and the punishment or penalty assessed therefor.
8. Other information the "Executive Director of Finance or their designee" deems necessary to process the application.

D. The "Executive Director of Finance or their designee" shall refer the completed application for the permit required by this chapter to the appropriate City officials for investigation and report as necessary. The "Executive Director of Finance or their designee" shall issue or deny the permit within thirty (30) days following such investigation and reports. Each permit so issued shall state on the face thereof the date of expiration.

E. A permit may be denied by the "Executive Director of Finance or their designee" on the following grounds:

1. The applicant, employee or agent has been convicted of a felony or misdemeanor involving bodily injury to persons, theft, fraud or misrepresentation;
2. The applicant has violated the provisions of this chapter or any other provision of this Code;
3. The applicant's permit has been previously revoked as provided in this chapter; or
4. The applicant has provided false information on the permit application.



F. The “Executive Director of Finance or their designee” shall notify the applicant of the denial by depositing written notice of such decision in the first-class U.S. mail, postage prepaid, addressed to the applicant, not later than ten (10) days following the date of such decision. A notice of denial of an application must contain a statement of the facts upon which the denial is based and must contain a statement of the appeal procedure contained in Subsection K below.

G. All permits issued under this chapter shall be in the form of an identification card, which shall include a photo of the permittee, in a format prescribed by the “Executive Director of Finance or their designee”.

H. Every Sidewalk Vendor issued a permit shall display the same on their person and provide the same on request to any person or persons they deal with, to any police officer or to any designated City official. It shall be unlawful for any person other than the permittee to use or wear any permit issued under the provisions of this chapter.

I. All applications for permits under the provisions of this chapter shall be accompanied by an application fee as may be set from time to time by the City Council. No application fee paid under this chapter shall be refunded. All original permits and renewals granted under this chapter shall also require a fee as may be set from time to time by the City Council. All permits issued under the provisions of this chapter shall be valid for up to one year. A permit may be renewed by the timely payment of a renewal fee prior to the expiration of the permit as may be set from time to time by the City Council. All permits shall cease and terminate thirty (30) days after the default of payment. Any permit that has terminated pursuant to this chapter shall require the filing of a new application for a permit under this chapter. Such fees shall be established by resolution of the City Council.

J. Whenever it is shown that any person to whom a permit has been issued has caused, permitted, aided, abetted, suffered or concealed a violation any of the provisions of this chapter four or more times within one year, the “Executive Director of Finance or their designee” shall immediately suspend the permit and give the permit holder a written notice in person or by mail of the suspension. The notice must contain a statement of the facts upon which the “Executive Director of Finance or their designee” has acted in suspending the permit. The notice must contain a statement of the appeal procedure contained in Subsection K below.

K. Any person aggrieved by the determination of the “Executive Director of Finance or their designee” to deny the issuance of a permit or to suspend a permit may appeal such decision to the City Manager or their designee. Such appeal shall be taken by filing a written notice of appeal with the City Clerk within ten (10) days of the date of the decision to deny or revoke and shall set forth the grounds for the appeal. A failure to file a timely appeal shall render the decision to deny or suspend a permit final. The City Manager or their designee shall set a time and place for a hearing on the appeal within ten (10) days of the filing of the appeal. The determination of the City Manager or their designee following the hearing shall be in writing and shall be sent to the permit holder. The decision of the City Manager or their designee shall be final and conclusive.

**Sec. 5-31.04. Stationary Sidewalk Vending Locations and Standards.**

A. Stationary sidewalk vendors shall be prohibited from operating or establishing in any residential zone of the City.

B. Stationary sidewalk vendors may operate in non-residential zones of the City, including mixed use zones, provided they meet the following:

1. The sidewalk vendor can set up vending operations while still leaving a minimum of thirty-six inches (36") of accessible path of travel, without obstruction, along the public sidewalk or public pathway; and
2. The sidewalk vendor maintains the vending area in a clean, orderly, and sanitary condition; and
3. The sidewalk vendor location does not block entrances to buildings, driveways, parking spaces or building windows; and
4. No vending shall occur within ten (10) feet of a fire hydrant, fire escape, bus stop, loading zone, handicapped parking space or access ramp, fire station driveway, or police station driveway; and
5. No tables, chairs, fences, shade structures, other site furniture, or any freestanding signs shall be permitted in conjunction with the vendors' vending activities; and
6. The vendor shall not attach or use any water lines, electrical lines, or gas lines during vending operations; and
7. Exterior storage or display of refuse, equipment, materials, goods, wares, or merchandise associated with the vendor is prohibited; and
8. No vending shall occur within five hundred (500) feet of a Certified Farmers' Market, a Swap Meet, construction-related street or lane closure, filming location, the Ontario International Airport, or an event held pursuant to a Temporary Event Permit; and
9. No vending shall occur within five hundred (500) feet of the City-owned arena located at 4000 East Ontario Center Parkway, Ontario, CA 91764, the Ontario Convention Center, or Ontario Town Square on event days; and
10. No vending shall occur in Downtown commercial areas where there is a likelihood of overcrowding on the sidewalk or overcrowding of parking, such as, but not limited to with the potential of causing pedestrian and traffic safety issues; and
11. No vending shall occur within a comer cutoff area. A comer cutoff area is that area at all intersecting and intercepting streets or highways. The cutoff line shall be in a horizontal plane, making an angle of 45 degrees with the side, front, or rear

property line, as the case may be. It shall pass through the points located on both sides and front or rear property lines at a distance of thirty (30) feet from the intersection of such lines at the corner of a street or highway; and

12. No vending shall occur within five hundred (500) feet of any school; any postsecondary educational facility attended by secondary pupils; or any private kindergarten, elementary, or secondary school facility; and

13. No vending shall occur within three (3) feet of any street lights, edges of tree wells, parking meters, or above-ground utility structures; and

14. No vending shall occur within two (2) feet of any existing subsurface utility box, valve, or vault; and

15. No vending shall occur within twenty (20) feet of another vendor; and

16. No vending shall occur within three (3) feet of bus stop locations, red curbs, or at locations where there are existing above-ground amenities such as newsstands or street furniture, including but not limited to benches and bike racks; and

17. No vending shall occur in public streets, roadways, medians, pedestrian islands, parking lots, alleys, or bikeways; and

18. No vending shall occur within twenty (20) feet of the entrance way to any building, store, theater, movie house, house of worship, or place of public assembly.

**Sec. 5-31.05. Sidewalk Vending in Parks.**

A. Sidewalk vending of food or merchandise by roaming or stationary vendors shall be prohibited in any City Park with a concession stand operated by a vendor under exclusive contract with the City selling similar food or merchandise.

B. Sidewalk vendors may operate in Parks provided they meet the following:

1. For stationary sidewalk vending, the sidewalk vendor can set up vending operations while still leaving a minimum of thirty-six inches (36") of accessible path of travel, without obstruction, along the public sidewalk or public pathway; and

2. The sidewalk vendor shall cease operations one (1) hour prior to the close of the park; and

3. The sidewalk vendor maintains the vending area in a clean, orderly, and sanitary condition; and

4. The sidewalk vendor location does not block entrances to buildings, driveways, parking spaces, or building windows; and

5. No vending shall occur within the immediate vicinity of an event held pursuant to a Temporary Event Permit; and

6. No vending shall occur within a corner cutoff area. A corner cutoff area is that area at all intersecting and intercepting streets or highways. The cutoff line shall be in a horizontal plane, making an angle of 45 degrees with the side, front, or rear property line, as the case may be. It shall pass through the points located on both sides and front or rear property lines at a distance of thirty (30) feet from the intersection of such lines at the corner of a street or highway; and

7. The sidewalk vendor does not cause an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park or necessary to endure the public's use and enjoyment of natural resources and recreational opportunities or regulations directly related to objective health, safety or wellness concerns; and

8. No vending shall occur in public streets, roadways, medians, pedestrian islands, parking lots, alleys, or bikeways.

**Sec. 5-31.06. Roaming Sidewalk Vending.**

A. Roaming sidewalk vendors shall meet the following:

1. Sidewalk vending hours for residential zones shall be conducted between the hours of 7:00 a.m. and 6:00 p.m. weekdays and 9:00 a.m. and 5:00 p.m. on the weekends; and

2. The sidewalk vendor maintains their temporary vending area in a clean, orderly, and sanitary condition; and

3. The sidewalk vendor does not block entrances to buildings, driveways, parking spaces, or building windows; and

4. The sidewalk vendor does not conduct sales from a public street; and

5. No vending shall occur within a corner cutoff area. A corner cutoff area is that area at all intersecting and intercepting streets or highways. The cutoff line shall be in a horizontal plane, making an angle of 45 degrees with the side, front, or rear property line, as the case may be. It shall pass through the points located on both sides and front or rear property lines at a distance of thirty (30) feet from the intersection of such lines at the corner of a street or highway; and

6. No vending shall occur within five hundred (500) feet of a Certified Farmers' Market, a Swap Meet, construction-related street or lane closure, filming location, the Ontario International Airport, or an event held pursuant to a Temporary Event Permit; and

7. No vending shall occur within five hundred (500) feet of the City-owned arena located at 4000 East Ontario Center Parkway, Ontario, CA 91764, the Ontario Convention Center, or Ontario Town Square on event days; and

8. No vending shall occur in Downtown commercial areas where there is a likelihood of overcrowding on the sidewalk or overcrowding of parking areas, with the potential of causing pedestrian and traffic safety issues; and

9. No vending shall occur within five hundred (500) feet of any school; any postsecondary educational facility attended by secondary pupils; or any private kindergarten, elementary, or secondary school facility; and

10. No vending shall occur within three (3) feet of any street lights, edges of tree wells, parking meters, or above-ground utility structures; and

11. No vending shall occur within two (2) feet of any existing subsurface utility box, valve, or vault; and

12. No vending shall occur within twenty (20) feet of another vendor; and

13. No vending shall occur within three (3) feet of bus stop locations, red curbs, or at locations where there are existing above-ground amenities such as newsstands or street furniture, including but not limited to benches and bike racks; and

14. No vending shall occur in public streets, roadways, medians, pedestrian islands, parking lots, alleys, or bikeways; and

15. No vending shall occur within twenty (20) feet of the entrance way to any building, store, theater, movie house, house of worship, or place of public assembly.

**Sec. 5-31.07. Penalties.**

A. It is unlawful for any person to violate any provision or fail to comply with any requirements of this Chapter. A violation of this Chapter shall be punished by:

1. An administrative fine not exceeding \$100 for a first violation.

2. An administrative fine not exceeding \$200 for a second violation within one (1) year of the first violation.

3. An administrative fine not exceeding \$500 for each additional violation within one (1) year of the first violation.

B. The proceeds of any administrative fines assessed pursuant to this Chapter shall be deposited in the treasury of the City.

C. Failure to pay an administrative fine assessed under this Chapter shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in this Chapter shall not be assessed.

D. Any violation of this Chapter shall not be punishable as an infraction or misdemeanor, and any person alleged to have violated any provisions of this Chapter shall not be subject to arrest except when otherwise permitted under law.

E. When assessing an administrative fine pursuant to this Chapter, the adjudicator shall take into consideration the person's ability to pay the fine. The City shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

1. If the person meets the criteria described in subdivision (a) or (b) of Government Code section 68632, the City shall accept, in full satisfaction, twenty (20) percent of the administrative fine imposed pursuant to this Chapter.

2. The City may allow the person to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

F. A person who is currently serving, or who completed, a sentence, or who is subject to a fine, for a conviction of a misdemeanor or infraction for sidewalk vending, whether by trial or by open or negotiated plea, who would not have been guilty of that offense under SB 946 had SB 946 been in effect at the time of the offense, may petition for dismissal of the sentence, fine, or conviction before the trial court that entered the judgment of conviction in his or her case.

G. Nothing contained herein shall be construed to impede the City's or County's ability to enforce County Health Department codes and regulations.

**SECTION 3. CEQA.** The City Council hereby finds and determines that there is no possibility the adoption of this Ordinance will have a significant effect on the environment. Accordingly, under the provisions of § 15061(b)(3) and § 15378(b)(5) of Division 6 of Title 14 of the California Code of Regulations, the CEQA Guidelines, the adoption of this Ordinance is not subject to the requirements of the California Environmental Quality Act.

**SECTION 4. Severability.** If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council of the City of Ontario hereby 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 sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 5. **Effective Date.** This Ordinance shall become effective 30 days following its adoption.

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

PASSED, APPROVED, AND ADOPTED this 19<sup>th</sup> day of November 2019.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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COLE HUBER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3146 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 5, 2019 and adopted at the regular meeting held November 19, 2019, 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. 3146 duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019 and that Summaries of the Ordinance were published on November 12, 2019 and November 26, 2019, in the Inland Valley Daily Bulletin newspaper.

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

(SEAL)



# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: A CONSTRUCTION CONTRACT FOR TRAFFIC SIGNAL MODIFICATIONS ON VINEYARD AVENUE AT SIXTH STREET AND GROVE AVENUE AT FRANCIS STREET**

**RECOMMENDATION:** That the City Council approve the plans and specifications and award a construction contract (on file in the Records Management Department) with California Professional Engineering, Inc. of La Puente, California, for the modification of traffic signals on Vineyard Avenue at Sixth Street and Grove Avenue at Francis Street in the bid amount of \$140,568 plus a fifteen percent (15%) contingency of \$21,085, for a total authorized expenditure of \$161,653; and authorize the City Manager to execute said contract and all related documents, and file a notice of completion at the conclusion of all construction activities.

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

**FISCAL IMPACT:** The Fiscal Year 2019-20 Adopted Budget includes appropriations of \$161,653 in the Gas Tax (RMRA) Fund for the traffic signal modifications on Vineyard Avenue at Sixth Street (TR1801) and on Grove Avenue at Francis Street (TR1802). On October 1, 2019, the City Council adopted a resolution declaring surplus in several assessment districts for use toward public improvements funded by those districts. The traffic signal modifications on Grove Avenue at Francis Street (TR1802) are within one of the assessment districts and qualifies for \$45,000 of surplus funding, which will be used in lieu of Gas Tax (RMRA) funds.

The bid amount for Vineyard Avenue at Sixth Street is \$102,080, and the bid amount for Grove Avenue at Francis Street is \$38,488, for a total of \$140,568. With a 15% contingency of \$21,085, the total authorized expenditure is \$161,653.

**BACKGROUND:** The scope of services for this project includes the furnishing and installation of new poles, mast arms and indications to provide left turn phasing at both project locations. In

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

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

Submitted to Council/O.H.A. 11/19/2019  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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September 2019, the City solicited bids for the project, and 8 bids were received. The following is a summary of the bid results:

<b>COMPANY</b>	<b>LOCATION</b>	<b>TOTAL BID AMOUNT</b>
California Professional Engineering, Inc	La Puente, CA	\$140,568
Alfaro Communications Construction, Inc	Compton, CA	\$146,000
Sierra Pacific Electrical	Jurupa Valley, CA	\$146,850
Crosstown Electrical and Data, Inc	Irwindale, CA	\$149,290
Elecnor Belco Electric, Inc	Chino, CA	\$149,532
DBX, Inc	Temecula, CA	\$165,824
Dynalectirc	Los Alamitos, CA	\$171,846
Comet Electric, Inc	Chatsworth, CA	\$176,077

California Professional Engineering, Inc. has submitted all the required documents and is deemed to be the lowest responsive bidder. This bidder has performed similar work for the City in the past in a satisfactory manner. The requested contingency is to cover potential unforeseen costs in dealing with aging underground wiring.

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

# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: AN AMENDMENT TO THE COOPERATIVE AGREEMENT FOR THE SR-60 AT ARCHIBALD AVENUE INTERCHANGE PROJECT**

**RECOMMENDATION:** That the City Council approve Amendment No. 3 in the amount of \$755,380 to Cooperative Agreement R14138 (15-1001150) (on file in the Records Management Department) with San Bernardino County Transportation Authority (SBCTA) for funding the State Route 60 (SR-60) at Archibald Avenue Interchange Project (Project); and authorize the City Manager to execute said agreement and future amendments within the authorization limits.

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

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

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

**FISCAL IMPACT:** This Amendment No. 3 with SBCTA increases the City's share of the Project by \$755,380. If approved, appropriations in this amount from the Gas Tax Fund will be included in the Fiscal Year 2019-20 First Quarter Budget Report to the City Council to fund the City's increased share of the SR-60 at Archibald Avenue Interchange Project.

**BACKGROUND:** The Project will widen the existing Archibald Avenue bridge undercrossing at SR-60 to accommodate additional left-turn pockets and will widen the existing freeway on and off ramps. Traffic generated in Ontario Ranch will create impacts at the SR-60 at Archibald Avenue interchange that will be mitigated by this Project.

In August 2014, the City entered into a Cooperative Agreement with SBCTA for the Project and committed funds for the Environmental and Design phases at that time. Project funding was subsequently added in the FY 2017-18 Budget for the Right-Of-Way phase. In February 2019, funds were again added for the Construction phase. In September 2019, SBCTA received bids for the Project

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

Prepared by: Jay Bautista  
Department: Engineering  
City Manager Approval: 

Submitted to Council/O.H.A. 11/19/2019  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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which exceeded the value of the current Cooperative Agreement, thus requiring this proposed Amendment.

# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19904 LOCATED AT THE SOUTHWEST CORNER OF MERRILL AVENUE AND ARCHIBALD AVENUE**

**RECOMMENDATION:** That the City Council consider and adopt a resolution approving an improvement agreement, improvement security and Final Parcel Map No. 19904 located at the southwest corner of Merrill Avenue and Archibald Avenue within the Colony Commerce Center East Specific Plan area.

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


**FISCAL IMPACT:** None. All public infrastructure improvements required for this subdivision will be constructed by the developer at its sole cost.

**BACKGROUND:** Final Parcel Map No. 19904, consisting of nine (9) industrial lots and five (5) lettered lots on 82.6 acres, as shown on Exhibit "A", has been submitted by Colony Commerce Ontario GP LLC, a Delaware Limited Liability Corporation (Mr. Jonathan Pearce, Executive Vice President).

Tentative Parcel Map No. 19904 was approved by the Planning Commission on January 22, 2019 and is consistent with the Colony Commerce Center East Specific Plan.

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

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

Prepared by: Jesus Plasencia  
Department: Engineering  
City Manager Approval: 

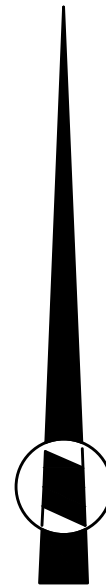
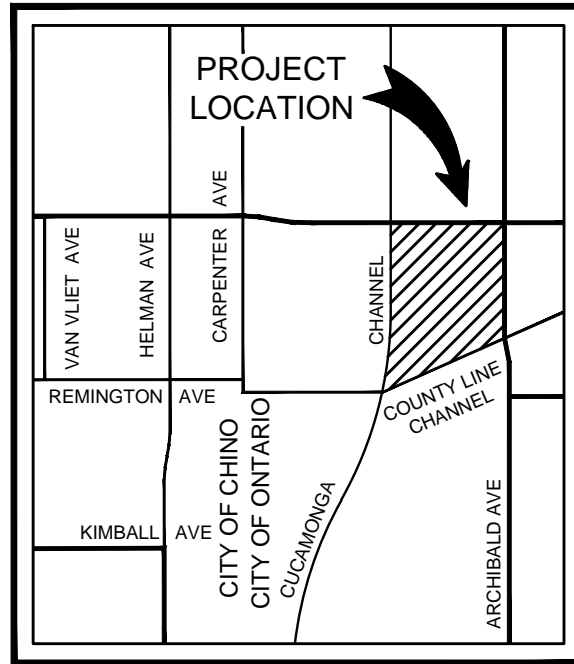
Submitted to Council/O.H.A. 11/19/2019  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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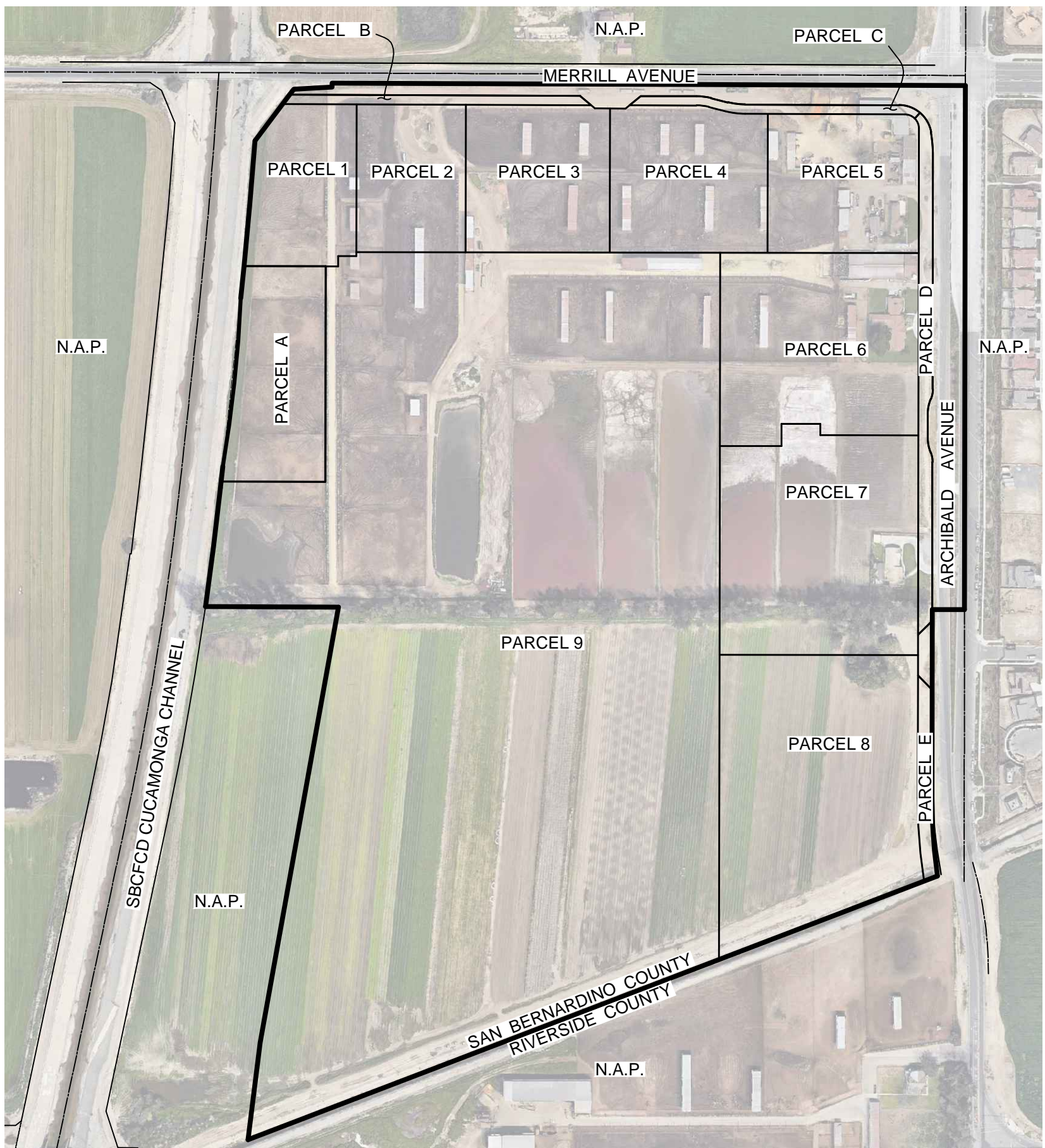
The developer has entered into an improvement agreement with the City for Final Parcel Map No. 19904 and has posted adequate security to ensure construction of the required public improvements.

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

# EXHIBIT A PM 19904



VICINITY MAP  
N.T.S



4141 Inland Empire Blvd, Suite 250  
Ontario, California 91764  
Phone: 909.481.5750

**DAVID EVANS  
AND ASSOCIATES INC.**

CITY OF ONTARIO  
ENGINEERING DEPARTMENT

PM-19904  
CAPROCK PARTNERS

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 19904 LOCATED AT THE SOUTHWEST CORNER OF MERRILL AVENUE AND ARCHIBALD AVENUE.

WHEREAS, Tentative Parcel Map No. 19904, submitted for approval by Colony Commerce Ontario GP LLC, a Delaware Limited Liability Corporation (Mr. Jonathan Pearce, Executive Vice President) was approved by the Planning Commission of the City of Ontario on January 22, 2019; and

WHEREAS, Tentative Parcel Map No. 19904 consists of 9 industrial lots and 5 lettered lots within the Colony Commerce Center East Specific Plan, being a subdivision of a portion of the NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 22, and those portions of Government Lots 5, 6, 7, and 8, all in the south  $\frac{1}{2}$  of Section 22, Township 2 South, Range 7 West, San Bernardino Meridian, according to the official plat of said land filed in the District Land Office September 16, 1893; and

WHEREAS, to meet the requirements established as prerequisite to final approval of Parcel Map No. 19904, said developer has offered the improvement agreement together with good and sufficient improvement security, in conformance with the City Attorney's approved format, for approval and execution by the City; and

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

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

1. That said Improvement Agreement be, and the same is, approved and the City Manager is authorized to execute same on behalf of said City, and the City Clerk is authorized to attest thereto; and
2. That said Improvement Security is accepted as good and sufficient, subject to approval as to form and content thereof by the City Attorney; and
3. That Final Parcel Map No. 19904 be approved and that the City Clerk be authorized to execute the statement thereon on behalf of said City.

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



PASSED, APPROVED, AND ADOPTED this 19<sup>th</sup> day of November 2019.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO LEGAL FORM:

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COLE HUBER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 19, 2019 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019.

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

(SEAL)

# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: A MAINTENANCE SERVICE AGREEMENT FOR CUSTODIAL SERVICES AT VARIOUS CITY LOCATIONS**

**RECOMMENDATION:** That the City Council authorize the City Manager to execute a three-year Maintenance Services Agreement (on file in the Records Management Department) with Merchants Building Maintenance, of Pomona, California, for an estimated cost of \$963,590; and authorize the addition of future service areas; and authorize the option to extend the agreement for up to two additional years, consistent with City Council approved budgets.

**COUNCIL GOALS: Operate in a Businesslike Manner  
Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)**

**FISCAL IMPACT:** The estimated annual base cost of the proposed Maintenance Service Agreement for the remainder of Fiscal Year 2019-20 is \$214,198 plus a \$5,000 contingency for a total of \$219,198. In Fiscal Years 2020-2022 the estimated annual amount will be \$367,196 plus a \$5,000 contingency for a total of \$372,196 per year. The estimated three-year total cost will be \$963,590, an increase of \$121,905 over the last contract amount with the previous contractor, RNA. Appropriations are included in the Facilities Maintenance Department's annual baseline operating budget for these recurring expenses.

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

**BACKGROUND:** The City has historically deployed a balance of in-house custodial staff supplemented by outside contractor services. This staffing model ensures that regular service needs are covered by a core contingent of City staff while allowing for fluctuations in workload to be managed by contract service providers, thereby eliminating any cyclical hiring and separation of employees that may

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

Prepared by: Michael Johnson  
Department: Municipal Services  
City Manager Approval: 

Submitted to Council/O.H.A. 11/19/2019  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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otherwise occur. The proposed Maintenance Service Agreement provides for regularly scheduled custodial services at the following facilities:

**Custodial Service Facilities**

Anthony Munoz Community Center	Ovitt Family Community Library
Armstrong Community Center	Senior Center
Community Improvement/Housing	Westwind Community Center
De Anza Community Center	
Dorothy Quesada Community Center	
Lewis Family Branch Library	

In addition, the contract includes a weekend day porter at the following facilities:

**Custodial Service Facilities**

Anthony Munoz Community Center	Senior Center
Dorothy Quesada Community Center	Westwind Community Center
City Hall Annex	Police Department Main Building
Ontario Museum of History and Art	Police Department Mills Substation
Ovitt Family Community Library	Police Department Sixth Street Substation

In March 2019, the City solicited proposals for Custodial Maintenance Services. Of the four proposals received, three proposals met the bid criteria and standards necessary to perform this work and one was deemed non-responsive. Following is the list of proposals:

<b><u>Vendor</u></b>	<b><u>Location</u></b>	<b><u>Amount</u></b>
RNA Facilities Management	Riverside, CA	\$320,008
Merchants Building Maintenance	Pomona, CA	\$465,608
DMS Facility Services	Anaheim, CA	\$644,927
CCS Orange County Janitorial, Inc.*	Costa Mesa, CA	N/A

\* *Bid Proposal was incomplete and therefore deemed non-responsive*

On June 18, 2019, the City Council approved the award of a Maintenance Service Agreement to RNA Facilities Management. From July 2019 through September 2019, RNA Facilities Management failed to perform up to and consistent with City standards and specifications. In an email from RNA’s Vice President dated August 21, 2019, RNA Facilities Management requested an increase to their annual base contract price by \$134,106 or alternatively to be released from their contractual obligations based on their inability to perform the scope of work required for custodial maintenance of the various City facilities listed above. Staff rejected the request for a price increase and the Maintenance Service Agreement with RNA Facilities Management was terminated on September 30, 2019. To ensure that all sites continued to receive custodial services, on October 1, 2019, a 60-day temporary Maintenance Service Agreement was entered into with Merchants Building Maintenance which provided custodial services to the City for the previous four years prior to RNA Facilities Management.

Staff revisited the proposal from Merchants Building Maintenance and adjusted the scope of work and service locations to reduce and keep cost more in line with the approved contract amount with RNA Facilities Management. Based on their proposal, credentials, and previous history providing service to the City, staff recommends award of a Maintenance Service Agreement to Merchants Building Maintenance.

# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: PRE-AUTHORIZED LIST OF VENDORS TO PROVIDE SPECIALIZED PERSONAL PROTECTIVE EQUIPMENT AND MAINTENANCE**

**RECOMMENDATION:** That the City Council approve pre-authorized vendors to provide personal protective equipment and maintenance services for emergency equipment for the Fire Department.

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


**FISCAL IMPACT:** None. The designation of pre-authorized vendors to provide specialized safety equipment and maintenance services does not commit the City to any specific level of future expenditures with these vendors. Expenditures for each vendor, and in total for each fiscal year, will not exceed the Fire Department's appropriations limits established by the City Council.

**BACKGROUND:** The Fire Department utilizes specialized personal protective equipment (PPE) that allows firefighters to safely perform their duties during all-risk emergency responses. The Department must ensure that all fire personnel have the appropriate personal protective equipment and that all PPE is maintained in an appropriate manner. Due to the specialized nature of the equipment as well as the specialized cleaning and maintenance that must be performed in a timely manner there is a limited number of vendors that can provide these goods and services.

For these reasons, it is not cost-effective for the City to follow its standard purchasing procedures to solicit bids or issue requests for proposals. Establishing a pre-authorized list of vendors will facilitate the following:

- Ensure that PPE is available when needed;
- Services are performed by qualified vendors familiar with firefighter PPE; and
- Better maintenance because pre-authorized vendors are familiar with the service and repair history of the Department's firefighting PPE.

**STAFF MEMBER PRESENTING:** Ray Gayk, Fire Chief

Prepared by: Mike Pelletier  
Department: Fire  
City Manager Approval: 

Submitted to Council/O.H.A. 11/19/2019  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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The list of recommended vendors was developed based upon input from the manufacturers of all current firefighter PPE utilized by the Department as well as City's past procurement experience. If approved, purchase orders (within approved budgeted amounts) will be issued to each vendor without quotes for individual equipment or services to allow for expeditious ordering at current market rates.

Ontario Municipal Code Section 2-6.23(b) and 2-6.23(c) authorizes the Purchasing Officer to make purchases without following the standard purchasing procedures whenever (1) the goods can be obtained from only one source, and/or (2) a breakdown in machinery, equipment, or an essential service which requires an immediate purchase of supplies and equipment to protect public health, safety and welfare generates circumstances that a competitive process would be unavailing or would not produce an advantage, and the advertisement for competitive bid would thus be undesirable, impractical, or impossible.

APPROVED LIST OF AUTHORIZED VENDORS  
FOR PROCUREMENT OF FIREFIGHTING PERSONAL PROTECTIVE EQUIPMENT AND  
MAINTENANCE SERVICES

Sole Source Vendors

Allstar Fire Equipment, Inc  
12328 Lower Azusa Rd  
Arcadia, CA 91006

Bauer Compressors  
1328 Azalea Garden Rd  
Norfolk, VA 23502

Safariland, LLC  
3208 E. Clear Lake Rd  
Ontario, CA 91761

LN Curtis & Sons  
16821 Knott Ave  
La Mirada, CA 90638

Med-Eng, LLC  
103 Tullock Dr  
Ogdensburg, NY 13669

Sunbadge Co.  
2248 S. Baker St  
Ontario, CA 91761

Non-sole Source Vendors

Firefighter Safety Center  
14565 Valley View Ave #W  
Santa Fe Springs, CA 90670

Fisher Scientific Corporation  
3970 Johns Creek Ct #500  
Suwanee, GA 30024

CMC Rescue Inc  
6740 Cortona Dr  
Goleta, CA 93117

High Threat Innovations  
5979 Little Oak Ct  
Rancho Cucamonga, CA 91739

Xeros High Performance, Inc.  
79 E. Grand Blvd  
Corona, CA 92879

Ensemble Care Maintenance  
16821 Knott Ave  
La Mirada, CA 90638

Galls Inc  
1865 Iowa Ave #110  
Riverside, CA 92507

Fire Innovations  
830 Petaluma Bl N  
Petaluma, CA 94952

Municipal Emergency Services  
4343 Viewridge Ave #A  
San Diego, CA 92123

Non-sole Source Vendors

Cascade Fire Equipment  
640 Brian Way  
Medford, OR 97501

Eco-Absorb Technology, Inc.  
1360 East Locust St  
Ontario, CA 91761

Vincent Communications  
5773 E. Shields Ave  
Fresno, CA 93727

Perimeter Solutions  
10667 Jersey Bl  
Rancho Cucamonga, CA 91730

Tactical Medical Solutions  
1250 Harris Bridge Rd  
Anderson, SC 29621

Gear Grid LLC  
670 15<sup>th</sup> St SW  
Forest Lake, MN 50025

Line Gear Fire & Rescue Equipment  
23121 Antonio Pkwy #125  
Rancho Santa Margarita, CA 92688

High Energy Sports  
1081 N. Shepard St #A  
Anaheim, CA 92806

3D Chemical & Equipment Inc  
1344 S. Reservoir St  
Pomona, CA 91766

Don Wolf and Associates, Inc  
21955 Plummer St  
Chatsworth, CA 91311



# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: ORDINANCES TO ADOPT THE 2018 INTERNATIONAL FIRE CODE AND 2019 CALIFORNIA STATE FIRE AND BUILDING CODES**

**RECOMMENDATION:** That the City Council:

- (A) Adopt an ordinance amending Chapter 4, Title 4 of the Ontario Municipal Code entitled "Fire Code" adopting by reference, with certain amendments, additions, deletions, and exceptions, the 2018 International Fire Code and the 2019 California Fire Code (California Code of Regulations, Title 24, Part 9); and
- (B) Adopt an ordinance amending Chapters 1, 2, 3, 4, 5, 6, 7, 11, and 12 of Title 8 of the Ontario Municipal Code to adopt the California Building Standards Code.

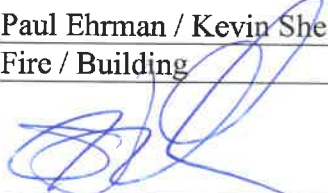
**COUNCIL GOALS:** Maintain the Current High Level of Public Safety  
Operate in a Businesslike Manner

**FISCAL IMPACT:** None. Adoption of the proposed ordinances will not impact the current permit or plan check fees. The proposed ordinances provide that future fee revisions may be enacted by City Council resolution.

**BACKGROUND:** On November 5, 2019, the City Council introduced and waived further reading of the proposed ordinances at a duly noticed public hearing.

Every three years, the California Building Standards Commission adopts the California Building Standards Code, which consists of the codes that regulate building construction. The California Health and Safety Code mandates that all public agencies responsible for administering Building and Safety and Fire Codes comply with the State adopted Building and Safety and Fire Codes; and local agencies are required to adopt and enforce the State codes. Local agencies may also adopt amendments to the State Codes based on findings relative to local geological or topographic conditions. Staff recommends

**STAFF MEMBER PRESENTING:** Ray Gayk, Fire Chief  
Scott Murphy, AICP, Executive Director Development Agency

Prepared by: Paul Ehrman / Kevin Shear  
Department: Fire / Building  
City Manager Approval: 

Submitted to Council/O.H.A. 11/19/2019  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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amendments to the Codes based upon certain local conditions to ensure compliance with State mandates, to assure that Ontario's Codes continue to address the latest technological advances, and to provide for the use of companion Fire and Building Codes.

Fire Codes: The proposed ordinance adopts the 2018 International Fire Code and the 2019 California Fire Code and provides for certain local amendments. These amendments are consistent with other provisions that are in the current version of the City's Fire Code. The State Codes incorporate, by reference, the Model Codes published by the International Code Council (ICC).

Building Codes: The California Building Standards Commission has adopted the 2018 edition of the International Building Code as the State Building Code. The proposed ordinance adopts the 2019 edition of the State Building, Electrical, Plumbing, Mechanical, Residential, and Green Building Standards Codes. The Dangerous Building Code - Chapter 11 and the Uniform Housing Code - Chapter 2 are being readopted without amendments. The summary below outlines key points involving the new State Building Codes:

- All the subject State Codes must be enforced by local agencies effective January 1, 2020.

The State Building Standards Commission has held numerous hearings related to adoptions of the codes, hearing public testimony from all stakeholders. All public testimony endorsed the use of International Codes.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 4 OF TITLE 4 OF THE ONTARIO MUNICIPAL CODE; ADOPTING BY REFERENCE WITH CERTAIN AMENDMENTS, ADDITIONS, DELETIONS, AND CHANGES THERETO, THE 2019 CALIFORNIA FIRE CODE AND THE 2018 INTERNATIONAL FIRE CODE, PROVIDING FOR THE RECOVERY OF COSTS AND COLLECTION OF FEES; AND REPEALING ORDINANCE NO. 3062 OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA.

WHEREAS, pursuant to Government Code Section 50022.1, *et seq.*, the City of Ontario, California ("City") may adopt by reference the 2019 edition of the California Building Standards Code as provided in Title 24 of the California Code of Regulations; and

WHEREAS, California Health and Safety Code Sections 17958.7 and 18941.5 authorize cities to adopt the California Building Standards Code with modifications that are determined to be reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, prior to making modifications permitted under California Health and Safety Code Sections 17958.7 and 18941.5, the City Council is required to make express findings that such modifications are needed in accordance with California Health and Safety Code Sections 17958.7; and

WHEREAS, the City held a public hearing on November 5, 2019, at which time all interested persons had the opportunity to appear and be heard on the matter of adopting the Codes as amended herein; and

WHEREAS, the City published notice of the aforementioned public hearing pursuant to California Government Code Section 6066 on October 25, 2019; and

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

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

SECTION 1. The City Council hereby finds that the following proposed amendments to the 2019 California Fire Code and the 2018 International Fire Code are (1) necessary because of local climatic, geological, or topographical conditions, or (2) are of an administrative or procedural nature, and/or do not modify building standards and are reasonably necessary to safeguard life and property within the City.

<b>Amendment</b>	<b>Applicable Findings from Listing Below</b>
Sections 102.7, 103.1, 103.2, 103.3, 103.4, 103.4.1, 104.10, 105.6.52, 108.1, 109.4, 111.4	D-1
Section 503.2.1	D-2
Section 503.4	D-2
Section 507.5.1.2	A-1, B-1, B-2, C-1, C-2, C-3
Section 903.3.7	A-1, A-2, B-2, B-3, B-4, B-5, B-6, C-1, C-2, C-3 & C-4
Section 903.7	A-1, A-2, B-2, B-3, B-4, B-5, B-6, C-1, C-2, C-3 & C-4
Sections 2808.1, 2808.3, 2808.4, 2808.5, 2808.10,	C-1, C-2, C-3 & C-4
Sections 2810, 2810.1, 2810.6, 2810.8, 2810.10, 2810.12	C-1, C-2, C-3 & C-4
Appendix B Section B105.2	A-1, B-2, B-3, B-4 & B-5

A. Local Geological Conditions.

A-1. The City of Ontario is subject to moderately strong to severe shaking and surface ruptures resulting from five earthquake faults located within or near the City. These local earthquake faults have the potential to cause severe personal and property damage and fire hazards. Moreover, there is also a potential for damage to roadways, water supplies, and the impairment of access allowing fire equipment to respond to emergencies in the event of a severe earthquake.

A-2. Adverse geological conditions exist in portions of the City that may cause excessive flooding. Flood control facilities are not adequate to handle the water flow that occurs during major storms or prolonged rains. Some of the streets in the City are actually designed and used for flood control purposes, thus making the fire and emergency access difficult during flood conditions. As a consequence, many of the streets within the City are impaired during such flood conditions and such flooding causes physical damage to the streets and the accumulation of debris, all of which hinder access to fire equipment for the purposes of responding to fire and other emergencies.

B. Local Topographical Conditions.

B-1. The topography of the City of Ontario is generally that of a gently sloping inclined plane that slopes in a southerly direction from an elevation of 1,190 feet to an elevation of 730 feet at the southern boundary of the City resulting in several water pressure zones to serve the City. The elevation changes caused by the mountains and hills creates the geological foundation upon which the City is built and will continue to build.

B-2. Located within the City are three major interstate freeways and a major state highway that provide for limited under crossing access points to traverse the City. These highways also restrict the ability of the water supply grid to provide water from multiple points to all areas of the City and necessitates the use of dead-end water mains to many areas adjacent to highways.

B-3. The City is bisected from east to west by two very active railroad main route tracks used by the Southern Pacific and Union Pacific Railroads. These lines are used for both commuter and large freight transport trains, including the transporting of large quantities of hazardous materials. Limited under-crossings and overcrossings exist within the City for uninterrupted emergency vehicle passage. Moreover, emergency vehicles are routinely delayed at grade crossings until passenger trains or passing freight trains clear the grade crossings.

B-4. Two large petroleum product pipelines bisect the City along the Southern Pacific Railroad right-of-way. The pipelines are used to transport large quantities of gasoline, diesel fuel, and jet fuels under high pressures. Another petroleum pipeline intersects the City along the east side en-route to the Etiwanda electrical generating station north and east of the City. While generally underground, these pipelines pass overhead at several overpasses located over main thoroughfares in the City. Damage to these pipelines during seismic events poses the dual potential of creating a time emergency and at the same time restricting emergency vehicle access within the City.

B-5. Two large, high pressure, natural gas transmission pipelines traverse the easterly part of the City, along the I-15 Freeway and on the west side along Benson Avenue. These 36" transmission mains transport natural gas at pressures exceeding 500 psi and pass through developed residential and industrial areas. These transmission pipelines also intersect the previously mentioned petroleum pipelines. Interruption of these pipelines due to flooding or seismic events is possible and would result in reduced resources to protect the balance of the City.

B-6. A large commercial airport is located within the central portion of the City providing limited emergency vehicle access from the north to the south central portions of the City. A majority of the City is located within the approach and/or departure paths of large commercial aircraft exposing a large part of the City to potential aircraft related emergencies. Moreover, Santa Ana Winds frequently require the flight paths of arriving and departing aircraft to be reversed.

#### C. Local Climatic Conditions.

C-1. The City is subject to extremely strong winds, commonly referred to as "Santa Ana Winds," which can reach speeds in excess of 80 miles per hour and approach the basin from the desert via the Devore Pass. Extensive damage often occurs during such winds, including downed electric wires, downed utility and light poles, fallen trees, blowing debris, sand, and dust. Blowing dust experienced during these winds has reduced visibility near zero and impacted the response times of emergency vehicles.

C-2. During the summer months, the Santa Ana Winds produce a period of extremely low humidity causing an increase in the threat of fire from dry vegetation and other common fuels. These conditions have, in the past, resulted in vegetation and structure fires.

C-3. The City experiences summer temperatures in excess of 100 degrees Fahrenheit. When coupled with severe Santa Ana Winds these conditions can cause a fire to spread quickly throughout portions of the City.

C-4. Weather conditions, coupled with flammable vegetation in bordering cities results in numerous wildland rims, which draw existing fire fighting forces from their structure protection duties for extended periods of time. This results in increased response times to structure fires when fire department personnel and equipment are committed to nonstructural fire protection activities.

D. Administrative/Procedural/Public Safety Amendments.

D-1. This amendment is necessary for administrative or procedural clarification and to establish administrative standards for the effective enforcement of the building standards of the City of Ontario and does not modify a building standard pursuant to California Health & Safety Code sections 17958, 17958.7, and/or 18941.5.

D-2. This amendment does not modify a building standard pursuant to California Health and Safety Code sections 17958, 17958.7, and/or 18941.5 and is reasonably necessary to safeguard life and property within the City of Ontario.

SECTION 2. Chapter 4 of Title 4 of the Ontario Municipal Code is hereby rewritten in its entirety to read as follows:

Chapter 4: Fire Code

Sections:

- 4-4.01 Adoption of California Fire Code and the International Fire Code
- 4-4.02 Cost Recovery
- 4-4.03 Establishment of the Limits of Districts in Which Stationary Containers of Flammable Cryogenic Fluids Are Prohibited
- 4-4.04 Establishment of the Limits of Districts in Which Storage of Class I and Class II Liquids in Unprotected Aboveground Tanks and in Below Grade Vaulted Tanks is Prohibited
- 4-4.05 Establishment of the Limits in Which Storage of Liquefied Petroleum Gases Is Restricted for the Protection of Heavily Populated or Congested Areas
- 4-4.06 Amendments to the 2019 California Fire Code and 2018 International Fire Code
- 4-4.07 Amendment: Referenced codes and standards
- 4-4.08 Amendment: General

4-4.09	Amendment: Appointment
4-4.10	Amendment: Deputies
4-4.11	Amendment: Liability and Legal Defense
4-4.12	Amendment: Investigations
4-4.13	Amendment: Pallets
4-4.14	Amendment: Board of Appeals Established
4-4.15	Amendment: Violation Penalties
4-4.16	Amendment: Failure to Comply
4-4.17	Amendment: Dimensions
4-4.18	Amendment: Obstruction of Fire Apparatus Access Roads
4-4.19	Amendment: Two Points of Connection
4-4.20	Amendment: General
4-4.21	Amendment: Size of Piles
4-4.22	Amendment: Pile Separation
4-4.23	Amendment: Combustible Waste
4-4.24	Amendment: Emergency Plan
4-4.25	Amendment: Pallet Yards & Recycling Facilities
4-4.26	Amendment: Buildings Other than One- and Two-Family Dwellings

Section 4-4.01. Adoption of the California Fire Code and the International Fire Code.

The City Council of the City of Ontario hereby adopts by reference with certain amendments, additions, deletions and exceptions, the 2019 California Fire Code with errata, incorporating therein the 2018 International Fire Code, also referred to as Part 9 of Title 24 of the California Code of Regulations, with included appendices, as published by the International Code Council and adopted by the California State Building Standards Commission, (hereinafter also “this Code” or the “Ontario Fire Code”,) for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion.

Section 4-4.02. Cost Recovery.

(A) Expense for Responding to and Securing an Emergency.

1. Fire suppression, investigation and rescue or emergency medical costs shall be recoverable in accordance with Health & Safety Code Sections 13009 and 13009.1.

2. Any person or entity who negligently or intentionally, or in violation of law, causes an emergency response, including but not limited to, a traffic accident or spill of toxic or flammable fluids or chemicals, is liable for the costs of responding, securing and investigating such emergency, including those costs set out in Health & Safety Code Section 13009, *et seq.* and Government Code Section 53150, *et seq.* Any expense incurred by the Fire Department for responding to, securing, or investigating such an emergency situation shall constitute a debt of the person or entity responsible and shall be subject to collection by the City in the same manner as an obligation under contract, expressed or implied.

3. The expense of responding to, securing and investigating any emergency or hazard which is the result of a violation of this Code or any other code, ordinance or state law, or any damages caused by malicious mischief requiring any corrective or preventive actions by the Fire Department shall be a charge against the person(s) or entity whose violation caused the emergency and/or damage. Damages caused by such emergency or action may constitute a debt of such person(s) or entity responsible and shall be collectible as provided below:

i. Liability for Hazardous Activities and Conditions. The Chief may also impose the reasonable cost of fire prevention, fire suppression, incident investigation and protection of the public from other safety hazards when a fire or hazardous condition results from any of the following activities or conditions:

- (1) The manufacture, transportation, storage, handling, or spilling, of hazardous chemicals, flammable or combustible liquids, explosives, or blasting agents as defined in this Code; and
- (2) The failure to correct a hazardous condition for which a "Notice of Violation," or equivalent notice, has been previously given by the Chief; and
- (3) The use of welding equipment, cutting torches, tar pot, or other open flame devices; and
- (4) Permitting or causing the accumulation of hazardous or flammable materials on property; and
- (5) Setting of a fire or allowing a fire to be set in violation of any code, ordinance, law or regulation; and
- (6) The possession of, or causing illegal fireworks, explosive devices or destructive devices to ignite, explode or detonate; and
- (7) Creating, allowing, or maintaining a hazard as stated in Ontario Fire Code Section 110.1.

ii. Determination of Costs. Whenever the Chief determines that the fire department or other public agency has incurred costs for fire suppression, fire prevention, or protection of the public from a fire or other hazardous condition that results from the activities or conditions described in subsection (a), the Chief shall:

- (1) Calculate the costs incurred;
- (2) Identify the person(s) or entity to be charged for those costs; and
- (3) Send a report with this information to the City Clerk.

iii. Method of Calculation. In determining costs to be charged a responsible person or entity, the Chief shall include all necessary expenditures to correct the hazardous condition or extinguish the fire, including, but not limited to the following:



- (1) The cost of personnel;
- (2) The cost of extinguishing agents;
- (3) The reasonable value of the use of City equipment;
- (4) The cost incurred for the use of any private contractors to mitigate or remove the hazard or condition; and
- (5) Any and all administrative costs incurred pursuant to the fee schedule as set by resolution duly adopted by the City Council.

iv. Reimbursement Hearing. The City Clerk shall, thereupon, set the report and account received by the Chief for hearing before the City Council at a regular or adjourned regular meeting to be held at least fourteen (14) calendar days after the date the Clerk mails the notice to the responsible person(s) or entity. The City Clerk shall send by regular mail a Notice of said hearing to the person or entity to be charged at the person's or entity's address as shown on the latest equalized tax assessor's roll, or as otherwise known to the City.

v. Notice to Person Charged. The Notice sent by the City Clerk to the responsible person(s) or entity shall contain:

- (1) The name of the person(s) or entity sought to be charged;
- (2) The location, date and time of the incident upon which the claim for reimbursement is based;
- (3) The amount of, and the basis upon which the claim for reimbursement is made;
- (4) The date, time and place of the hearing to be held on the claim for reimbursement with a statement describing the rights of the person or entity charged and the procedures for presenting evidence at said hearing; and
- (5) The Chief's account of the sum claimed to be due.

vi. Procedure for Hearing Before the City Council. At the hearing on the Chief's accounting of the costs and other evidence upon which reimbursement is sought, the City Council shall hear and consider evidence by the person or entity against which reimbursement is sought. The City Council shall thereafter confirm or disallow the account, all or in part, and set forth in a resolution the amount of the account confirmed, if any. Thereafter, any amount confirmed by resolution of the City Council shall become a debt owing to the City of Ontario and shall be collectible by the City in the same manner as in the case of an obligation under contract expressed or implied.

(B) Service Fees.

1. Permit Fees. Any person, establishment, business, occupancy, or process requiring any permit or utilizing any special service or activity performed by or under the direction of the Fire Department shall compensate the City for the cost of

such service or activity, in accordance with the adopted fee and charge schedule and any departmental policy.

2. Service Fee Refunds. The Fire Chief is authorized to refund any fee paid hereunder which is determined to be erroneously paid or collected.

i. The Fire Chief is authorized to refund eighty percent (80%) of the service fee paid when the permittee has performed no work nor commenced an operation for which a permit was issued in accordance with this Ordinance.

ii. The Fire Chief is authorized to refund eighty percent (80%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review is completed.

iii. The Fire Chief shall not authorize the refund of any fee paid except upon written application filed by the original permittee not later than one hundred eighty (180) days after the date the fee was paid. Such written application shall state the reasons for the refund request and be accompanied with a receipt of payment.

Section 4-4.03. Establishment of the Limits of Districts in Which Stationary Containers of Flammable Cryogenic Fluids Are Prohibited.

The limits referred to in Section 5806.2 of the 2019 California Fire Code in which the storage of flammable cryogenic fluids in stationary containers is prohibited are hereby established as follows:

1. All areas and zoning districts of the City except the General Industrial District of the City Development Code, and with the specific approval of the Fire Chief.

Section 4-4.04. Establishment of the Limits of Districts in Which Storage of Flammable or Combustible Class I and Class II Liquids in Outside Unprotected Aboveground Tanks is Prohibited.

The limits referred to in Sections 5704.2.9.6.1 and 5706.2.4.4 of the 2019 California Fire Code in which the storage of flammable or combustible liquids in outside aboveground unprotected tanks are prohibited are hereby established as follows:

1. In all areas of the City unless upon specific written findings, the Chief determines that the installation of flammable and combustible unprotected aboveground storage tanks or below grade vaulted tanks will not create a hazard to occupants and property owners in the surrounding area.

Section 4-4.05. Establishment of the Limits in Which Storage of Liquefied Petroleum Gases is Restricted for the Protection of Heavily Populated or Congested Areas.

The limits referred to in Section 6104.2 of 2019 California Fire Code, in which storage of liquefied petroleum gas is restricted, are hereby established as follows:

1. All areas and zoning districts of the City except the General Industrial District of the City zoning ordinance, and with the specific approval of the Fire Chief.

Section 4-4.06. Amendments to the 2019 California Fire Code (CFC) and 2018 International Fire Code (IFC).

Designated portions of the 2019 California Fire Code (CFC) and 2018 International Fire Code (IFC) are amended and changed as set forth in Sections 4-4.07 through 4-4.28.

Section 4-4.07. Amendment: Referenced codes and standards.

Section 102.7 of the 2018 IFC is amended to read as follows:

“102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 80, and such codes and standards shall be considered to be part of the requirements of this code to the prescribed extent of each such reference and as further regulated by Sections 102.7.1 and 102.7.2. The Fire Chief also hereby authorizes the use of the Ontario Fire Department Fire Protection Standards for the purposes of interpreting and clarifying requirements of this Code and its referenced codes and standards.”

Section 4-4.08. Amendment: General.

Section 103.1 of the 2018 IFC is amended to read as follows:

“103.1 General. The Fire Code as adopted and amended herein shall be enforced by the Bureau of Fire Prevention of the Fire Department of the City of Ontario which is hereby established and shall operate under the supervision of the Chief of the Fire Department.”

Section 4-4.09. Amendment: Appointment.

Section 103.2 of the IFC is amended to read as follows:

“103.2 Appointment. The Fire Marshal shall be responsible for operating the Bureau of Fire Prevention and shall be appointed by the Fire Chief on the basis of examination to determine his or her qualifications.”

Section 4-4.10. Amendment: Deputies.

Section 103.3 of the IFC is amended to read as follows:

“103.3 Deputies. The Chief of the Fire Department shall recommend to the City Manager the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position.”

Section 4-4.11.      Amendment: Liability and Legal Defense.

Section 103.4.1 of the IFC is hereby deleted and Section 103.4 of the IFC is amended to read as follows:

“103.4 Liability and legal defense. The Chief and other individuals charged by the Chief with the enforcement of this Code or any other official duties, acting in good faith and without malice in the discharge of their duties, shall not thereby be rendered personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of their duties. Any suit brought against the Chief or such individuals because of such act or omission performed in the enforcement of any provision of such Code or other pertinent laws or ordinances implemented through the enforcement of this Code or enforced by the code enforcement agency shall be defended by this jurisdiction until final termination of such proceedings, and any judgment resulting there from shall be assumed by this jurisdiction subject to the provisions of Government Code Section 825.”

Section 4-4.12.      Amendment: Investigations.

Section 104.10 of the CFC is amended to read as follows:

“104.10 Investigations. The Fire Department is authorized to investigate promptly the cause, origin and circumstances of each and every fire or explosion occurring in the jurisdiction involving loss of life or injury to any person or destruction or damage to property and, if it appears to the Fire Prevention Bureau that such fire or explosion is of suspicious origin, is authorized to take immediate charge of all physical evidence relating to the cause of the fire or explosion and is authorized to pursue the investigation to its conclusion. Fire investigators shall have the powers of a police officer in performing their duties under this code. The Chief is authorized to investigate the cause, origin and circumstances of unauthorized releases of hazardous materials.”

Section 4-4.13.      Amendment: Pallets.

Section 105.6.52 is added to the IFC to read as follows:

"105.6.52 Pallets. An operational permit is required for idle storage, handling, repair or manufacturing of combustible pallets in excess of one thousand (1,000) units at any one site."

Section 4-4.14.      Amendment: Board of Appeals.

Section 109.2 and 109.3 of the IFC is hereby deleted and Section 109.1 of the IFC is amended to read as follows:

"109.1 Board of Appeals Established. The City Council of the City of Ontario may hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, pursuant to Chapter 4 of Title 1 of the City of Ontario Municipal Code. An application for appeal

shall be submitted in writing, in a timely manner, and shall be based on a claim that the intent of this code or the rules, standards and interpretations adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The Council shall have no authority to waive requirements of this Code. The City Council shall set the matter for hearing and shall give written notice to the appellant. The fire code official shall act as staff in advising the City Council during such hearing. A written copy of the decision shall be mailed to the concerned parties after the conclusion of such proceedings.”

Section 4-4.15.      Amendment: Violation penalties.

Section 110.4 of the IFC is amended to read as follows:

“110.4 Violation penalties. Any person who violates any provision of the Fire Code as adopted and amended herein or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the Board of Appeals or by a court of competent jurisdiction, within the required time, shall severally for each and every such violation and noncompliance, respectively, be guilty of an infraction or a misdemeanor, punishable as set forth in Chapter 2 of Title 1 of the Ontario Municipal Code. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that a prohibited condition is maintained shall constitute a separate offense. The application of this penalty shall not be held to prevent the enforced removal of prohibited conditions.”

Section 4-4.16.      Amendment: Failure to Comply.

Section 112.4 of the CFC is amended to read as follows:

“112.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except that work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a misdemeanor, punishable as set forth in Chapter 2 of Title 1 of the Ontario Municipal Code. Each day that any work is done under a stop work order shall constitute a separate offense.”

Section 4-4.17.      Amendment: Dimensions.

Section 503.2.1 of the IFC is amended to read as follows:

“503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 24 feet, exclusive of shoulders or curbs, except for approved security gates in accordance with section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches.

Section 4-4.18.      Amendment: Obstruction of Fire Apparatus Access Roads.

Section 503.4 of the IFC is amended to read as follows:

"503.4 Obstruction of fire apparatus access roads. The required width of a fire apparatus access road shall not be obstructed in any manner, including parking of vehicles. Access roads, private roadways and public roadways shall be provided and maintained in a passable condition at all times. Any obstruction or impediment to reasonable access may be removed by any public safety agency with the expense of such removal to be borne by the owner of the roadway, or in the case of an obstructing vehicle or object, by the owner of said vehicle or object."

Section 4-4.19.      Amendment: Two points of connection.

Section 507.5.1.2 of the CFC is added to read as follows:

"507.5.1.2 Redundant water supplies. New on-site fire protection water systems that serve buildings greater than 100,000 square feet in floor area shall have two separate remote connections to the public water system designed and constructed in accordance with recognized standards. The locations of such water connections shall be approved by the fire code official."

Section 4-4.20.      Amendment: General.

Section 2808.1 of the CFC is amended to read as follows:

"2808.1 General. The storage and processing of wood chips, hogged materials, fines, compost and raw product produced from yard waste, debris, recycling, and green waste processing facilities shall comply with Sections 2808.2 through 2808.10."

Section 4-4.21.      Amendment: Size of piles.

Section 2808.3 of the CFC is amended to read as follows:

"2808.3 Size of piles. Piles shall not exceed 15 feet in height, 50 feet in width and 250 feet in length.

Exception: The fire code official is authorized to allow the pile size to be increased when additional fire protection is provided in accordance with Chapter 9. The increase shall be based up on the capabilities of the system installed."

Section 4-4.22.      Amendment: Pile separation.

Section 2808.4 of the CFC is amended to read as follows:

"2808.4 Pile separation. Piles shall be separated from adjacent piles by approved fire apparatus access roads. Apparatus roads shall be a minimum of 20 feet."

Section 4-4.23.      Amendment: Combustible waste.

Section 2808.5 of the CFC is amended to read as follows:

“2808.5 Combustible waste. The storage, accumulation and handling of combustible materials and control of vegetation shall comply with Chapter 3. All incoming materials shall be ground or incorporated within 10 days. All incoming materials shall be incorporated into windrows within 15 days. Internal temperatures of stockpiles shall be continuously monitored.

Section 4-4.24.      Amendment: Emergency plan.

Section 2808.10 of the CFC is amended to read as follows:

“2808.10 Emergency plan. The owner or operator shall develop a plan for monitoring, controlling and extinguishing spot fires and submit the plan to the Ontario Fire Department Fire Prevention Bureau for review and approval. The plan shall include, but not be limited to methods and policies for:

1. Monitoring, controlling and extinguishing spot fires.
2. Emergency contact information for personnel who are able to respond to location 24 hours a day, 7 days a week.
3. Onsite equipment to assist with firefighting operations, such as dozers, water tenders, and large tractors.
4. Special considerations for fire safety during extreme weather conditions.
5. Method of providing adequate onsite water supply for firefighting operation. Water system shall have a minimum delivery/replenish capability of 500 gallons per minute for 2 hours.”

Section 4-4.25.      Amendment: Pallet Yards & Recycling Waste Facilities.

Sections 2810 and 2810.1, 2810.6, 2810.8, 2810.10, 2810.12 are added to the CFC to read as follows:

**2810 OUTDOOR STORAGE OF PALLETS AND RECYCLED WASTE FACILITIES.**

**2810.1 General.** The outside storage of wood pallets and wood composite pallets on the same site as pallet manufacturing and recycling facilities and recycled waste facilities shall be subject to the following requirements.

**2810.6 Clearance to property line.** Piles shall be located not less than 50 feet from lot lines and buildings. Where approved by the fire code official, piles located closer to the property line or structure shall be provided with additional fire protection including, but not limited to, the following:

1. The storage yard areas and materials-handling equipment selection, design, and arrangement are based on an approved risk

assessment.

2. Automatic fire detection that transmits an alarm to a supervising station in accordance with NFPA 72.
3. Fire apparatus access roads around all storage areas.

**2810.8 Height and pile dimensions.** Piles shall be restricted to the following:

1. Individual piles shall not exceed 5000 square feet of continuous area;
2. Pile width shall not exceed 50 feet;
3. Piles shall not exceed 50,000 cubic feet in volume or 10 feet in height; and
4. Individual piles shall be separated from other piles by a clear space of not less than 40 feet.

**2810.10 Portable fire extinguishers.** Buildings or structures shall be provided with portable fire extinguishers in accordance with Section 906. Portable fire extinguishers shall be provided within 75 feet of any pile. Fuel-fired vehicles operating in the storage yard shall be equipped with a minimum 4-A:40-B:C-rated portable fire extinguisher.

**2810.12 Other Requirements.**

1. Storage yards shall be maintained free from combustible vegetation for a distance of 40 feet from the stored material to grass and weeds and for a distance of 100 feet from the stored product to brush and forested areas.
2. A firmly anchored fence or other approved method of security that controls unauthorized access to the storage yard shall surround the storage yard.
3. Gates to the storage yard shall be locked when the yard is not staffed.
4. Gateways shall be kept clear of obstructions and be operable at all times.

Section 4-4.26. Amendment: Buildings Other than One- and Two-family Dwellings, Group R-3 and R-4 buildings and townhomes.

Table B105.2 of Appendix B is hereby deleted and Appendix B Section B105.2 of the CFC is amended to read as follows:

“B105.2 Buildings other than one- and two-family dwellings. The minimum fire-flow and flow duration for buildings other than one- and two-family dwellings, Group R-3 and R-4 buildings and townhouses shall be as specified in Table B105.1(2).

Exceptions:

1. A reduction in required fire-flow of up to 50 percent, as approved, is allowed when the building is provided with an approved sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2. The resulting fire-flow shall not be less than 1,500 gallons per minute



(5678 L/min) for the prescribed duration as specified in Table B105.1(2).

2. [SFM] Group B, S-2 and U occupancies having a floor area not exceeding 1,000 square feet, primarily constructed of noncombustible exterior walls with wood or steel roof framing, having a Class A roof assembly, with uses limited to the following or similar uses:
  - 2.1. California State Parks buildings of an accessory nature (restrooms).
  - 2.2. Safety roadside rest areas, (SRRA), public restrooms.
  - 2.3. Truck inspection facilities, (TIF), CHP office space and vehicle inspection bays.
  - 2.4. Sand/salt storage buildings, storage of sand and salt.”

SECTION 3. Filing of Ordinance. The Fire Chief shall transmit a copy of this Ordinance for filing to the State of California Building Standards Commission, pursuant to Health and Safety Code Section 17958.7. One copy of the Ontario Fire Code shall be placed on file in the Office of the City Clerk and is hereby adopted and made a part of this Chapter as if fully set forth at length herein.

SECTION 4. Repeal of Conflicting Ordinances. Ordinance No. 3062, and all former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the Fire Code, as adopted and amended herein, are hereby repealed.

SECTION 5. Severability. Any section, paragraph, sentence or word of this ordinance or of the Fire Code as adopted and amended herein that for any reason has been determined to be invalid, it is the intent of the City Council that it will be considered severable from all other portions of this ordinance independent of the elimination therefrom of any such portion as may be declared invalid.

SECTION 6. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after its final passage. From the date on which this Ordinance shall take effect, the provisions of the Ontario Fire Code shall be controlling within the City limits of the City of Ontario.

SECTION 7. CEQA. The City Council finds that the changes made to the California Fire Code and the International Fire Code are enacted to mitigate threats to public peace, health and safety from earthquakes, high winds and fire. Moreover, the amendments are substantially similar to those provisions previously enacted and contained in the current version of the City's Fire Code. Therefore, it can be seen with certainty that the adoption of this Ordinance will not have a significant adverse effect on the environment and is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to section 15061(b)(3) of the CEQA Guidelines. Staff is directed to file a Notice of Exemption within five (5) days of the adopting of this Ordinance.

SECTION 8. 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 19<sup>th</sup> day of November 2019.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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COLE HUBER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3147 was duly introduced at a regular meeting of the City Council of the City of Ontario held on November 5, 2019 and adopted at the regular meeting held November 19, 2019 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. 3147 duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019 and that Summaries of the Ordinance were published on November 12, 2019 and November 26, 2019 in the Inland Valley Daily Bulletin newspaper.

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

(SEAL)

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTERS 1, 2, 3, 4, 5, 6, 7, 11, AND 12 OF TITLE 8 OF THE ONTARIO MUNICIPAL CODE, ADOPTING BY REFERENCE THE 2019 EDITION OF THE CALIFORNIA BUILDING STANDARDS CODE, INCORPORATING THE 2019 CALIFORNIA BUILDING CODE, THE 2019 CALIFORNIA MECHANICAL CODE, THE 2019 CALIFORNIA ELECTRICAL CODE, THE 2019 CALIFORNIA RESIDENTIAL CODE, THE 2019 CALIFORNIA PLUMBING CODE, THE 2019 CALIFORNIA GREEN BUILDING STANDARDS CODE, THE 1997 EDITION OF THE UNIFORM HOUSING CODE, AND THE 1997 EDITION OF THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS; TOGETHER WITH CERTAIN AMENDMENTS THERETO.

WHEREAS, pursuant to Government Code Section 50022.1 *et seq.*, the City of Ontario, California ("City") may adopt by reference the 2019 Edition of the California Building Standards Code as provided in Titles 24 and 25 of the California Code of Regulations and other codes, including, without limitation, the Uniform Housing Code and the Uniform Code for the Abatement of Dangerous Buildings; and

WHEREAS, the California Building Standards Commission recently adopted the 2019 Edition of the California Building Standards Code; and

WHEREAS, California Health and Safety Code Sections 17958.7 and 18941.5 authorize cities to adopt the California Building Standards Code with modifications that are determined to be a reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, prior to making modifications permitted under California Health and Safety Code Sections 17958.7 and 18941.5, the City Council is required to make express findings that such modifications are needed in accordance with California Health and Safety Code Sections 17958.7; and

WHEREAS, the City desires to adopt the California Building Standards Code with the necessary amendments to assure it is tailored to the safety needs of the City as required by its unique climatic, geological, and topographical conditions; and

WHEREAS, the City held a public hearing on November 5, 2019, at which time all interested persons had the opportunity to appear and be heard on the matter of adopting the Codes as amended herein; and

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

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

SECTION 1. Findings. The City Council hereby finds that the proposed amendments to California Building Code Section 113.4 are necessary for administrative or procedural clarification and to establish administrative standards for the effective enforcement of the building standards of the City of Ontario and does not modify a building standard pursuant to California Health & Safety Code Section 17958, 17958.7, and/or 18941.5.

SECTION 2. Chapter 1 of Title 8 of the Ontario Municipal Code is amended in its entirety to read as follows:

Chapter 1 - Building Code

Section 8-1.01. Adoption of the Building Code

The 2019 Edition of the California Building Code, which incorporates and amends the 2018 Edition of the International Building Code, as published by the International Code Council, subject to the amendments set forth in this chapter, is hereby adopted by reference and made a part of this chapter as if fully set forth at length herein. One (1) copy of said code is on file in the office of the City Clerk for public review.

Section 8-1.02. Amendment: Section 113.4

Section 113.4 is added to the California Building Code to read as follows:

113.4 Ontario Building Appeals Board. The City Manager shall recommend to the City Council five (5) individuals desirous to serve on the Building Appeals Board who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the City. Each Board Member's term on the Building Appeals Board shall remain indefinite unless the Board Member resigns, or the City Council wishes to designate a new Board Member in its discretion. Should any Board Member be unable to continue serving on the Building Appeals Board, he or she shall submit a written resignation to the City Manager as soon as possible. The City Manager shall, in turn, present a recommended replacement to the City Council for appointment.

SECTION 3. Chapter 2 of Title 8 of the Ontario Municipal Code is amended in its entirety to read as follows:

Chapter 2 - Mechanical Code

Section 8-2.01. Adoption of the Mechanical Code

The 2019 Edition of the California Mechanical Code, which incorporates and amends the 2018 Edition of the Uniform Mechanical Code, as published by the International Association of Plumbing and Mechanical Officials, is hereby adopted by reference and made a part of this chapter as if fully set forth at length herein. One (1) copy of said code is on file in the office of the City Clerk for public review.

SECTION 4. Chapter 3 of Title 8 of the Ontario Municipal Code is amended in its entirety to read as follows:

Chapter 3 - Housing Code

Section 8-3.01. Adoption of Housing Code

The 1997 Edition of the Uniform Housing Code, as published by the International Conference of Building Officials, one (1) copy of which is on file for public review in the office of the City Clerk, is hereby adopted by reference and made a part of this chapter as if fully set forth at length herein.

SECTION 5. Chapter 4 of Title 8 of the Ontario Municipal Code is amended in its entirety to read as follows:

Chapter 4 - Electrical Code

Section 8-4.01. Adoption of the Electrical Code

The 2019 Edition of the California Electrical Code, which incorporates and amends the 2017 Edition of the National Electrical Code, as published by the National Fire Protection Association, is hereby adopted by reference and made a part of this chapter as if fully set forth at length herein. One (1) copy of said code is on file in the office of the City Clerk for public review.

SECTION 6. Chapter 5 of Title 8 of the Ontario Municipal Code is hereby amended in its entirety to read as follows:

Chapter 5 - Residential Code

Section 8-5.01. Adoption of the Residential Code

The 2019 Edition of the California Residential Code, which incorporates and amends the 2018 Edition of the International Residential Code, including Appendix V Swimming Pool Safety Act as published by the International Code Council, is hereby adopted by reference and made a part of this chapter as if fully set forth at length herein. One (1) copy of said code is on file in the office of the City Clerk for public review.

Section 8-5.02. Appendix V is amended as follows

1) AV100.2(a) is revised to read as follows:

AV100.2 Construction permit; safety features required.

a) Except as provided in Section AV100.5, when a building permit is issued for the construction of a new swimming pool or spa or the remodeling of an existing swimming pool or spa at a private

single-family home, the respective swimming pool or spa shall be equipped with item #1 and at least one additional of the following seven drowning prevention features.

- 2) AV100.2(a) #1 is revised to read as follows:

An enclosure that meets the requirements of AV100.3 and isolates the swimming pool and spa from the private single-family home. Any walls of the residential structural or accessory structures used to complete the isolation enclosure must have door openings equipped with protection as required in AV100.2 (a) #4 or #5. Any such door protection device provided for this purpose may not be used to comply with second drowning prevention feature requirement.

- 3) AV100.2(a) #2 is revised by adding the following sentence:

The mesh fencing setback shall be not less than 20 inches from the water's edge.

- 4) AV100.3 #5 is revised by adding the following text:

In order to be considered non-climbable the following minimum standards apply:

- a. Horizontal members which would allow gasping and/or footholds must be separated a minimum of 45 inches.
- b. The maximum opening formed by a chain link fence shall be not more than 1 ¼”.
- c. There shall be a clear zone of not less than 36” between the exterior of the enclosure and any permanent structures or equipment such as pumps, filters and heaters that can be used to climb the enclosure.

All other text in Appendix V remains unchanged.

SECTION 7. Chapter 6 of Title 8 of the Ontario Municipal Code is amended in its entirety to read as follows:

#### Chapter 6 - General Provisions

##### Section 8-6.01. Fees

Fees for any permit, license or other approval issued pursuant to any of the codes adopted by this title shall be as set forth by resolution of the City Council.

##### Section 8-6.02. Violations

Violations of any provision of any of the codes adopted by this title shall subject the violator to any or all of the penalties provided in this code or applicable law.

SECTION 8. Chapter 7 of Title 8 of the Ontario Municipal Code is hereby amended in its entirety to read as follows:

Chapter 7 - Plumbing Code

Section 8-7.01. Adoption of the Plumbing Code

The 2019 Edition of the California Plumbing Code, which incorporates and amends the 2018 Uniform Plumbing Code, as published by the International Association of Plumbing & Mechanical Officials, is hereby adopted by reference and made a part of this chapter as if fully set forth at length herein. One (1) copy of said code is on file in the office of the City Clerk for public review.

SECTION 9. Chapter 11 of Title 8 of the Ontario Municipal Code is hereby amended in its entirety to read as follows:

Chapter 11 - Dangerous Building Code

Section 8-11.01. Adoption of Uniform Code for the Abatement of Dangerous Buildings

The 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, as published by the International Conference of Building Officials, is hereby adopted by reference and made a part of this chapter as if fully set forth at length herein. One (1) copy of said code is on file in the office of the City Clerk for public review.

SECTION 10. Chapter 12 of Title 8 of the Ontario Municipal Code is hereby amended in its entirety to read as follows:

Chapter 12 - California Green Building Standards Code

Section 8-12.01. Adoption of California Green Building Standards Code

The 2019 Edition of the California Green Buildings Standards Code is hereby adopted by reference and made a part of this chapter as if fully set forth as length herein. One (1) copy of said code is on file in the office of the City Clerk for public review.

SECTION 11. Repeal of Conflicting Ordinances. Ordinance No. 3063, all former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance, as adopted and amended herein, are hereby repealed.

SECTION 12. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent



jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

SECTION 13. CEQA. The City Council finds that the changes made to the California Building Code and the International Building Code are enacted to mitigate threats to public peace, health and safety from earthquakes, high winds and fire. Moreover, the amendments are substantially similar to those provisions previously enacted and contained in the current version of the City's Building Code. Therefore, it can be seen with certainty that the adoption of this Ordinance will not have a significant adverse effect on the environment and is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to section 15061(b)(3) of the CEQA Guidelines. Staff is directed to file a Notice of Exemption within five (5) days of the adopting of this Ordinance.

SECTION 14. 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 19<sup>th</sup> day of November 2019.

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
COLE HUBER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 3148 was duly introduced at a regular meeting of the City Council of the City of Ontario held November 5, 2019 and adopted at the regular meeting held November 19, 2019 by the following roll call vote, to wit:

AYES:                COUNCIL MEMBERS:

NOES:                COUNCILMEMBERS:

ABSENT:            COUNCIL MEMBERS:

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

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 3148 duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019 and that Summaries of the Ordinance were published on November 12, 2019 and November 26, 2019 in the Inland Valley Daily Bulletin newspaper.

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

(SEAL)

# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: APPROVAL OF SECOND AMENDMENT TO THE 2007 JACK GALVIN MOBILE HOME PARK ACCORD**

**RECOMMENDATION:** That the City Council approve a five-year extension and the Second Amendment to the 2007 Jack Galvin Mobile Home Park Accord between the City of Ontario and owners of the mobile home parks within the City of Ontario and establishing maximum rent adjustments.

**COUNCIL GOALS: Operate in a Businesslike Manner**  
**Focus Resources in Ontario's Commercial and Residential Neighborhoods**

**FISCAL IMPACT:** None.

**BACKGROUND:** In 2007, the City of Ontario and ten mobile home park owners entered into the 2007 Jack Galvin Mobile Home Park Accord Agreement (the "Accord") to provide a procedure to address annual rental rates and changes and rent adjustments in mobile home parks in Ontario. The Accord provides for possible annual rent adjustments based on the Consumer Price Index reported for the previous calendar year. In addition, annual rent adjustments are further limited by a maximum and minimum annual adjustment percentage not to exceed ten percent maximum and four percent minimum. Since implementation of the Agreement, City staff has monitored all annual rental rate increases and other adjustments.

In December 2, 2014, the City Council approved a First Amendment to the Accord for a five-year extension which expires on January 5, 2020. The City received a letter from the participating ten mobile home park owners stating their unanimous support in approving another five-year extension of the Accord under the same terms and conditions which limit rent increases. In addition, Peter Herzog, who represents the Manufactured Housing Educational Trust (MHET), has also indicated support of the five-year extension.

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

Prepared by: Melinda Kwan  
Department: Housing & Neighborhood Preservation  
City Manager Approval: 

Submitted to Council/O.H.A. 11/19/2019

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

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

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

10

City staff recommends the extension of the Accord through January 5, 2025 as a method to continue to provide a reasonable and predictable process for rent increases by the mobile home park owners to the benefit of the Homeowners and Tenants. The participating mobile home parks are listed in Exhibit A.

**EXHIBIT "A"**  
**MOBILEHOME PARK OWNERS**

**COMET TRAILER COURT**

12018 Central Avenue  
Chino, CA 91710

**FERNWOOD MOBILEHOME PARK**

1512 East Fifth Street  
Ontario, CA 91764  
Tower Management Co.  
80 South Lake Ave., #3719  
Pasadena, CA 91101

**RANCHO ONTARIO, ACLP**

1400 East Philadelphia Avenue  
Ontario, CA 91761  
By: Ontario Mobilehome Park Corp., GP  
503 West Palm Drive  
Placentia, CA 92870

**GROVE MANOR ONTARIO, LLC**

444 W. Ocean Blvd., #1616  
Long Beach, CA 90802

**COUNTRY MEADOWS MOBILE HOME  
COMMUNITY**

1855 E. Riverside Drive  
Ontario, CA 91761  
Kingsley Management Company  
4956 N. 200 W. Ste. 200  
Provo, Utah 84604

**SAMOA VILLAGE MOBILEHOME ESTATES**

310 East Philadelphia Avenue  
Ontario, CA 91761  
Safety Investment Co.  
P.O. Box 3370  
Ontario, CA 91761

**WEBB'S MOBILEHOME PARK**

637 West Brooks  
Ontario, CA 91761  
Pama Management  
4900 Santa Ana Ave., Suite 2C  
El Monte, CA 91761

**GOLDEN GATE TRAILER COURT**

4030 N. Mills Ave.  
Claremont, CA 91711

**STAR TRAILER PARK**

1230 Nocta, Ontario, CA 91764  
5311 Bridgewood Drive  
La Palma, CA 90623

**LAMPLIGHTER ONTARIO MOBILEHOME  
COMMUNITY**

Morgan Partners, Inc.  
321 High School Road NE#351, D3 PMB 381,  
Bainbridge Island, WA 98110-2648

# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: RESOLUTIONS APPROVING TIME EXTENSIONS FOR TENTATIVE TRACT MAP NOS. 18026 (FILE NO. PMTT11-003) AND 18027 (FILE NO. PMTT11-002) LOCATED WITHIN THE WEST HAVEN SPECIFIC PLAN**


**RECOMMENDATION:** That the City Council consider and adopt resolutions approving a five-year time extension for:

- (A) Tentative Tract Map 18026 (File No. PMTT11-003) to subdivide 19.73 acres of land into 102 residential lots and 10 lettered lots, within the Planning Area 4 (3,825 Min. Sq. Ft. Lots) of the West Haven Specific Plan, located at the northwest corner of Haven Avenue and Chino Avenue (APN 0218-151-11); and
- (B) Tentative Tract Map 18027 (File No. PMTT11-002) to subdivide 29 acres of land into 94 residential lots and 5 lettered lots, within the Planning Area 8 (4,250 Min. Sq. Ft. Lots) of the West Haven Specific Plan, located at the northwest corner of Haven Avenue and Schaefer Avenue (APN 0218-151-38).

**COUNCIL GOALS:** Invest in the Growth and Evolution of the City's Economy  
Operate in a Businesslike Manner  
Focus Resources in Ontario's Commercial and Residential Neighborhoods  
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

**FISCAL IMPACT:** On March 3, 2015, the City Council introduced an ordinance approving Development Agreement, File No. PDA 07-005, granting STG Communities II, LLC, a vested right to develop Tentative Tract Map Nos. 18026 and 18027. The Development Agreement ensures that the City receives Public Service Funding fees plus development impact, compliance processing, licensing, and permitting fees. No general City revenue will be used to support the Ontario Ranch development. The Development Agreement and Tentative Tract Maps 18026 and 18027 conditions require the developer to construct public infrastructure. Upon recordation of the Final Tract Maps, financing options are available

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

Prepared by: Rudy Zeledon  
Department: Planning  
City Manager Approval: 

Submitted to Council/O.H.A. 11/19/2019  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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through the formation of a Community Facilities District (CFD) to provide funding for City facilities and services.

**BACKGROUND:** On July 17, 2007, the City Council approved the West Haven Specific Plan (“Specific Plan”), File No. PSP03-006, and the corresponding Environmental Impact Report (EIR). The Specific Plan established the land use designations, development standards, and design guidelines, which included the potential development of 753 single-family units and 87,000 square feet of commercial space for approximately 202 gross acres of land bounded by Riverside Drive to the north, Schaefer Avenue to the south, Haven Avenue to the east, and the SCE utility corridor and Turner Avenue to the west.

On January 27, 2015, the Planning Commission approved Tentative Tract Map Nos. 18026 and 18027 (“Maps”) respectively, to allow for the construction of the backbone infrastructure (streets and utilities) and parks, in conjunction with the development of 196 residential units within the Specific Plan area.

In conjunction with the tentative map approvals, the applicant entered into a Development Agreement (File No. PDA07-005) approved by the City Council on March 3, 2015. The Development Agreement included provisions for development impact fees, affordable housing, public services funding, school financing, and tentative map approval time period. Under the Development Agreement, both Tentative Tract Maps 18026 and 18027 were approved initially for a five-year period, which is set to expire on March 3, 2020. Development Agreement allows for the option of a five-year extension for each map, subject to City Council approval. The applicant is therefore requesting to exercise their Development Agreement time extension option for both tentative tract maps, which would extend the expiration dates to March 3, 2025.

In reviewing the time extension requests, staff finds that the Specific Plan development standards remain unchanged from the July 2007 project approval. The conditions of approval require installation of all infrastructure improvements (sewer, water, etc.) necessary to serve the site. Staff finds that the tentative maps are in compliance with The Ontario Plan, current development standards of the West Haven Specific Plan, and conditions of approval.

On October 22, 2019, the Planning Commission conducted a public hearing to consider the above-time extensions requests and found that the Maps are in compliance with current development standards and conditions of approval. After considering all public testimony on the application, the Planning Commission voted unanimously (7-0) recommending that the City Council approve the five-year time extension.

**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and project proposes 196 dwelling units (6 Net DU/AC) which is consistent and part of the 753 dwelling units and density (4-7 DU/AC) within the entire West Haven Specific Plan specified in the Available Land Inventory.

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

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were previously reviewed in conjunction with West Haven Specific Plan, for which an EIR (SCH# 2004071095) was adopted by the City Council on July 17, 2007. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.





# PLANNING COMMISSION STAFF REPORT

October 22, 2019

**FILE NOS.:** PMTT11-002 and PMTT11-003

**SUBJECT:** A request for a five-year Time Extension of the expiration date of approval for: 1) Tentative Tract Map 18027 to subdivide 29 acres of land into 94 numbered lots and 5 lettered lots within Planning Area 8 of the West Haven Specific Plan, located at the northwest corner of Haven Avenue and Schaefer Avenue; and 2) Tentative Tract Map 18026 to subdivide 29 acres of land into 102 numbered lots and 10 letters within Planning Area 4 of the West Haven Specific Plan, located at the northwest corner of Haven Avenue and Chino Avenue. (APNs: 0218-151-11 and 0218-151-38) **Submitted by Stratham West Haven. City Council action is required.**

**PROPERTY OWNER:** STG Communities II, LLC, a California limited liability company

**RECOMMENDED ACTION:** That the Planning Commission recommend approval of a five-year time extension for File Nos. PMTT11-002 (TTM 18027) and PMTT11-003 (TTM 18026) to the City Council, pursuant to the facts and reasons contained in the staff report and attached resolutions.

**PROJECT SETTING:** The project site, depicted in Figure 1: Project Location, is comprised of 48.73 acres of land (TTM 18026 and TTM 18027) located at the northwest corner of Haven Avenue and Chino Avenue and the northwest corner of Haven Avenue and Schaefer Avenue, within Planning Areas 4 and 8 of the West Haven Specific Plan, respectively. The properties to the north and east, are developed with agriculture and dairy uses. The property to the west is currently developed with single family homes. The property to the south is developed with a Southern California Edison (SCE) utility corridor.



**Figure 1: Project Location**

Case Planner:	Rudy Zeledon, Assistant Planning Director
Planning Director Approval:	
Submittal Date:	09/25/2019

Hearing Body	Date	Decision	Action
DAB	N/A	N/A	N/A
PC	10/22/2019	Approval	Recommend
CC	11/19/2019		Final

## **PROJECT ANALYSIS:**

[1] Background — On July 17, 2007, the City Council approved the West Haven Specific Plan (“Specific Plan”), File No. PSP03-006, and the corresponding Environmental Impact Report (EIR). The Specific Plan established the land use designations, development standards, and design guidelines, which included the potential development of 753 single-family units and 87,000 square feet of commercial space for approximately 202 gross acres of land bounded by Riverside Drive to the north, Schaefer Avenue to the south, Haven Avenue to the east, and the SCE utility corridor and Turner Avenue to the west.

On January 27, 2015, the Planning Commission Approved the following Tentative Tract Maps:

PMTT11-002 – Tentative Tract Map 18027 (Exhibit “A”) proposed to subdivide to 29 acres of land into 94 numbered lots and 5 lettered lots within Planning Area 8 of the West Haven Specific Plan, located at the northwest corner of Haven Avenue and Schaefer Avenue. A total of 94 numbered lots and 5 lettered lots (parks, paseos, and landscaped buffers) were proposed to accommodate conventional single-family detached homes. The lots will have a minimum lot width of 55 feet and a lot depth of 83 feet for interior lots. The corner lots will have a lot width of 60 feet and lot depth of 83 feet. The lots range in size from 4,603 square feet to 6,883 square feet with an average lot size of 5,000 square feet.

PMTT11-003 – Tentative Tract Map 18026 (Exhibit “B”) proposed to subdivide 29 acres of land into 102 numbered lots and 10 lettered lots within Planning Area 4 of the West Haven Specific Plan, located at the northwest corner of Haven Avenue and Chino Avenue. A total of 102 numbered lots and 10 lettered lots (parks, paseos, and landscaped buffers) are proposed to accommodate conventional single-family detached homes. The lots will have a minimum lot width of 45 feet and a lot depth of 85 feet for interior lots. The corner lots will have a lot width of 50 feet and lot depth of 85 feet. The lots range in size from 4,243 square feet to 8,845 square feet with an average lot size of 4,741 square feet.

Development Agreement – In conjunction with the tentative map approvals, the applicant entered into a Development Agreement (File No. PDA07-005), approved by the City Council on March 03, 2015. The Development Agreement with the City included, but was not limited to, provisions for development impact fees, affordable housing, public services funding, school financing, and tentative map approval time period. Under the Development Agreement, both Tentative Tract Maps 18026 and 18027 were approved initially for a five-year period, which is set to expire on March 03, 2020. Pursuant to the Development Agreement, allows for the option of a five-year extension for each map respectively, to be approved by the City Council. The applicant is therefore requesting to exercise their Development Agreement time extension option for both tentative tract maps, which would extend the maps expiration dates to March 03, 2025.

Compliance – In reviewing the time extension requests, staff finds that the Specific Plan development standards remain unchanged from the July 2007 project approval. The conditions of approval require installation of all infrastructure improvements (sewer, water, etc.) necessary to serve the site. The applicant is a member of NMC Builders and is involved in the design of the backbone infrastructure necessary to serve the site. The work being done by NMC Builders would provide the infrastructure to serve the site, consistent with the conditions of approval. Staff finds that the tentative maps are in compliance with TOP, current development standards (West Haven Specific Plan), and conditions of approval.

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

[1] City Council Goals.

- Invest in the Growth and Evolution of the City's Economy
- Operate in a Businesslike Manner
- Focus Resources in Ontario's Commercial and Residential Neighborhoods
- Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

[2] Vision.

**Distinctive Development:**

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

[3] Governance.

**Decision Making:**

- Goal G1: Sustained decision-making that consistently moves Ontario towards its Vision by using The Ontario Plan as a framework for assessing choices.
  - G1-2 Long-term Benefit. We require decisions to demonstrate and document how they add value to the community and support the Ontario Vision

[4] Policy Plan (General Plan)

### **Land Use Element:**

- Goal LU1: A community that has a spectrum of housing types and price ranges that match the jobs in the City and that make it possible for people to live and work in Ontario and maintain a quality of life.
  - LU1-1 Strategic Growth. We concentrate growth in strategic locations that help create place and identity, maximize available and planned infrastructure, and foster the development of transit.
  - LU1-6 Complete Community: We incorporate a variety of land uses and building types in our land use planning efforts that result in a complete community where residents at all stages of life, employers, workers and visitors have a wide spectrum of choices of where they can live, work, shop and recreate within Ontario. (Refer to Complete Community Section of Community Economics Element).
- Goal LU2: Compatibility between a wide range of uses.
  - LU2-6: Infrastructure Compatibility: We require infrastructure to be aesthetically pleasing and in context with the community character.

### **Housing Element:**

- Goal H2: Diversity of types of quality housing that are affordable to a range of household income levels, accommodate changing demographics, and support and reinforce the economic sustainability of Ontario.
  - H2-4 New Model Colony. We support a premier lifestyle community in the New Model Colony distinguished by diverse housing, highest design quality, and cohesive and highly amenitized neighborhoods.
- Goal H5: A full range of housing types and community services that meet the special housing needs for all individuals and families in Ontario, regardless of income level, age or other status.

### **Community Economics Element:**

- Goal CE1: A complete community that provides for all incomes and stages of life.
  - CE1-6 Diversity of Housing. We collaborate with residents, housing providers and the development community to provide housing opportunities for every stage of life; we plan for a variety of housing types and price points to support our workforce, attract business and foster a balanced community.

### **Community Design Element:**

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

➤ CD2-2 Neighborhood Design. We create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
- Variable setbacks and parcel sizes to accommodate a diversity of housing types;
- Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
- Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and
- Landscaped parkways, with sidewalks separated from the curb.

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

**HOUSING ELEMENT COMPLIANCE:** The project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and project proposes 196 dwelling units (6 Net DU/AC) which is consistent and part of the 753 dwelling units and density (4-7 DU/AC) within the entire West Haven Specific Plan specified in the Available Land Inventory.

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

**ENVIRONMENTAL REVIEW:** The environmental impacts of this project were previously reviewed in conjunction with West Haven Specific Plan, for which an EIR (SCH# 2004071095) was adopted by the City Council on July 17, 2007. This Application introduces no new significant environmental impacts. All previously adopted mitigation measures are a condition of project approval and are incorporated herein by this reference.

**Exhibit "A"**

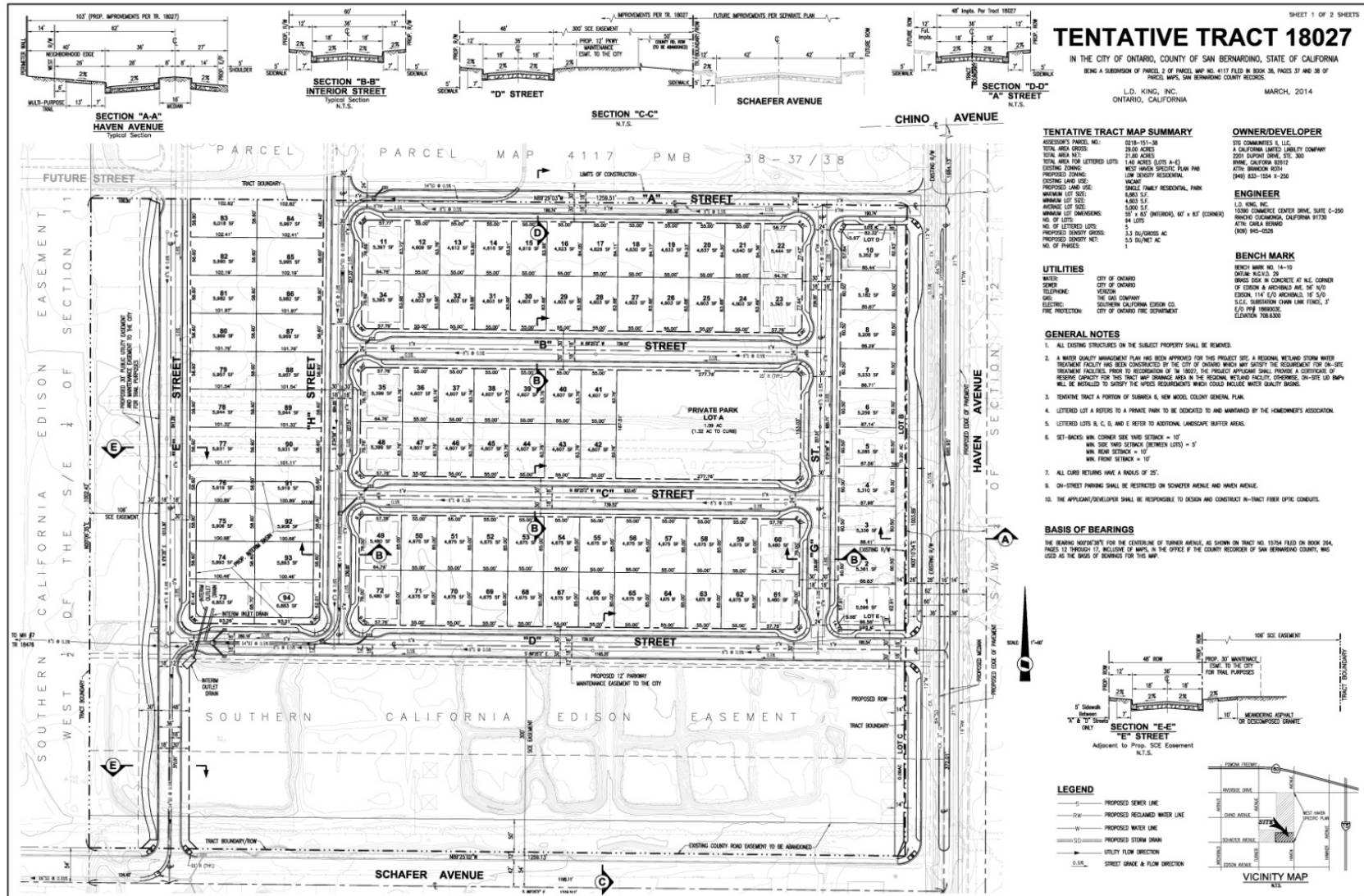
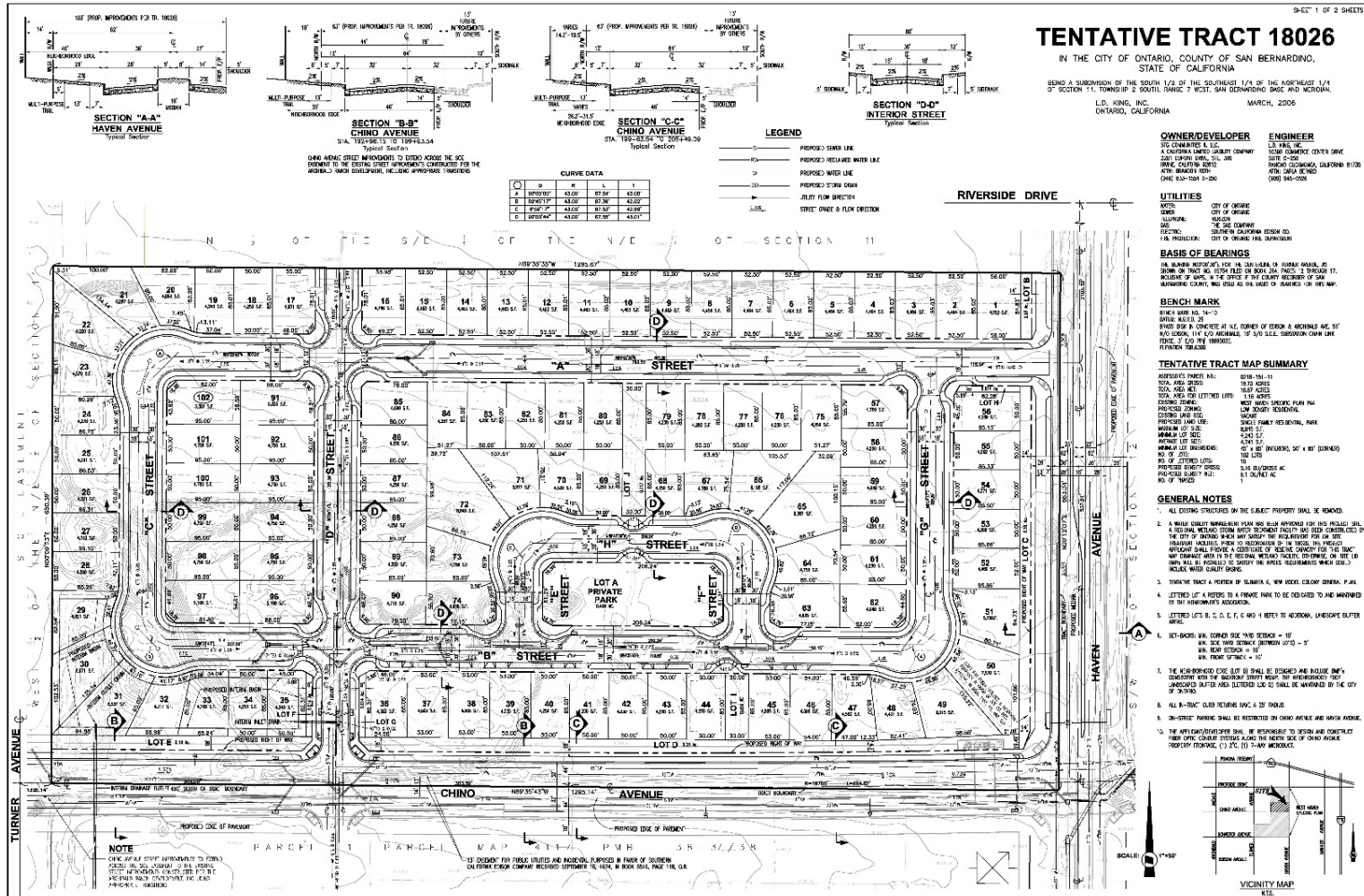


Exhibit "B"



RESOLUTION NO. PC19-080

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING CITY COUNCIL APPROVAL OF A FIVE YEAR TIME EXTENSION FOR FILE NO. PMTT11-002 (TT18027), SUBDIVIDING 29 ACRES OF LAND INTO 94 RESIDENTIAL LOTS AND 5 LETTERED LOTS, WITHIN PLANNING AREAS 8 (4,250 MIN. S.F. LOTS) OF THE WEST HAVEN SPECIFIC PLAN, LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND SCHAEFER AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-151-38.

WHEREAS, STG COMMUNITIES II, LLC, ("Applicant") has filed an Application for the approval of a five-year time extension of the expiration date for the approval of a Tentative Tract Map 18027, File No. PMTT11-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 29 acres of land generally located at the northwest corner of Haven Avenue and Schaefer Avenue, with a street frontage of approximately 685 feet along Haven Avenue and a street frontage of approximately 1,259 feet along Schaefer Avenue; and

WHEREAS, the subject site is located in the West Haven Specific Plan within Planning Area 8 and is zoned for Single-Family Detached Residential (4,250 min. s.f. lots). The site is currently being utilized for agriculture purposes. The property to the north is located within Planning Areas 5 of the West Haven Specific Plan, is zoned for Low Density Residential, and is currently being utilized with existing dairy/agriculture uses. The properties to the south and west are zoned Open Space Non-Recreation and are developed with an SCE utility corridor. The property to the east is located in the Rich Haven Specific Plan within Planning Area 5A and 5C (Single Family Residential) and is currently developed with dairy/agriculture uses; and

WHEREAS, on January 27, 2015, the Planning Commission approved Tentative Tract Map TT 18027 for the subdivision of the property into 94 numbered lots and 5 lettered lots; and

WHEREAS, on March 3, 2015, the City Council approved a Development Agreement (File No. PDA07-005) for the property that provided an initial approval period of five (5) years for the tentative map and an option for an extension of an additional five (5) years, subject to approval by the City Council; and

WHEREAS, the Applicant is requesting to exercise their Development Agreement time extension option for Tentative Tract Map 18027, which would extent the maps expiration date to March 03, 2025; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act - Public Resources Code Section 21000 et seq. – (hereinafter referred to as



"CEQA") and an initial study has been prepared to determine possible environmental impacts; and

WHEREAS, the environmental impacts of this project were reviewed in conjunction with the West Haven Specific Plan (File No. PSP03-006) EIR (SCH# 2004071095). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "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. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference; and

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

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

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

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

WHEREAS, on October 22, 2019, the Planning Commission of the City of Ontario conducted a hearing to consider the requested Time Extension, and concluded said hearing on that date; and

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

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

**SECTION 1: *Environmental Determination and Findings.*** As the recommending body for the Project, the Planning Commission has reviewed the adopted West Haven Specific Plan Environmental Impact Report (EIR). Based upon the facts and information contained in the previously adopted West Haven Specific Plan (File No. PSP03-006) EIR (SCH# 2004071095) and supporting documentation, the Planning Commission finds as follows:

(1) The environmental impacts of this project were reviewed in conjunction with the West Haven Specific Plan Environmental Impact Report, certified by the City of Ontario City Council on July 17, 2007, in conjunction with File No. PSP03-006.

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

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

(4) The previous Certified EIR reflects the independent judgment of the Planning Commission; and

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

**SECTION 2: *Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending body for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the maximum number of dwelling units (94) and density (5.9 Net DU/AC) specified within the West Haven Specific Plan. Per the Available Land Inventory, the West Haven Specific Plan is required to provide 753 dwelling units with a density range of 4-7 DU/AC.

**SECTION 3: *Ontario International Airport Land Use Compatibility Plan (“ALUCP”) Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the ALUCP, establishing the Airport Influence Area for Ontario International Airport (hereinafter referred to as “ONT”), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles

Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the recommending body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

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

(1) ***The proposed Tentative Tract Map 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, and applicable area and specific plans, and planned unit developments.*** The proposed Tentative Tract Map is located in the West Haven Specific Plan within Planning Area 8 and is zoned for Single-Family Detached Residential (4,250 Min. S.F. Lots). The proposed subdivision 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 the project will contribute to providing “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” (Goal LU1). Furthermore, the project will promote the City’s policy to “incorporate a variety of land uses and building types that contribute to a complete community where residents at all stages of life, employers, workers, and visitors, have a wide spectrum of choices of where they can live, work, shop, and recreate within Ontario” (Policy LU1-6 *Complete Community*).

(2) ***The design or improvement of the proposed Tentative Tract Map 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, and applicable specific plans and planned unit developments.*** The design or improvement of the subdivision is consistent with all applicable general and specific plans. The Tentative Tract Map meets all minimum lot requirements within the Design Guidelines and Development Standards of the West Haven Specific Plan. The Tentative Tract Map will provide for single family detached homes as required by Planning Area 8 of the West Haven Specific Plan. A total of 94 numbered lots and 5 lettered lots (parks, paseos, and landscaped buffers) are proposed to accommodate conventional single-family detached homes. The proposed design or improvement of the subdivision 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 the project will contribute to providing “[a] high level of design quality resulting in public

spaces, streetscapes, and developments that are attractive, safe, functional and distinct” (Goal CD2). Furthermore, the project will promote the City’s policy to “create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
  - Variable setbacks and parcel sizes to accommodate a diversity of housing types;
  - Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
  - Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and
  - Landscaped parkways, with sidewalks separated from the curb.”
- (Policy CD2-2 *Neighborhood Design*).

(3) ***The site is physically suitable for the type of development proposed.*** The project site meets the minimum lot area and dimensions of the West Haven Specific Plan and is physically suitable for the type of residential development proposed in terms of zoning, land use and development activity proposed, and existing and proposed site conditions.

(4) ***The site is physically suitable for the density/intensity of development proposed.*** The project site is proposed for residential development at gross density of 3.4 dwelling units per acre. The project site meets the minimum lot area and dimensions of the West Haven Specific Plan and is physically suitable for this proposed density / intensity of development.

(5) ***The design of the subdivision or the proposed improvements thereon, are not likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife, or their habitat.*** The project site is not located in an area that has been identified as containing species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service, nor does the site contain any riparian habitat or other sensitive natural community, and no wetland habitat is present on site; therefore, the design of the subdivision, or improvements proposed thereon, are not likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife, or their habitat.

(6) ***The design of the subdivision, or the type of improvements thereon, are not likely to cause serious public health problems.*** The design of the proposed subdivision, and the general improvements existing or proposed on the project site, are not likely to cause serious public health problems. The project is not anticipated to involve the transport, use, or disposal of hazardous materials during either construction

or project implementation, include the use of hazardous materials or volatile fuels, nor are there any known stationary commercial or industrial land uses within close proximity to the subject site that use/store hazardous materials to the extent that they would pose a significant hazard to visitors or occupants to the project site.

(7) ***The design of the subdivision, or the type of improvements thereon, will not conflict with easements acquired by the public at large for access through, or use of property within, the proposed subdivision.*** The proposed subdivision has provided for all necessary public easements and dedications for access through, or use of property within, the proposed subdivision. Furthermore, all such public easements and dedications have been designed pursuant to: (a) the requirements of the Policy Plan component of The Ontario Plan and applicable area plans; (b) applicable specific plans or planned unit developments; (c) applicable provisions of the City of Ontario Development Code; (d) applicable master plans and design guidelines of the City; and (e) applicable Standard Drawings of the City.

**SECTION 5: Planning Commission Action.** Based upon the findings and conclusions set forth in Sections 1 through 4, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE the herein described Application, subject to each and every condition set forth in the Department reports for the original of approval of Tentative Tract Map 18027 by the Planning Commission on January 27, 2015.

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

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

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

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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 22<sup>nd</sup> day of October 2019, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



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Jim Willoughby  
Planning Commission Chairman

ATTEST:



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Cathy Wahlstorm  
Planning Director  
Secretary of Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC19-080, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on October 22, 2019, by the following roll call vote, to wit:

AYES:            DeDiemar, Downs, Gage, Gregorek, Reyes, Ricci, Willoughby

NOES:           None

ABSENT:        None

ABSTAIN:       None

  
\_\_\_\_\_  
Gwen Berendsen  
Secretary Pro Tempore

RESOLUTION NO. PC19-081

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ONTARIO, CALIFORNIA, RECOMMENDING CITY COUNCIL APPROVAL OF A FIVE YEAR TIME EXTENSION FOR FILE NO. PMTT11-003 (TT18026), SUBDIVIDING 19.73 ACRES OF LAND INTO 102 RESIDENTIAL LOTS AND 10 LETTERED LOTS, WITHIN PLANNING AREAS 4 (3,825 MIN. S.F. LOTS) OF THE WEST HAVEN SPECIFIC PLAN, LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND CHINO AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-151-11.

WHEREAS, STG COMMUNITIES II, LLC, ("Applicant") has filed an Application for the approval of a five-year time extension of the expiration date for the approval of a Tentative Tract Map 18026, File No. PMTT11-003, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 19.73 acres of land generally located at the northwest corner of Haven Avenue and Chino Avenue, with a street frontage of approximately 663 feet along Haven Avenue and a street frontage of approximately 1,295 feet along Chino Avenue; and

WHEREAS, the subject site is located in the West Haven Specific Plan within Planning Areas 4 and is zoned for Single-Family Detached Residential (3,825 min. s.f. lots). The site is currently being utilized for agriculture purposes. The property to the north is located within Planning Areas 3 of the West Haven Specific Plan is zoned for Low Density Residential and is currently being utilized for dairy/agriculture purposes. The properties to the south and west are zoned Open Space Non-Recreation and developed with the SCE utility corridor. The property to the east is located in the Rich Haven Specific Plan within Planning Area 1D (Single Family Residential) and is currently developed with an existing dairy/agriculture use; and

WHEREAS, on January 27, 2015, the Planning Commission approved Tentative Tract Map TT 18026 for the subdivision of the property into 102 numbered lots and 10 lettered lots; and

WHEREAS, on March 3, 2015, the City Council approved a Development Agreement (File No. PDA07-005) for the property that provided an initial approval period of five (5) years for the tentative map and an option for an extension of an additional five (5) years, subject to approval by the City Council; and

WHEREAS, the Applicant is requesting to exercise their Development Agreement time extension option for Tentative Tract Map 18026, which would extent the maps expiration date to March 03, 2025; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act - Public Resources Code Section 21000 et seq. – (hereinafter referred to as



"CEQA") and an initial study has been prepared to determine possible environmental impacts; and

WHEREAS, the environmental impacts of this project were reviewed in conjunction with the West Haven Specific Plan (File No. PSP03-006) EIR (SCH# 2004071095). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "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. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference; and

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

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

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

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

WHEREAS, on October 22, 2019, the Planning Commission of the City of Ontario conducted a hearing to consider the requested Time Extension, and concluded said hearing on that date; and

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

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

**SECTION 1: *Environmental Determination and Findings.*** As the recommending body for the Project, the Planning Commission has reviewed the adopted West Haven Specific Plan Environmental Impact Report (EIR). Based upon the facts and information contained in the previously adopted West Haven Specific Plan (File No. PSP03-006) EIR (SCH# 2004071095) and supporting documentation, the Planning Commission finds as follows:

(1) The environmental impacts of this project were reviewed in conjunction with the West Haven Specific Plan Environmental Impact Report, certified by the City of Ontario City Council on July 17, 2007, in conjunction with File No. PSP03-006.

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

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

(4) The previous Certified EIR reflects the independent judgment of the Planning Commission; and

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

**SECTION 2: *Housing Element Compliance.*** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending body for the Project, the Planning Commission finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the maximum number of dwelling units (102) and density (6.7 Net DU/AC) specified within the West Haven Specific Plan. Per the Available Land Inventory, the West Haven Specific Plan is required to provide 753 dwelling units with a density range of 4-7 DU/AC.

**SECTION 3: *Ontario International Airport Land Use Compatibility Plan (“ALUCP”) Compliance.*** The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the ALUCP, establishing the Airport Influence Area for Ontario International Airport (hereinafter referred to as “ONT”), which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles

Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the recommending body for the Project, the Planning Commission has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the Planning Commission, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

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

(1) ***The proposed Tentative Tract Map 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, and applicable area and specific plans, and planned unit developments.*** The proposed Tentative Tract Map is located in the West Haven Specific Plan within Planning Area 4 and is zoned for single-family detached residential (3,825 min. s.f. lots). The proposed subdivision 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 the project will contribute to providing “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” (Goal LU1). Furthermore, the project will promote the City’s policy to “incorporate a variety of land uses and building types that contribute to a complete community where residents at all stages of life, employers, workers, and visitors, have a wide spectrum of choices of where they can live, work, shop, and recreate within Ontario” (Policy LU1-6 *Complete Community*).

(2) ***The design or improvement of the proposed Tentative Tract Map 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, and applicable specific plans and planned unit developments.*** The design or improvement of the subdivision is consistent with all applicable general and specific plans. The Tentative Tract Map meets all minimum lot requirements within the Design Guidelines and Development Standards of the West Haven Specific Plan. The Tentative Tract Map will provide for single family detached homes as required by Planning Area 4 of the West Haven Specific Plan. A total of 102 numbered lots and 10 lettered lots (parks, paseos, and landscaped buffers) are proposed to accommodate conventional single-family detached homes. The proposed design or improvement of the subdivision 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 the project will contribute to providing “[a] high level of design quality resulting in public

spaces, streetscapes, and developments that are attractive, safe, functional and distinct” (Goal CD2). Furthermore, the project will promote the City’s policy to “create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
  - Variable setbacks and parcel sizes to accommodate a diversity of housing types;
  - Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
  - Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and
  - Landscaped parkways, with sidewalks separated from the curb.”
- (Policy CD2-2 *Neighborhood Design*).

(3) ***The site is physically suitable for the type of development proposed.*** The project site meets the minimum lot area and dimensions of the West Haven Specific Plan and is physically suitable for the type of residential development proposed in terms of zoning, land use and development activity proposed, and existing and proposed site conditions.

(4) ***The site is physically suitable for the density/intensity of development proposed.*** The project site is proposed for residential development at gross density of 3.4 dwelling units per acre. The project site meets the minimum lot area and dimensions of the West Haven Specific Plan and is physically suitable for this proposed density / intensity of development.

(5) ***The design of the subdivision or the proposed improvements thereon, are not likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife, or their habitat.*** The project site is not located in an area that has been identified as containing species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service, nor does the site contain any riparian habitat or other sensitive natural community, and no wetland habitat is present on site; therefore, the design of the subdivision, or improvements proposed thereon, are not likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife, or their habitat.

(6) ***The design of the subdivision, or the type of improvements thereon, are not likely to cause serious public health problems.*** The design of the proposed subdivision, and the general improvements existing or proposed on the project site, are not likely to cause serious public health problems. The project is not anticipated to involve the transport, use, or disposal of hazardous materials during either construction

or project implementation, include the use of hazardous materials or volatile fuels, nor are there any known stationary commercial or industrial land uses within close proximity to the subject site that use/store hazardous materials to the extent that they would pose a significant hazard to visitors or occupants to the project site.

(7) ***The design of the subdivision, or the type of improvements thereon, will not conflict with easements acquired by the public at large for access through, or use of property within, the proposed subdivision.*** The proposed subdivision has provided for all necessary public easements and dedications for access through, or use of property within, the proposed subdivision. Furthermore, all such public easements and dedications have been designed pursuant to: (a) the requirements of the Policy Plan component of The Ontario Plan and applicable area plans; (b) applicable specific plans or planned unit developments; (c) applicable provisions of the City of Ontario Development Code; (d) applicable master plans and design guidelines of the City; and (e) applicable Standard Drawings of the City.

**SECTION 5: Planning Commission Action.** Based upon the findings and conclusions set forth in Sections 1 through 4, above, the Planning Commission hereby RECOMMENDS THE CITY COUNCIL APPROVE the herein described Application, subject to each and every condition set forth in the Department reports for the original of approval of Tentative Tract Map 18026 by the Planning Commission on January 27, 2015.

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

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

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

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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 22<sup>nd</sup> day of October 2019, and the foregoing is a full, true and correct copy of said Resolution, and has not been amended or repealed.



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Jim Willoughby  
Planning Commission Chairman

ATTEST:



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Cathy Wahlstorm  
Planning Director  
Secretary of Planning Commission

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

I, Gwen Berendsen, Secretary Pro Tempore of the Planning Commission of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. PC19-081, was duly passed and adopted by the Planning Commission of the City of Ontario at their regular meeting held on October 22, 2019, by the following roll call vote, to wit:

AYES:            DeDiemar, Downs, Gage, Gregorek, Reyes, Ricci, Willoughby

NOES:           None

ABSENT:        None

ABSTAIN:       None

  
\_\_\_\_\_  
Gwen Berendsen  
Secretary Pro Tempore

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A FIVE-YEAR TIME EXTENSION FOR FILE NO. PMTT11-002 (TT18027), SUBDIVIDING 29 ACRES OF LAND INTO 94 RESIDENTIAL LOTS AND 5 LETTERED LOTS, WITHIN PLANNING AREAS 8 (4,250 MIN. S.F. LOTS) OF THE WEST HAVEN SPECIFIC PLAN, LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND SCHAEFER AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-151-38.

WHEREAS, STG COMMUNITIES II, LLC, ("Applicant") has filed an Application for the approval of a five-year time extension of the expiration date for the approval of a Tentative Tract Map 18027, File No. PMTT11-002, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 29 acres of land generally located at the northwest corner of Haven Avenue and Schaefer Avenue, with a street frontage of approximately 685 feet along Haven Avenue and a street frontage of approximately 1,259 feet along Schaefer Avenue; and

WHEREAS, the subject site is located within the West Haven Specific Plan within Planning Area 8 and is zoned for Single-Family Detached Residential (4,250 min. square foot lots). The site is currently being utilized for agriculture purposes. The property to the north is located within Planning Areas 5 of the West Haven Specific Plan, is zoned for Low Density Residential, and is currently being utilized with existing dairy/agriculture uses. The properties to the south and west are zoned Open Space Non-Recreation and are developed with an SCE utility corridor. The property to the east is located within the Rich Haven Specific Plan within Planning Area 5A and 5C (Single Family Residential) and is currently developed with dairy/agriculture uses; and

WHEREAS, on January 27, 2015, the Planning Commission approved Tentative Tract Map TT 18027 for the subdivision of the property into 94 numbered lots and 5 lettered lots; and

WHEREAS, on March 3, 2015, the City Council approved a Development Agreement (File No. PDA07-005) for the property that provided an initial approval period of five (5) years for the tentative map and an option for an extension of an additional five (5) years, subject to approval by the City Council; and

WHEREAS, the Applicant is requesting to exercise their Development Agreement time extension option for Tentative Tract Map 18027, which would extent the maps expiration date to March 03, 2025; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act - Public Resources Code Section 21000 et seq. – (hereinafter referred to as "CEQA") and an initial study has been prepared to determine possible environmental impacts; and



WHEREAS, the environmental impacts of this project were reviewed in conjunction with the West Haven Specific Plan (File No. PSP03-006) EIR (SCH# 2004071095). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "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. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference; and

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

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

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

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

WHEREAS, on October 22, 2019, the Planning Commission of the City of Ontario conducted a hearing to consider the requested Time Extension, and concluded said hearing on that date, voting to issue Resolution No. PC 19-080 recommending the City Council approve the Application; and

WHEREAS, on November 19, 2019, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

**SECTION 1. Environmental Determination and Findings.** As the decision-making body for the Project, the City Council has reviewed the adopted West Haven Specific Plan Environmental Impact Report (EIR). Based upon the facts and information contained in the previously adopted West Haven Specific Plan (File No. PSP03-006) EIR (SCH# 2004071095) and supporting documentation, the City Council finds as follows:

(1) The environmental impacts of this project were reviewed in conjunction with the West Haven Specific Plan Environmental Impact Report, certified by the City of Ontario City Council on July 17, 2007, in conjunction with File No. PSP03-006.

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

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

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

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

**SECTION 2. Housing Element Compliance.** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending body for the Project, the City Council finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the maximum number of dwelling units (94) and density (5.9 Net DU/AC) specified within the West Haven Specific Plan. Per the Available Land Inventory, the West Haven Specific Plan is required to provide 753 dwelling units with a density range of 4-7 DU/AC.

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

recommending body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 4. Concluding Facts and Reasons.** Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 3, above, the City Council hereby concludes as follows:

(1) ***The proposed Tentative Tract Map 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, and applicable area and specific plans, and planned unit developments.*** The proposed Tentative Tract Map is located in the West Haven Specific Plan within Planning Area 8 and is zoned for Single-Family Detached Residential (4,250 Min. S.F. Lots). The proposed subdivision 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 the project will contribute to providing “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” (Goal LU1). Furthermore, the project will promote the City’s policy to “incorporate a variety of land uses and building types that contribute to a complete community where residents at all stages of life, employers, workers, and visitors, have a wide spectrum of choices of where they can live, work, shop, and recreate within Ontario” (Policy LU1-6 *Complete Community*).

(2) ***The design or improvement of the proposed Tentative Tract Map 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, and applicable specific plans and planned unit developments.*** The design or improvement of the subdivision is consistent with all applicable general and specific plans. The Tentative Tract Map meets all minimum lot requirements within the Design Guidelines and Development Standards of the West Haven Specific Plan. The Tentative Tract Map will provide for single family detached homes as required by Planning Area 8 of the West Haven Specific Plan. A total of 94 numbered lots and 5 lettered lots (parks, paseos, and landscaped buffers) are proposed to accommodate conventional single-family detached homes. The proposed design or improvement of the subdivision 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 the project will contribute to providing “[a] high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct” (Goal CD2). Furthermore, the project will promote the City’s policy to “create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
- Variable setbacks and parcel sizes to accommodate a diversity of housing types;
- Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
- Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and
- Landscaped parkways, with sidewalks separated from the curb.” (Policy CD2-2 *Neighborhood Design*).

(3) ***The site is physically suitable for the type of development proposed.*** The project site meets the minimum lot area and dimensions of the West Haven Specific Plan and is physically suitable for the type of residential development proposed in terms of zoning, land use and development activity proposed, and existing and proposed site conditions.

(4) ***The site is physically suitable for the density/intensity of development proposed.*** The project site is proposed for residential development at gross density of 3.4 dwelling units per acre. The project site meets the minimum lot area and dimensions of the West Haven Specific Plan and is physically suitable for this proposed density / intensity of development.

(5) ***The design of the subdivision or the proposed improvements thereon, are not likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife, or their habitat.*** The project site is not located in an area that has been identified as containing species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service, nor does the site contain any riparian habitat or other sensitive natural community, and no wetland habitat is present on site; therefore, the design of the subdivision, or improvements proposed thereon, are not likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife, or their habitat.

(6) ***The design of the subdivision, or the type of improvements thereon, are not likely to cause serious public health problems.*** The design of the proposed subdivision, and the general improvements existing or proposed on the project site, are not likely to cause serious public health problems. The project is not anticipated to involve the transport, use, or disposal of hazardous materials during either construction or project implementation, include the use of hazardous materials or volatile fuels, nor are there any known stationary commercial or industrial land uses within close proximity to the subject site that use/store hazardous materials to the extent that they would pose a significant hazard to visitors or occupants to the project site.

(7) ***The design of the subdivision, or the type of improvements thereon, will not conflict with easements acquired by the public at large for access through, or use of property within, the proposed subdivision.*** The proposed subdivision has provided for all necessary public easements and dedications for access through, or use of property within, the proposed subdivision. Furthermore, all such public easements and dedications have been designed pursuant to: (a) the requirements of the Policy Plan component of The Ontario Plan and applicable area plans; (b) applicable specific plans or planned unit developments; (c) applicable provisions of the City of Ontario Development Code; (d) applicable master plans and design guidelines of the City; and (e) applicable Standard Drawings of the City.

**SECTION 5.** ***City Council Action.*** Based upon the findings and conclusions set forth in Sections 1 through 4, above, the City Council hereby APPROVES a five (5) year time extension herein described Application, subject to each and every condition set forth in the Department reports for the original of approval of Tentative Tract Map 18027 by the Planning Commission on January 27, 2015.

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

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

**SECTION 8.** ***Certification to Adoption.*** The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 19<sup>th</sup> day of November 2019.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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COLE HUBER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2019-\_\_\_\_\_ was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 19, 2019, by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2019-\_\_\_\_\_ duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019.

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

(SEAL)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A FIVE-YEAR TIME EXTENSION FOR FILE NO. PMTT11-003 (TT18026), SUBDIVIDING 19.73 ACRES OF LAND INTO 102 RESIDENTIAL LOTS AND 10 LETTERED LOTS, WITHIN PLANNING AREAS 4 (3,825 MIN. S.F. LOTS) OF THE WEST HAVEN SPECIFIC PLAN, LOCATED AT THE NORTHWEST CORNER OF HAVEN AVENUE AND CHINO AVENUE, AND MAKING FINDINGS IN SUPPORT THEREOF — APN: 0218-151-11.

WHEREAS, STG COMMUNITIES II, LLC, ("Applicant") has filed an Application for the approval of a five-year time extension of the expiration date for the approval of a Tentative Tract Map 18026, File No. PMTT11-003, as described in the title of this Resolution (hereinafter referred to as "Application" or "Project"); and

WHEREAS, the Application applies to 19.73 acres of land generally located at the northwest corner of Haven Avenue and Chino Avenue, with a street frontage of approximately 663 feet along Haven Avenue and a street frontage of approximately 1,295 feet along Chino Avenue; and

WHEREAS, the subject site is located within the West Haven Specific Plan within Planning Areas 4 and is zoned for Single-Family Detached Residential (3,825 min. s.f. lots). The site is currently being utilized for agriculture purposes. The property to the north is located within Planning Areas 3 of the West Haven Specific Plan, is zoned for Low Density Residential, and is currently being utilized for dairy/agriculture purposes. The properties to the south and west are zoned Open Space Non-Recreation and developed with the SCE utility corridor. The property to the east is located within the Rich Haven Specific Plan within Planning Area 1D (Single Family Residential) and is currently developed with an existing dairy/agriculture use; and

WHEREAS, on January 27, 2015, the Planning Commission approved Tentative Tract Map TT 18026 for the subdivision of the property into 102 numbered lots and 10 lettered lots; and

WHEREAS, on March 3, 2015, the City Council approved a Development Agreement (File No. PDA07-005) for the property that provided an initial approval period of five (5) years for the tentative map and an option for an extension of an additional five (5) years, subject to approval by the City Council; and

WHEREAS, the Applicant is requesting to exercise their Development Agreement time extension option for Tentative Tract Map 18026, which would extend the maps expiration date to March 03, 2025; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act - Public Resources Code Section 21000 et seq. – (hereinafter referred to as "CEQA") and an initial study has been prepared to determine possible environmental impacts; and



WHEREAS, the environmental impacts of this project were reviewed in conjunction with the West Haven Specific Plan (File No. PSP03-006) EIR (SCH# 2004071095). This application is consistent with the previously adopted EIR and introduces no new significant environmental impacts. The City's "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. All previously adopted mitigation measures shall be a condition of project approval and are incorporated herein by reference; and

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

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

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

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

WHEREAS, on October 22, 2019, the Planning Commission of the City of Ontario conducted a hearing to consider the requested Time Extension, and concluded said hearing on that date, voting to issue Resolution No. PC 19-081 recommending the City Council approve the Application: and

WHEREAS, on November 19, 2019, the City Council of the City of Ontario conducted a hearing to consider the Project, and concluded said hearing on that date; and

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

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

**SECTION 1. Environmental Determination and Findings.** As the decision-making body for the Project, the City Council has reviewed the adopted West Haven Specific Plan Environmental Impact Report (EIR). Based upon the facts and information contained in the previously adopted West Haven Specific Plan (File No. PSP03-006) EIR (SCH# 2004071095) and supporting documentation, the City Council finds as follows:

(1) The environmental impacts of this project were reviewed in conjunction with the West Haven Specific Plan Environmental Impact Report, certified by the City of Ontario City Council on July 17, 2007, in conjunction with File No. PSP03-006.

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

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

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

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

**SECTION 2. Housing Element Compliance.** Pursuant to the requirements of California Government Code Chapter 3, Article 10.6, commencing with Section 65580, as the recommending body for the Project, the City Council finds that based on the facts and information contained in the Application and supporting documentation, at the time of Project implementation, the project is consistent with the Housing Element of the Policy Plan (General Plan) component of The Ontario Plan. The project site is one of the properties listed in the Available Land Inventory contained in Table A-3 (Available Land by Planning Area) of the Housing Element Technical Report Appendix, and the proposed project is consistent with the maximum number of dwelling units (102) and density (6.7 Net DU/AC) specified within the West Haven Specific Plan. Per the Available Land Inventory, the West Haven Specific Plan is required to provide 753 dwelling units with a density range of 4-7 DU/AC.

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

body for the Project, the City Council has reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ALUCP Table 2-2) and Safety Zones (ALUCP Map 2-2), [2] Noise Criteria (ALUCP Table 2-3) and Noise Impact Zones (ALUCP Map 2-3), [3] Airspace protection Zones (ALUCP Map 2-4), and [4] Overflight Notification Zones (ALUCP Map 2-5). As a result, the City Council, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ALUCP.

**SECTION 4. Concluding Facts and Reasons.** Based upon the substantial evidence presented to the City Council during the above-referenced hearing, and upon the specific findings set forth in Section 1 through 3, above, the City Council hereby concludes as follows:

(1) ***The proposed Tentative Tract Map 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, and applicable area and specific plans, and planned unit developments.*** The proposed Tentative Tract Map is located in the West Haven Specific Plan within Planning Area 4 and is zoned for single-family detached residential (3,825 min. s.f. lots). The proposed subdivision 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 the project will contribute to providing “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” (Goal LU1). Furthermore, the project will promote the City’s policy to “incorporate a variety of land uses and building types that contribute to a complete community where residents at all stages of life, employers, workers, and visitors, have a wide spectrum of choices of where they can live, work, shop, and recreate within Ontario” (Policy LU1-6 *Complete Community*).

(2) ***The design or improvement of the proposed Tentative Tract Map 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, and applicable specific plans and planned unit developments.*** The design or improvement of the subdivision is consistent with all applicable general and specific plans. The Tentative Tract Map meets all minimum lot requirements within the Design Guidelines and Development Standards of the West Haven Specific Plan. The Tentative Tract Map will provide for single family detached homes as required by Planning Area 4 of the West Haven Specific Plan. A total of 102 numbered lots and 10 lettered lots (parks, paseos, and landscaped buffers) are proposed to accommodate conventional single-family detached homes. The proposed design or improvement of the subdivision 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 the project will contribute to providing “[a] high level of design quality resulting in public spaces, streetscapes, and developments that are attractive, safe, functional and distinct” (Goal CD2). Furthermore, the project will promote the City’s policy to “create distinct residential neighborhoods that are functional, have a sense of community, emphasize livability and social interaction, and are uniquely identifiable places through such elements as:

- A pattern of smaller, walkable blocks that promote access, activity and safety;
- Variable setbacks and parcel sizes to accommodate a diversity of housing types;
- Traffic calming measures to slow traffic and promote walkability while maintaining acceptable fire protection and traffic flows;
- Floor plans that encourage views onto the street and de-emphasize the visual and physical dominance of garages (introducing the front porch as the “outdoor living room”), as appropriate; and
- Landscaped parkways, with sidewalks separated from the curb.”  
(Policy CD2-2 *Neighborhood Design*).

(3) ***The site is physically suitable for the type of development proposed.*** The project site meets the minimum lot area and dimensions of the West Haven Specific Plan and is physically suitable for the type of residential development proposed in terms of zoning, land use and development activity proposed, and existing and proposed site conditions.

(4) ***The site is physically suitable for the density/intensity of development proposed.*** The project site is proposed for residential development at gross density of 3.4 dwelling units per acre. The project site meets the minimum lot area and dimensions of the West Haven Specific Plan and is physically suitable for this proposed density / intensity of development.

(5) ***The design of the subdivision or the proposed improvements thereon, are not likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife, or their habitat.*** The project site is not located in an area that has been identified as containing species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service, nor does the site contain any riparian habitat or other sensitive natural community, and no wetland habitat is present on site; therefore, the design of the subdivision, or improvements proposed thereon, are not likely to cause substantial environmental damage, or substantially and avoidably injure fish or wildlife, or their habitat.

(6) ***The design of the subdivision, or the type of improvements thereon, are not likely to cause serious public health problems.*** The design of the proposed subdivision, and the general improvements existing or proposed on the project site, are not likely to cause serious public health problems. The project is not anticipated to involve the transport, use, or disposal of hazardous materials during either construction or project implementation, include the use of hazardous materials or volatile fuels, nor are there any known stationary commercial or industrial land uses within close proximity to the subject site that use/store hazardous materials to the extent that they would pose a significant hazard to visitors or occupants to the project site.

(7) ***The design of the subdivision, or the type of improvements thereon, will not conflict with easements acquired by the public at large for access through, or use of property within, the proposed subdivision.*** The proposed subdivision has provided for all necessary public easements and dedications for access through, or use of property within, the proposed subdivision. Furthermore, all such public easements and dedications have been designed pursuant to: (a) the requirements of the Policy Plan component of The Ontario Plan and applicable area plans; (b) applicable specific plans or planned unit developments; (c) applicable provisions of the City of Ontario Development Code; (d) applicable master plans and design guidelines of the City; and (e) applicable Standard Drawings of the City.

**SECTION 5.** ***City Council Action.*** Based upon the findings and conclusions set forth in Sections 1 through 4, above, the City Council hereby APPROVES a five (5) year time extension herein described Application, subject to each and every condition set forth in the Department reports for the original of approval of Tentative Tract Map 18027 by the Planning Commission on January 27, 2015.

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

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

**SECTION 8.** ***Certification to Adoption.*** The City Clerk shall certify to the adoption of the Resolution.

PASSED, APPROVED, AND ADOPTED this 19<sup>th</sup> day of November 2019.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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COLE HUBER LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2019-    was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 19, 2019 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2019-    duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019.

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

(SEAL)

# CITY OF ONTARIO

*Agenda Report*  
November 19, 2019

**SECTION:  
CONSENT CALENDAR**

**SUBJECT: A PROFESSIONAL SERVICE AGREEMENT FOR THE PREPARATION OF THE ONTARIO GREAT PARK MASTER PLAN**

**RECOMMENDATION:** That the City Council authorize the City Manager to execute a Professional Services Agreement (on file with the Records Management Department) not to exceed \$402,500 with SWA Group, a California Corporation, of Laguna Beach, California, to prepare the Ontario Great Park Master Plan, and approve any future budget adjustments necessary to complete the Master Plan.

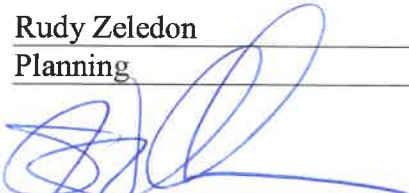
**COUNCIL GOALS:** Invest in the Growth and Evolution of the City's Economy  
Operate in a Businesslike Manner  
Ensure the Development of a Well Planned, Balanced, and Self-Sustaining Community in Ontario Ranch

**FISCAL IMPACT:** The recommended contract award is \$402,500. If approved, \$402,500 from the Ontario Ranch Park Development Impact Fee fund will be included in the Fiscal Year 2019-20 Mid-Year Budget Update Report to the City Council. There is no impact to the General Fund.

**BACKGROUND:** The City of Ontario's Policy Plan (General Plan) Land Use Plan provides for approximately 47,000 residential units, over 15.5 million square feet of commercial/office development, 20 million square feet of industrial development and approximately 370 acres of open space/parkland (referred to as the Great Park) within Ontario Ranch. The Great Park runs east to west, approximately 3.8 miles in length, through the center portion of Ontario Ranch, from Haven Avenue on the east to Campus Avenue to the west.

The Great Park Master Plan will guide the future phased development of the Great Park. The Great Park is envisioned to accommodate passive and recreational uses, cultural amenities, outdoor performance venues, gardens, ponds and waterways and similar elements, providing a major amenity for the Ontario Ranch and the City as a whole. Adjacent residential and commercial uses will be sited to take advantage of the views and access to the park. The park will be linked to surrounding residential neighborhoods and

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

Prepared by: Rudy Zeledon  
Department: Planning  
City Manager Approval: 

Submitted to Council/O.H.A. 11/19/2019  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

12



activity centers by a network of trails, bike paths, and paseos. A key component of the Master Plan will be to provide a backbone design for overall continuity and phasing of specific amenities over time in order to be responsive to future needs of the City and user groups.

The consultant selection process contained two parts: request for qualifications (RFQ), and submission of proposals and interview sessions. RFQ's were sent to leading planning and landscape firms. The City received seven responses that were reviewed and rated by a panel of City staff from various departments and members of the NMC Builders LLC. Three firms were selected and asked to prepare and present a more detailed plan of their Great Park Master/Concept Plan based on the RFQ. The three firms included the SWA Group, Architerra Design Group, and Whithers and Sangren.

The interviews and presentations were structured to provide an overview and focused discussions with the firms on their Great Park Master/Concept Plan. Representatives from the Planning Department, Parks and Maintenance, and NMC Builders LLC, participated in the interview process. The SWA Group was chosen based on the overall flexible park framework and phased concept for the Great Park (See Exhibit "A"). It was the consensus of the interview panel that the SWA Group understood the City's vision for the Great Park as a major amenity and its importance as a key organizational element of land use development.

The SWA park concept provides a master planned park that will allow programs to be added over time and spaces that can be developed based on build-out and community growth through phasing of the Great Park. Using the SWA Master Plan Concept for the Great Park, the Scope of Services will include the development of Phase I, the area south of Grand Park Street, north of Eucalyptus Avenue between Haven Avenue and Archibald Avenue. Services will also include a kickoff meeting, refined site analysis, case studies and field trips, community outreach, workshops, and a refined design based on the findings. The refined design will include conceptual grading and stormwater management, roadway networks and vehicular access, pedestrian and bicyclist network and access, treatment of crossings, landscape character, programming of passive and active recreational opportunities and facilities and amenities such as signage, lighting, restroom facilities and seating. Plans for Phase I will include hardscape, plant palette, layout, amenity details, and street and trail sections.

The total estimated cost for completing the Great Park Master Plan is \$402,500, which includes reimbursable costs (Prints, graphic boards, special book printing, maps, etc.) not to exceed \$55,000 The applicant has agreed to the required total amount. Staff will oversee the project from start to finish.

Exhibit “A”

SWA Ontario Great Park Conceptual Master Plan Concept

(to follow this page)



# Flow to and Flow through

A Vision for the Ontario Great Park District

swa

Inspiration  
Vision  
Framework



# Inspiration



# San Antonio Cañon

The entrance to this cañon is between Cuenca-  
Angels and Live Oak Cañons. The little city  
of Pomona is nine miles distant, while the north-  
west corner of the flourishing town of Ontario  
reaches to the mouth of the cañon. The near-  
est railroad station is Magnolia, six miles distant on the  
line of the Archison, Topeka & Santa Fe road.  
The mouth has an altitude of 2,000 feet, and being  
about 1,000 feet higher than adjacent settlements,  
affords an extensive view of the broad open valley and  
the cañon is rather tortuous, but its  
course, about six miles, is nearly  
straight northeasterly, past the  
San Antonio to the great  
Sierra Mts., the highest  
point of the  
Sierra

to a height of several  
thousands of feet  
trunks and branches  
light green. There  
profusion of the  
columnar, which are  
primrose and yellow  
banks with  
spur, like  
ish bayonet,  
At certain  
droop of  
branches  
to  
by  
the



**A Landscape in Flux**



**From Native Flora...**



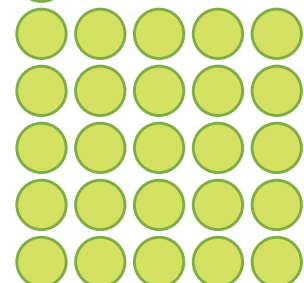


... where spring water flowed down the mountain sides into tree-lined creeks through the meadows



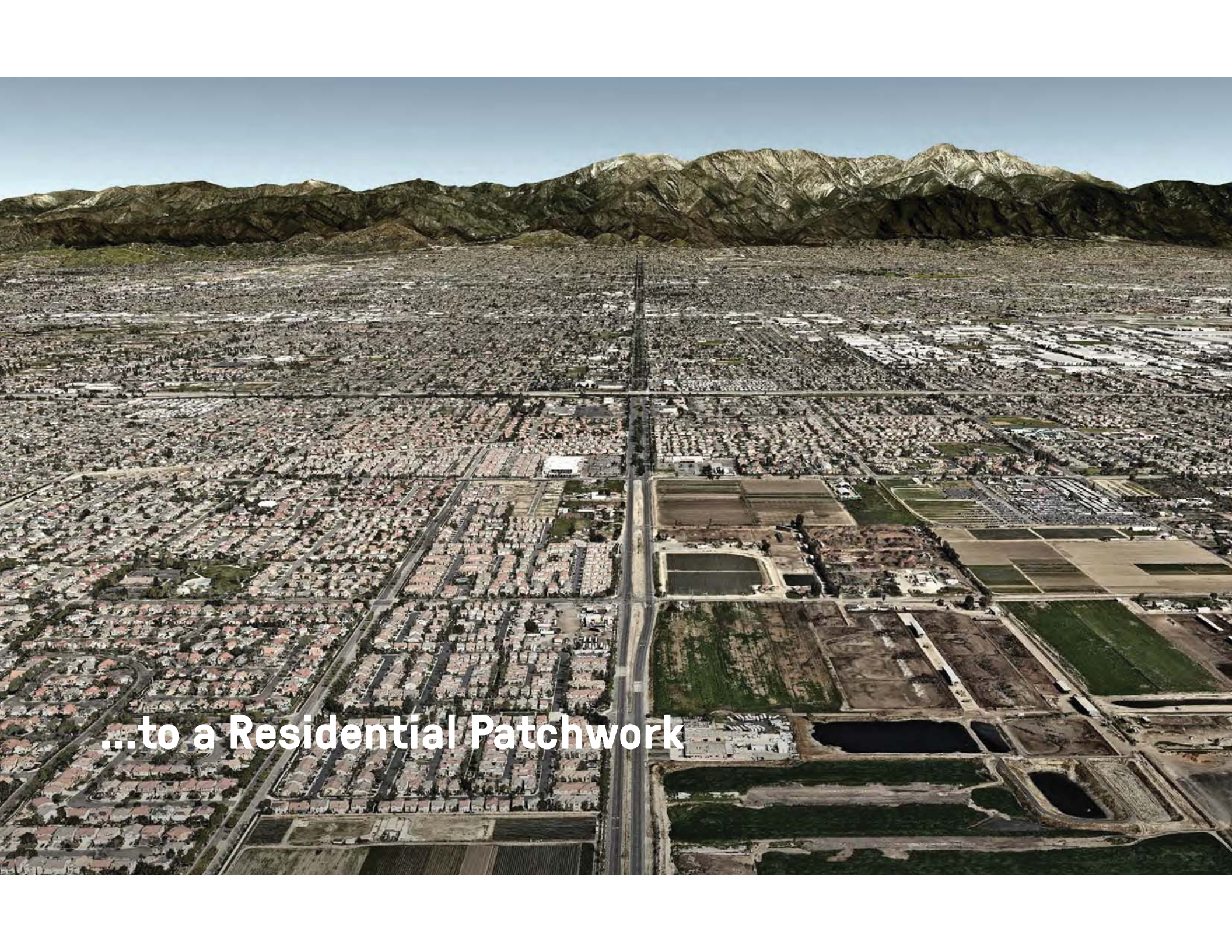


**...to Cultivated Fields...**

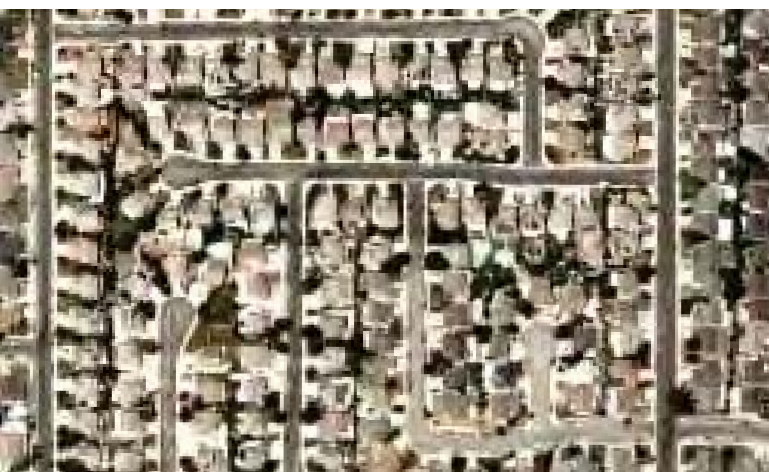


...where water was captured and controlled, and land organized into a grid of roads and orchards and row crops





**...to a Residential Patchwork**



...where grids of homes  
supersede fields of crops  
and orchards of trees.



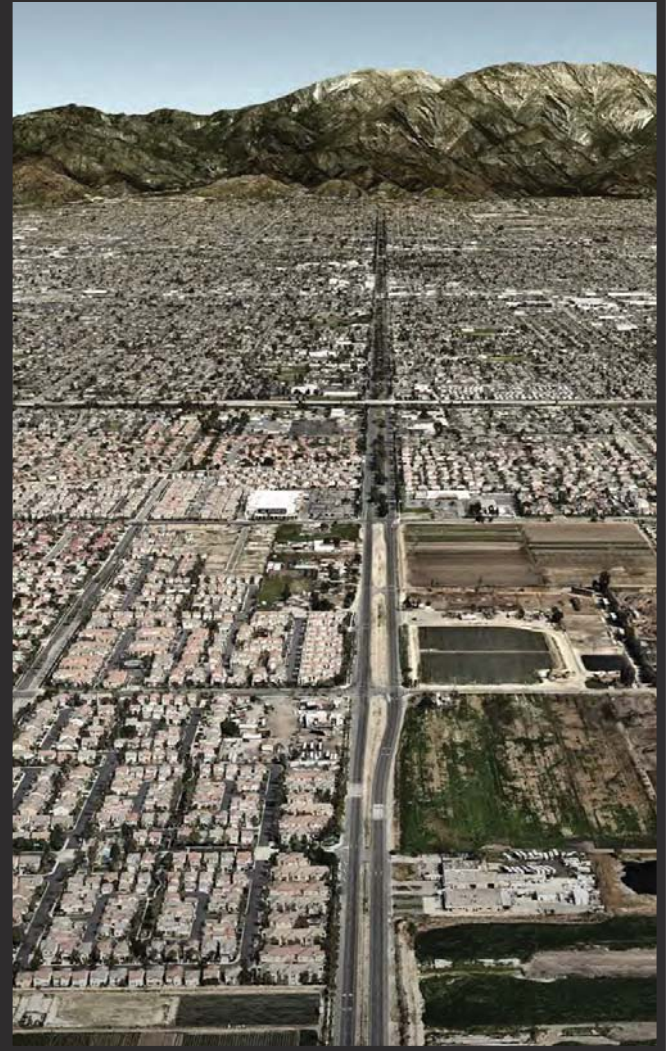
Native




Agrarian



Urbanizing

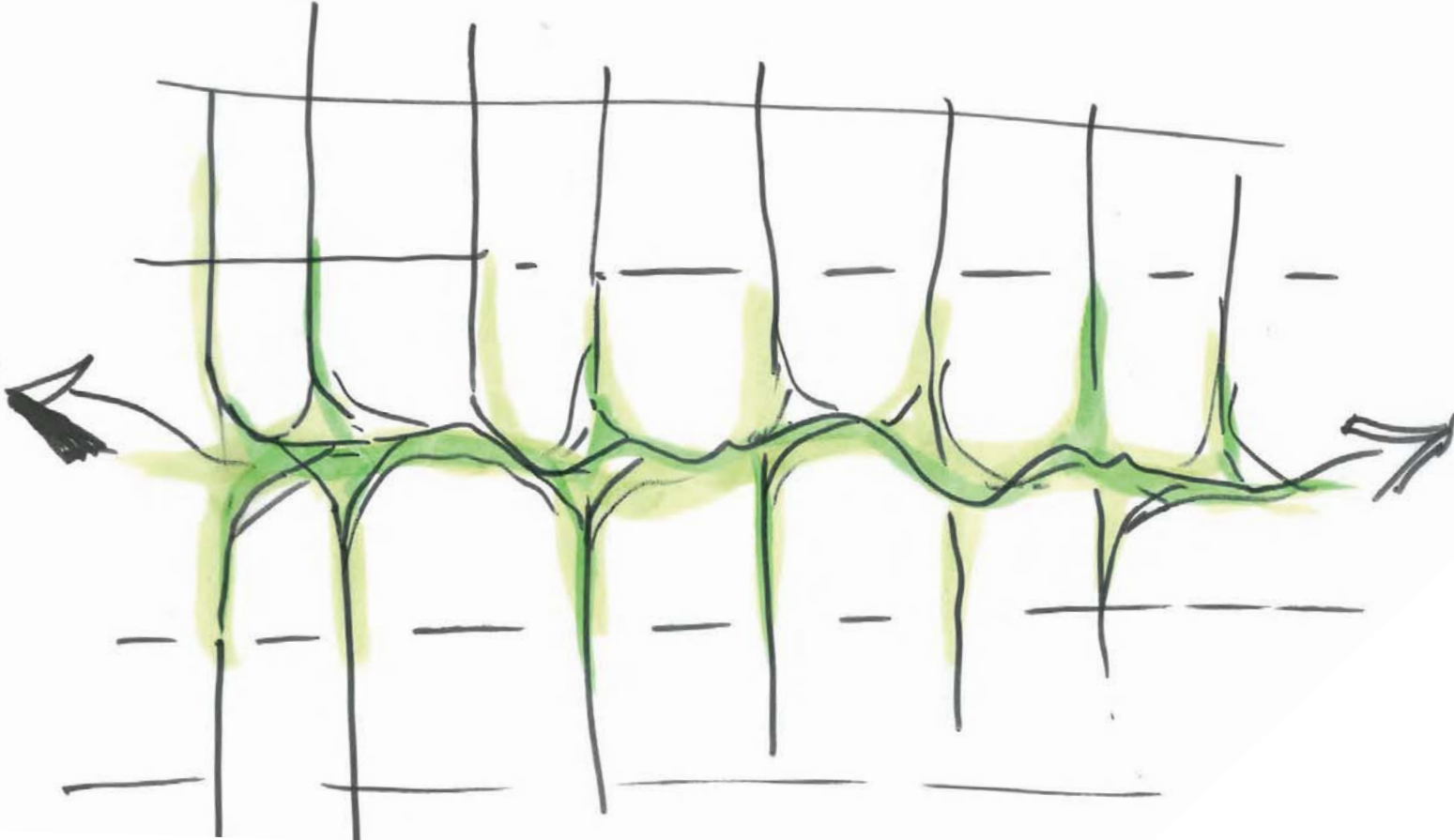


## Great Opportunities

- Re-connect the people of Ontario to their native landscape and cultural heritage
  - Celebrate the agrarian legacy
  - Build a distinct destination
  - Create flow through the grid
- 

**Vision:**

# **A Great Park District**

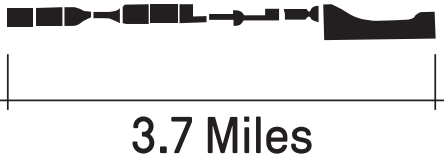




# A Big Park Needs Big Ideas



**Ontario Great Park**  
Ontario, California  
346 acres



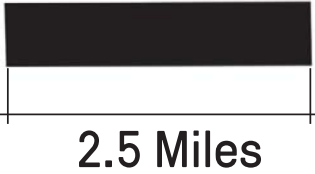
**Jeffrey Linear Park**  
Irvine, California  
54 acres



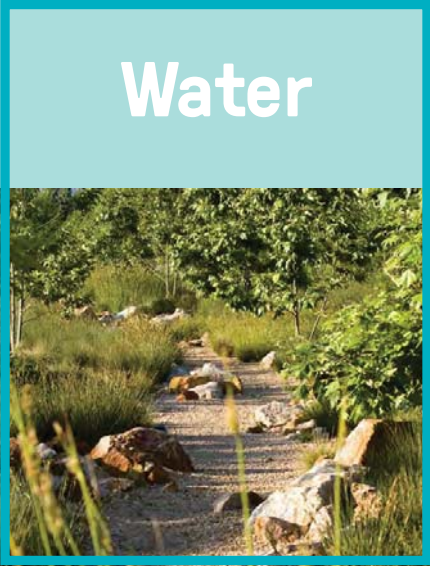
**Buffalo Bayou Park**  
Houston, Texas  
160 acres



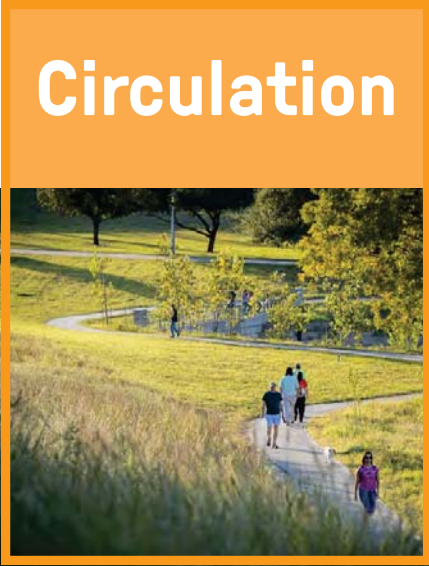
**Central Park**  
New York City, New York  
843 acres



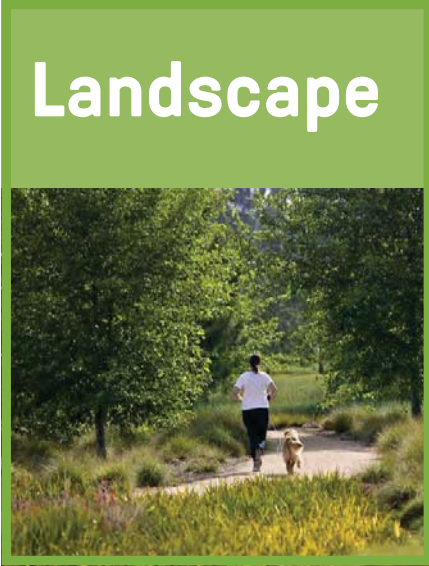
# A Distinct yet Flexible Park Framework



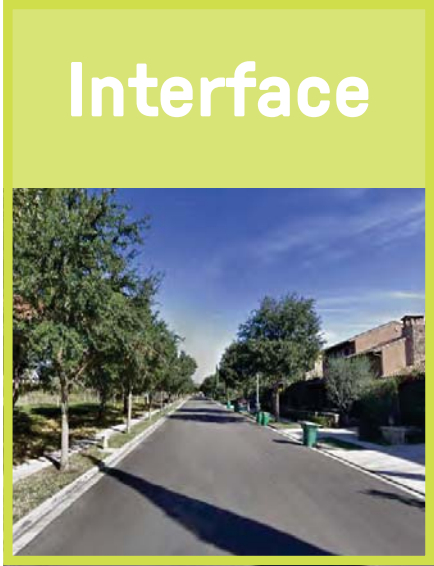
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# Diverse Programs Added over Time

**Water**

**Circulation**

**Landscape**

**Interface**

**+**

**Program**



# Park Feels Complete through Phased Build-Out

Water

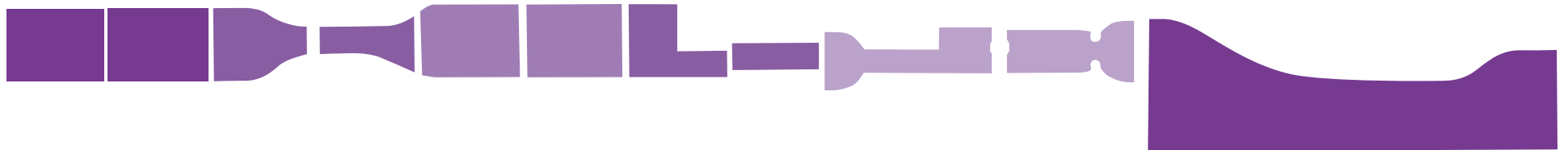
Circulation

Landscape

Interface

Program

Phasing

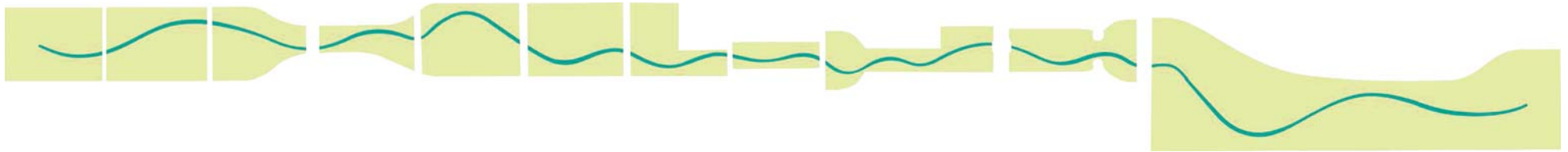


# Stormwater Management Drives Topography

- Capture and infiltrate stormwater on site in beautiful and multi-functional ways
- Engineering principles drive park design
- Drainage systems connect park and community

## Arroyo as Drainage Backbone

- Lowpoint in park
- Captures and infiltrates stormwater
- Functional element and unifying landscape feature



Jeffrey Open Space Park by SWA



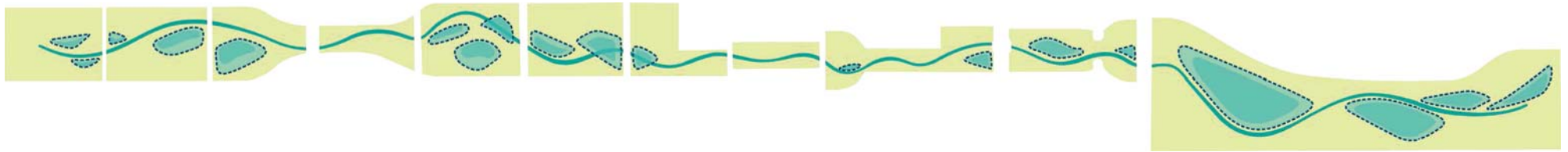
Jeffrey Open Space Park by SWA



Lewis Avenue Corridor by SWA

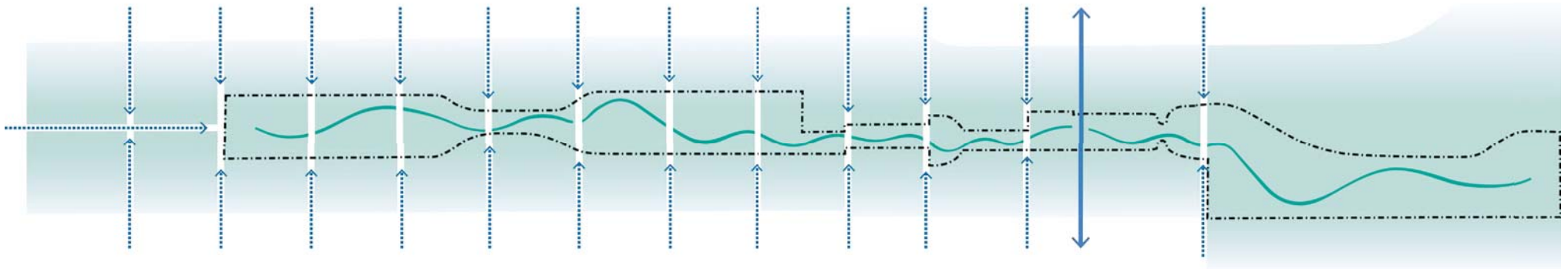
## Depressed Meadows as Detention Basins

- Multi-functional
- Spaces for leisure and sports
- Hold excess water during storm events



## Capture Runoff from Adjacent Blocks

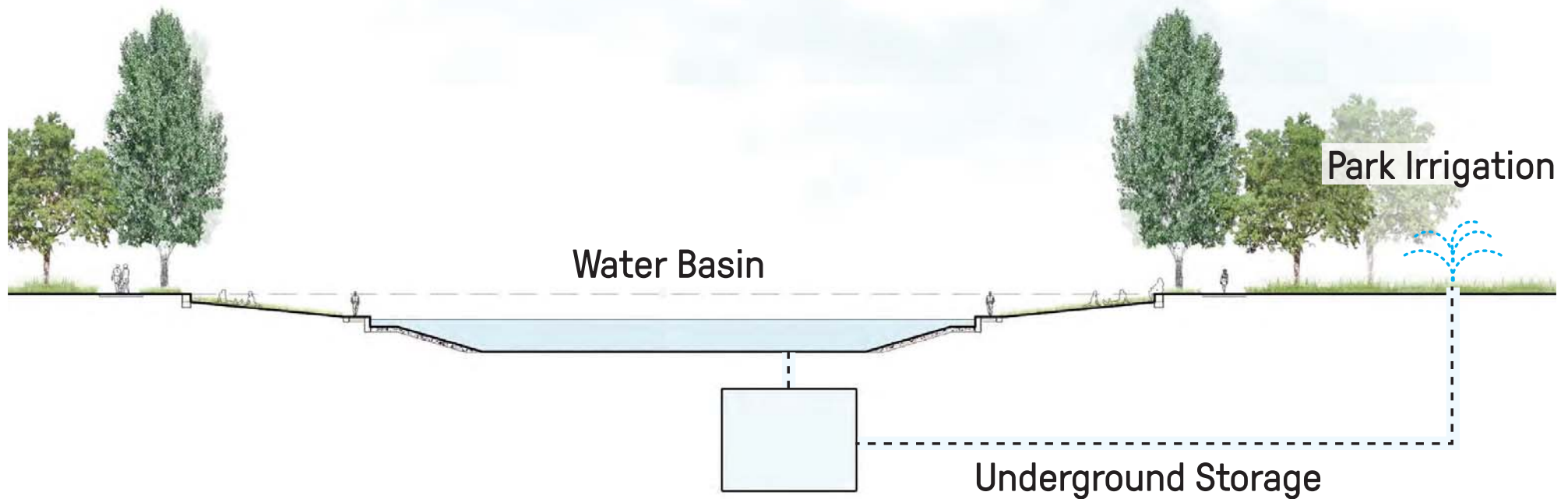
- The great park district as one stormwater system
- Swales on streets intersecting the park
- Maximize use of park for natural infiltration





## Potential for Capture and Reuse

- Retain instead of detain
- Permanent water reservoir as amenity
- Underground tanks for storage
- Recycled water irrigates park landscaping



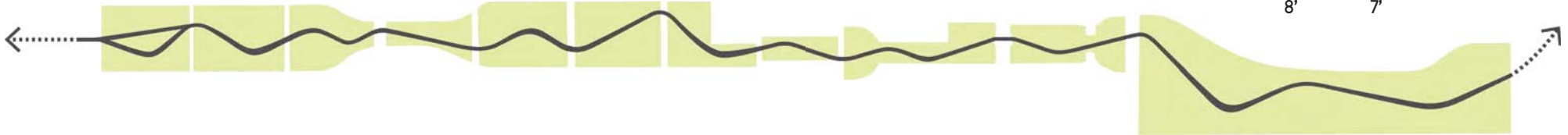
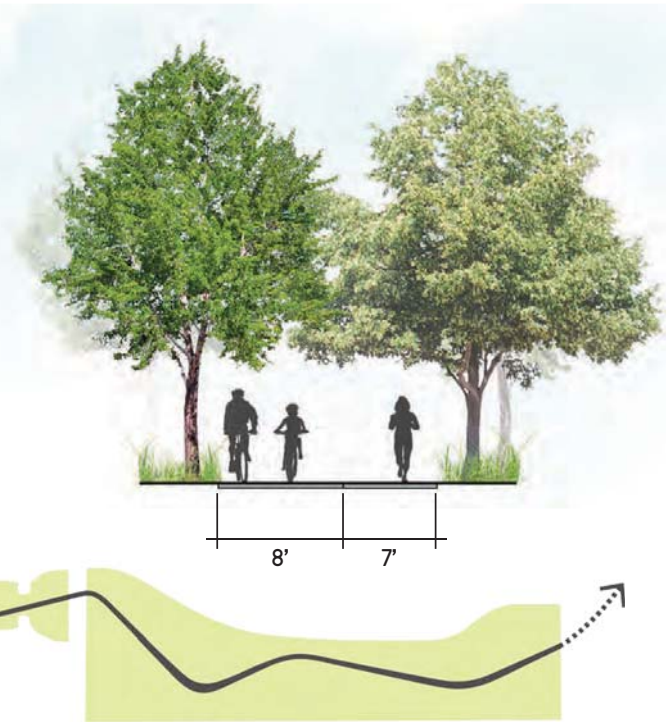
## Trails Create Flow Through the Park

- Integrate park with adjacent neighborhoods and greater city
- Hierarchy of trails as park skeleton
- Strategic vehicular access



# Primary Trail

- 15' wide multi-use asphalt path as central spine
- Pedestrians and bicyclists
- Undulating trail creates varied experiences



Jeffrey Open Space Park by SWA



## Secondary Trails

- 6'-8' wide concrete or decomposed granite paths
- Pedestrians or bicyclists
- More trails added as programs evolve
- Connecting to neighborhood access points and city-wide trails



*Jeffrey Open Space Park by SWA*



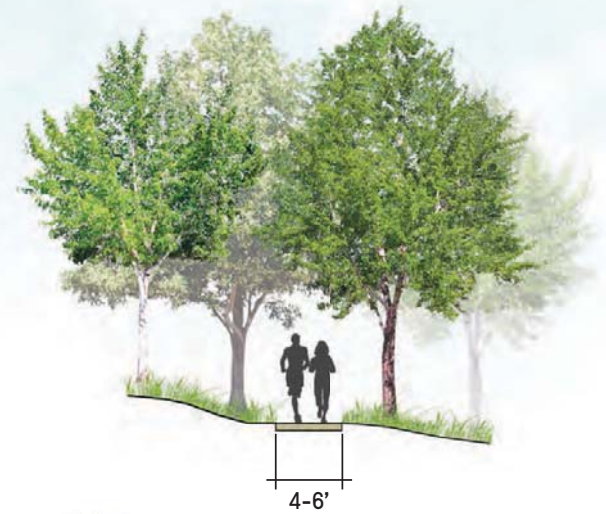
*Katy Trail by SWA*



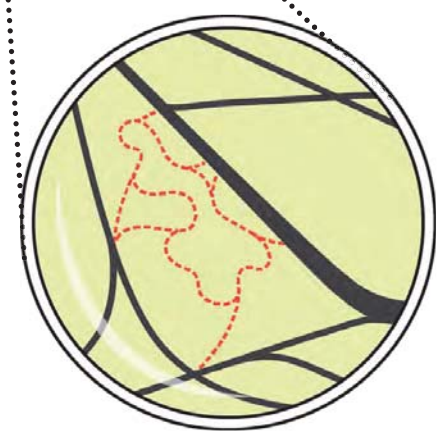
*The Cannery by SWA*

# Discovery Paths

- 4'-6' wide decomposed granite or wood chip
- Pedestrians
- Smaller experiential loops into forest and garden areas

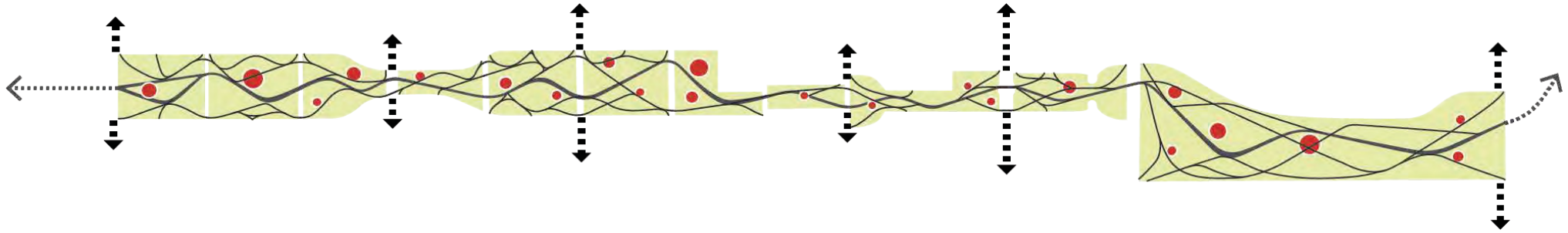
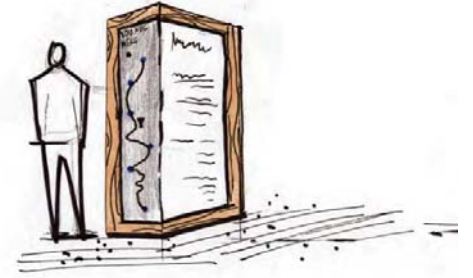


Esencia at RMV by SWA

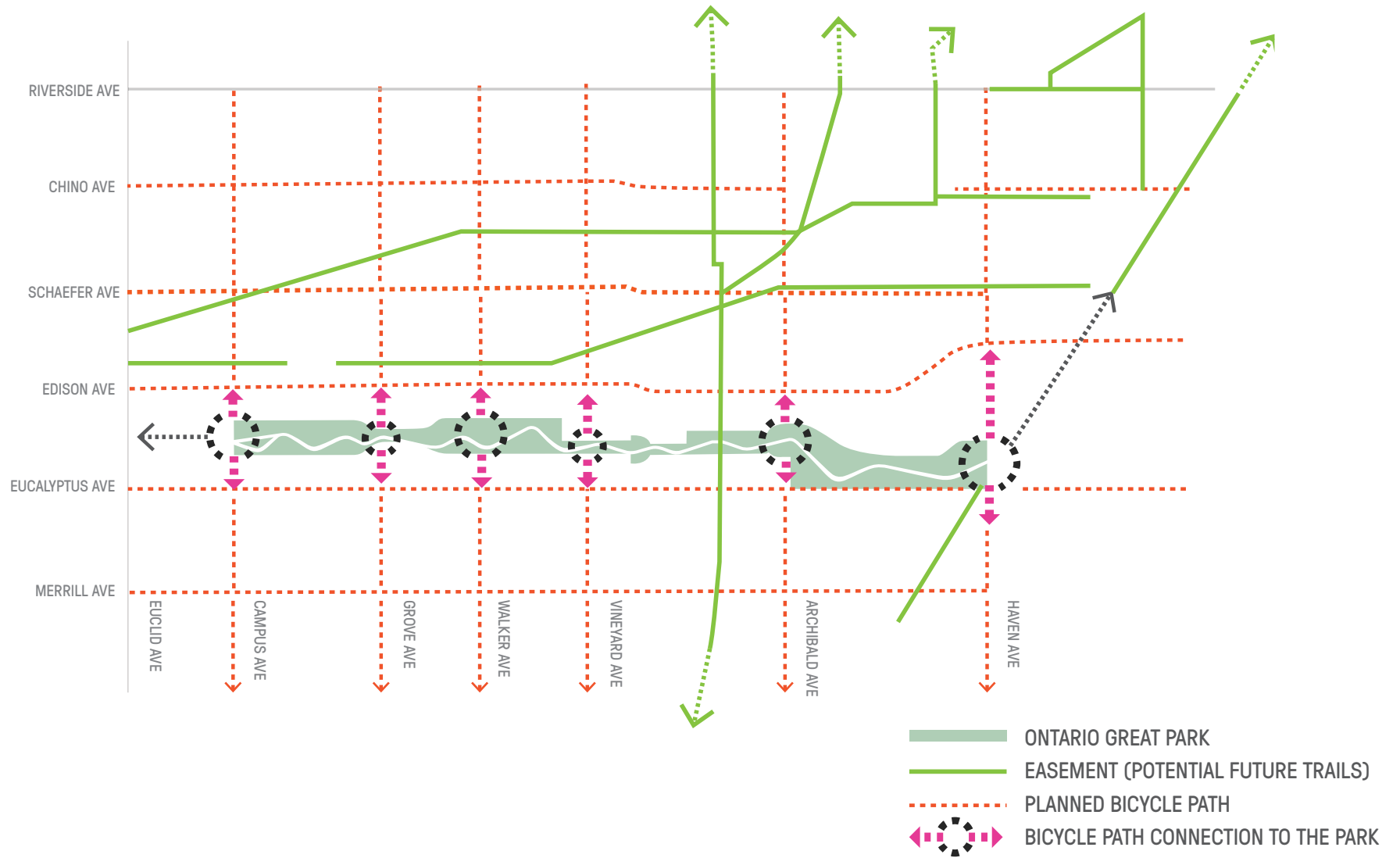


## Signage and Wayfinding

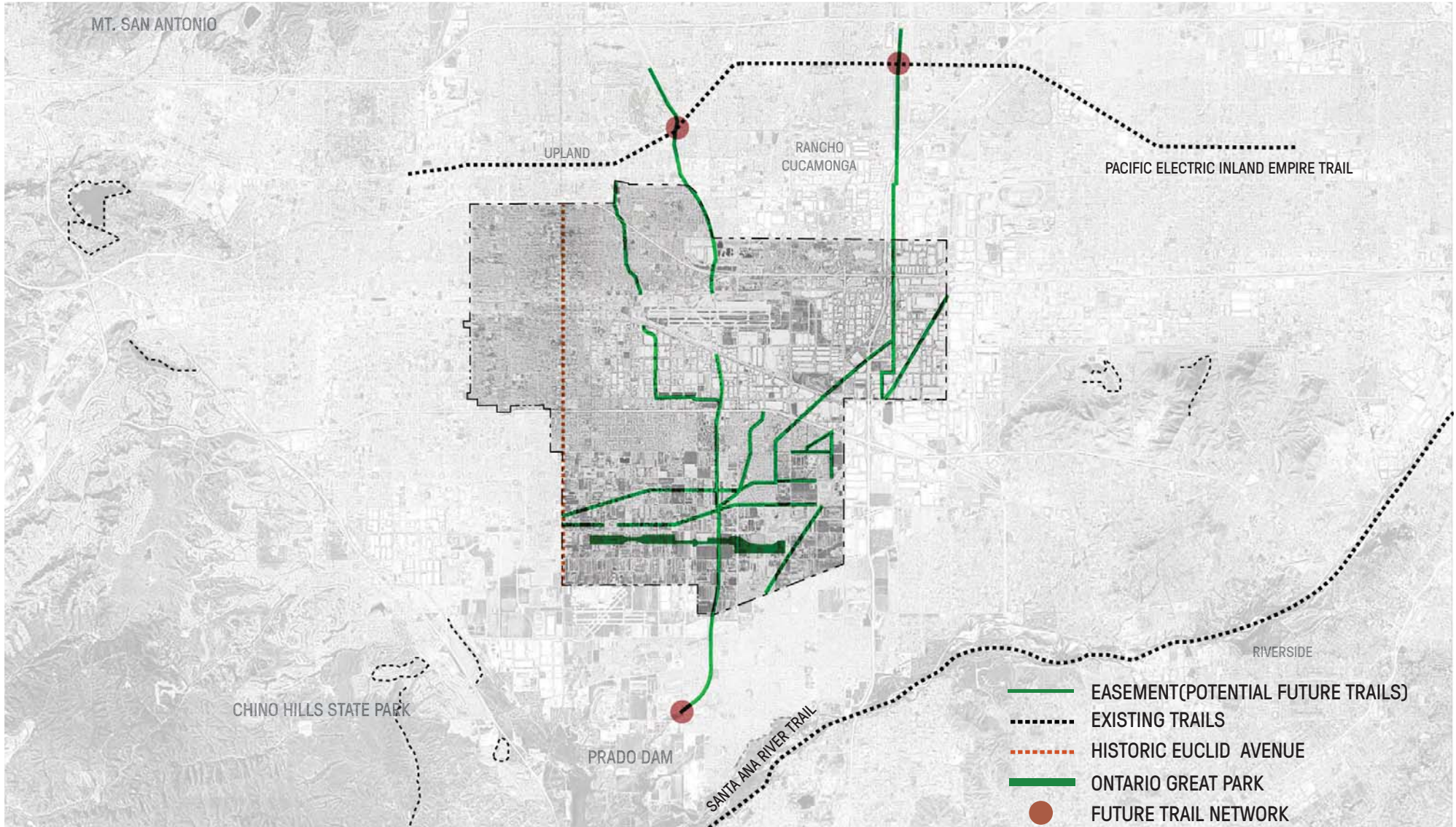
- Entry monumentation / trail heads
- Educational signage connect to heritage of Ontario
- Seasonal programming of banner signs



# Neighborhood Linkages

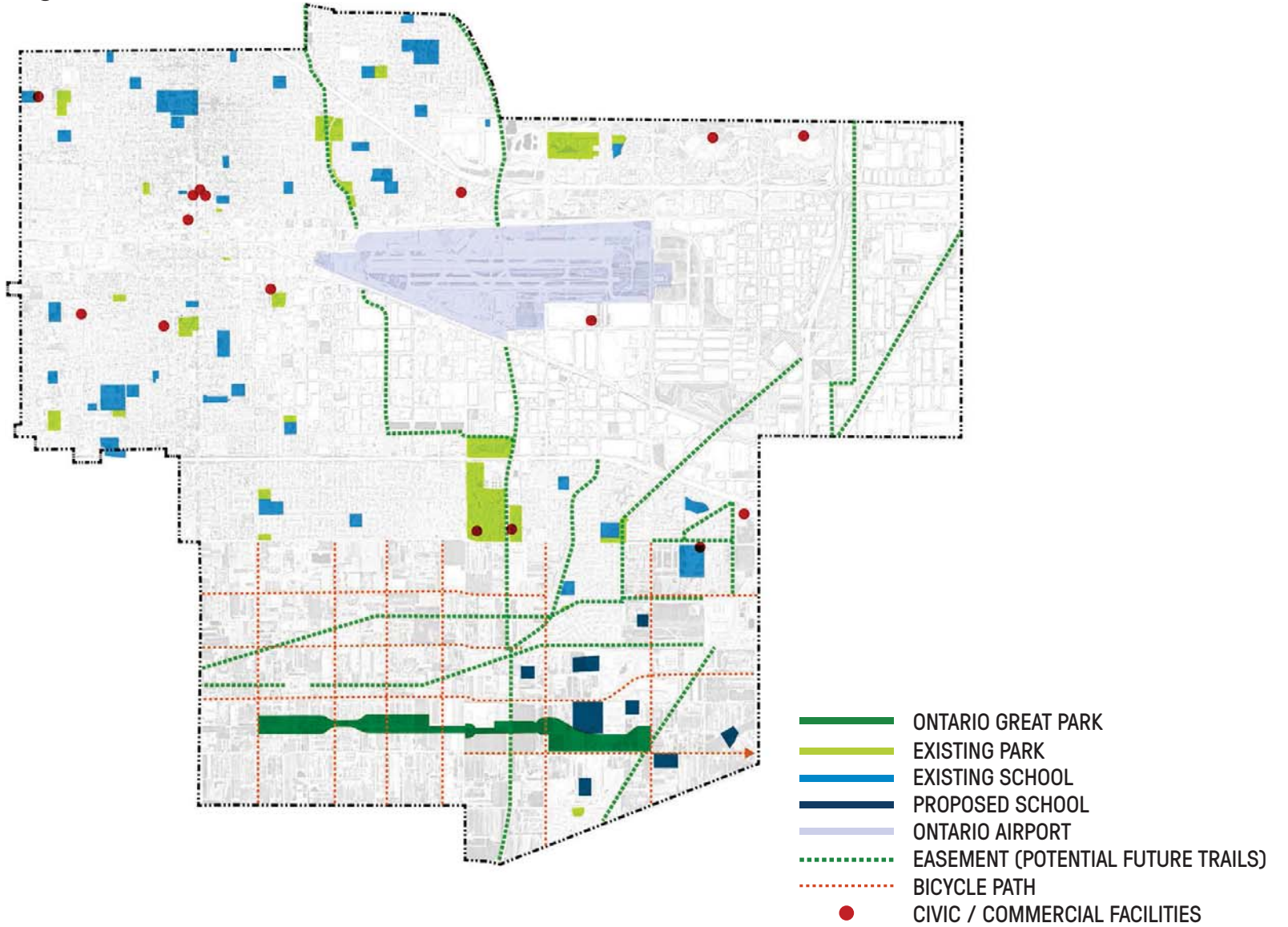


# Regional Linkages



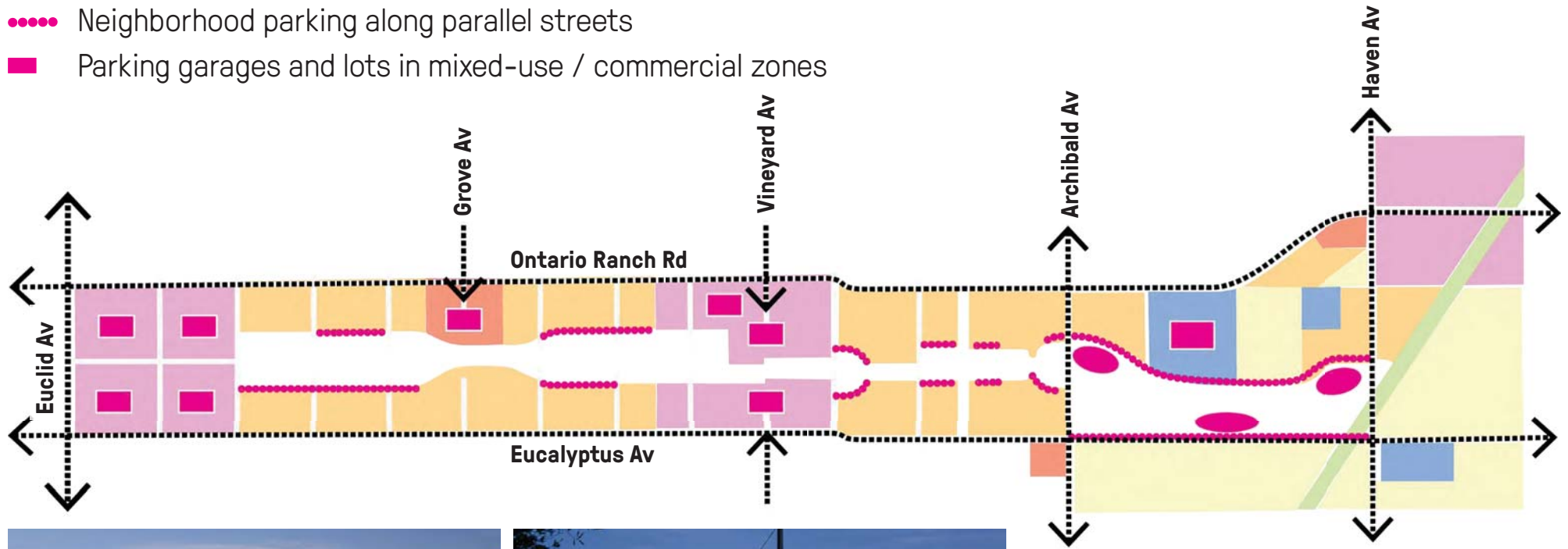


# City-Wide Linkages



# Vehicular Access and Park(ing)

- Parking lots integrated into park landscape
- Neighborhood parking along parallel streets
- Parking garages and lots in mixed-use / commercial zones



## Pedestrian Crossings

- Safe interface between vehicles and people
- Facilitate easy access between parts of park
- Opportunity for art



Underpass



Overpass



At-Grade Crossing

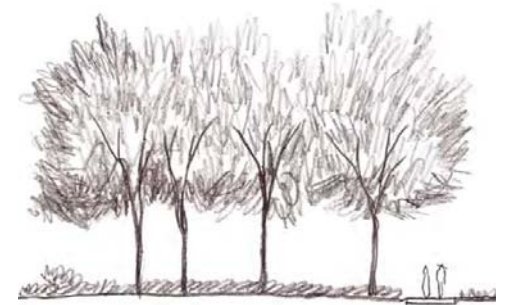


## Landscape Defines the Park

- Distinct landscape typologies
- Evolution from passive to active areas as user demand grows
- Sustainability through native and drought tolerant plant material
- Use the park as its own nursery

## The Tall Canopy Forest

- Defines park edge
- Provides shade and wind protection
- Visually permeable



*Jeffrey Open Space Park by SWA*

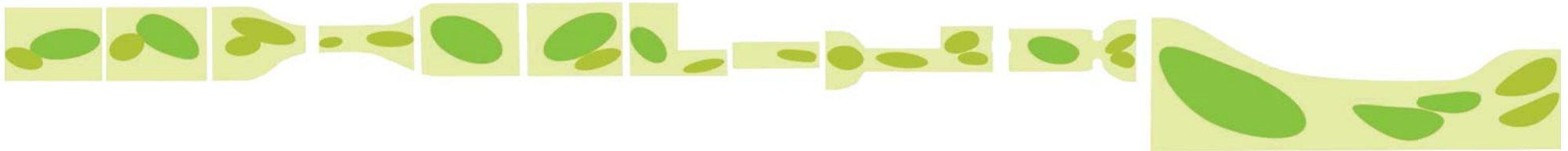
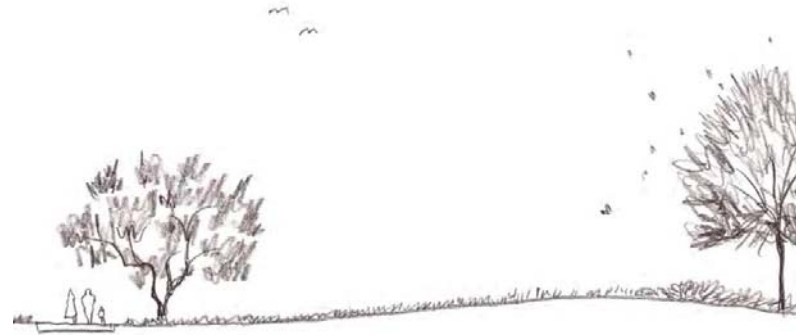


*Hermann Park by SWA*



# The Meadows

- Passive and active use areas
- Establish with native and drought tolerant plants
- Convert into active use turf as user demand grows



*Mountain House by SWA*



*Jeffrey Open Space Park by SWA*



# The Arroyo

- Landscaped arroyo follows trail system
- From naturalistic to stylized depending on adjacent programs



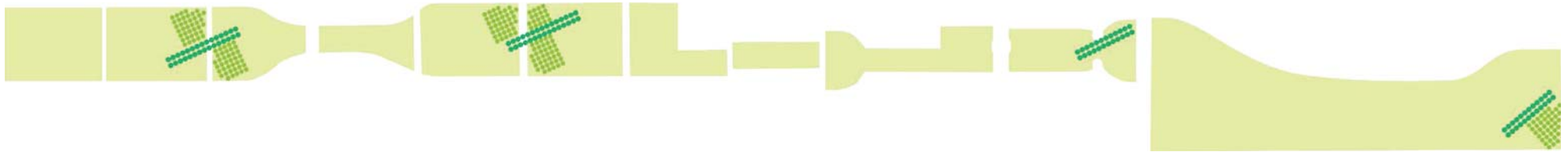
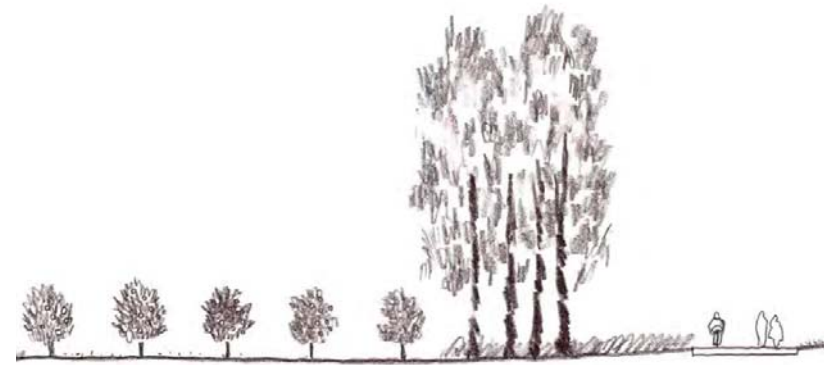
*Jeffrey Open Space Park by SWA*



*Lewis Avenue Corridor by SWA*

## The Orchards and Windrows

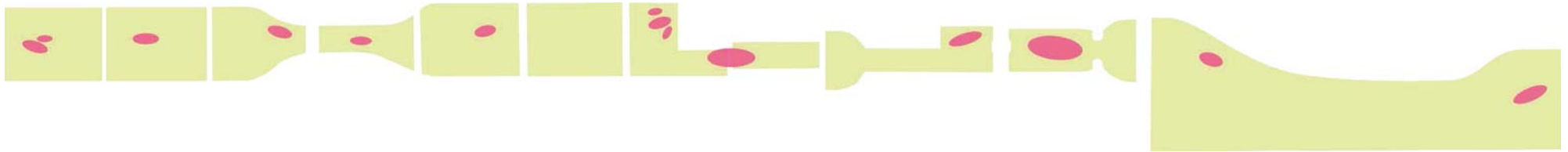
- Heritage landscape typology
- Contrasts the naturalistic park framework
- Creates intimate spaces for small-scale programs





## The Park Gardens

- Smaller gardens throughout park
- Native / Pollinator / Educational / Ornamental
- Specific to adjacent land use - marries great park to the community



# Typical Landscape Cross-Section



Front  
Entry

Forest

Orchard

Windrow

Meadow

Arroyo

Meadow

Forest

Street



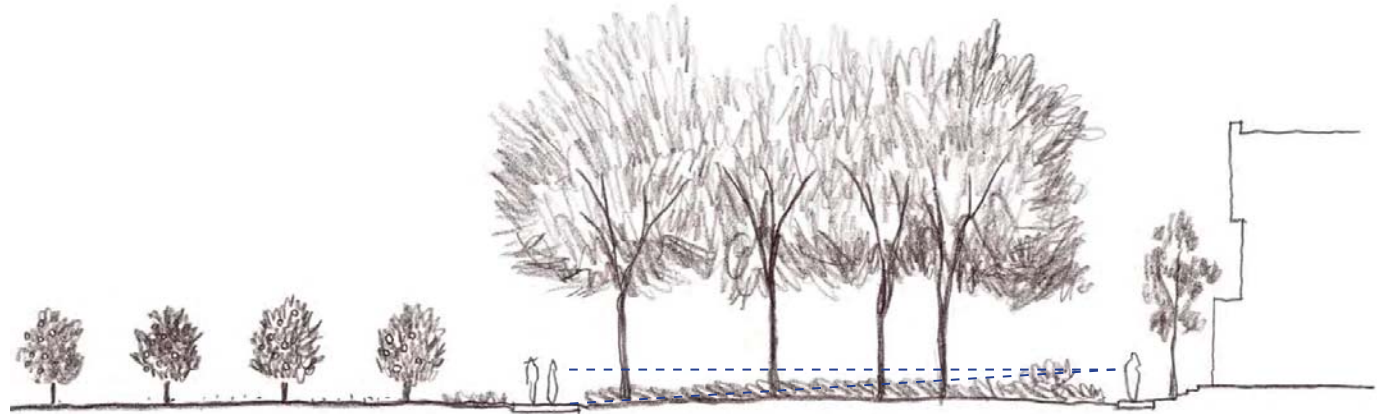
## Permeable Interface Marries Park and Community

- Physical and visual connections between park and adjacent neighborhoods
- Build walks, not walls
- Eyes on the street / eyes on the park improves safety for all

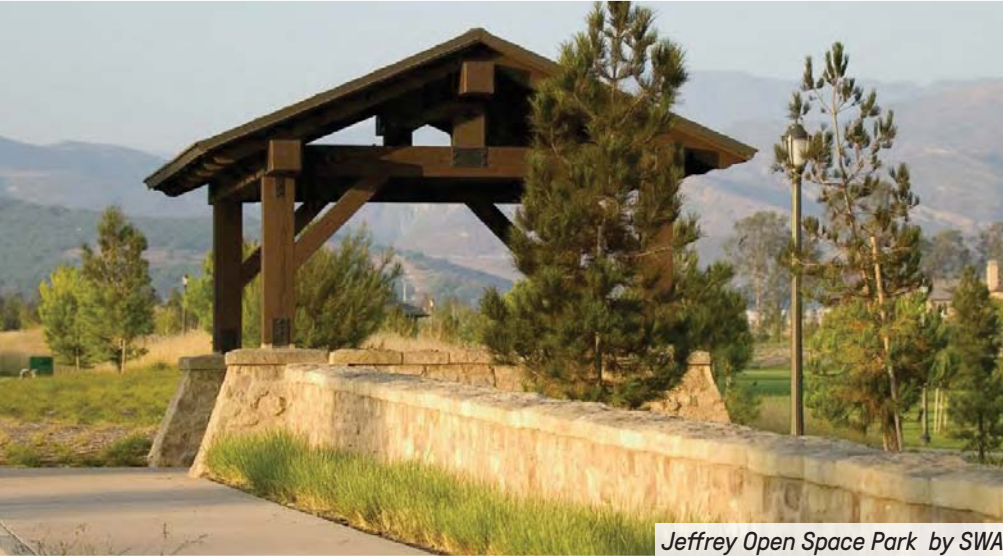


## Permeable Neighborhood Interface

- Parking along park edge
- No block walls
- Gateways enhance neighborhood interface



# Neighborhood Gateways



Jeffrey Open Space Park by SWA

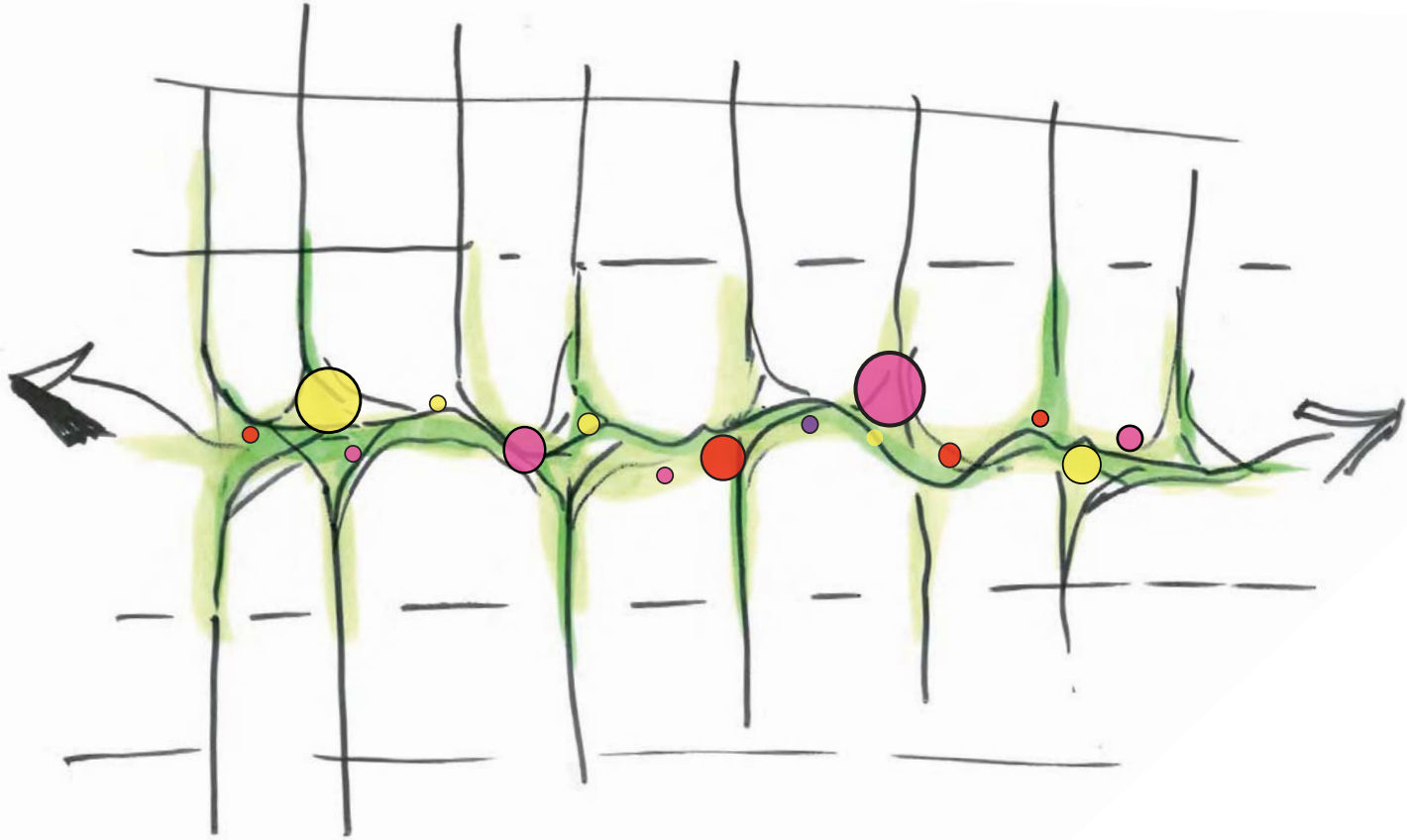


Jeffrey Open Space Park by SWA



Woodbury by SWA

# Program

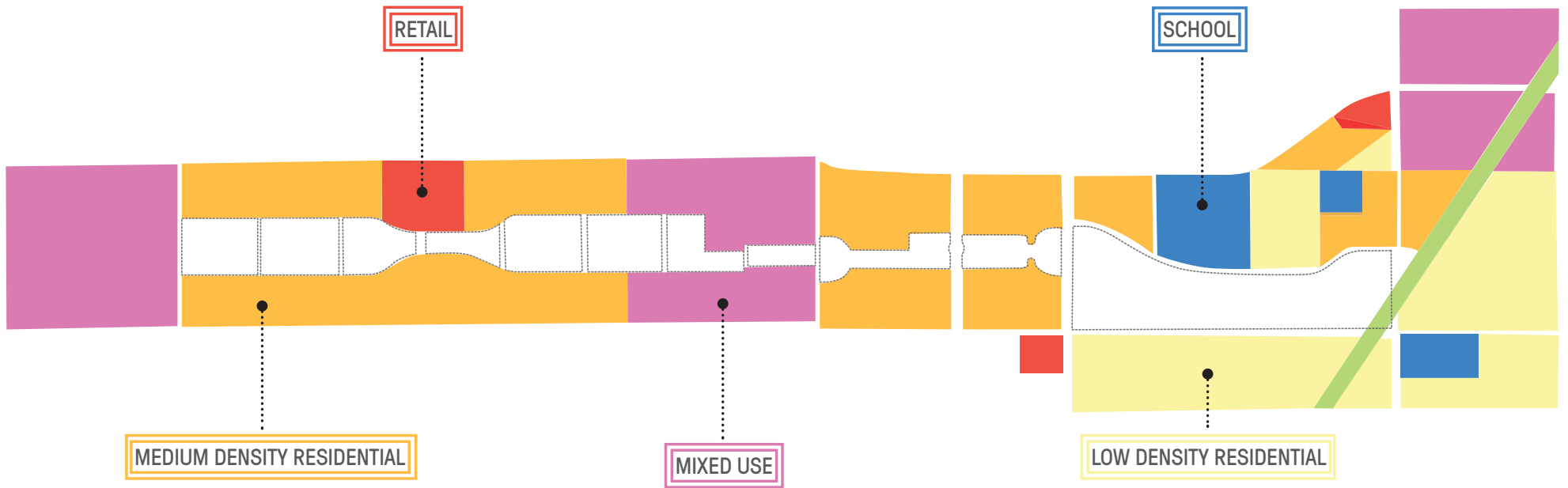


## Diverse Programs Drive Flow to the Park

- Locate programs in relation to adjacent uses
- Program offerings grow with park district expansion
- Programs reinforce sense of community

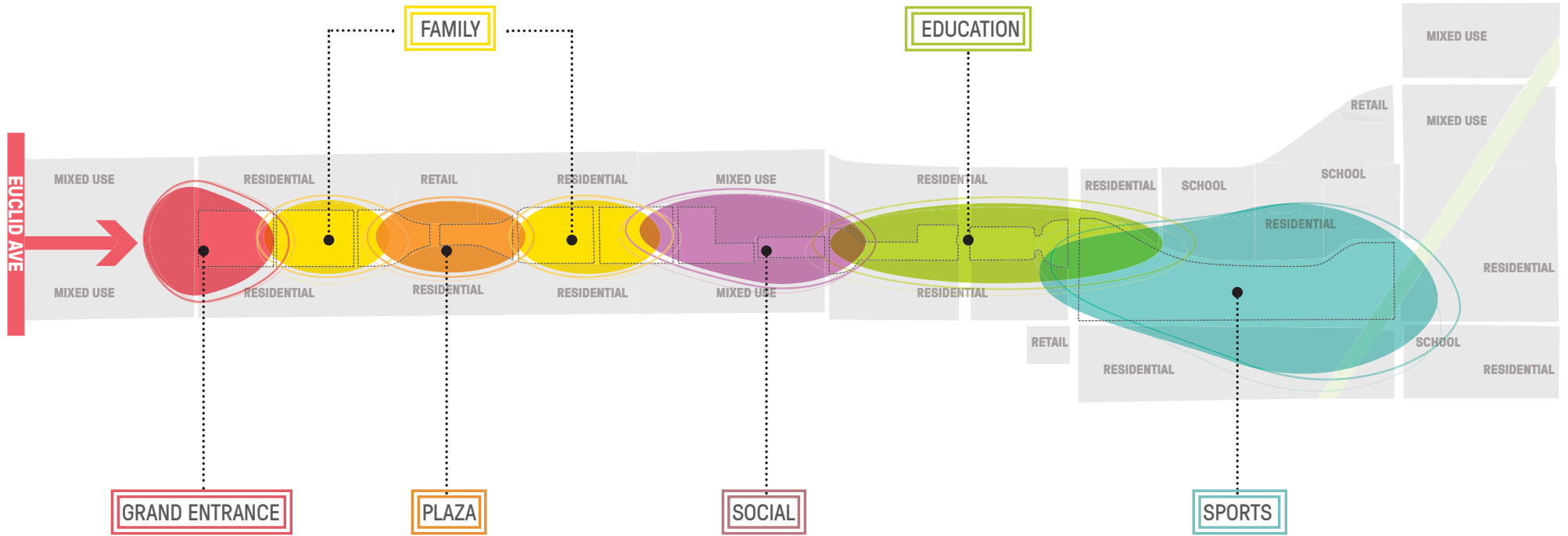


# Programming Relates to Adjacent Land Use



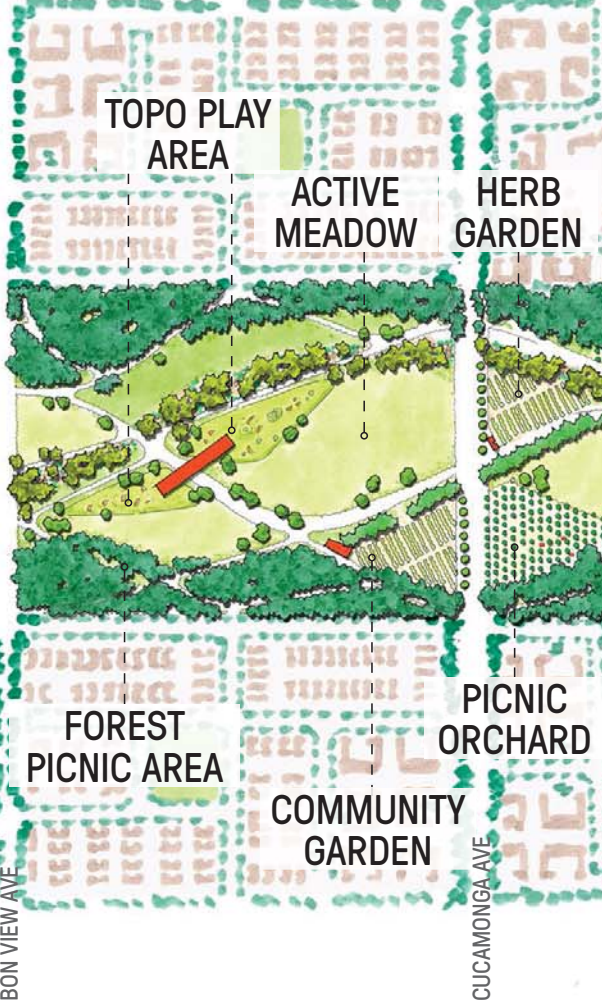
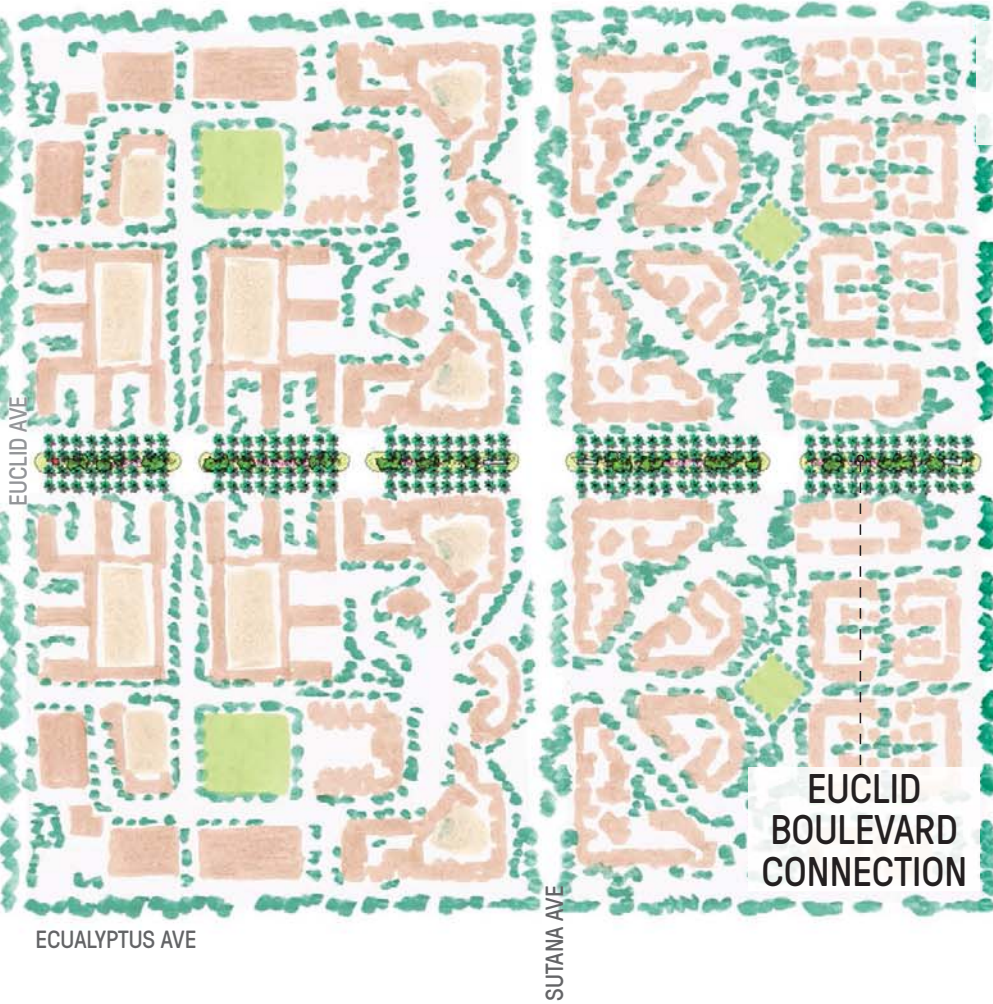


# Programming Relates to Adjacent Land Use

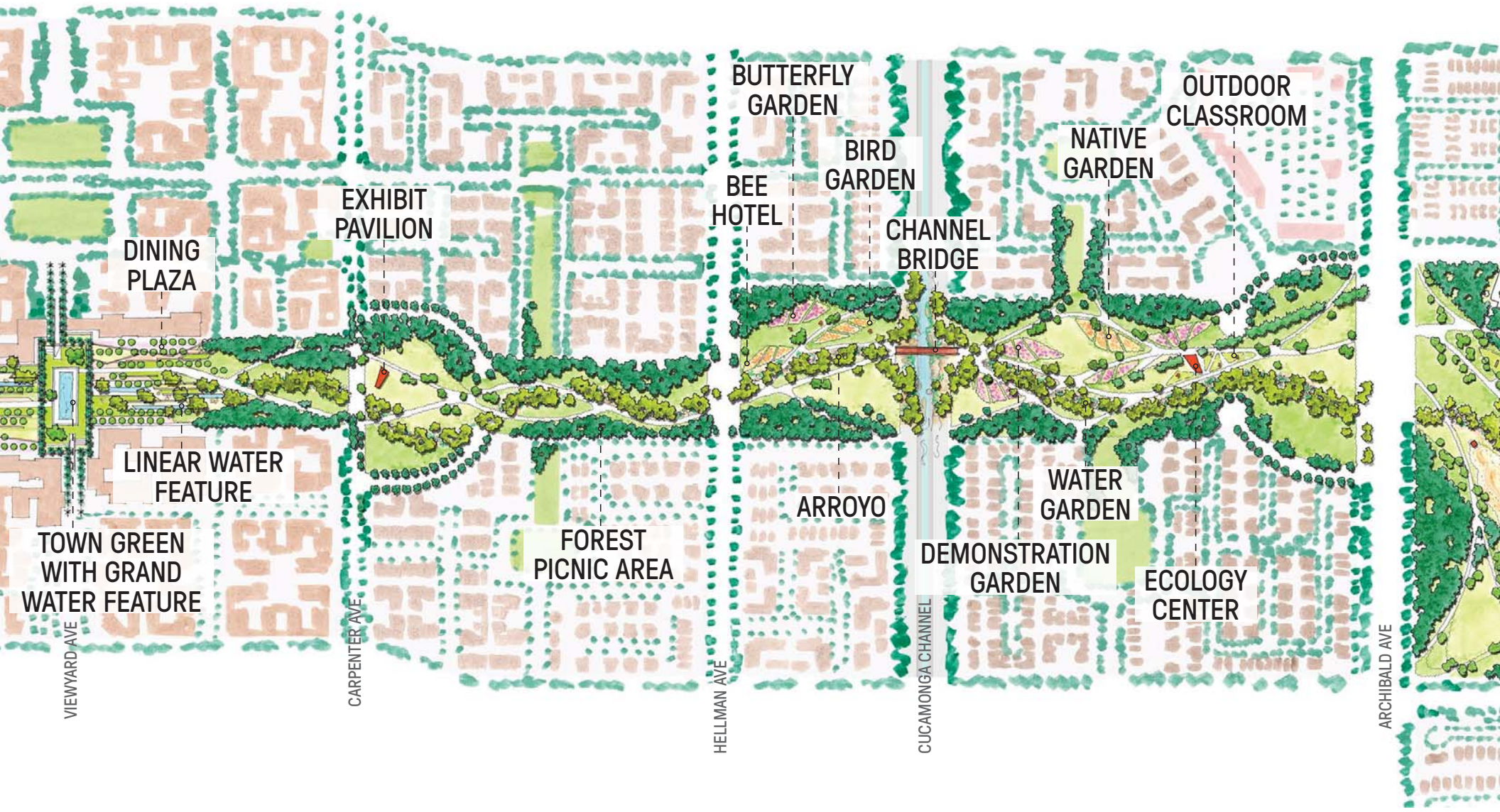




ONTARIO RANCH ROAD









## Facilitate Active Lifestyle

- Flexible open spaces
- Social sports and games
- Outdoor group classes
- Dog parks



*Jeffrey Open Space Park by SWA*



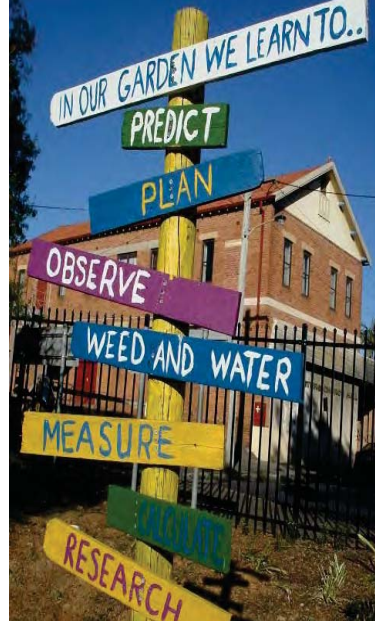
## Athletic Fields

- Range of sports fields
- Indoor sport center
- Outdoor gym
- Bicycle tracks



## Offer Educational Opportunities

- Native / pollinator gardens
- Interpretive signage
- Outdoor classroom
- Youth camp





## Encourage Play

- Integrate play with topography and landscape
- Thematic playgrounds
- Water play
- Cater to all ages



Buffalo Bayou by SWA

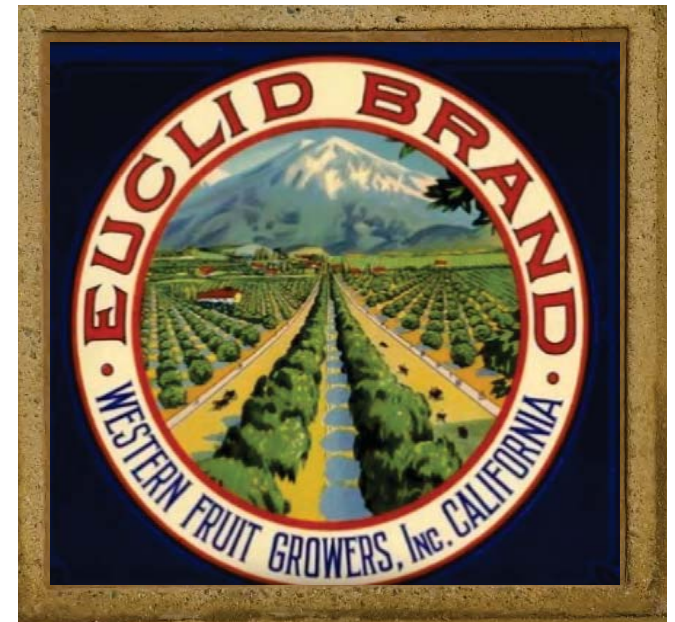


# Celebrate History and Culture

- History trail
- Interpretive signage
- Agriculture-inspired monumentation



Jeffrey Open Space Park by SWA



Park Framework: Program

# Celebrate History and Culture

- Museum
- Landscape installations
- Local artist's exhibits



*Buffalo Bayou by SWA*

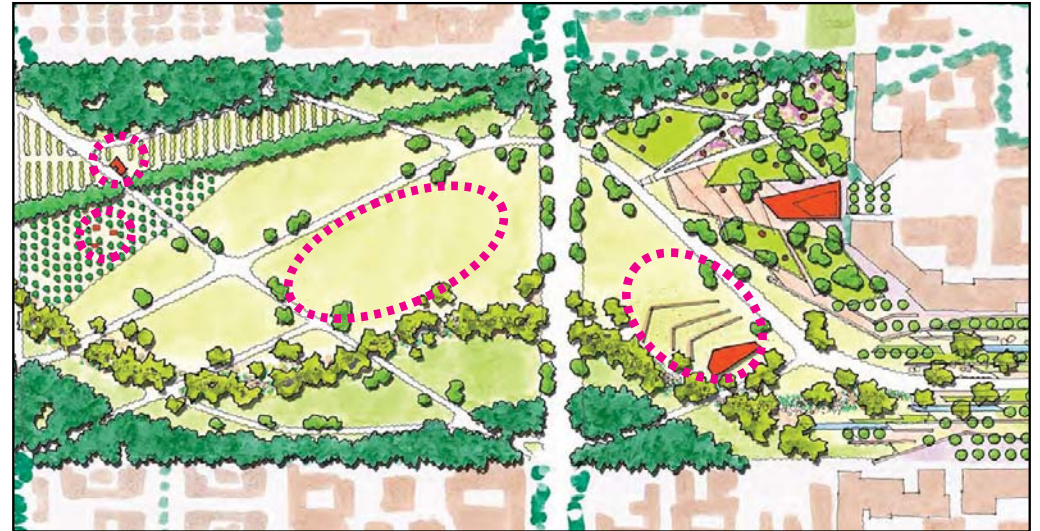


*Buffalo Bayou by SWA*

Park Framework: Program

## Provide Social Gathering Spaces at Multiple Scales

- Town green
- Retail plaza
- Performance venue
- Picnic pavilions
- BBQ spaces



*Sonoma State University Weill Lawn by SWA*



*Rancho Mission Viejo by SWA*



*Guthrie Green by SWA*

Park Framework: Program

# Highlight Local Food and Drink Experiences

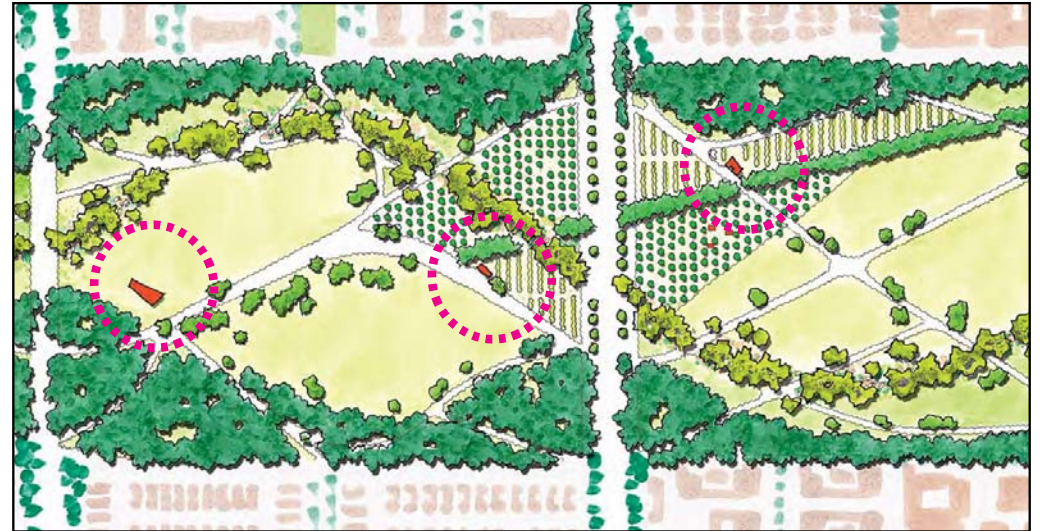
- Farmers market
- Farm to table restaurant
- Food truck area
- Micro brewery / winery
- Pop-up dining



Park Framework: Program

# Incorporate Revenue-Generating Programs

- Leasable event space
- Pop-up stores
- Glamping

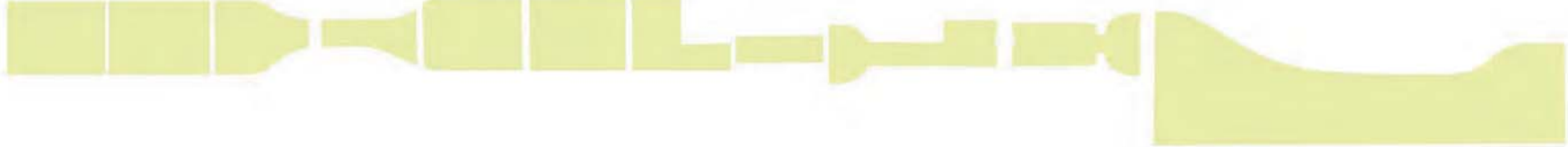


## Strong Framework Creates Consistency through Phased Build-Out

- Park evolves in tandem with community
- Multiple possible phasing strategies

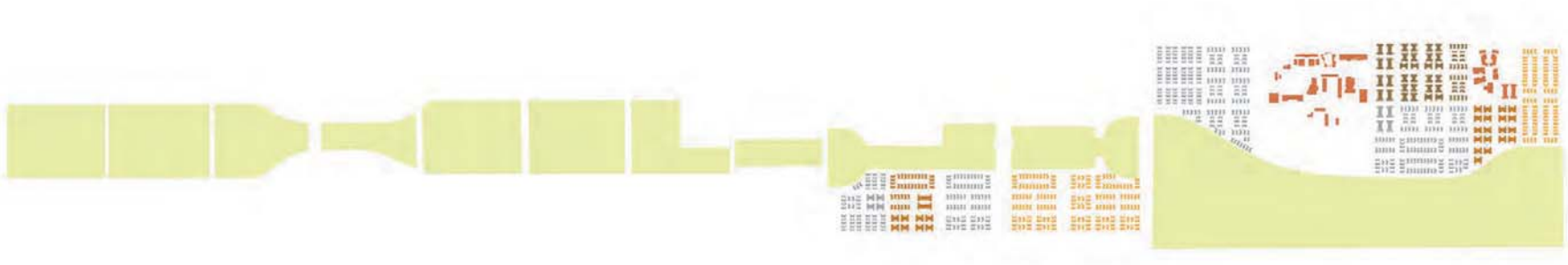


Park Framework: Phasing



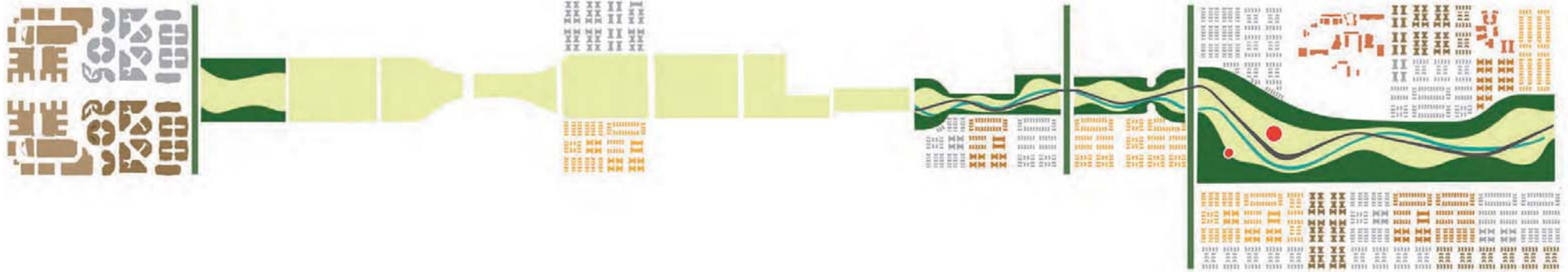


Park Framework: Phasing

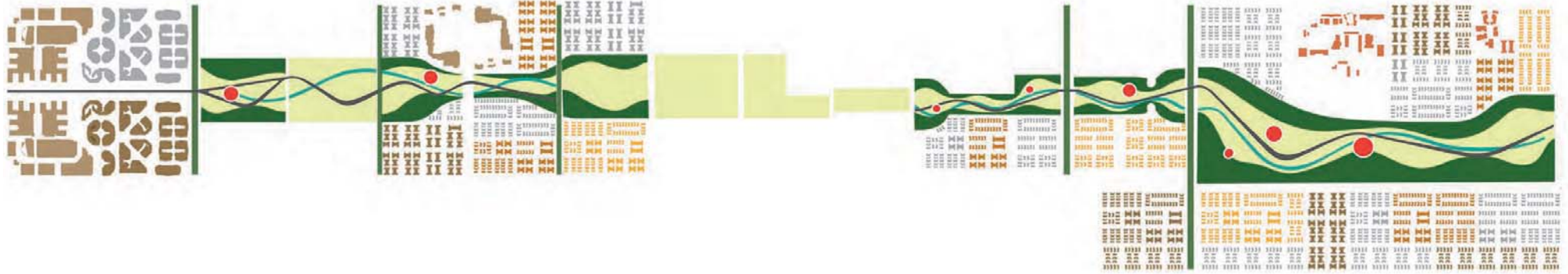




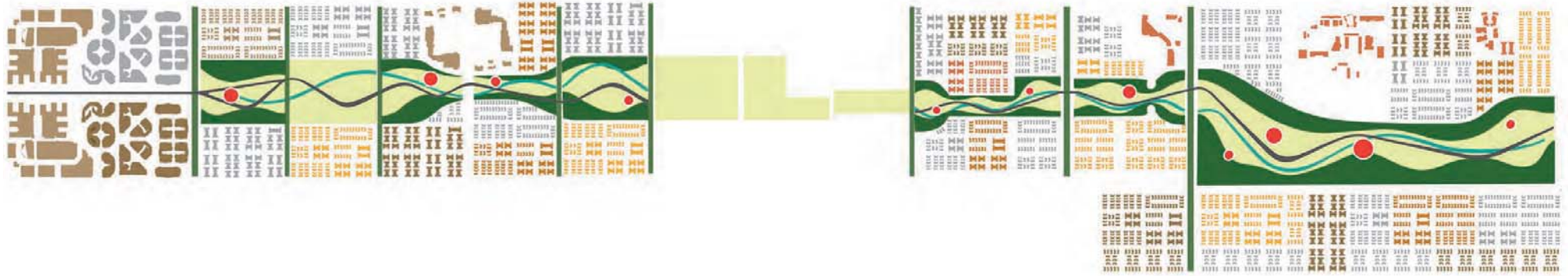
# Park Framework: Phasing



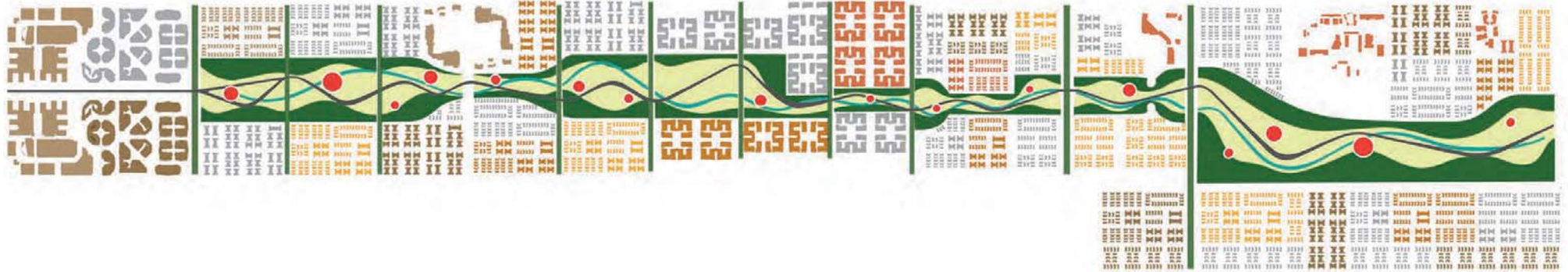
# Park Framework: Phasing



# Park Framework: Phasing



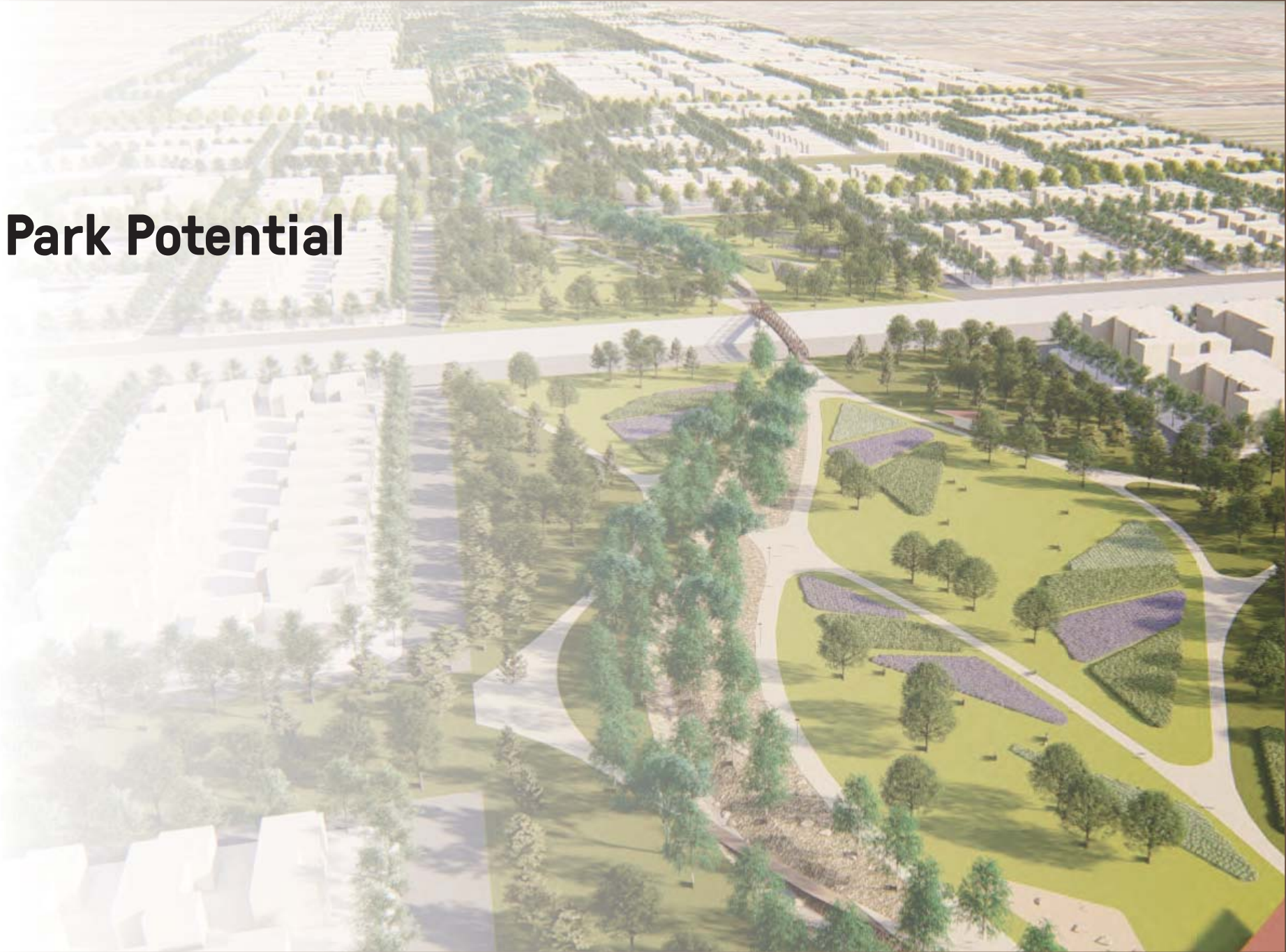
# Park Framework: Phasing



# Park Framework: Phasing



# Great Park Potential













# Picnic Parks in Forest



## Playgrounds Integrated with Landscape



# Outdoor Fitness Stations



# Active Meadows with Gathering Spaces





## Garden Discoveries along Trails



# Community Gardens as Shared Backyard



# Flexible Market Spaces



# Retail and Dining Faces Park



# Formalized Arroyo Marries Natural and Urban



A park is a living organism, ever-evolving as its surroundings and its users change.

With a flexible framework celebrating the natural landscape and cultural heritage of Ontario, the Great Park can build a legacy in the present while remaining adaptable to the needs of future generations.

# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: A WATER PURCHASE AGREEMENT WITH GENON CALIFORNIA SOUTH LP**

**RECOMMENDATION:** That the City Council approve and ratify the City Manager's execution of a water purchase agreement (on file in the Records Management Department) with GenOn California South LP, a Delaware limited partnership (as successor-in-interest to NRG California South LP), for the permanent transfer of overlying groundwater rights and stored water in the amount of \$14,100,000.

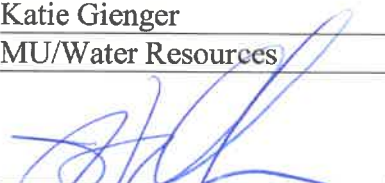
**COUNCIL GOALS:** Invest in the City's Infrastructure (Water, Streets, Sewers, Parks, Storm Drains and Public Facilities)

**FISCAL IMPACT:** The total purchase price of \$14,100,000 (with a true-up provision of up to \$30,000) will acquire approximately 955 acre-feet of permanent Chino Basin Overlying Non-Agricultural Pool groundwater rights and approximately 3,736 acre-feet of stored water from GenOn California South LP. Compensation is based on current market rates for similar transactions, and appropriations in the Water Capital Fund are included in the First Quarter Budget Update Report to the City Council. There is no impact to the General Fund.

**BACKGROUND:** The City obtains the majority of its water supply from the Chino Groundwater Basin (Basin). The Basin was adjudicated in 1978 (*Superior Court Case RCV 51010*), which allocated groundwater rights as shares of the Basin safe yield in terms of acre-feet per year. The City's Basin rights are less than its current and long-term projected water demand, and the City has supplemented its water resources through various investments such as an imported water treatment facility, regional Chino Basin Desalter program, recycled water infrastructure, one-time stored water purchases from other Basin parties, and the purchase of permanent groundwater Basin rights from several entities within the Overlying Non-Agricultural Pool.

In May 2019, GenOn California South LP issued a request for bids on its Chino Basin groundwater rights and stored water. The City submitted a bid, subject to City Council approval of a purchase

**STAFF MEMBER PRESENTING:** Scott Burton, Utilities General Manager

Prepared by: Katie Gienger  
Department: MU/Water Resources  
City Manager Approval: 

Submitted to Council/O.H.A. 11/19/2019  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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agreement. GenOn California South LP received multiple bids and ultimately selected the City as the successful bidder.

This agreement will transfer approximately 955 acre-feet per year of permanent Chino Basin Overlying Non-Agricultural Pool water rights plus approximately 3,736 acre-feet of stored water to the City, subject to the requirements of the Chino Basin Judgment, Peace Agreements, subsequent amendments, and Watermaster approval. These Basin rights are a local, sustainable resource that provides additional water supply reliability to the existing community and helps meet the future needs of The Ontario Plan.



# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
CONSENT CALENDAR

**SUBJECT: APPROVAL OF YOUTH SPORTS LEAGUE LICENSE AGREEMENTS FOR THE USE OF CITY PARKS AND FACILITIES**

**RECOMMENDATION:** That the City Council approve and authorize the City Manager to execute one-year License Agreements (on file in the Records Management Department) between the City of Ontario and local youth baseball, softball and soccer organizations for the use of City parks and facilities.

**COUNCIL GOALS:** Encourage, Provide or Support Enhanced Recreational, Educational, Cultural and Healthy City Programs, Policies and Activities

**FISCAL IMPACT:** The Fiscal Year 2019-20 Operating Budget includes appropriations to cover the cost of routine maintenance and field lighting required to support youth sport league activities. Any non-scheduled use of parks and facilities beyond those contracted within these agreements will be charged at the prevailing facility rental rates.

**BACKGROUND:** Currently, six youth sports organizations utilize six City parks and related structures (snack bars, restrooms, storage rooms, etc.) to provide recreational youth sports leagues to the community. The existing License Agreements expire this year, and these new agreements will provide for another year of play for an estimated 3,140 children at the following facilities:

<u>Organization</u>	<u>Facility</u>	<u>Estimated Youth Participants</u>
Ontario Eastern Little League	John Galvin Park	198
Ontario Western Little League	Homer Briggs Park	248
Ontario Mountain View Little League	Westwind Park	408
Ontario Fastpitch Softball Association	Kimball Park & Westwind Park	400
AYSO Region 66	Anthony Muñoz Park & Ontario Soccer Park	972
AYSO Region 583	Ontario Soccer Park	914

**STAFF MEMBER PRESENTING:** Helen McAlary, Executive Director Community Life & Culture

Prepared by: Stacy Michalak  
Department: Recreation & Community Services

City Manager Approval:



Submitted to Council/O.H.A. 11/19/2019

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

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

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

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Each youth sports league is required to have at least 80% Ontario residents on their rosters during their season. The License Agreements provide these organizations with the authority to use City facilities during agreed upon schedules for the year term and establish requirements for security, maintenance, indemnification and insurance to be provided by the organizations.

# CITY OF ONTARIO

Agenda Report  
November 19, 2019

SECTION:  
PUBLIC HEARINGS

**SUBJECT: A PUBLIC HEARING TO CONSIDER A RESOLUTION REGARDING THE FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 46 (AVENUE 176 FACILITIES); ADOPTION OF A RESOLUTION TO INCUR BONDED INDEBTEDNESS; AND INTRODUCTION OF AN ORDINANCE LEVYING SPECIAL TAXES**

**RECOMMENDATION:** That the City Council consider and:


- (A) Adopt a resolution establishing Community Facilities District No. 46 (Avenue 176 Facilities), authorizing the levy of special taxes within the community facilities district, and establishing an appropriations limit for the community facilities district;
- (B) Adopt a resolution deeming it necessary to incur bonded indebtedness within Community Facilities District No. 46 (Avenue 176 Facilities);
- (C) Adopt a resolution calling a special election for City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities);
- (D) Adopt a resolution declaring the results of the special election and directing the recording of a Notice of Special Tax Lien;
- (E) Introduce and waive further reading of an ordinance levying special taxes within City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities); and
- (F) Adopt a resolution authorizing the execution and delivery of an acquisition and funding agreement with Lennar Homes of California Inc., a California corporation.

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

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

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

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

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

Submitted to Council/O.H.A. 11/19/2019  
Approved: \_\_\_\_\_  
Continued to: \_\_\_\_\_  
Denied: \_\_\_\_\_

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

**FISCAL IMPACT:** The use of Mello-Roos financing for facilities in the residential development of the Avenue 176 project is estimated to generate approximately \$7.3 million, which will be used to help fund a portion of the public infrastructure improvements that will serve the project. Since Mello-Roos bonds are not a direct obligation of the City, and are paid from special taxes levied on each taxable parcel in the district, there is no General Fund impact from the issuance of Mello-Roos bonds. The use of Mello-Roos financing for the Ontario Ranch Logistics Center development will not generate funds for facilities, and bonds will not be issued as part of this formation. There is no fiscal impact at this time; however, there will be proposed levies in future years that will require City Council approval.

**BACKGROUND:** The Mello-Roos Community Facilities Act of 1982 provides local government, with the consent from a majority of the property owners, the authority to establish community facilities districts for the purpose of levying special taxes to fund governmental services and to finance various kinds of public infrastructure facilities. With the adoption of Resolution 2018-167 on December 18, 2018, the City Council authorized the levy of special taxes to fund various city services for the district. Under the Mello-Roos Act, the initial steps in the formation of a community facilities district to finance public improvements are adopting resolutions declaring the intention to establish a community facilities district, authorize the levy of special taxes, and to issue bonds. Accordingly, on October 1, 2019, the City Council approved Resolution No. 2019-139, a Resolution of Intention to establish City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) and authorize the levy of special taxes, and Resolution No. 2019-140, declaring the City Council's intention to issue bonds for the district. The Resolution of Intention set the public hearing date for the regularly scheduled City Council meeting on November 19, 2019, to consider formation matters.

In the First Amended and Restated Agreement for the Financing and Construction of Limited Infrastructure Improvements to Serve an Easterly Portion of the New Model Colony ("First Amended and Restated Construction Agreement") between the City and NMC Builders LLC, the City agreed to cooperate with the members of NMC Builders, LLC in the formation of community facilities districts to assist in the financing of the public improvements included in the agreement. Lennar Homes of California, Inc., an NMC Builders member, has provided a written petition to the City requesting formation of a community facilities district for the Avenue 176 project in Ontario Ranch. The Avenue 176 project addresses the development of approximately 38 gross acres located generally east of Archibald Avenue, generally west of Turner Avenue, south of La Avenida Drive, and north of Ontario Ranch Road. At build out, the development is projected to include 176 detached units.

Included, as part of the resolution of formation is the proposed Rate and Method of Apportionment of Special Tax for the District. Under the proposed Rate and Method of Apportionment, the portion of the maximum annual special tax rates which will be used to fund debt service payments on the bonds is fixed and will not increase over time. As proposed, the amount of bonds authorized for the district (\$24 million) is set intentionally higher than the current estimated bond amount (approximately \$7.3 million) in order to allow future City Councils the option, without increasing the amount of the annual special taxes, to issue additional bonds to replace and/or construct new public infrastructure improvements in the future, or to fund City services. The term and structure of the Rate and Method of Apportionment of Special Tax for the Avenue 176 project is consistent with those of previously adopted Rates and Methods of Apportionment for Ontario Ranch community facilities districts. This ensures that the special tax rates levied on all residential property owners in community facilities districts in Ontario Ranch are developed in a consistent and equivalent manner. In addition, under the provisions of

the Mello-Roos Act, to ensure that home buyers are making an informed decision, all residential builders in the Ontario Ranch districts will be required to disclose the maximum annual special tax amount to each homeowner before entering into a sales contract.

Attached are five resolutions and an ordinance. The first resolution establishes the community facilities district, with the rate and method of apportionment of special taxes, and authorizes the levy of special taxes within the district. The second resolution deems the necessity of incurring bonded indebtedness for the district. The third calls for a special landowner election to be held on November 19, 2019. The fourth resolution declares the results of the election, including a statement from the City Clerk as to the canvass of ballots, and directs the recording of the Notice of Special Tax Lien. The ordinance authorizes the levying of special taxes, and the final resolution authorizes the execution and delivery of an acquisition and funding agreement with Lennar Homes of California Inc.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, OF FORMATION OF THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 46 (AVENUE 176 FACILITIES), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE COMMUNITY FACILITIES DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE COMMUNITY FACILITIES DISTRICT.

WHEREAS, on October 1, 2019, 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"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities), and to Authorize the Levy of Special Taxes" (the "Resolution of Intention"), stating its intention to establish a community facilities district (the "Community Facilities District") proposed to be named City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities), to authorize the levy of special taxes within the Community Facilities District to finance certain public facilities and services and setting the date for a public hearing to be held on the establishment of the Community Facilities District; and

WHEREAS, pursuant to the Resolution of Intention, notice of said public hearing was published in the *Inland Valley Daily Bulletin*, a newspaper of general circulation published in the area of the Community Facilities District, in accordance with the Act; and

WHEREAS, on this date, the City Council opened, conducted and closed said public hearing; and

WHEREAS, pursuant to the Resolution of Intention, each officer of the City who is or will be responsible for providing one or more of the proposed types of public facilities or services was directed to study, or cause to be studied, the proposed Community Facilities District and, at or before said public hearing, file a report with the City Council containing a brief description of the public facilities and services by type that will in his or her opinion be required to adequately meet the needs of the Community Facilities District, and his or her estimate of the cost of providing such public facilities and services; such officers were also directed to estimate the fair and reasonable cost of the public facilities proposed to be purchased as completed public facilities and of the incidental expenses proposed to be paid; and

WHEREAS, said report was so filed with the City Council and made a part of the record of said public hearing; and

WHEREAS, at the hearing, the testimony of all persons for or against the establishment of the Community Facilities District, the extent of the Community Facilities District and the furnishing of the specified types of public facilities and services was heard; and

WHEREAS, written protests against the establishment of the Community Facilities District, the furnishing of any specified type or types of facilities and services within the Community Facilities District or the levying of any specified special tax were not made or filed at or before said hearing by 50% or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the Community Facilities District, or the owners of one-half or more of the area of land in the territory proposed to be included in the Community Facilities District and not exempt from the special tax; and

WHEREAS, there has been filed with the City Clerk of the City a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of October 28, 2019, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the proposed Community Facilities District for each of the 90 days preceding the close of said public hearing; and

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

WHEREAS, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative body, with or without interest, under all the following conditions: (a) the proposal to repay the funds is included in both the resolution of intention to establish a community facilities district adopted pursuant to Section 53521 of the Act and in the resolution of formation to establish a community facilities district pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify that if the qualified electors of the community facilities district do not approve the proposed special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds; and

WHEREAS, the City and Lennar Homes of California, Inc. (the "Developer") entered into a Deposit and Reimbursement Agreement, dated as of October 1, 2019 (the "Deposit Agreement"), that provides for the advancement of funds by the Developer to be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby, and provides for the reimbursement to the Developer of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

WHEREAS, in accordance with Section 53314.9 of the Act, the City desires to accept such advances and to reimburse the Developer therefor, without interest, from the proceeds of special tax bonds issued by the Community Facilities District.

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The Community Facilities District is hereby established pursuant to the Act.

SECTION 3. The Community Facilities District is hereby named "City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities)."

SECTION 4. The public facilities (the "Facilities") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Facilities" on Exhibit A hereto, which is by this reference incorporated herein. Those Facilities proposed to be purchased as completed public facilities are described under the caption "Facilities to be Purchased" on Exhibit A hereto. The services (the "Services") proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption "Services" on Exhibit A hereto. The incidental expenses proposed to be incurred are identified under the caption "Incidental Expenses" on Exhibit A hereto. All or any portion of the Facilities may be financed through a financing plan, including, but not limited to, a lease, lease-purchase or installment-purchase arrangement.

SECTION 5. The proposed special tax to be levied within the Community Facilities District has not been precluded by majority protest pursuant to Section 53324 of the Act.

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

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

SECTION 8. The tax year after which no further special tax to pay for Facilities will be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the special tax to pay for Facilities in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any



other parcel or parcels within the Community Facilities District by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For purposes of this paragraph, a parcel shall be considered “used for private residential purposes” not later than the date on which an occupancy permit for private residential use is issued.

SECTION 9. Pursuant to Section 53344.1 of the Act, the City Council hereby reserves to itself the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the Community Facilities District treasurer in full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

SECTION 10. The name, address and telephone number of the office that will be responsible for preparing annually a current roll of special tax levy obligations by assessor’s parcel number and that will be responsible for estimating further special tax levies pursuant to Section 53340.2 of the Act are as follows: Management Analyst, General Services, City of Ontario, 303 East B Street, Ontario, California 91764, (909) 395-2341.

SECTION 11. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the Community Facilities District and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the City Council ceases.

SECTION 12. The boundary map of the Community Facilities District has been recorded in San Bernardino County in Book 89 at Page 1 of Maps of Assessments and Community Facilities Districts in the San Bernardino County Recorder’s Office (Document No. 2019-0362141).

SECTION 13. The annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the Community Facilities District is hereby established at \$24,000,000.

SECTION 14. Pursuant to the provisions of the Act, the levy of the special tax and a proposition to establish the appropriations limit specified above shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of October 28, 2019, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearing held by the City Council on the establishment of the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person

who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax. The voting procedure shall be by mailed or hand-delivered ballot.

SECTION 15. The Developer has heretofore advanced certain funds, and may advance additional funds, which have been or may be used to pay costs incurred in connection with the creation of the Community Facilities District and the issuance of special tax bonds thereby. The City Council has previously approved the acceptance of such funds for the purpose of paying costs incurred in connection with the creation of the Community Facilities District and the issuance of special tax bonds thereby. The City Council proposes to repay all, or a portion of such funds expended for such purpose, solely from the proceeds of such bonds, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

SECTION 16. The City Council hereby finds and determines that all proceedings up to and including the adoption of this Resolution were valid and in conformity with the requirements of the Act. In accordance with Section 53325.1 of the Act, such finding shall be final and conclusive.

SECTION 17. 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 18. 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 19<sup>th</sup> day of November 2019.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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COLE HUBER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2019- was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 19, 2019 by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2019- duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019.

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

(SEAL)

## EXHIBIT A

### FACILITIES, SERVICES AND INCIDENTAL EXPENSES

#### Facilities

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

#### Facilities to be Purchased

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

#### Services

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

#### Incidental Expenses

The incidental expenses proposed to be incurred include the following:

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

EXHIBIT B

PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

## EXHIBIT B

### CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT No. 46 (AVENUE 176 FACILITIES)

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

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A Special Tax shall be levied on all Assessor's Parcels in the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) ("CFD No. 46") and collected each Fiscal Year, commencing in Fiscal Year 2020-21, 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. 46, 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 of Part 1 of 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. 46: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or CFD No. 46 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. 46 of complying with arbitrage rebate requirements; the costs to the City or CFD No. 46 of complying with City, CFD No. 46, or obligated persons or major property owner 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. 46 related to the analysis and reduction, if any, of the Special Tax on Single Family Property in accordance with Section C.1 herein; the costs of the City or CFD No. 46 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. 46; and amounts estimated or advanced by the City or CFD No. 46 for any other administrative purposes of CFD No. 46, 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. 46 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. 46 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. 46”** means City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities).

**“City”** means the City of Ontario, California.

**“City Council”** means the City Council of the City, acting as the legislative body of CFD No. 46.

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



**“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, 2019, and before May 1 of the prior Fiscal Year.

**“Expected Residential Lot Count”** means 176 Buildable Lots of Single Family Property or, as determined by the CFD Administrator, the number of Buildable Lots of Single Family Property based on the most recent Tentative Tract Map(s) or most recently recorded Final Subdivision Map(s) or modified Final Subdivision Map(s).

**“Facilities”** means the public facilities authorized to be financed, in whole or in part, by CFD No. 46.

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

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

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

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

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

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

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

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

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

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

**“Price Point Consultant”** means any consultant or firm of such consultants selected by CFD No. 46 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. 46 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 46, (ii) the City, (iii) any owner of real property in CFD No. 46, or (iv) any real property in CFD No. 46, and (e) is not connected with CFD No. 46 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 46 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. 46 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. 46 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 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. 46. The actual Square Footage shall be rounded up to the next whole square foot. Once such determination has been made for an Assessor's Parcel, it shall remain fixed in all future Fiscal Years unless an appeal pursuant to Section F below is approved that results in a change in the actual Square Footage.

**“Services”** means the services authorized to be financed, in whole or in part, by CFD No. 46.

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

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

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

**“Special Tax”** means the special tax authorized by the qualified electors of CFD No. 46 to be levied within the boundaries of CFD No. 46.

**“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. 46 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. 46, issued for construction of Single Family Property, Other Residential Property, or Non-Residential Property, plus any square footage subsequently added to a building of Non-Residential Property after issuance of a building permit for expansion or renovation of such building.

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

**“Taxable Property”** means, for each Fiscal Year, all of the Assessor’s Parcels within the boundaries of CFD No. 46 that are not exempt from the Special Tax pursuant to law or Section E below.

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

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

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

**“Total Tax Burden”** means, for a Unit within a Land Use Class, for the Fiscal Year in which Total Tax Burden is being calculated, the sum of (a) the Assigned Special Tax for such Land Use Class for such Fiscal Year, plus (b) the *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities districts, and any other governmental fees, charges (other than fees or charges for services such as sewer and trash), taxes, and assessments (which do not include Contractual Impositions) collected by the County on *ad valorem* tax bills and that the CFD

Administrator estimates would be levied or imposed on such Unit in such Fiscal Year if the residential dwelling unit thereon or therein had been completed and sold, and was subject to such fees, charges, taxes, and assessments in such Fiscal Year.

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

“**TTM 20012**” means Tentative Tract Map No. 20012, the area of which is located within CFD No. 46.

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

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

**B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, beginning with Fiscal Year 2020-21, all Taxable Property within CFD No. 46 shall be classified as Developed Property, Final Mapped Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property and shall be subject to Special Taxes in accordance with the Rate and Method of Apportionment as determined pursuant to Sections C and D below. Assessor’s Parcels of Single Family Property shall be assigned to Land Use Classes 1 through 9, as listed in Table 1 below based on the Residential Floor Area of the Units on such Assessor’s Parcels. Other Residential Property shall be assigned to Land Use Class 10, and Non-Residential Property shall be assigned to Land Use Class 11.

**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. 46 shall select and engage a Price Point Consultant and the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of Units within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to Units within one or more Land Use Classes of Single Family Property to be constructed within CFD No. 46 exceeds 1.95% of the Minimum Sale Price of such Units, the Assigned Special Tax shall be reduced to the extent necessary to cause the Total Tax Burden that shall apply to Units within such Land Use Class(es) not to exceed 1.95% of the Minimum Sale Price of such Units.

Each Assigned Special Tax reduction for a Land Use Class shall be calculated by the CFD Administrator separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Special Tax, the Backup Special Tax shall also be reduced by the CFD Administrator based on the percentage reduction in Maximum Special Tax revenues within the Tentative Tract Map area(s) where the Assigned Special Tax reductions occurred. Upon determining the reductions, if any, in the Assigned Special Tax and Backup Special Tax required pursuant to this Section C, the CFD Administrator shall complete the Certificate of Modification of Special Tax substantially in the form attached hereto as Exhibit A (the “Certificate of Modification”), shall execute such completed Certificate of Modification, and shall deliver such executed Certificate of Modification to CFD No. 46. Upon receipt thereof, if in satisfactory form, CFD No. 46 shall execute such Certificate of Modification. The reduced Assigned Special Tax and Backup Special Tax specified in such Certificate of Modification shall become effective upon the execution of such Certificate of Modification by CFD No. 46.

The Special Tax reductions required pursuant to this section shall be reflected in an amended notice of Special Tax lien, which CFD No. 46 shall cause to be recorded with the County Recorder as soon as practicable after execution of the Certificate of Modification by CFD No. 46. The reductions in this section apply to Single Family Property, but not to Other Residential Property or Non-Residential Property.

*a. Developed Property*

1) *Maximum Special Tax*

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

2) *Assigned Special Tax*

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

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

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Property	< 2,151	\$2,167 per Unit
2	Single Family Property	2,151 – 2,350	\$2,274 per Unit
3	Single Family Property	2,351 – 2,550	\$2,751 per Unit
4	Single Family Property	2,551 – 2,750	\$2,879 per Unit
5	Single Family Property	2,751 – 2,950	\$3,141 per Unit
6	Single Family Property	2,951 – 3,150	\$3,275 per Unit
7	Single Family Property	3,151 – 3,350	\$3,416 per Unit
8	Single Family Property	3,351 – 3,550	\$3,666 per Unit
9	Single Family Property	> 3,550	\$3,901 per Unit
10	Other Residential Property		\$26,735 per Acre
11	Non-Residential Property		\$26,735 per Acre

3) *Backup Special Tax*

The Backup Special Tax shall be \$3,099 per Unit for Single Family Property. However, if the Expected Residential Lot Count does not equal 176 for Single Family Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated according to the following formula:

$$\text{Backup Special Tax} = \$545,477 \div \text{Expected Residential Lot Count for Single Family Property}$$

If any portion of a Final Subdivision Map, or any area expected by CFD No. 46 to become Final Mapped Property, such as the area within TTM 20012 or any other Tentative Tract Map, changes any time after the City has issued Bonds, causing an adjustment to the number of Designated Buildable Lots, then the Backup Special Tax for all Designated Buildable Lots of Single Family Property subject to the change shall be calculated according to the following steps:

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

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

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

***The Backup Special Tax for an Assessor's Parcel shall not change once an Assessor's Parcel is classified as Developed Property or will be classified as Developed Property in the next Fiscal Year because a building permit has already been issued for the Assessor's Parcel.***

**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 \$26,735 per Acre, and shall not be subject to increase or reduction and, therefore, shall remain the same in every Fiscal Year.

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

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

**D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Each Fiscal Year, beginning with Fiscal Year 2020-21, 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; and

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

Notwithstanding the above, under no circumstances shall the Special Tax levied in any Fiscal Year on any Assessor's Parcel of Single Family Property or Other Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of delinquency or default by the owner or owners of any other Assessor's Parcel or Assessor's Parcels within CFD No. 46 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 10.37 Acres of Public Property and up to 4.43 Acres of Property Owner Association Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property.

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

**F. APPEALS**

Any property owner may file a written appeal of the Special Tax with CFD No. 46 claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

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

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

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

**G. MANNER OF COLLECTION**

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

**H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**“CFD Public Facilities”** means \$6,905,000 each Prepayment Period, or such lower number as determined by the City Council to be sufficient to fund the Facilities and Services to be provided by CFD No. 46.

**“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, 2020, through June 30, 2054.

**“Prepayment Period 2”** means July 1, 2054, through June 30, 2087.

**“Prepayment Period 3”** means July 1, 2087, through June 30, 2121.

### **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, 2019, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge a fee for providing this service. Prepayment in any six month period must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

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

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

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

### **Paragraph No.**

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel, and determine the Prepayment Period for the proposed prepayment.

2. Compute the Assigned Special Tax and Backup Special Tax for the Assessor's Parcel to be prepaid based on the Developed Property Special Tax which is, or could be, charged in the current Fiscal Year. For Assessor's Parcels of Final Mapped Property (for which a building permit has been issued but which is not yet classified as Developed Property) to be prepaid, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to Paragraph 2 by the total estimated Assigned Special Tax for CFD No. 46 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. 46, 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. 46, excluding any Assessor's Parcels which have been prepaid.
4. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to Paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Compute the Future Facilities Costs for the applicable Prepayment Period.
7. Multiply the larger quotient computed pursuant to Paragraph 3(a) or 3(b) by the amount determined pursuant to Paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.
10. Add the amounts computed pursuant to Paragraphs 8 and 9 to determine the "Defeasance Amount".
11. Verify the administrative fees and expenses of CFD No. 46, 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. 46.

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. 46 (after excluding 10.37 Acres of Public Property and 4.43 acres of Property Owner

Association Property) both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

## **2. Prepayment in Part**

The Special Tax on an Assessor's Parcel for which a building permit for new construction was issued after January 1, 2019, may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1, except that a partial prepayment shall be calculated by the CFD Administrator according to the following formula:

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

The terms above have the following meaning:

PP = the partial prepayment

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

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

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

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

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay the Special Tax and the percentage by which the Special Tax shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute the remitted prepayment funds according to Section H.1, and (ii) indicate in the records of CFD No. 46 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 2120-2121, except that the Special Tax that was lawfully levied in or before such Fiscal Year and that remains delinquent may be collected in subsequent years.

**EXHIBIT A**

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

**CFD No. 46 CERTIFICATE**

1. Pursuant to Section C.1 of the Rate and Method of Apportionment of Special Tax (the “Rate and Method”) for City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) (“CFD No. 46”), the Assigned Special Tax and the Backup Special Tax for Developed Property within CFD No. 46 has been modified.
  - a. The information in Table 1 relating to the Assigned Special Tax for Developed Property within CFD No. 46, as stated in Section C.1.a.2 of the Rate and Method, has been modified as follows:

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

Land Use Class	Description	Residential Floor Area (Square Footage)	Assigned Special Tax
1	Single Family Property	< 2,151	\$[ ] per Unit
2	Single Family Property	2,151 – 2,350	\$[ ] per Unit
3	Single Family Property	2,351 – 2,550	\$[ ] per Unit
4	Single Family Property	2,551 – 2,750	\$[ ] per Unit
5	Single Family Property	2,751 – 2,950	\$[ ] per Unit
6	Single Family Property	2,951 – 3,150	\$[ ] per Unit
7	Single Family Property	3,151 – 3,350	\$[ ] per Unit
8	Single Family Property	3,351 – 3,550	\$[ ] per Unit
9	Single Family Property	> 3,550	\$[ ] per Unit
10	Other Residential Property		\$[ ] per Acre
11	Non-Residential Property		\$[ ] per Acre



**EXHIBIT A**

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

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

The Backup Special Tax shall be \$[\_\_\_\_\_] per Unit for Single Family Property. However, if the Expected Residential Lot Count does not equal 176 for Single Family Property, and the City has not issued Bonds, then the Backup Special Tax for Designated Buildable Lots of Single Family Property shall be calculated according to the following formula:

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

2. The Special Tax for Developed Property may only be modified prior to the first issuance of CFD No. 46 Bonds.
3. Upon execution of this Certificate by CFD No. 46, CFD No. 46 shall cause an amended notice of Special Tax lien for CFD No. 46 to be recorded reflecting the modifications set forth herein.

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

GOODWIN CONSULTING GROUP, INC.  
CFD ADMINISTRATOR

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

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

CITY OF ONTARIO  
COMMUNITY FACILITIES DISTRICT NO. 46  
(AVENUE 176 FACILITIES)

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

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 46 (AVENUE 176 FACILITIES).

WHEREAS, on October 1, 2019, 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"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities), and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) (the "Community Facilities District") and to authorize the levy of special taxes within the Community Facilities District to finance certain public facilities and services; and

WHEREAS, on October 1, 2019, the City Council also adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, to Incur Bonded Indebtedness of the Proposed City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities)" (the "Resolution to Incur Bonded Indebtedness") declaring the necessity for incurring bonded indebtedness and setting the date for a public hearing to be held on the proposed debt issue; and

WHEREAS, pursuant to the Resolution to Incur Bonded Indebtedness, notice of said public hearing was published in the *Inland Valley Daily Bulletin*, a newspaper of general circulation published in the area of the Community Facilities District, in accordance with the Act; and

WHEREAS, on this date, the City Council opened, conducted and closed said public hearing; and

WHEREAS, at said public hearing, any person interested, including persons owning property within the area and desiring to appear and present any matters material to the questions set forth in the Resolution to Incur Bonded Indebtedness appeared and presented such matters; and

WHEREAS, oral or written protests against the proposed debt issue were not made or filed at or before said public hearing by 50% or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the Community Facilities District, or the owners of one-half or more of the area of land in the territory proposed to be included in the Community Facilities District and not exempt from the special tax; and

WHEREAS, on this date, the City Council adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities), Authorizing

the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District” (the “Resolution of Formation”); and

WHEREAS, the City Clerk of the City (the “City Clerk”) is the election official that will conduct the special election on the proposition to incur bonded indebtedness for the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of October 28, 2019, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of said public hearing; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on November 19, 2019, and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on November 19, 2019.

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The City Council deems it necessary to incur the bonded indebtedness.

SECTION 3. The bonded indebtedness will be incurred for the purpose of financing the costs of the Facilities (as defined in the Resolution of Formation), including all costs and estimated costs incidental to, or connected with, the accomplishment of such purpose.

SECTION 4. In accordance with the previous determination of the City Council, the whole of the Community Facilities District will pay for the bonded indebtedness.

SECTION 5. The maximum aggregate amount of debt to be incurred is \$24,000,000.

SECTION 6. The maximum term the bonds to be issued shall run before maturity is 40 years.

SECTION 7. The maximum annual rate of interest to be paid shall not exceed the maximum interest rate permitted by applicable law at the time of sale of the bonds, payable semiannually or at such times as the City Council or its designee shall determine, the actual rate or rates and times of payment of such interest to be determined by the City Council or its designee at the time or times of sale of the bonds.

SECTION 8. The proposition to incur the bonded indebtedness will be submitted to the voters.

SECTION 9. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of October 28, 2019, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings held by the City Council on the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 10. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), and (b) to the holding of said election on November 19, 2019. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on November 19, 2019.

SECTION 11. The date of the special community facilities district election (which shall be consolidated with the special district election to levy a special tax within the Community Facilities District) at which time the proposition shall be submitted to the voters is November 19, 2019.

SECTION 12. The election is to be conducted by mail ballot. The mailed ballots are required to be received in the office of the City Clerk no later than 7:30 p.m. on November 19, 2019; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 13. 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 14. 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 19<sup>th</sup> day of November 2019.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

---

COLE HUBER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2019-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 19, 2019 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2019-        duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019.

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

(SEAL)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, CALLING SPECIAL ELECTION FOR CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 46 (AVENUE 176 FACILITIES).

WHEREAS, on this date, 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"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), establishing City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) (the "Community Facilities District"), authorizing the levy of a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District; and

WHEREAS, on this date, the City Council also adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities)" (the "Resolution Deeming it Necessary to Incur"), deeming it necessary to incur bonded indebtedness in the maximum amount of \$24,000,000; and

WHEREAS, pursuant to the provisions of said resolutions, the propositions to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District are to be submitted to the qualified electors of the Community Facilities District as required by the Act; and

WHEREAS, the City Council desires to designate the City Clerk of the City (the "City Clerk") as the election official for the special election provided for herein; and

WHEREAS, there has been filed with the City Clerk a letter from the Registrar of Voters of the County of San Bernardino indicating that no persons were registered to vote within the territory of the proposed Community Facilities District as of October 28, 2019, and, accordingly, that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings on the establishment of the Community Facilities District and the proposed debt issue for the Community Facilities District; and

WHEREAS, there has been filed with the City Clerk consents and waivers of all of the landowners of record in the Community Facilities District waiving any time limit

specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), consenting to the holding of said special election on November 19, 2019 and waiving any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act; and

WHEREAS, the City Clerk has concurred in said waivers and has concurred in holding said special election on November 19, 2019.

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

SECTION 1. Pursuant to Sections 53351, 53326 and 53325.7 of the Act, the propositions to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District shall be submitted to the qualified electors of the Community Facilities District at an election called therefor as provided below.

SECTION 2. The City Clerk is hereby designated as the official to conduct said election.

SECTION 3. As authorized by Section 53353.5 of the Act, the propositions to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District shall be combined into one ballot proposition.

SECTION 4. The City Council hereby finds and determines that no persons were registered to vote within the territory of the proposed Community Facilities District as of October 28, 2019, and that 12 or more persons have not been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings heretofore held by the City Council on the establishment of the Community Facilities District and the proposed debt issue for the Community Facilities District. Accordingly, pursuant to Section 53326 of the Act, the vote shall be by the landowners of the Community Facilities District and each person who is the owner of land as of the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District not exempt from the special tax.

SECTION 5. The City Council hereby finds and determines that the qualified electors of the Community Facilities District have unanimously consented (a) to the waiver of any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), (b) to the holding of said election on November 19, 2019, and (c) to the waiver of any impartial analysis, arguments or rebuttals, as set forth in Sections 53326 and 53327 of the Act. The City Council hereby finds and determines that the City Clerk has concurred in said waivers and has concurred in holding said election on November 19, 2019.



SECTION 6. The City Council hereby calls a special election to submit to the qualified electors of the Community Facilities District the combined proposition to incur bonded indebtedness, to levy a special tax within the Community Facilities District and to establish an appropriations limit for the Community Facilities District, which election shall be held at 303 East B Street, Ontario, California, on November 19, 2019. The City Council has caused to be provided to the City Clerk, as the official to conduct said election, the Resolution of Formation, the Resolution of Deeming it Necessary to Incur, a certified map of sufficient scale and clarity to show the boundaries of the Community Facilities District, and a sufficient description to allow the City Clerk to determine the boundaries of the Community Facilities District.

The voted ballots shall be returned to the City Clerk not later than 7:30 p.m. on November 19, 2019; provided, however, that if all of the qualified electors have voted prior to such time, the election may be closed with the concurrence of the City Clerk.

SECTION 7. Pursuant to Section 53326 of the Act, the election shall be conducted by mail or hand-delivered ballot pursuant to Section 4000 *et. seq.* of the California Elections Code. Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election.

SECTION 8. The form of the ballot for said election is attached hereto as Exhibit A and by this reference incorporated herein, and such form of ballot is hereby approved. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective landowner to which it pertains.

Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the return postage prepaid, and shall contain: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the voter, (d) the date of signing and place of execution of the declaration described in clause (b) above, and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

Analysis and arguments with respect to the ballot proposition are hereby waived, as provided in Section 53327 of the Act.

SECTION 9. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk at 303 East B Street, Ontario, California, to and including 7:30 p.m. on November 19, 2019, whether said ballots be personally delivered or received by mail. The City Clerk shall have available ballots which may be marked at said location on the election day by said qualified electors.

SECTION 10. The City Council hereby determines that the facilities and services financed by the Community Facilities District are necessary to meet increased demands placed upon local agencies as a result of development occurring in the Community Facilities District.

SECTION 11. The specific purposes of the bonded indebtedness proposed to be incurred is the financing of the Facilities (as defined in the Resolution of Formation), including all costs and estimated costs incidental to, or connected with, the accomplishment of such purpose, and the proceeds of such bonded indebtedness shall be applied only to such specific purposes.

Upon approval of the proposition to incur bonded indebtedness, and the sale of any bonds evidencing such indebtedness, the City Council shall take such action as may be necessary to cause to be established an account for deposit of the proceeds of sale of the bonds. For so long as any proceeds of the bonds remain unexpended, the Management Analyst, General Services of the City shall cause to be filed with the City Council, no later than January 1 of each year, a report stating (a) the amount of bond proceeds received and expended during the preceding year, and (b) the status of any project funded or to be funded from bond proceeds. Said report may relate to the calendar year, fiscal year, or other appropriate annual period, as the Management Analyst, General Services of the City shall determine, and may be incorporated into the annual budget, audit, or other appropriate routine report to the City Council.

SECTION 12. 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 13. 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 19<sup>th</sup> day of November 2019.

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PAUL S. LEON, MAYOR

ATTEST:

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SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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COLE HUBER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2019-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 19, 2019 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2019-        duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019.

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

(SEAL)

EXHIBIT A

OFFICIAL BALLOT

CITY OF ONTARIO  
November 19, 2019

SPECIAL ELECTION

This ballot is for a special, landowner election. The number of votes to be voted pursuant to this ballot is \_\_\_\_.

INSTRUCTIONS TO VOTERS:

To vote on the measure, mark a cross (+ or X) in the voting square after the word "YES" or after the word "NO". All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Ontario and obtain another.

CITY OF ONTARIO  
COMMUNITY FACILITIES DISTRICT NO. 46  
(AVENUE 176 FACILITIES)

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) (the "Community Facilities District") be authorized to incur bonded indebtedness in a maximum aggregate amount of not to exceed \$24,000,000 and levy a special tax in order to finance certain facilities and services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$24,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" and the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities)," each adopted by the City Council of the City of Ontario on November 19, 2019.

Yes:

No:

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO,  
CALIFORNIA, DECLARING RESULTS OF SPECIAL ELECTION AND  
DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN.

WHEREAS, on November 19, 2019, 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"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities)" (the "Resolution Calling Election"), calling for a special election of the qualified electors within City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) (the "Community Facilities District"); and

WHEREAS, pursuant to the terms of the Resolution Calling Election and the provisions of the Act, the special election was held on November 19, 2019; and

WHEREAS, the City Clerk of the City (the "City Clerk") has certified the canvass of the returns of the election and has filed a Canvass and Statement of Results of Election (the "Canvass"), a copy of which is attached hereto as Exhibit A;

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

SECTION 1. The City Council has received, reviewed and hereby accepts the Canvass.

SECTION 2. The City Council hereby finds and declares that the ballot proposition submitted to the qualified electors of the Community Facilities District pursuant to the Resolution Calling Election has been passed and approved by such electors in accordance with Section 53328, Section 53355 and Section 53325.7 of the Act.

SECTION 3. The City Clerk is hereby directed to execute and cause to be recorded in the office of the County Recorder of the County of San Bernardino a notice of special tax lien in the form required by the Act, said recording to occur no later than fifteen days following adoption by the City Council of this Resolution.

SECTION 4. 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 5. 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 19<sup>th</sup> day of November 2019.

---

PAUL S. LEON, MAYOR

ATTEST:

---

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

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COLE HUBER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2019-        was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 19, 2019 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2019-        duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019.

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

(SEAL)



EXHIBIT A

[See attached]

CITY OF ONTARIO  
 COMMUNITY FACILITIES DISTRICT NO. 46  
 (AVENUE 176 FACILITIES)

CANVASS AND STATEMENT OF RESULTS OF ELECTION

I hereby certify that on November 19, 2019, I canvassed the returns of the special election held on November 19, 2019, for the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities), that the total number of ballots cast in said Community Facilities District and the total number of votes cast for and against the proposition are as follows and that the totals as shown for and against the proposition are true and correct:

	<u>Qualified Landowner Votes</u>	<u>Votes Cast</u>	<u>YES</u>	<u>NO</u>
City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) Special Election, November 19, 2019	28	—	—	—

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) (the "Community Facilities District") be authorized to incur bonded indebtedness in a maximum aggregate amount of not to exceed \$24,000,000 and levy a special tax in order to finance certain facilities and services and shall the annual appropriations limit of the Community Facilities District be established in the amount of \$24,000,000, all as specified in the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" and the Resolution entitled "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities)," each adopted by the City Council of the City of Ontario on November 19, 2019?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 19th day of November 2019.

BY: \_\_\_\_\_  
 SHEILA MAUTZ, CITY CLERK

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, LEVYING SPECIAL TAXES WITHIN THE CITY OF ONTARIO COMMUNITY FACILITIES DISTRICT NO. 46 (AVENUE 176 FACILITIES).

WHEREAS, on October 1, 2019, 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"), adopted a resolution entitled "A Resolution of the City Council of the City of Ontario, California, of Intention to Establish a Community Facilities District, Proposed to be Named City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities), and to Authorize the Levy of Special Taxes" stating its intention to establish City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) (the "Community Facilities District") and to finance certain public facilities (the "Facilities") and services (the "Services"); and

WHEREAS, on November 19, 2019, the City Council held a noticed public hearing on the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to the close of said hearing, the City Council adopted resolutions entitled "A Resolution of the City Council of the City of Ontario, California, of Formation of the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities), Authorizing the Levy of a Special Tax within the Community Facilities District and Establishing an Appropriations Limit for the Community Facilities District" (the "Resolution of Formation"), "A Resolution of the City Council of the City of Ontario, California, Deeming it Necessary to Incur Bonded Indebtedness within the City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities)" and "A Resolution of the City Council of the City of Ontario, California, Calling Special Election for City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities)", which resolutions established the Community Facilities District, authorized the levy of a special tax within the Community Facilities District and called an election within the Community Facilities District on the proposition of incurring indebtedness, levying a special tax within the Community Facilities District and establishing an appropriations limit for the Community Facilities District, respectively; and

WHEREAS, on November 19, 2019, an election was held in which the qualified electors of the Community Facilities District approved said proposition by more than the two-thirds vote required by the Act.

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

SECTION. 1 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 rate and in accordance with the method of apportionment set forth in Exhibit B to the Resolution of Formation (the "Rate and Method of Apportionment"). The

special taxes are hereby levied commencing in fiscal year 2020-21 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 of Apportionment.

SECTION. 2 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 of Apportionment.

SECTION. 3 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 of Apportionment.

SECTION. 4 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. 5 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. 6 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. 7 The Mayor shall sign this Ordinance and the City Clerk shall certify as to the adoption and shall cause a summary thereof to be published at least once, in a newspaper of general circulation in the City of Ontario, California within fifteen (15) days of the adoption. The City Clerk shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

---

PAUL S. LEON, MAYOR

ATTEST:

---

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

---

COLE HUBER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. was duly introduced at a regular meeting of the City Council of the City of Ontario held on November 19, 2019 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)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACQUISITION AND FUNDING AGREEMENT WITH LENNAR HOMES OF CALIFORNIA, INC.

WHEREAS, certain real property within the boundaries of the City located generally south of State Route 60 is commonly known as the New Model Colony; and

WHEREAS, the City has approved a General Plan Amendment for the New Model Colony, which has been supplemented by certain water, recycled water and sewer master plans (as so supplemented, the "General Plan Amendment") and has certified an Environmental Impact Report and adopted a Mitigated Negative Declaration in connection with the General Plan Amendment (together, the "Environmental Impact Report"); and

WHEREAS, the City has specified in the General Plan Amendment and the Environmental Impact Report the major backbone transportation, water, sewer, storm drainage, parks, public safety infrastructure and fiber optic systems required to serve the New Model Colony; and

WHEREAS, the New Model Colony is now commonly referred to as the Ontario Ranch; and

WHEREAS, Lennar Homes of California, Inc., a California corporation (the "Developer"), is developing certain of the property within the Ontario Ranch (the "Property"); and

WHEREAS, certain of such major backbone infrastructure is required to serve the Property; and

WHEREAS, the City and the Developer desire to provide a mechanism to fund, in a timely manner, the costs of certain of such major backbone infrastructure required to serve the Ontario Ranch (the "Facilities") so that such development may occur; and

WHEREAS, in order to provide such a mechanism, the City has, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 (the "Act"), established City of Ontario Community Facilities District No. 46 (Avenue 176 Facilities) (the "Community Facilities District"), the boundaries of which include the Property; and

WHEREAS, the Community Facilities District is authorized to levy special taxes within the Community Facilities District (the "Special Taxes") and issue special tax bonds (the "Bonds") secured by the Special Taxes in order to finance certain of the Facilities; and

WHEREAS, it is anticipated that Special Taxes will be levied by the Community Facilities District and that, from time to time, Bonds will be issued by the Community Facilities District; and

WHEREAS, the Developer proposes to construct, or cause to be constructed, certain of the Facilities proposed to be financed by the Community Facilities District pursuant to the Act, and the City proposes to purchase such Facilities from the Developer pursuant to an Acquisition and Funding Agreement by and between the City and the Developer (such Acquisition and Funding 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 "Acquisition Agreement"); and

WHEREAS, the City Council is the legislative body of the Community Facilities District;

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

SECTION 1. The Acquisition Agreement, 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 Executive Director of Finance 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 City, to execute and deliver the Acquisition Agreement 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 Acquisition Agreement by such Authorized Officer.

SECTION 2. 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 3. 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 19<sup>th</sup> day of November 2019.

---

PAUL S. LEON, MAYOR



ATTEST:

---

SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

---

COLE HUBER, LLP  
CITY ATTORNEY

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

I, SHEILA MAUTZ, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Resolution No. 2019-     was duly passed and adopted by the City Council of the City of Ontario at their regular meeting held November 19, 2019 by the following roll call vote, to wit:

AYES:            COUNCIL MEMBERS:

NOES:            COUNCIL MEMBERS:

ABSENT:          COUNCIL MEMBERS:

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

(SEAL)

The foregoing is the original of Resolution No. 2019-     duly passed and adopted by the Ontario City Council at their regular meeting held November 19, 2019.

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

(SEAL)